Appendix H

Comprehensive Review and Determination Report

Fiscal Year 2021

Kansas

Federal-State Audit Staff
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
U.S. Department of Agriculture
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Purpose
This report communicates the United States Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), Office of Investigation, Enforcement and Audit (OIEA), Federal-State Audit Staff’s (FSAS) annual review results and determination for the Kansas Meat and Poultry Inspection (MPI) program, and presents an overview of the review methodology used for determining if the State MPI program is “at least equal to” FSIS’ MPI program.

Description of Kansas’ MPI Program
The Kansas Department of Agriculture (KDA) administers the Kansas MPI program under authority of Kansas Statutes Annotated (K.S.A. 65-6a18 et seq.). The program verifies compliance and enforces regulatory requirements at 50 inspected facilities and 41 custom exempt establishments.1

Annual Determination
FSIS determined that KDA is operating a meat and poultry inspection program “at least equal to” the Federal requirements. KDA has adopted laws, regulations, and programs, and implemented them in a manner that is “at least equal to” the Federal inspection program for all review components. Since KDA was not subject to an onsite review for Components 1 through 9 during fiscal year (FY) 2021, FSIS based its annual determination on review of the self-assessment documents only. This determination is fully explained in the Review of Kansas’ Self-Assessment Submission section. The last onsite review conducted of the KDA by FSAS was April 15 through 26, 2019.

Self-Assessment Review Methodology
The annual self-assessment process is designed for each State to provide sufficient information to adequately demonstrate their administration of an “at least equal to” State MPI program. The review objective is to determine whether a State continues to administer an MPI program that meets Federal standards set for ensuring meat and poultry products are safe, wholesome, unadulterated, and correctly labeled and packaged. Each review cycle, State MPI program officials are to complete and submit self-assessment component surveys, supporting documentation and other self-assessment instruments to FSIS in accordance with the State Reporting and Communication Tool User Guide and FSIS “At Least Equal To” Guideline for State Meat and Poultry Inspection Programs.

FSIS begins the annual comprehensive review by assembling a review team comprised of subject matter experts from various FSIS program areas to review the nine components of the comprehensive review process. The review team, comprised of Agency representatives from the Federal-State Audit Staff (FSAS); the Civil Rights Staff (CRS); Financial Reviews and Systems Branch (FRSB); Laboratory Quality Assurance Response and Coordination Staff (LQARCS); and other program areas, as needed, evaluates each State MPI program’s self-assessment submission to determine whether it meets the “at least equal to” criteria for all nine review components.

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1 Custom exempt establishments are slaughter and processing establishments that are not subject to the routine inspection requirements of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), provided the specified operations meet the exemption requirements of Section 23 of the FMIA and Section 15 of the PPIA.
components. During the desk review process, the Office of Policy and Program Development and the Office of Field Operations are consulted as needed to gain context and perspective on current FSIS programs, policies, and procedures when determining whether a State MPI program meets Federal “at least equal to” standards.

If questions arise during the desk review or if additional documentation is needed to make a review determination regarding one or more components, FSIS will request clarifying information from the State MPI program. Upon completion of the desk review, FSIS makes one of the following three determinations for each component and for the non-designated\(^2\) State’s overall ability to maintain an MPI program “at least equal to” the Federal requirements:

1. “At Least Equal To” means the State MPI program has adopted laws, regulations, and programs, and implemented them in a manner that is “at least equal to” FSIS’ Federal inspection program for all review components.
2. “At Least Equal To” with Provisions means FSIS makes a provisional determination of the State MPI program’s “at least equal to” status provided the program takes additional action to resolve review findings.
3. Not “At Least Equal To” means the State MPI program has not adopted laws, regulations, or programs, or does not implement them in a manner that is “at least equal to” FSIS’ Federal inspection program for one or more of the review components.

Review of Kansas’ Self-Assessment Submission
FSIS evaluated the self-assessment documents for the applicable review components to determine whether KDA implements an inspection program “at least equal to” the Federal program. The determination and rationale for each review component are listed below.

FSAS received KDA’s self-assessment submission for components 1 through 6 on December 30, 2021. FSAS sent a notification to KDA requesting additional information. KDA sent additional information clarifying their self-assessment submission and all supplementary information requested. FSAS reviewed the submitted clarification items, and accepted the requested information on August 11, 2021.

Component 1 – Statutory Authority and Food Safety Regulations
FSAS compared the submitted self-assessment and supporting documentation to the legal authority provided under the Federal Meat Inspection Act (FMIA), Poultry Products Inspection Act (PPIA), and the Humane Methods of Slaughter Act (HMSA), and the regulations promulgated under these laws. The supporting documentation included the K.S.A. (Chapter 47, Article 14 and Chapter 65, Articles 6 and 6a) and Kansas Administrative Regulations (K.A.R. Agency 4 – Kansas Department of Agriculture, Article 16). The K.S.A. provides authorities for mandatory ante-mortem and post-mortem inspection, and reinspection (Section 65-6a20 through Section 65-6a23), sanitation requirements (Section 65-6a25), record keeping requirements

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\(^2\) Non-designated is a State that operates an MPI program under a cooperative agreement with FSIS. The State MPI program must administer inspection and food safety requirements “at least equal to” those imposed under the Federal Meat Inspection Act, Poultry Products Inspection Act and the Humane Methods of Slaughter Act of 1978.
In addition, the K.S.A. provide authorities that are “at least equal to” the FMIA and PPIA regarding adulteration and misbranding (Section 65-6a18), prohibited acts (Section 65-6a27), access and examination (Sections 65-6a23, 65-6a26, and 65-6a41), and product control actions (Sections 65-6a37 and 65-660); as well as criminal, civil, and administrative sanctions to address violators.

The K.S.A. grant the authority to promulgate rules and regulations (Section 65-6a30). Kansas adopts by reference Title 9, Code of Federal Regulations (9 CFR) Parts 301 to end, with minor exceptions, in the K.A.R. (Section 4-16-1 c).

In conclusion, KDA provided evidence showing that it operates under State laws and regulations that provide legal authority “at least equal to” that provided under the FMIA, PPIA, and HMSA, and the accompanying regulations.

Component 2 – Inspection
FSAS compared the self-assessment submission and supporting documentation regarding inspection policies and procedures and regarding verification of establishments’ compliance, to the Federal requirements. In lieu of PHIS, KDA uses a State developed Microsoft Access database identified as ACCESS to schedule inspection tasks, and collect, consolidate, and analyze inspection data. KDA administers inspection for any meat or poultry product intended for human consumption, wholly or in part, from the carcass or parts of any animal defined as “livestock” or “poultry” in the K.S.A. Section 65-6a18. The State inspection program impose regulations and perform inspection duties that ensure animals that animals, intended to be used in meat and poultry products sold commercially, are slaughtered and processed in the presence of State inspection personnel, and the resulting meat food products are inspected and passed for human consumption. Furthermore, KDA administers a food safety verification program that meets the intent of FSIS Directive 5000.1, Verifying an Establishment’s Food Safety System. Food safety verification activities are performed to ensure establishments’ compliance with applicable pathogen reduction, sanitation, and Hazard Analysis and Critical Control Point (HACCP) regulations.

In addition to the inspectors’ ongoing verification activities, KDA routinely schedules and performs a comprehensive food safety assessment (FSA) at each inspected establishment at least once every four years. These FSAs examine the design and validity of establishments’ food safety systems, which include hazard analyses, supporting documents, HACCP plans, Sanitation Standard Operating Procedures (Sanitation SOP), prerequisite programs, sampling programs, and any other programs that constitute the establishments’ HACCP systems. KDA also reviews each inspected establishment annually and documents the results on the Establishment Review Guide (KDA Form MP-74). The noncompliance records; FSA and annual review records; and enforcement letters support the conclusion that State inspection personnel recognize and document noncompliance and that they initiate appropriate regulatory actions.
KDA verifies establishment compliance with the non-food safety (i.e., labeling) consumer protection regulatory requirements. KDA uses applicable FSIS directives to instruct inspection personnel and it uses ACCESS to schedule ongoing verifications and document noncompliance. A thorough review of the ACCESS data supports the conclusion that KDA inspectors correctly apply the inspection methodology and document noncompliance.

KDA maintains a label approval policy and process to verify that labels are accurate and meet regulatory requirements. Prior to applying a label, mark, or device to an inspected meat or poultry product, an establishment representative must submit a completed application for label approval and a label sketch to obtain KDA approval.

KDA enforces the K.A.R. Section 4-16-1 c, which adopts by reference 9 CFR Part 500, Rules of Practice, when establishments do not comply with State authorities that are “at least equal to” the FMIA and PPIA. KDA maintains procedures to document relevant facts of administrative actions and ensure that administrative actions are legally supportable and based on relevant facts.

In addition, KDA reviews custom exempt operations in accordance with FSIS Directive 8160.1, Custom Exempt Review Process. The area supervisor or lead inspector performs annual reviews and, if needed, performs followup reviews within 30 days.

The submitted documents support the conclusion that KDA:

- Performs inspection and regulatory verification procedures to confirm that State-inspected establishments comply with applicable regulations;
- Maintains a system to carry out administrative enforcement actions when establishments do not comply with State authorities that are “at least equal to” the FMIA and PPIA;
- Conducts inspection activities “at least equal to” the Federal requirements; and
- Monitors these activities through control measures to verify that the inspection system functions as intended.

**Component 3 – Sampling Programs**

FSIS compared KDA’s sampling protocols, procedures, and results to Federal policies and procedures.

KDA provided documentation to demonstrate that it maintains sampling programs, based on sound rationale and goals, for the following:

- *Escherichia coli (E. coli)* O157:H7 in raw non-intact beef products and raw ground beef components;
- Non-O157 Shiga toxin-producing *E. coli* (non-O157 STEC) in beef manufacturing trimmings;
- *Listeria monocytogenes (L. monocytogenes)* and *Salmonella* in ready-to-eat products; and
- Other consumer protection standards.
The sampling plans include procedures for sample collection, sample integrity, and laboratory analysis. KDA developed policies to respond to positive results. These policies include actions to prevent adulterated product from entering commerce. KDA participates in the FSIS National Residue Program and collects and analyzes inspector-generated samples for violative drug residues.

In conclusion, a detailed review of the sampling protocols, procedures, and results confirmed that KDA maintains verification testing to address adulterants, other measures of properly operating food safety systems, and other consumer protection standards “at least equal to” the Federal requirements. KDA has control measures in effect to confirm that its product sampling system functions as intended.

Component 4 – Staffing, Training, and Supervision
KDA developed methods to determine staffing requirements. The requirements consider each inspector’s workload and the number of inspectors required to provide daily inspection coverage in each establishment on days when the establishment produces products bearing the State mark of inspection. Procedures are in effect to document staffing in each establishment, identify failures to meet staffing requirements, and correct staffing deficiencies. KDA area supervisors assign the inspectors’ work schedules monthly, update these schedules as needed, and arrange relief inspection during routine and emergency leave situations. To verify daily inspection coverage, area supervisors review and compare monthly staffing schedules, inspector Outlook calendars, establishment sign-in logs, and ACCESS data.

At the start of the FY 2021 review cycle, KDA indicated they employ 1 program manager, 1 administrative assistant, 1 veterinarian/supervisor, 3 part-time disposition veterinarians, 1 field inspection manager that supervises the supervisors, 5 area supervisors, 24 inspectors, and 2 compliance officers.

KDA continues to implement a training program for new entry-level inspection personnel. The training covers basic slaughter techniques and all inspection techniques required to perform slaughter duties, including basic Sanitation SOPs and HACCP procedures. KDA has a designated program trainer to provide new inspectors with administrative orientation followed by additional training on inspection duties. The training subjects include livestock inspection, slaughter inspection, processing inspection, HACCP, Sanitation SOPs, and sanitation performance standards. KDA also provides employees with inspection methods training and supervision during their patrols. KDA maintains a record keeping system to track participation and completion of training.

KDA incorporates the guidance in FSIS Directive 4430.3, In-Plant Performance System (IPPS), and an annual State evaluation to set performance standards, and complete and record ongoing performance evaluations. Area supervisors perform two quarterly IPPS assessments and an annual performance evaluation that includes a mid-year coaching/feedback session as well as an end of year session with a performance rating for each inspector. KDA maintains control measures to examine the IPPS assessments for quality, completeness, and accuracy.
After thorough review of the submitted documents, FSIS concluded that KDA has sufficient resources to provide the required inspection coverage at State-inspected establishments to ensure that only safe, wholesome, unadulterated, and properly labeled meat and poultry products receive the State mark of inspection. The information supports the conclusion that inspection personnel have the education and training needed to apply KDA’s inspection methodology, to document findings, and to initiate regulatory actions when necessary. Control measures are in effect to confirm that KDA’s staffing and training systems function as intended.

Component 5 – Humane Handling
KDA schedules and performs regulatory verification procedures to assess whether establishment personnel humanely handle all livestock throughout the time the livestock are on official establishment premises, and it takes appropriate regulatory action in response to noncompliance.


In conclusion, the information supports the fact that KDA verifies compliance with the humane handling requirements and takes regulatory action “at least equal to” the Federal program. Control measures are in effect to confirm that the humane handling verification system functions as intended.

Component 6 – Compliance
KDA personnel conduct in-commerce surveillance of persons or firms that prepare, transport, sell, or offer for sale meat and poultry products in intrastate commerce to verify compliance with State statutory and regulatory requirements, and to verify that meat and poultry products in intrastate commerce are wholesome; correctly packaged and labeled; and are secure from threats or intentional acts of contamination.

KDA investigates alleged or actual statutory or regulatory violations; controls products when there is reason to believe that the products are adulterated, misbranded or otherwise in violation of the K.S.A.; and takes enforcement action, when needed, up to and including prosecution of individuals or firms that have violated the K.S.A. KDA has procedures to maintain and preserve the legal integrity of documentary and other evidence to support legal action.

KDA management reviews all compliance reports for correctness, extracts pertinent information for reporting purposes, enters this information in a Regulation Enforcement and Compliance System database, and files the hard copies. The program manager reviews all violations and relevant evidence and determines the appropriate case disposition and course of action.
KDA maintains procedures for the recall of meat and poultry products subject to its jurisdiction that are “at least equal to” the procedures described in FSIS Directive 8080.1, Recall of Meat and Poultry Products. These procedures include health hazard evaluation, recall classification, public notification, effectiveness checks, and closure. Firms are required to notify KDA within 24 hours of initiating a recall. KDA oversees the recall activities, coordinates actions to determine whether adulterated product was removed from commerce, and issues press releases as necessary to serve the interest of public health.

KDA established methods to record, triage, analyze, and track consumer complaints related to State-regulated meat or poultry products as outlined in the KDA Overview of Policies and Procedures for Inspection Personnel. Compliance personnel either investigate these complaints or refer them to the local health authority. The investigative methods include procedures to collect and safeguard evidence; conduct interviews; submit product samples to the laboratory; initiate recall procedures and/or regulatory and enforcement actions; and report potential food safety threats.

The submitted documents support the conclusion that KDA maintains a system to verify compliance of meat and poultry products in intrastate commerce and takes appropriate enforcement actions in the event that adulterated or misbranded products enter intrastate commerce. Control measures are in effect to confirm that the compliance program functions as intended.

Component 7 – Laboratory Methods and Quality Assurance Program
An off-site records review of Kansas Department of Agriculture Laboratory (KDAL) was performed in FY 2021 to evaluate laboratory quality assurance (QA) programs and method equivalence under the State MPI program.

KDAL conducts microbiological testing for Salmonella, L. monocytogenes, E. coli O157:H7, and non-O157 STEC. KDAL conducts food chemistry testing for moisture, protein, fat, and salt.

OPHS compared the KDAL Laboratory Quality Assurance Program to the State Meat and Poultry Inspection (MPI) Program Laboratory Quality Management System Checklist to evaluate evidence of laboratory proficiency and analyst training. Based on their self-assessment, KDAL met all laboratory QA requirements including analysts’ training and related proficiency testing.

KDAL has demonstrated adequate food chemistry capability for the measurement of moisture, protein, fat, and salt. KDAL has demonstrated adequate microbiological capabilities for detection of Salmonella, L. monocytogenes, E. coli O157:H7, and non-O157 STEC.

Based on the Component 7 methods and QA program review, KDAL may be eligible to perform inspection:

- At beef establishments producing raw ground beef and bench trim, and at beef slaughter establishments producing manufactured trim, provided the State collects and submits the
appropriate number of samples that are tested for Salmonella, E. coli O157:H7, and non-O157 STEC.

- At ready-to-eat meat and poultry establishments, provided the State collects and submits the appropriate number of samples that are tested for Salmonella and L. monocytogenes.

- At poultry slaughter establishments, provided the State collects and submits the appropriate number of samples that are tested for Salmonella and Campylobacter. MPI States with no participating facilities slaughtering at least 20,000 chickens and/or 20,000 turkeys per year are not required to test the raw product for Salmonella and Campylobacter since it is not required at similar federally inspected plants. However, States should consider testing at a risk hierarchy that is commensurate with their establishment sizes and production volumes. Note: Kansas does not currently inspect poultry establishments so methods for analysis of Salmonella and Campylobacter in raw poultry products were not evaluated.

Component 8 – Civil Rights
KDA submitted the required FSIS Form 1520-1, Civil Rights Compliance of State Inspection Programs, to demonstrate adherence to Federal civil rights laws and USDA’s civil rights regulations. On April 19, 2021, FSIS’ Civil Rights Staff concluded that KDA functions “at least equal to” the Federal civil rights requirements.

Component 9 – Financial Accountability
FRAS did not conduct an onsite financial audit and compliance review of KDA in FY 2021. Therefore, the annual determination will be based on the self-assessment review results only.

Self-Assessment Determination for Kansas
Based on the evidence and review results described above, FSIS determined that KDA provided adequate documentation to show it is operating a meat and poultry inspection program “at least equal to” the Federal requirements.