

**Appendix C**

**FINAL REPORT**

**Fiscal Year 2023**

**Arkansas**

**April 2024**

Federal-State Audit Staff  
Office of Investigation, Enforcement and Audit  
Food Safety and Inspection Service  
U.S. Department of Agriculture

## Executive Summary

This report describes the outcome of the annual review of the Arkansas Department of Agriculture (ADA) Livestock and Poultry Division, conducted by the United States Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) including an onsite audit September 5–8, 2023. The annual audit process consists of two parts: (1) annual review of the State's self-assessment submission and (2) triennial onsite audits, which are used to verify whether the State meat and poultry inspection (MPI) program enforces requirements "at least equal to" the Federal requirements. The purpose of the annual review was to: (1) verify the State of Arkansas imposes laws, regulations, and related policies with authorities and requirements "at least equal to" those provided by the Federal Meat Inspection Act (21 U.S.C. 601, et seq.) and Poultry Products Inspection Act (21 U.S.C. 451, et seq.); (2) determine whether Arkansas administers a State MPI program capable of ensuring meat and poultry products produced, distributed, and sold within the State are safe, wholesome, unadulterated, and properly labeled; and (3) confirm the State MPI program carries out its regulatory oversight activities effectively and efficiently.

The annual review focused on all nine "at least equal to" components: (1) Statutory Authority and Food Safety Regulations; (2) Inspection; (3) Sampling Programs; (4) Staffing, Training, and Supervision; (5) Humane Handling; (6) Compliance; (7) Laboratory Methods and Quality Assurance Program; (8) Civil Rights; and (9) Financial Accountability.

FSIS identified the following findings:

- Recordkeeping noncompliances for Hazard Analysis and Critical Control Points, Sanitation Standard Operating Procedures, and inspection data.
- Inspection program sampling has not been fully developed. "At least equal to" determination deferred pending implementation and verification of corrective actions.
- Compliance program has not been fully developed due to incomplete training of compliance personnel. "At least equal to" determination deferred pending implementation and verification of corrective actions.

An analysis of the audit findings within each component did not identify findings that may pose an immediate threat to public health.

On October 4, 2023, ADA submitted an action plan to correct the findings identified during the audit and a timeline to address the deferral items. The action plan identifies the underlying causes of the system-wide findings and the underlying causes of the specific findings at individual establishments. It includes a verification plan to ensure statewide correction of these findings. This is a newly established State Meat Inspection program. Establishments were granted inspection later in the year, employees were hired, training for inspectors was completed, and ADA provided evidentiary documents to demonstrate verification of establishment compliance with regulatory requirements. FSIS' "at least equal to" determination is provisional, pending further development of the sampling and compliance programs this year.

## TABLE OF CONTENTS

<b>I. INTRODUCTION .....</b>	<b>1</b>
<b>II. OBJECTIVE, SCOPE, AND METHODOLOGY .....</b>	<b>1</b>
<b>III. BACKGROUND.....</b>	<b>2</b>
<b>IV. COMPONENT 1: STATUTORY AUTHORITY AND FOOD SAFETY REGULATIONS .....</b>	<b>3</b>
<b>V. COMPONENT 2: INSPECTION .....</b>	<b>4</b>
<b>VI. COMPONENT 3: SAMPLING PROGRAMS .....</b>	<b>6</b>
<b>VII. COMPONENT 4: STAFFING, TRAINING, AND SUPERVISION .....</b>	<b>7</b>
<b>VIII. COMPONENT 5: HUMANE HANDLING .....</b>	<b>8</b>
<b>IX. COMPONENT 6: COMPLIANCE.....</b>	<b>9</b>
<b>X. COMPONENT 7: LABORATORY METHODS AND QUALITY ASSURANCE PROGRAM .....</b>	<b>10</b>
<b>XI. COMPONENT 8: CIVIL RIGHTS .....</b>	<b>11</b>
<b>XII. COMPONENT 9: FINANCIAL ACCOUNTABILITY .....</b>	<b>12</b>
<b>XIII. DETERMINATION FOR ARKANSAS .....</b>	<b>12</b>

## **I. INTRODUCTION**

This report communicates the results of an onsite verification audit conducted by the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) in Federal fiscal year (FY) 2023 to evaluate Arkansas' administered meat inspection (MPI) program to determine if it is "at least equal to" FSIS' requirements and is capable of ensuring that the State's supply of meat products is safe, wholesome, unadulterated, and properly labeled and packaged. This report also summarizes information examined and analyzed as part of an annual review by FSIS to determine whether the Arkansas MPI program is "at least equal to" the FSIS inspection system.

The "at least equal to" standard requires that State MPI programs operate in a manner that is at least as effective as FSIS' Federal inspection program in the protection of public health. Under the Federal Meat Inspection Act (FMIA) and Poultry Products Inspection Act (PPIA), FSIS may contribute up to 50 percent of the estimated total cost of the State's MPI program and provide administrative support if the State operates and maintains a program that is "at least equal to" the Federal inspection program (21 U.S.C. 661(a)(3) and 454(a)(3)).

## **II. OBJECTIVE, SCOPE, AND METHODOLOGY**

The review focused on the nine "at least equal to" components: (1) Statutory Authority and Food Safety Regulations; (2) Inspection; (3) Sampling Programs; (4) Staffing, Training, and Supervision; (5) Humane Handling; (6) Compliance (7) Laboratory Methods and Quality Assurance Program; (8) Civil Rights; and (9) Financial Accountability. For each identified component, Arkansas Department of Agriculture (ADA) Livestock and Poultry Division submitted the required self-assessment documents in the State Review and Communication Tool (SRCT) that included descriptions of current program operations and procedures, and other supporting documentation pertaining to the attainment of the component requirements. FSIS verifies the above components to ensure ADA is implementing food safety verification activities at State-inspected establishments that comply with applicable State laws, regulations, and policies to produce safe and wholesome products. FSIS examined the submitted documentation to verify ADA continues to maintain regulatory operations in accordance with FMIA (21 U.S.C. 601, et seq.) and to check for procedural nonconformities that may prevent operations from functioning as intended. In addition, FSIS evaluated the effectiveness of current internal control and risk assessment systems and determined if there were any findings.<sup>1</sup> FSIS also conducted an onsite audit to verify accuracy and implementation of the SRCT submissions for Components 1–9.

---

<sup>1</sup> An issue identified by a Federal-State Audit Staff Auditor. There are two types of findings: 1. Noncompliance, failure to meet a regulatory requirement. 2. Nonconformity, State Program, or any State Official fails to implement and/or follow a policy or procedure as proffered in their Self-Assessment.

### III. BACKGROUND

The FMIA (21 U.S.C. 661) and the PPIA (21 U.S.C. 454) authorize FSIS to cooperate with State agencies in developing and administering State MPI programs. An individual State MPI program is limited to meat and poultry products that are produced and sold within the State and needs to operate in a manner and with authorities that are “at least equal to” the programs that FSIS implements under the ante-mortem and post-mortem inspection, reinspection, sanitation, record keeping, and enforcement provisions of the FMIA (21 U.S.C. 601, et seq.) and PPIA (21 U.S.C. 451, et seq.). State MPI programs are to ensure that livestock are treated humanely by imposing humane handling requirements that are “at least equal to” the requirements FSIS has established under the Humane Methods of Slaughter Act of 1978 (HMSA) (7 U.S.C. 1901–1906).

The FMIA and PPIA provide for FSIS to review, at least annually, each State MPI program and its requirements and enforcement activities. If a State fails to administer a meat and poultry inspection program that is “at least equal to” FSIS’ Federal inspection program, FSIS will move to “designate” the State in accordance with 21 U.S.C. 661(c) and 454(c).

Annually, non-designated States are expected to assess and support determinations that their MPI programs operate in a manner “at least equal to” the Federal inspection program. FSIS requires State MPI programs to submit self-assessment documents through the SRCT each year and provides guidance for this process in FSIS’ “At Least Equal To” Guideline for State Meat and Poultry Inspection Programs. At a minimum, the self-assessment documentation should be representative of the current operations of the State MPI program and demonstrate the program’s ability to meet the “at least equal to” Federal requirements for the next 12 months. State MPI programs are to provide narratives in the submitted documentation for any identified administrative or operational changes made to their programs since the last FSIS review and “at least equal to” determination. As a part of the self-assessment process, State MPI programs are expected to consider the intent and assess the applicability of FSIS statutes, regulations, directives and notices in their inspection operations, and compliance enforcement strategies. FSIS expects State MPI programs to submit for review copies of all applicable laws, administrative rules, regulations, and policies deemed necessary to carry out inspection programs “at least equal to” the Federal requirements.

In addition, FSIS conducts onsite audits of State MPI programs at a minimum of every three years to verify the accuracy and implementation of the State MPI programs’ self-assessment submissions. In years when a State MPI program is subject to FSIS’ onsite audits, the annual “at least equal to” determination will be based on analysis of results collected through FSIS’ two-part review and audit process. Otherwise, the annual “at least equal to” determination will be based solely on review and analysis of the State’s self-assessment submissions.

ADA, a State organization with the overall authority to administer the State MPI program, submitted the required program self-assessment documents to demonstrate administrative and program-wide compliance with all nine “at least equal to” components. FSIS evaluated the State’s self-assessment documentation and conducted an onsite verification audit of the State MPI program.

The establishment selection process for onsite audits employs a systematic approach that considers risk determinants such as sample results, recalls, production volume, and other information obtained directly from the State MPI programs through the SRCT. For this audit, a sample of two establishments was selected from a total of two State-inspected establishments.

ADA administers the Arkansas MPI program under authority of Arkansas Code Section 20–60–206. ADA is organized on three levels: State office, State inspection, and compliance program. The program verifies compliance and enforces regulatory requirements at inspected facilities and custom exempt operators.<sup>2</sup>

FSIS verified through interviews and record reviews that all ADA personnel are employed by the State of Arkansas and are conducting verification activities as outlined in the self-assessment.

The table below details the number of inspected establishments and custom exempt operators.

Total Number of State-Inspected Establishments and Custom Exempt Operators

	Establishment Type	Slaughter Only	Processing Only	Combination Slaughter and Processing	Total
<b>Number of State-Inspected Establishments</b>	Meat Only	0	0	2	2
	<b>Total</b>	0	0	2	2
<b>Number of Custom Exempt Operators</b>	Meat Only	0	0	56	56
	<b>Total</b>	0	0	56	56

#### IV. COMPONENT 1: STATUTORY AUTHORITY AND FOOD SAFETY REGULATIONS

The State laws or administrative rules must grant the State MPI program legal authority to administer an inspection program. State MPI program is required to have meat and poultry inspection laws and governing regulations that impose mandatory ante-mortem and post-mortem inspection, reinspection, sanitation requirements, recordkeeping requirements, and enforcement authorities that are “at least equal to” those provided by the FMIA (21 U.S.C. 601, et seq.) or the PPIA (21 U.S.C. 451, et seq.).

FSIS reviewed the self-assessment documentation submitted and confirmed Arkansas administers ADA MPI under the applicable State laws, rules, and regulations. The State Law, Arkansas Code (Section 20–60–201) includes legal requirements comparable to following mandatory requirements of the FMIA and the PPIA:

- ante-mortem and post-mortem inspection (Arkansas Code Section 20–60–210);

<sup>2</sup> Custom exempt operators are not subject to the routine inspection requirements of the FMIA and the PPIA, provided the specified operations meet the exemption requirements (21 U.S.C. 623 and 464).

- reinspection (Arkansas Code Section 20–60–210);
- sanitation requirements (Arkansas Code Section 20–60–209);
- record keeping requirements (Arkansas Code Section 20–60–215);
- humane methods of slaughter requirements (Arkansas Code Section 20–60–206);
- adulteration (Arkansas Code Section 20–60–203);
- misbranding (Arkansas Code Section 20–60–206);
- prohibited acts (Arkansas Code Section 20–60–214);
- access and examination (Arkansas Code Section 20–60–206);
- product control actions (Arkansas Code Section 20–60–206); and
- exemption from inspection (Arkansas Code Section 20–60–204).

The Arkansas Code grants the authority to promulgate rules and regulations (Section 20–60–206). Arkansas Administrative Code, Rule 238–00–22–001 State Meat Inspection Program, adopts by reference the most current revisions of:

Title 7 of the United States Code, Chapter 48, Sections 1902 and 1906;

Title 21 of the United States Code, Chapter 12, Subchapter I, Sections 601, 603, 604, 605, 606, 607, 608, 610, 611, 612, 613, 621, 622, 623, Subchapter II, Sections 641, 642, 643, 644, and Subchapter IV, Sections 671, 672, 673, 675, 676; and

Title 9 of the Code of Federal Regulations, Chapter III, Subchapters A and E, *excluding* Subchapter A Parts 300.1-300.4, 302.2, 303.1(c), 304.2(c), 307.4(b)-(d), 307.5, 307.6, 316.13(c), 317.7, 318.8, 318.12, 321, 322, 327, 329, 331, 332, 335, 351, 352, 354, 355, 362, 381, and Subchapter E Part 439.

FSIS confirmed through onsite record reviews, interviews, and observations that ADA has statutory authority to enforce the provisions of Arkansas Code and the governing administrative rules and regulations, Arkansas Administrative Rules and 9 CFR, respectively, at State-inspected establishments and firms handling meat products with the State as outlined in the FY 2023 self-assessment submission. There were not any statutory or regulatory changes made this year that may potentially affect how ADA carries out its regulatory duties.

FSIS did not have any findings and determined that ADA operates under State laws and regulations that provide legal authority “at least equal to” that provided under the FMIA, HMSA, and governing regulations.

## **V. COMPONENT 2: INSPECTION**

The State MPI program is to administer an inspection program “at least equal to” that provided by FSIS. The State MPI program must ensure official State establishments comply with applicable laws and regulations. The State MPI program is to ensure each official establishment to develop, implement, and maintain written Sanitation SOPs to prevent direct product contamination or insanitary conditions, and to maintain requirements for Sanitation Performance Standards and sanitary dressing in accordance with 9 CFR 416. The State MPI program must

verify each official establishment develops, implements, and maintains a HACCP system consistent with 9 CFR 417 requirements. The HACCP systems are to include activities designed to validate adequacy of controls, to conduct monitoring and verification procedures, and to document the results of monitoring and verification activities, as well as implementation of corrective actions in response to deviations from CCP critical limits.

The inspection verification methods implemented by the State MPI program must include activities for evaluating compliance at official establishments with the applicable inspection and food safety verification requirements of 9 CFR 300 to End. These are to include observation of establishments' operations and employees' product handling practices, hands-on verification, and review of establishment records, with the results of verification being entered in the associated inspection records. The State MPI program also are to implement inspection verification methods for ensuring State-inspected meat and poultry products are wholesome, not economically adulterated, truthfully labeled, and meet regulatory requirements. The State MPI program must ensure inspection personnel interpret and apply relevant regulatory requirements uniformly when conducting inspection verification methods. The ultimate regulatory goal of the State MPI to protect consumers from meat or poultry products that are unwholesome, economically adulterated, or not truthfully labeled (21 U.S.C. 607 and 457).

FSIS reviewed the self-assessment documentation submitted as evidence showing that ADA has developed and implemented:

- An inspection system to ensure State-inspected establishments comply with applicable food safety and other consumer protection regulations (e.g., ante-mortem and post-mortem inspections, sanitation, HACCP system, and product standards and labeling;
- A label approval policy and process to verify labels, marks, or devices are accurate and comply with regulatory requirements prior to establishments applying them to inspected meat products;
- A risk-based methodology to analyze establishments' food safety systems to verify that the establishments can produce safe and wholesome meat products in accordance with applicable statutory and regulatory requirements;
- A system of administrative enforcement actions to bring establishments effectively under regulatory compliance in a manner that is not inferior to the comparable actions taken by FSIS; and
- An internal control system for evaluating the efficacy and effectiveness of the other systems.

ADA uses the FSIS Public Health Information System (PHIS) to schedule inspection tasks and to collect, consolidate, and analyze inspection data. ADA administers inspection for any meat product intended for human consumption, wholly or in part, from the carcass or parts of any animal defined as "livestock" in the Arkansas Code and governing rules, regulations, and policies. The State inspection program maintains assurances that animals intended to be used in meat products sold commercially are slaughtered and processed in the presence of State inspection personnel. The resulting meat food products are inspected and passed for human consumption. ADA adopts and implements all relevant FSIS issuances as its policies for carrying out inspection and food safety verification activities.



FSIS audited the conditions and documents onsite. The onsite documents audited included, but were not limited to, sanitation standard operating procedures and associated records; HACCP plans and associated records; generic *Escherichia coli* (*E. coli*) sampling procedures and associated records; procedures for the removal, segregation, and disposition of specified risk materials (SRM) and associated records; custom exempt records; noncompliance records; and enforcement letters. In addition, FSIS audited the non-food safety consumer protection documents and procedures to determine whether ADA enforces non-food safety consumer protection regulatory standards “at least equal to” the Federal requirements. This audit included, but was not limited to, ongoing regulatory verification tasks, label approvals, labels, and product formulations.

FSIS evaluated ADA during two establishment audits. FSIS personnel identified several establishment noncompliances with the Sanitation SOPs, HACCP design and validity, generic *E. coli*, and SRM requirements that State MPI program officials did not recognize. ADA officials initiated corrective actions in the establishments and issued noncompliance records or directed establishment employees at the time the noncompliances were identified.

FSIS identified the following findings:

- The Sanitation SOP records were not validated with the responsible employee’s initials and date.
- HACCP records review, direct observation, and ongoing verification activities were not performed at the frequency stated in the associated HACCP plan.
- Thermometer calibration was not being performed per the supporting documentation.
- Generic *E. coli* testing records were not available.
- SRM records did not clearly show all SRMs were removed.

The FSIS determined that ADA maintains inspection and food safety verification systems that meet the “at least equal to” standards. Control measures are in effect to ensure that the inspection system functions as intended.

## **VI. COMPONENT 3: SAMPLING PROGRAMS**

The State MPI program is required to assess establishments’ control of microbial pathogens, violative levels of veterinary drugs, pesticides, contaminants, and other adulterants through product sampling. The State MPI program must have access to laboratory services to conduct chemical, microbiological, physical, and pathological testing. Laboratories conducting official analyses for State inspection programs must ensure test results are accurate, reliable, and reproducible.

ADA adopts and implements all relevant FSIS issuances as its own policies for carrying out inspection and food safety verification activities. FSIS identified the following findings:

- ADA inspects establishments that slaughter and process beef; they have not collected samples for *E. coli* O157:H7 and other non-O157 Shiga toxin-producing *E. coli* (STEC) in raw ground beef products, beef manufacturing trimmings, or raw ground beef components other than trim. This is a new MPI program, and slaughter has been limited.

ADA must establish appropriate frequencies for sample collection and maintain records to demonstrate sampling.

- Although ADA has adopted FSIS Directive 10,800.1, no samples have been requested through the National Residue Program (NRP), and no Kidney Inhibition Swabs (KIS) have been deemed necessary. FSIS is not able to determine if the MPI program is meeting this requirement.

FSIS will defer a decision on this component pending implementation of corrective actions by the State. FSIS will schedule a return visit during FY 2024 to verify corrective actions were implemented and effective.

## **VII. COMPONENT 4: STAFFING, TRAINING, AND SUPERVISION**

The State MPI program must maintain enough staff to carry out its responsibilities. The State MPI program is to organize a sufficient number of trained veterinarians, inspectors, and enforcement staff to carry out the inspection and regulatory duties of the MPI program well. The State MPI program ensures its personnel receive the professional, technical, inspection, and managerial training necessary to maintain a competent and effective workforce. The State MPI program is to provide instructions to MPI personnel on performing daily inspection tasks and compliance enforcement activities.

FSIS reviewed ADA's submitted documents and confirmed ADA implements administrative programs to ensure a competent workforce provides daily inspection coverage in each State-inspected meat and poultry establishment where the State inspection marks are applied to products. In addition, the documentation outlines a training program that includes both formal and informal job-related courses. The State's supervisory system aligns individual workloads with Arkansas's public health and regulatory goals and sets standards for assessing job performance that includes measures to correct unsatisfactory performance.

After further analysis of data from ADA office and establishment audits, FSIS concluded that ADA has an adequate number of trained persons to provide the required inspection coverage in the establishments, perform compliance verification activities, and provide supervisory oversight, and has implemented procedures to ensure daily inspection coverage in operating establishments. Inspection personnel apply ADA's inspection methodology and make decisions based upon the correct application of inspection methodology, document findings, and initiate regulatory action if needed. The training program includes measures to ensure that inspection personnel receive training in the areas of meat and poultry ante-mortem and post-mortem inspection, humane handling, HACCP, Sanitation SOP, rules of practice, In-Plant Performance System guidelines, compliance, and Inspection Methods training. All the training except compliance training has been completed by Arkansas MPI staff. The compliance training is scheduled for the next fiscal year.

FSIS did not have any findings and determined that ADA maintains sufficient resources to provide the required inspection coverage at State-inspected establishments to ensure that only safe, wholesome, unadulterated, and properly labeled meat products receive the State mark of

inspection. The information supports the determination that inspection personnel have the education and training to consistently apply ADA's inspection methodology, document findings, and initiate regulatory actions when necessary. Control measures are in effect to ensure that the staffing, training, and supervision systems function as intended.

## **VIII. COMPONENT 5: HUMANE HANDLING**

The State MPI program is required to ensure the slaughter and handling of livestock is done humanely in accordance with the HMSA 1978 (7 U.S.C. 1901–1906) and FMIA 21 U.S.C. 603 (b) and 610 (b)). The State MPI program is expected to impose laws “at least equal to” the HMSA and the requirements outlined in FSIS Directives 6900.1 and 6900.2. When livestock are slaughtered humanely, they are to be rendered insensible to pain by means that are rapid and effective before being shackled, hoisted, thrown, cast, or cut. The HMSA requires establishments to comply with a prescribed method of slaughter in which the animal loses consciousness by severing its carotid arteries simultaneously and instantly with a sharp instrument when slaughtered livestock in accordance the ritual requirements of with Jewish faith and any other religious faiths.

The State MPI Program is required to ensure poultry operators comply with Good Commercial Practices (GCP). The Poultry Products Inspection Act (PPIA) (21 U.S.C. 453(g)(5)) and the regulations (9 CFR 381.90) provide that poultry carcasses showing evidence of having died from causes other than slaughter are considered adulterated and must be condemned. The regulations (9 CFR 381.65(b)) also require that poultry be slaughtered in accordance with GCP. Poultry are to be slaughtered in a manner that ensures that breathing has stopped before scalding, so that the birds do not drown, and that slaughter results in thorough bleeding of the poultry carcass. Compliance with these practices helps ensure that poultry are treated humanely.

FSIS reviewed submitted humane handling policies, ante-mortem inspection reports, noncompliance records, and periodic supervisory review records. The results of the reviews revealed ADA 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 takes appropriate regulatory action in response to noncompliance.

FSIS audited the humane handling program and documents presented onsite to determine whether ADA adequately enforces the humane slaughter of livestock regulatory standards to ensure that animals presented for slaughter are humanely handled throughout the time they are on official establishment premises. These documents were limited to PHIS tasks and procedure schedules. There have been no humane handling establishment audits.

FSIS did not have any findings and determined that ADA operates under State laws and regulations that provide legal authority “at least equal to” that provided under the FMIA, PPIA, HMSA, and governing regulations.

## **IX. COMPONENT 6: COMPLIANCE**

The State MPI program is to enforce compliance with all applicable laws and regulations and takes appropriate action in the event of noncompliance. The State MPI program detains adulterated or misbranded product (21 U.S.C. 672 and 467 (a)). The State MPI program is to take appropriate control in intrastate commerce of adulterated or misbranded product and to ensure proper disposition of such product, including seizure, condemnation, and destruction where appropriate (21 U.S.C. 673 and 467 (b)). In addition, the State is to ensure establishments maintain written recall procedures for all meat and poultry products produced and shipped (21 U.S.C. 613 and 459(c)(1)). The State is to conduct surveillance activities to ensure animal carcasses, and carcass parts that are not intended for use as human food are not diverted to such uses. The State enact State law provisions for the refusal or withdrawal of inspection services as warranted (21 U.S.C. 671, 467, and 457 (b)). The State must maintain a statutory process to prosecute anyone who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with officials in the performance of their official duties (21 U.S.C. 675 and 461 (c)).

FSIS reviewed submitted self-assessment documents and confirmed ADA is still in the process of developing a compliance program and a system to enforce food safety, food defense, inspection exemption, and other consumer protection statutory requirements in intrastate commerce. The State MPI program has adopted FSIS directives to:

- Conduct surveillance activities and investigations, as warranted, of firms producing meat products in intrastate commerce;
- Control unsafe or violative products through detentions, seizures, and voluntary recalls;
- Take appropriate enforcement actions when adulterated or misbranded products are found in intrastate commerce; and
- Develop case files to ensure all enforcement actions imposed are legally supported by applicable State laws.

FSIS audited the documents presented onsite. These were limited to custom exempt reviews, and one administrative case started on a custom exempt firm.

ADA has adopted the procedures and methods in FSIS Directive 8010.1, Methodology for Conducting In-Commerce Surveillance Activities, to assess food safety, food defense, non-food safety consumer protection, and compliance with administrative and judicial court orders in firms that prepare, transport, sell, or offer for sale meat products in intrastate commerce.

ADA has adopted the procedures and methods in FSIS Directive 8010.2, Investigative Methodology, and controls products when there is reason to believe the products are adulterated, misbranded, or otherwise in violation of the Arkansas Code. In addition, ADA has adopted procedures and methods in accordance with FSIS Directive 8010.4, Report of Investigation.

ADA has adopted the procedures, methods, and recall procedures in FSIS Directive 8080.1, Recall of Meat and Poultry Products, with minor modifications fitting its organizational structure. No State-inspected establishments or retail firms recalled product during FY 2023.

ADA established methods to record, triage, analyze, and track consumer complaints related to State regulated meat products. 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. There have been no complaints during the fiscal year.

ADA has a system for reviewing custom exempt operations that is in accordance with FSIS Directive 8160.1, Custom Exempt Review Process. The two inspection/compliance personnel perform custom exempt reviews in their area of the State. One covers the northern half and the other the southern half of the State. They will perform these reviews yearly or more often if conditions require extra review.

FSIS identified the following finding:

- State compliance officers have not had the opportunity to be fully trained on Surveillance, Investigations, and Enforcement Methods.

The FSIS observed that this compliance program is still being developed with assistance from FSIS Office of Investigations Enforcement and Audit. A decision will be deferred until such time as ADA has implemented corrective actions and fully trained its compliance officers. A follow-up audit will be scheduled during FY 2024.

## **X. COMPONENT 7: LABORATORY METHODS AND QUALITY ASSURANCE PROGRAM**

State MPI programs must use product sampling and laboratory methods with capabilities and safeguards “at least equal to” the FSIS’ product sampling and laboratory methods. State MPI program is to update and maintain as necessary its laboratory microbiological and chemical detection methods to keep pace with the applicable FSIS methods detailed in the FSIS Microbiology Laboratory Guidebook and USDA FSIS Chemistry Laboratory Guidebook.

The State of Arkansas has an agreement with the Wisconsin Department of Agriculture, Trade and Consumer Protection Bureau of Laboratory Services (WDATCPBL), which is a participant in the FSIS Cooperative Interstate Shipment (CIS) “same as” program and the State MPI “at least equal to” program, to perform FSIS Microbiology Laboratory Guidebook (MLG) methods for the microbiological analyses of *Salmonella*, *E. coli* O157:H7 and non-O157 STEC on its behalf. The State of Arkansas has an agreement with WDATCPBL to also conduct food chemistry testing for moisture, protein, fat and salt on its behalf.

FSIS compared the WDATCPBL Laboratory Quality Assurance Program to the State MPI Program Laboratory Quality Management System Checklist and evidence of laboratory proficiency and analyst training was evaluated. Based on their self-assessment, WDATCPBL met all Laboratory QA requirements including analysts’ training and related proficiency testing (PT).

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

Based on the Component 7 methods and quality assurance program review, ADA will be eligible to perform inspection:

- At beef establishments producing raw ground beef and bench trim, provided that the state collects and submits the appropriate number of samples that are tested for *Salmonella* and *E. coli* O157:H7 and at beef slaughter establishments producing manufactured trim, where the state is required to collect and submit the appropriate number of samples that are tested for *Salmonella*, *E. coli* O157:H7, and non-O157 STEC.
- At poultry slaughter establishments, provided that 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 that raw product for *Salmonella* and *Campylobacter* since it is not required at similar federally inspected plants. Note: Analytical methods for *Salmonella* and *Campylobacter* in raw poultry products were not evaluated as ADA is not currently inspecting poultry establishments slaughtering at least 20,000 chickens and/or turkeys per year.

On September 23, 2023, FSIS determined the analytical methods used for microbiological and chemical analyses are “at least equal to” the FSIS methods.

## **XI. COMPONENT 8: CIVIL RIGHTS**

The State MPI program is to adhere to Federal Civil Rights laws: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200(d)), Section 504 of the Rehabilitation Act of 1973, as Amended (29 U.S.C. 794), Age Discrimination Act of 1990 (42 U.S.C. 12101, et seq.) and applicable USDA Civil Rights regulations.

In November 2022, ADA submitted the required FSIS Form 1520-1, *Civil Rights Compliance of State Inspection Programs*, to demonstrate adherence to Federal civil rights laws and USDA civil rights regulations.

FSIS conducted a Civil Rights compliance review of ADA. The review was conducted to determine compliance with applicable Civil Rights statutes, USDA regulations, and FSIS policies and, where necessary, provide recommendations for program improvement. The review focused on the State’s compliance in eight components: (1) Civil Rights Assurances; (2) State Infrastructure and Program Accountability; (3) Public Notification; (4) Complaints of Discrimination; (5) Civil Rights Training; (6) Civil Rights Compliance, (7) Program Accessibility to Individuals with Limited English Proficiency; and (8) Compliance with the Age Discrimination Act of 1975.

On September 28, 2023, FSIS determined Arkansas's Civil Rights program to be in compliance with "at least equal to" standards for applicable civil rights laws, USDA regulations, and FSIS policies.

## **XII. COMPONENT 9: FINANCIAL ACCOUNTABILITY**

The State is to appropriate funds commensurate with those provided by FSIS as specified in the Cooperative Agreement. Funding is sufficient to ensure the operation of an inspection program consistent with the criteria of the Cooperative Agreement and the satisfactory and uninterrupted operation of State inspection program activities. The State is to ensure that there is appropriate use of Federal funds, adequate accounting support for the State inspection program, and timely and accurate submission of expense reports.

ADA submitted quarterly and final Federal Financial Reports (SF-425), and an annual Indirect Cost Proposal to demonstrate it conforms to 2 CFR Part 400 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and follows FSIS Directive 3300.1, Fiscal Guidelines for Cooperative Inspection Programs.

FSIS determined that ADA is "at least equal to" Federal standards for financial accountability for FY 2023.

## **XIII. DETERMINATION FOR ARKANSAS**

On October 4, 2023, ADA submitted an action plan to correct the findings identified during the audit. The action plan identifies the underlying causes of the system-wide findings and the underlying causes of the specific findings at individual establishments and includes a verification plan to ensure statewide correction of these findings. This is a newly established State Meat Inspection program. Establishments were granted inspection later in the year, employees were hired, and training was completed. With limited processing and opportunities to conduct inspections, FSIS will require provisions for sampling and compliance this year. To address the provisions, advice and training are being provided by FSIS to strengthen the sampling and compliance components and provide more time to the meat inspection program to address these concerns. In addition, ADA provided evidentiary documents to demonstrate verification of establishment compliance with the regulatory requirements.

Based on the evidence and results discussed above, FSIS determined that ADA provisionally operates its MPI program "at least equal to" the Federal requirements for all audit components and can provisionally enforce requirements "at least equal to" those imposed under the Federal Acts. This determination is contingent upon the program's completion and submission of the following items proffered as corrective measures in the action plan dated October 4, 2023:

- Documentation showing the closure of all noncompliance records related to FSIS findings identified at audited establishments along with evidence demonstrating the identified findings and noncompliances were corrected;

- Documentation of verification that establishments producing beef raw non-intact products are performing adequate ongoing verification activities to comply with 9 CFR 417.4;
- ADA inspects beef slaughter and processing establishments; they have not performed any sampling for *E. coli* O157:H7, and other non-O157 STEC. Documentation that the program is performing sampling in a manner “at least equal to” the sampling guidance in FSIS Directive 10,010.1;
- Although ADA has adopted FSIS Directive 10,800.1, no samples have been requested through NRP, and no KIS have been deemed necessary. FSIS is requesting evidence that the MPI program is able to meet this requirement; and
- Evidence showing the full development and implementation of a program to monitor and enforce in-commerce compliance, including completion of required training, a data system that is readily accessible by all ADA compliance personnel, a registry of facilities eligible for risk-based surveillance activities, and an archive for ADA surveillance activity or investigation reports.

FSIS expects ADA to complete and submit for review all listed items by January 15, 2024.