

SmallPlantNews

Food Safety and Inspection Service

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Cooperative Interstate Shipment Program: *3 Years in Review*

By Kaitlin Keller, Outreach and Partnership Division and Dr. Flora Tsui, Office of Policy and Program Development

The Cooperative Interstate Shipment (CIS) program was launched in May 2011 by USDA's Food Safety and Inspection Service (FSIS) without much initial excitement. However, the program was a breakthrough option for small and very small plants operating under the jurisdiction of State inspection.

Simply put, participation in CIS provides State-inspected establishments selected for the CIS program the ability to ship products across State lines. The program strengthened rural communities through job creation, and provided more product choices for consumers and created new opportunities and markets for participating establishments, generating a \$3.2-million increase in overall sales over the period before CIS inception, according to FSIS data.

So, how did the CIS program get started and how does a State-inspected plant join in?

There are certain eligibility qualifications that must be met for participation. To be CIS eligible, an establishment must:

- Be State-inspected in one of the 27 States that

operates a Meat and Poultry Inspection (MPI) program that has been found to be equal to the Federal program;

- Employ 25 or fewer employees;
- Be in compliance with all requirements under the State inspection program; and
- Be in compliance with all Federal requirements under the Federal Meat Inspection Act, Poultry Products Inspection Act, and their implementing regulations.

Statistics Bolster Benefits

The Small Plant News last covered the CIS program in 2014. Since then, the number of CIS plants has more than doubled, growing 120 percent in 2015 alone.

Currently, there are 27 State establishments benefitting from the CIS program, spanning Ohio, Indiana, Wisconsin, and North Dakota. FSIS evaluated the impact of the CIS program in the spring of 2015. With the help of the Ohio, Indiana, and Wisconsin MPI Directors, FSIS collected data on the 10 State establishments that were participating

at the time. The objective was to conduct a retrospective cost-benefit analysis to determine the impact of the CIS program. In other words, was it worthwhile to participate?

The answer is: **“Yes.”**



The following benefits were identified with the information provided by the participating companies:

- New markets for participants – Among the 10 State establishments that have been in the CIS program long enough to have the information needed to report, 1 has expanded the production of existing products, 3 have added new products, and 2 have done both because of the CIS program. The total increase in sales revenue for these 10 establishments was about \$3.2 million (ranging from \$12,000 to \$2.04 million per establishment).

Of this total, \$1.5 million was from expanded production of existing products and \$1.7 million was from new production.
- More product choices for consumers – CIS plants expanded their production and were able to ship their products to new markets, both near and far.
- Rural development – Four of the 10 establishments have already added employees, totaling 15 additional full-time employees and 11 additional part-time employees. The CIS program created jobs, increased local tax bases, and strengthened the stability of rural communities.
- Increased partnership opportunities for small farmers and livestock producers – The CIS program has provided access to slaughter/processing plants across State lines, previously not allowed by interstate law. For example, the CIS yielded a new partnership between a small slaughter establishment in Ohio and a small cattle producer in Pennsylvania. The partnership saved the Pennsylvania producer significant transportation costs to send animals to a far-away Federal establishment in Pennsylvania, which it would have had to use without the CIS program.

Eye on Costs

FSIS also evaluated the costs to participating establishments.

The CIS establishments incurred varied administrative and facility improvement costs. Six plants reported costs associated with joining the CIS program, ranging from \$210 for changing labels to \$60,000 for new wrapping equipment. Many establishments incurred costs to meet FSIS label requirements, including costs of hiring consultants and any labeling changes. The combined reported cost for all 10 participating establishments was approximately \$130,000.

Summary

- The CIS program provided numerous benefits to producers and consumers, including opening new markets, more product choices, increasing partnership opportunities for small farmers and meat processors, and promoting rural development.
- Initial data indicated that the CIS program seems beneficial for participating State establishments, with the total cost being around \$130,000 for the 10 participating establishments, resulting in \$3.2 million of sales revenue increase.

Interested in the CIS program?

In September 2015, FSIS hosted a Webinar on the CIS program, which provided an overview of the CIS program and other USDA resources available to small-scale meat and poultry processors. The FSIS Webinar also featured first-hand accounts and testimonials from Cindy Klug, Wisconsin's MPI Director and Brian Lutzow, owner of Twin City Pack Incorporated, a poultry processing company in Wisconsin that was participating in the CIS program.

The Webinar recording is available on the FSIS CIS program Web site at <http://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/state-inspection-programs/cis>.

For more information about CIS, contact the FSIS Small Plant Help Desk at 1-877-374-7435 or infosource@fsis.usda.gov.

Understanding Your Right to Appeal

By Elaine Hite, Staff Officer, Outreach and Partnership Division

Federally inspected establishments have the right to appeal any inspection decision through the use of the Agency's appeal process. FSIS encourages plant owners and operators to appeal decisions they believe are unfair or are not consistent with applicable regulatory standards.

The Appeals Process

As an owner or manager of a small official establishment, you have two avenues to pursue in the appeals process. The first, found in Title 9, Code of Federal Regulations (CFR) 306.5 and 9 CFR 381.35, provides you with due process according to the Rules of Practice (9 CFR 500).

This appeals process follows FSIS' Office of Field Operations (OFO) chain of command, ensuring that program employees most familiar with the facts of the case evaluate the appeal first to minimize response time. It also allows you to appeal to the next highest level if you're unsatisfied with an appeal outcome at the early stages.

The OFO chain of command is as follows (*Please note: this does not apply to a Notice of Intended Enforcement appeal*):

1. Program employee who made the finding (e.g. Consumer Safety Inspector, Public Health Veterinarian (PHV), Inspector in Charge (IIC))
2. PHV IIC or Mini-Circuit Supervisor
3. Frontline Supervisor
4. District Manager
5. Executive Associate for Regulatory Operations
6. OFO Assistant Administrator
7. FSIS Administrator

If you decide to appeal, and believe you can demonstrate that an FSIS employee has not considered all the facts, then you should submit a written appeal to the FSIS employee who made the finding or the supervisor as soon as possible.

In situations involving retained fresh product, the appeal can be made orally first. A written appeal can then be made later.

The written appeal should contain an explanation of why you disagree with the finding and include a reference number (Noncompliance Record number



if applicable) and any documentation to support the decision to appeal. After receiving the written appeal, the FSIS employee will then issue a written response, typically within 3 to 5 days.

If the appeal, or any part of the appeal, is granted, then the FSIS program employee granting the appeal makes the appropriate modifications or completely deletes the Noncompliance Record. If the appeal is denied, then plant management can accept the decision or appeal to the next level in the OFO chain of command.

When you are challenging a Notice of Intended Enforcement (NOIE), the appeal should provide an explanation of why you disagree with the findings, the date the NOIE was issued and the factual information and supporting documentation for the decision to appeal. You must respond to the NOIE within 72 hours. The Agency may enforce the NOIE or rescind it whole or in part.

The chain of command for NOIE appeals is:

1. District Manager
2. OFO Executive Associate for Regulatory Operations
3. OFO Assistant Administrator
4. FSIS Administrator

Small business owners can contact the Small Business Administration's (SBA) Office of the National Ombudsman at (888) 734-3247 or www.sba.gov/ombudsman.

Please note: FSIS-regulated establishments must use the formal FSIS appeals process to challenge a regulatory decision.

The mission of the Office of the National Ombudsman is to "assist small businesses when they experience excessive or unfair federal regulatory enforcement actions." While the National Ombudsman cannot change, stop, or delay a Federal agency enforcement action, the National Ombudsman can serve as a liaison between small business owners and Federal agencies to discuss the fairness of a regulatory action.

Free from Retaliation

The FSIS Non-Retaliation Policy states, "All FSIS personnel, particularly those who make regulatory and enforcement decisions are not to retaliate in any way against establishment owners, operators or employees who have questioned or appealed regulatory or enforcement decisions. FSIS personnel who have engaged in retaliatory behavior may be subject to discipline." For additional information see FSIS Directive 4735.7 "Industry Complaints Against FSIS Program Employees."

If you have questions regarding the appeals process, contact the Small Plant Help Desk at sphelpdesk@custhelp.com or call toll free 1-(877)-374-7435.

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Please feel free to submit any suggestions for topics you would like to see covered in the Small Plant News to Small Plant News, USDA/FSIS, 1400 Independence Ave., SW, Mailstop 3778, Patriots Plaza III, Rm. 9-265A, Washington, DC 20250, or via email to SmallPlantNews@fsis.usda.gov.

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