

FSIS Review of State Meat and Poultry Inspection Programs

Fiscal Year 2020 Summary Report

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Table of Contents

Executive Summary

Introduction.....	1
Background	1
Review Methodology	2
Determination Process.....	6
Review Findings	7
Next Steps	8
Table 1. FSIS’ FY 2020 State MPI Program Determinations, Based on the Self-Assessment Review Results Only.....	9
Table 2. FSIS’ FY 2020 State MPI Program Determinations, Based on the Verification Onsite Review Results.....	10

Table of Contents (*Continued*)

Appendices

- A. Alabama
- B. Arizona
- C. Delaware
- D. Georgia
- E. Illinois
- F. Indiana
- G. Iowa
- H. Kansas
- I. Louisiana
- J. Maine
- K. Minnesota
- L. Mississippi
- M. Missouri
- N. Montana
- O. North Carolina
- P. North Dakota
- Q. Ohio
- R. Oklahoma
- S. South Carolina
- T. South Dakota
- U. Texas
- V. Utah
- W. Vermont
- X. Virginia
- Y. West Virginia
- Z. Wisconsin
- AA. Wyoming

Executive Summary

This report presents the Food Safety and Inspection Service's (FSIS) fiscal year (FY) 2020 review results for the 27 State Meat and Poultry Inspection (MPI) programs¹ that currently operate under cooperative agreements with FSIS². These 27 State MPI programs provide inspection to over 1,500 small and very small establishments.

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601–695) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451–472) provide for FSIS to cooperate with State agencies in developing and administering State MPI programs. Each State MPI program needs to operate in a manner that is, and with authorities that are, “at least equal to” the programs that FSIS has implemented under the ante-mortem and post-mortem inspection, reinspection, sanitation, record keeping, and enforcement provisions of the FMIA and PPIA. State MPI programs are also expected to ensure that livestock are treated humanely by imposing humane handling requirements that are “at least equal to” those FSIS has established under the Humane Methods of Slaughter Act of 1978 (HMSA) (7 U.S.C. 1901–1906). If a State fails to administer an MPI program that is “at least equal to” the program that FSIS has established under the applicable provisions of the FMIA and PPIA, the Secretary of the United States Department of Agriculture will move to designate the State in accordance with 21 U.S.C. 661(c) and 454(c).

The FY 2019 State MPI program reviews were based on FSIS Directive 5720.3, *Methodology for Performing Scheduled and Targeted Reviews of State Meat and Poultry Inspection Programs*³, and the companion FSIS “At Least Equal To” *Guideline for State Meat and Poultry Inspection Programs*⁴. The FSIS comprehensive State MPI program review consists of two parts: (1) an annual review of the State MPI program’s self-assessment submission; and (2) a triennial verification onsite review to observe the State MPI program. Each year, FSIS determines whether the State MPI program is “at least equal to” the Federal inspection program based on one or both parts of the comprehensive review.

Based on review of the self-assessment documents, FSIS determined that each of the 27 State MPI programs provided adequate documentation to support that they have adopted laws, regulations, and programs, and implemented them in a manner that is “at least equal to” the Federal inspection program. However, one State MPI program was determined “at least equal to” with provisions, contingent upon them providing additional clarification and supporting documents as documented during the self-assessment review. FSIS determined that all of the nine routine State MPI programs reviewed onsite⁵ were enforcing requirements “at least equal to” those imposed under the Federal Acts. However, one State MPI program was determined “at

¹ The 27 States are Alabama, Arizona, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

² This report does not include egg products, which are also regulated by USDA, FSIS. The Federal Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) makes no provisions for State inspections.

³ Available at <http://www.fsis.usda.gov/wps/wcm/connect/053ed497-5f3a-4b95-829f-07dc87f29f5c/5720.3.pdf?MOD=AJPERES>

⁴ Available at http://www.fsis.usda.gov/wps/wcm/connect/e257c4af-2a5e-4b50-8e5e-3e8da94af949/At_Least_Equal_to_Guidelines.pdf?MOD=AJPERES

⁵ FSIS conducted routine onsite reviews in the following States: Arizona, Alabama, Georgia, and Illinois.

least equal to” with provisions, contingent upon them providing additional evidence to specific program action items as a result of significant review findings documented during the onsite review. In addition, FSIS conducted one targeted onsite review and determined that the State MPI program is enforcing requirements “at least equal to” Federal requirements.

Introduction

In fiscal year (FY) 2020, the Food Safety and Inspection Service (FSIS) completed routine comprehensive reviews in nine States that operate Meat and Poultry Inspection (MPI) programs, completed a targeted onsite review in one State MPI program, and completed self-assessment reviews of all 27 State MPI programs. These reviews determine whether the State MPI programs have adopted laws, regulations, and programs, and have implemented them in a manner that is “at least equal to” the Federal inspection program. These reviews also determine whether the State MPI programs enforce requirements “at least equal to” those imposed under the Federal Acts. This report presents the annual review results for the 27 State MPI programs¹. Detailed review results for each State MPI program are presented as an attached appendix.

Background

Under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), FSIS sets national standards for meat and poultry inspection. Under an “at least equal to” cooperative agreement with FSIS, States may operate their own MPI programs if they meet and enforce requirements “at least equal to” those imposed under the FMIA, PPIA, and Humane Methods of Slaughter Act of 1978 (HMSA). The FMIA (21 U.S.C. 601 *et seq.*) and PPIA (21 U.S.C. 451 *et seq.*) provide that it is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and poultry products distributed to them are wholesome, not adulterated, and accurately labeled and packaged.

The FMIA and PPIA provide for FSIS to cooperate with State agencies in developing and administering State MPI programs. Each State MPI program is expected to operate in a manner that is, and with authorities that are, “at least equal to” the programs that FSIS has implemented under the ante-mortem and post-mortem inspection, reinspection, sanitation, record keeping, and enforcement provisions of the FMIA and PPIA. State MPI programs are also expected to ensure that livestock are treated humanely by imposing humane handling requirements that are “at least equal to” that FSIS has established under the HMSA.

If a State fails to administer an MPI program that is “at least equal to” the program that FSIS has established under the applicable provisions of the FMIA and PPIA, the Secretary of the United States Department of Agriculture (USDA) will move to designate the State as one in which the provisions of titles I and IV of the FMIA and sections 451 to 453, 455 to 459, and 461 to 467 of the PPIA shall apply to operations and transactions wholly within such State.

The FMIA and PPIA provide for FSIS to conduct at least annual reviews of State MPI programs and their requirements, including enforcement of those requirements, with respect to slaughter, preparation, processing, storage, handling, and distribution of livestock carcasses and parts; meat and meat food products of such animals; and poultry products.

Cooperative agreements and annual certifications of State MPI programs are contingent upon FSIS determining that the State MPI program is enforcing requirements “at least equal to” those imposed under the Federal Acts. FSIS performs annual reviews to determine whether each State

¹ This report does not include egg products, which are also regulated by FSIS. The Federal Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) makes no provisions for State inspections.

MPI program meets, and can maintain for a 12-month period, the mandated “at least equal to” standard.

Review Methodology

The review methodology is published in two companion documents. FSIS Directive 5720.3, (November 10, 2016) *Methodology for Performing Scheduled and Targeted Reviews of State Meat and Poultry Inspection Programs*, and the “*At Least Equal To*” *Guideline for State Meat and Poultry Inspection Programs*. These documents describe the methodology used by FSIS’ reviewers and provide information to State MPI programs on the criteria that FSIS uses to make its annual determination of whether State MPI programs are “at least equal to” the Federal inspection program. The review process consists of an annual review of the State MPI program’s self-assessment submission and a triennial verification onsite review.

In addition to the comprehensive reviews of each State MPI program, FSIS may perform a targeted review of a State MPI program any time evidence or conditions suggest there are program weaknesses that may result in unacceptable risk to public health, or that the program is not maintaining “at least equal to” status. FSIS focuses the scope and activities of the targeted review on the conditions and evidence that triggered the need for the review and analyzes the review results to determine if the State MPI program is maintaining its “at least equal to” status.

The comprehensive review process evaluates the following nine program components:

1. Statutory Authority and Food Safety Regulations – This component evaluates whether the State MPI program operates under laws and regulations that provide legal authorities “at least equal to” those provided under the FMIA, PPIA, and HMSA.
2. Inspection – This component evaluates whether State MPI program personnel perform inspection activities to verify whether establishments comply with applicable regulations and take appropriate enforcement actions when establishments are not in compliance with provisions that are “at least equal to” those of FSIS.
3. Sampling Programs – This component evaluates whether State MPI program personnel sample meat or poultry products to verify whether they are free of adulterants (e.g., *Escherichia coli* (*E. coli*) O157:H7 in raw, non-intact, beef products and raw ground beef components; Shiga toxin-producing *E. coli* (STEC) serotypes in beef manufacturing trimmings; *Listeria monocytogenes* (*L. monocytogenes*) and *Salmonella* in ready-to-eat products; or drug residues at violative levels), comply with *Salmonella* and *Campylobacter* performance standards in raw classes of meat and poultry, comply with other consumer protection standards, and are accurately labeled (e.g., with nutrition information).
4. Staffing, Training, and Supervision – This component evaluates whether the State MPI program provides competent inspection coverage in each establishment on days the establishment produces product that, if found to be safe, wholesome, unadulterated, and properly labeled, are to bear the State mark of inspection.

5. Humane Handling – This component evaluates whether State MPI program personnel perform regulatory verification procedures to assess whether establishment personnel humanely handle all livestock and take appropriate regulatory actions in response to noncompliance. State MPI program personnel also are to perform regulatory verification procedures to assess whether poultry carcasses showing evidence of having died from causes other than slaughter are considered adulterated and condemned, and to assess whether poultry is slaughtered in accordance with good commercial practices, in a manner that results in thorough bleeding of the poultry carcass, and ensures that breathing has stopped before scalding so that the birds do not drown.
6. Compliance – This component evaluates whether State MPI program personnel perform surveillance activities with respect to meat or poultry products in intrastate commerce and take appropriate enforcement actions in the event that adulterated or misbranded products enter intrastate commerce.
7. Laboratory Quality Assurance Program and Methods – This component evaluates whether State MPI programs maintain laboratory methods and laboratory quality assurance programs that address food pathogen and food chemistry analytes.
8. Civil Rights – This component evaluates whether the State MPI program adheres to Federal civil rights laws and USDA’s civil rights regulations.
9. Financial Accountability² – This component evaluates whether the State MPI program conforms with 7 CFR 3016, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, and follows FSIS Directive 3300.1, Rev. 2, *Fiscal Guidelines for Cooperative Inspection Programs*.

FSIS assembles multi-disciplinary review teams to perform the reviews. The review teams are comprised of representatives from the Federal-State Audit Branch (FSAB), Office of Public Health Science (OPHS), Civil Rights Staff (CRS), Financial Reviews and Systems Branch (FRSB), and other program areas, as needed. These review teams include subject matter experts in meat and poultry inspection systems; compliance and enforcement programs; staffing; laboratory methods; civil rights; and financial accountability. FSAB reviews components 1 through 6. OPHS reviews component 7, CRS reviews component 8, and FRSB reviews component 9.

The comprehensive review process consists of two parts: (1) an annual review of the State MPI program’s self-assessment submission; and (2) at a minimum, a triennial verification onsite review to observe the State MPI program. Each year, FSIS determines whether the State MPI

² In light of the current economic conditions, some State governments are experiencing financial challenges, which may result in overall budget cuts that could affect their meat and poultry inspection programs. To ensure the safety of State-inspected meat and poultry products, FSIS has initiated more vigilant monitoring to track and analyze circumstances and conditions that adversely affect the State MPI program’s financial resources. When FSIS identifies concerns with a State MPI program’s financial resources, the Agency will further examine each situation to determine the impact on the State MPI Program’s inspection activities, product sampling programs, staffing, and compliance activities, and determine if the State MPI program is maintaining its “at least equal to” status.

program is “at least equal to” the Federal requirements and can maintain their program based on one or both parts of the comprehensive review.

Part 1 – Self-Assessment Review

In the first part of this methodology, State MPI programs are required to submit annual self-assessment documentation and certification statements by November 1 of every year. The self-assessment submission provides documentation concerning the rules, regulations, and policies within the State MPI program to provide a basis for FSIS to determine whether the State MPI program meets the mandated “at least equal to” Federal requirements. FSIS considers the information provided to represent an auditable description of how the State MPI program is currently functioning and will continue to function.

FSIS reviews the State MPI program’s annual self-assessment submission to determine whether it demonstrates that the State MPI program is “at least equal to” the Federal inspection requirements and that it includes evidence and documents that support that the processes are in effect and current with FSIS policies. As questions arise during the self-assessment review, FSIS requests clarifying information or supporting documentation from the State MPI program. The FSIS review team then makes a determination based on review of the entire self-assessment submission.

Part 2 – Onsite Review

In the second part of this methodology, FSIS conducts triennial verification onsite reviews to observe the State MPI program and to verify that the State MPI program has implemented and can maintain its inspection system, and to determine whether the State MPI program is enforcing requirements “at least equal to” the Federal requirements. During the onsite review, FSAB reviews State MPI program records at the State MPI program office and a sample set of establishments, resulting in an overall annual determination.³

Before traveling to the onsite review location, the review team begins preparation for the onsite review with a thorough review of the State MPI program’s most recent self-assessment submission. Prior to the scheduled start of the review, the review team sends written notification to the State MPI program director to announce the scheduled dates for the forthcoming onsite review. Both parties usually agree upon the dates prior to this notification.

FSAB’s onsite review begins with an entrance meeting teleconference with FSIS and State MPI program officials. During this meeting, FSIS explains the review process, answers any questions, and requests that State MPI program officials submit the following information within 10 business days of the teleconference:

- Descriptions of any changes in the MPI program that occurred since the most recent self-assessment submission;
- A current list of establishments receiving inspection from the State MPI program;

³ The review team schedules and conducts the main onsite review for components 1–6. The onsite reviews for components 7, 8, and 9–Laboratory Methods and Quality Assurance Program, Civil Rights and Funding, and Financial Accountability—are scheduled separately and conducted, respectively, by the FSIS Office of Public Health Science, Civil Rights Staff, and FSIS Financial Management Division.

- A description of each State supervisor’s area of responsibility;
- The Hazard Analysis and Critical Control Point (HACCP) processing categories for each State-inspected establishment and a ranking of the highest volume producers for each HACCP processing category;
- A list of all State-inspected establishments that the State MPI program has reviewed (e.g., through a review similar to an FSIS Food Safety Assessment or other State review) within the preceding 12 months; and
- A list of all State-inspected establishments that have a history of any of the following public health risks within the preceding 12 months:
 - Positive sample results for pathogens (e.g., STEC serotypes in beef manufacturing trimmings, *E. coli* O157:H7 in non-intact, raw beef products, or *L. monocytogenes* or *Salmonella* in ready-to-eat products);
 - *Salmonella* or *Campylobacter* verification sample set results that exceed the performance standard or guideline established by FSIS;
 - Enforcement actions;
 - Recalls; and
 - Structural damage to State-inspected establishments caused by a natural or other disaster.

For each State MPI program, FSAB uses a statistically valid sampling method to determine the total number of establishments to review onsite, selects specific establishments to review based largely on the aforementioned public health risks, and includes establishments that the State MPI program reviewed during the preceding 12 months. FSAB shares the list of establishments selected to review with State MPI program officials at least five business days before the onsite review.

At each establishment review, the FSAB program auditor:

- Reviews the State MPI program’s verification of compliance with applicable State requirements on HACCP, Sanitation Standard Operating Procedures, Sanitation Performance Standards, non-food safety consumer protection, control of specified risk material, humane handling, and custom and retail exempt requirements;
- Observes State MPI program inspectors as they perform ante-mortem and post-mortem inspection procedures;
- Documents, based on observation and records review, any establishment noncompliance that the State MPI program failed to identify or for which the State MPI program failed to take an appropriate regulatory action;
- Documents other findings that indicate that the State MPI program is not “at least equal to” the Federal program;
- Reports his or her findings to State MPI program officials at the conclusion of each establishment review;

- Discusses the review findings with State MPI Program officials, then observes the State MPI Program officials as they lead the exit meeting with establishment management to discuss the findings of each establishment review; and
- Ensures, before leaving an establishment, that State MPI program officials have taken appropriate actions with respect to all noncompliances observed during the establishment review.

In addition to the establishment reviews, the FSAB program auditor reviews product sampling, staffing, training, compliance, and management control documents at the State MPI program office. This review includes a representative sample of current State MPI program records and is necessary to determine whether the documents evidence that the State MPI program implements these programs in a manner consistent with the self-assessment documents, and whether the State MPI program maintains and carries out its program “at least equal to” the Federal inspection program.

After the completion of establishment reviews and the review of documents in the State MPI program office, FSAB analyzes all information gathered during the onsite review, as well as the results of the current year’s self-assessment review, and identifies the findings. The findings are based on the reviewer’s independent assessment during the onsite review and comparison of the onsite review findings with the State MPI program’s operations and records, including the self-assessment submissions. The review team’s findings focus on implementation of food safety policy and procedures and on whether the program meets the criteria for the nine review components. The FSAB program auditor presents the findings to State MPI program officials at the exit meeting teleconference.

The State MPI program must submit within 10 business days of the date of the exit conference a written program action plan to correct all findings. The program action plan needs to:

- Identify the underlying causes of any findings that may be system-wide and ensure State-wide correction of such findings;
- Identify the underlying causes of specific findings at individual establishments and ensure that the State MPI program verifies that the establishments address such findings; and
- Identify the verification plan or management controls that the State MPI program will implement throughout the year to verify adequate implementation of the corrective actions.

Determination Process

Each year, FSIS determines whether each State MPI program meets the “at least equal to” standard, based on one or both parts of the comprehensive review. If the State MPI program is not scheduled for an onsite review during the fiscal year, FSIS makes an annual determination based on the results of the self-assessment review. If the State MPI program is scheduled for an onsite review during the fiscal year, then FSIS makes an annual determination based on the results of both the self-assessment and onsite review.

Following each self-assessment and onsite review, FSIS determines whether each State MPI program meets the “at least equal to” standard. FSIS makes one of the following three determinations for each of the nine components and on the State’s overall ability to maintain its MPI program for the next 12 months:

- (1) “At Least Equal To” means the State MPI program has adopted laws, regulations, and programs, and has implemented them in a manner that is “at least equal to” the 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 the 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” the Federal inspection program for one or more of the review components.

If the results of the self-assessment or the onsite review are that the State MPI program is “at least equal to” the Federal inspection program, FSIS promptly notifies State MPI program officials in writing of this fact. If FSIS needs additional information from State MPI program officials to reach a determination, FSIS requests that State MPI program officials provide that information. FSIS does not make a determination until all necessary information is collected and analyzed. If FSIS determines that a State MPI program is unable or unwilling to maintain an inspection program that is “at least equal to” the Federal inspection program, the Secretary of the U.S. Department of Agriculture will promptly notify the Governor of the State. If a State MPI program becomes subject to the designation process, FSIS will rescind the cooperative agreement between FSIS and the subject State, and all meat and poultry establishments within the State will become subject to Federal inspection.

Review Findings

The FY 2020 FSIS determinations are summarized in this section and in Tables 1 and 2. All identified findings for each State MPI program are detailed in the attached corresponding individual State report.

Based on the 27 self-assessments received during FY 2020, FSIS determined that 26 State MPI programs have provided adequate documentation to support the States have implemented and can maintain an MPI program that meets the “at least equal to” Federal requirements. This year, Wyoming received a provisional “at least equal to” determination that will remain in effect until FSIS has an opportunity to perform a targeted onsite review of the MPI program in FY 2021. This past July, the State enacted Wyoming Statute 11-49-104, a herd share law that expands the meaning of animal ownership beyond the definition and requirements articulated in the FMIA, PPIA and 9 CFR 303.1. For this reason, FSIS plans to conduct a targeted onsite review in FY 2021 to verify the effectiveness of proffered inspection strategies implemented by the MPI program to ensure Wyoming custom operators maintain records and facility sanitation necessary to prevent product adulteration or misbranding. The self-assessment determinations for each State MPI program are summarized in *Table 1. FSIS’ FY 2020 State MPI Program Determinations, Based on the Self-Assessment Review Results Only.*

Travel restrictions due to the COVID-19 pandemic prevented FSIS from completing its full schedule of onsite reviews; MPI program onsite reviews were conducted in only four States (Alabama, Arizona, Georgia, and Illinois) this year. Through observations, program personnel interviews, and document examinations conducted during the onsite reviews, FSIS verified the submitted FY 2020 self-assessment documentation well represented the MPI programs implemented by each State reviewed. FSIS determined the States maintained MPI programs that were “at least equal to” the Federal program. Determinations made based on the results of this year’s onsite reviews are listed in *Table 2. FSIS’ FY 2020 State MPI Program Determinations, Based on the Verification Onsite Review Results.*

Next Steps

By the end of January 2021, FSIS will publish to the FSIS website this annual summary report and attached 27 individual State MPI program reports detailing findings and final determinations of the onsite reviews.

In FY 2021, FSIS plans to conduct self-assessment reviews of all 27 State MPI programs and, if possible, onsite reviews of at least 12 State MPI programs in accordance with FSIS Directive 5720.3, *Methodology for Performing Scheduled and Targeted Reviews of State Meat and Poultry Inspection Programs.*

In light of the current pandemic and the economic conditions that may detrimentally affect State budgets, FSIS will continue to monitor financial expenditures, general management, operations, and management control systems of the 27 State MPI programs to confirm States prudently use granted Federal funds to carry out their public health missions and implement programs that continue to meet “at least equal to” standards.

**Table 1. FSIS’ FY 2020 State MPI Program Determinations
Based on the Self-Assessment Review Results Only**

State	<u>“At Least Equal To”</u> ¹	<u>“At Least Equal To” with Provisions</u> ²	<u>Not “At Least Equal To”</u> ³
Alabama	✓		
Arizona	✓		
Delaware	✓		
Georgia	✓		
Illinois	✓		
Indiana	✓		
Iowa	✓		
Kansas	✓		
Louisiana	✓		
Maine	✓		
Minnesota	✓		
Mississippi	✓		
Missouri	✓		
Montana	✓		
North Carolina	✓		
North Dakota	✓		
Ohio	✓		
Oklahoma	✓		
South Carolina	✓		
South Dakota	✓		
Texas	✓		
Utah	✓		
Vermont	✓		
Virginia	✓		
West Virginia	✓		
Wisconsin	✓		
Wyoming		✓	

¹ “At Least Equal To” – The State MPI program has adopted laws, regulations, and programs, and has implemented them in a manner that is at least equivalent to the Federal inspection program for all review components.

² “At Least Equal To” with Provisions – FSIS makes a provisional determination of the State MPI program’s “at least equal to” status provided the program takes additional action to resolve the review findings.

³ Not “At Least Equal To” – The State MPI program has not adopted laws, regulations, and programs, or does not implement them in a manner that is at least equivalent to the Federal inspection program for one or more of the review components.

**Table 2. FSIS’ FY 2020 State MPI Program Determinations
Based on the Verification Onsite Review Results**

State	<u>“At Least Equal To”¹</u>	<u>“At Least Equal To” with Provisions²</u>	<u>Not “At Least Equal To”³</u>
Alabama	✓		
Arizona	✓		
Georgia	✓		
Illinois	✓		

¹ “At Least Equal To” – The State MPI program has adopted laws, regulations, and programs, and has implemented them in a manner that is at least equivalent to the Federal inspection program for all review components.

² “At Least Equal To” with Provisions – FSIS makes a provisional determination of the State MPI program’s “at least equal to” status provided the program takes additional action to resolve the review findings.

³ Not “At Least Equal To” – The State MPI program has not adopted laws, regulations, and programs, or does not implement them in a manner that is at least equivalent to the Federal inspection program for one or more of the review components.