Federal Food Safety Laws


The Federal Meat Inspection Act of 1967 of 1968 requires more than 3,000 state inspected processing in 26 states to meet standards that are "at least equal to" standards for federally inspected plants. However, the law inhibits the state inspected plants from selling meat and poultry and specialty products, such as sausage, pizza and jerky, across state lines, a privilege enjoyed by foreign and federally inspected competitors.

Establishments have the option to apply for Federal or State inspection. Under the agreement, a State's program must enforce requirements "at least equal to" those imposed under the Federal Meat and Poultry Products Inspection Acts. However, product produced under State inspection is limited to intrastate commerce. FSIS provides up to 50% of the State's operating funds, as well as training and other assistance.

Inspection of Meat and Poultry

USDA’s Food Safety and Inspection Service (FSIS) is responsible for inspecting most meat, poultry, and processed egg products for safety, wholesomeness, and proper labeling. Federal inspectors or their state counterparts are present at all times in virtually all slaughter plants and for at least part of each day in establishments that further process meat and poultry products. The Food and Drug Administration (FDA) is responsible for ensuring the safety of all other foods, including seafood, and for animal drugs and feed ingredients.

States are important partners in the meat inspection system [http://www.fsis.usda.gov/regulations_&_policies/state_inspection_programs/index.asp]. The 1967 Federal Meat Inspection Act and the 1968 Wholesome Poultry Products Act established a state-federal cooperative inspection program which requires state inspection programs to be “at least equal to” the federal program. Twenty-eight states currently have their own meat and poultry inspection programs serving about 2,000 small or very small establishments. In approximately one-third of the states with inspection programs, the state inspectors provide inspection coverage for both federal and state facilities under a program known as Talmidge/Aiken Act (T/A). The 1962 Talmidge/Aiken Act was designed to “avoid duplication of functions, facilities, and personnel and to attain closer coordination and greater effectiveness and economy of administration of federal and state laws.” Nine of the current 28 states with inspection programs have cooperative T/A agreements with FSIS, covering a total of 307 federally inspected plants. Further, FSIS routinely calls on the states to assist them under a cross-utilization cooperative agreement similar to the Talmaidage/Aiken agreement.

State and local government food safety programs currently conduct more than 80 percent of the food establishment inspections, respond to and manage the majority of food emergencies in the Nation, and conduct the majority of food products testing for bacteriological or chemical contamination. There has never been a documented food illness from state-inspected meat and poultry products.
Statutory Authorities
The Federal Meat Inspection Act of 1906 requires USDA to inspect all cattle, sheep, swine, goats, and horses brought into any plant to be slaughtered and processed into products for human consumption. The 1957 Poultry Products Inspection Act made poultry inspection mandatory for any domesticated birds intended for use as human food. The current list of species includes chickens, turkeys, ducks, geese, guineas, ratites (ostrich, emu, and rhea), and squabs (pigeons up to one month old).

The Meat Inspection Act of 1906 was amended by the 1967 Federal Meat Inspection Act (FMIA) and the 1968 Poultry Products Inspection Act (PPIA). These 1967 and 1968 acts established the state-federal cooperative inspection program which require state inspection programs to be “at least equal to” the federal inspection program. However, the laws also limit products receiving state inspection to distribution solely within that state. The states run the programs cooperatively with FSIS, which provides 50 percent of the funds for operating them. No other agricultural commodity (fruits, vegetables, grain, and dairy products) have similar restrictions to interstate commerce.

Inspection Program Basics
The 1967 and 1968 Acts stressed the need for cooperation between state and federal authorities, and gave USDA clear responsibility for setting a national standard for meat and poultry inspection. USDA is required to monitor state programs and to assume direct responsibility at state plants if a state fails to develop or effectively enforce inspection requirements "at least equal to" those under the federal acts.

USDA's Food Safety and Inspection Service (FSIS) annually certifies that each state inspection program is “at least equal to” federal inspection requirements. This is verified by an FSIS review of each state’s self-assessment attesting to program compliance along with supporting documentation and results of comprehensive reviews of state inspection programs.

Today, there are no real distinctions between state and federal inspection requirements. In fact, many states impose inspection requirements more stringent than USDA. FSIS has been conducting these “equal to” reviews since passage of the Acts in 1967 and 1968. Since that time, the agency has never unilaterally found that a state inspection program should be discontinued due to inadequacies in its inspection program.

State Meat and Poultry Inspection Programs
Each state that operates a meat or poultry inspection program must submit an annual self-assessment, including supporting documentation, addressing nine specific components.

The following state have state programs:

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<tr>
<th>State</th>
<th>Programs</th>
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<tr>
<td>Alabama</td>
<td>Meat &amp; Poultry</td>
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<tr>
<td>Arizona</td>
<td>Meat &amp; Poultry</td>
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<tr>
<td>Delaware</td>
<td>Meat &amp; Poultry</td>
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<tr>
<td>Georgia</td>
<td>Meat only</td>
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<tr>
<td>Illinois</td>
<td>Meat &amp; Poultry</td>
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The method of state oversight was established in 1987\textsuperscript{vii}. This Directive is designed to “be a single source of information on the policies and procedures for the management and administration of the State-Federal Cooperative Inspection Program.”

The annual self-assessment is a detailed document which provides for a review of nine basic items: (1) statutory authority and food safety regulations; (2) inspection; (3) product sampling; (4) staffing and training; (5) humane handling laws and regulations; (6) other consumer protection; (7) enforcement regulations; (8) civil rights requirements; and (9) funding and financial accountability requirements.

**Oversight and Review**

USDA is required by law to monitor state programs and to assume direct responsibility at state plants if a state fails to develop or effectively enforce inspection requirements that are “at least equal to” federal requirements.\textsuperscript{viii}

First, FSIS provides the directors of state cooperative inspection programs with a copy of the [FSIS Manual for State Meat and Poultry Inspection Program Reviews](http://www.fsis.usda.gov/PDF/State_Programs_Review_Manual_2007.pdf) which includes a Self-Assessment instrument. To be deemed “at least equal-to” the federal program, a state program must address all components included in the self-assessment and submit the completed form, with all supporting documentation, to the FSIS Review Staff Director along with
a signed *Certificate of Program Compliance*. Each state program must submit an annual update of the self-assessment to FSIS on or before November 15th of each year.

Second, FSIS will conduct a review of the state’s inspection program. This review consists of an FSIS verification of the state’s self-assessment instrument, and supporting documentation, followed by an on-site review of the state program. The FSIS review team conducts on-site audits by reviewing the state offices and a sample of state meat and poultry plants to verify the state program is operating as described by the self-assessment document. This process may require several weeks to complete. After reviewing the results, FSIS will certify that the state’s cooperative inspection program either meets or does not meet the “at least equal-to” requirements.

As noted earlier, FSIS has been conducting “equal to” reviews since passage of the Acts in 1967 and 1968. Since that time, the agency has never unilaterally found that a state inspection program should be discontinued due to inadequacies in its inspection program. In the mid-1990’s, two state programs closed—Florida and Hawaii—because there was a financial incentive to have USDA pay 100 percent of the program operating costs. Meanwhile, three other states—North Dakota, Missouri, and Maine—recently started new programs.

**Enhanced Oversight and Review Activity**

The 2002 Farm Bill contained report language supporting interstate shipment of state-inspected meat and poultry products and required USDA to conduct a new, additional comprehensive review of state inspection programs. USDA began these reviews in spring/summer 2003. In fall 2004, FSIS updated its policy and procedures for reviewing state inspection programs, including the *new FSIS Manual for State Meat and Poultry Inspection Program Reviews* that further strengthened testing and training requirements. FSIS issued an Interim Report in June 2005 which found that state inspection programs are “at least equal to” federal inspection. This review data continues to demonstrate that state inspection programs are highly effective and provide consumers with a wholesome, unadulterated food product that is properly labeled and safe. At a minimum, this review data adds a margin of safety to the state inspection process.

Prior to the development of the *FSIS Manual for State Meat and Poultry Inspection Program Reviews*, FSIS required each state to submit an annual State Performance Plan. This directive was before the passage of the Hazard Analysis & Critical Control Points (HACCP), so many food safety measures now required of establishments were absent from the earlier directive. Now, more emphasis is given to eliminating or preventing food borne illness pathogens and verifying this control through laboratory testing. The current process of self-assessments and on-site reviews are also more structured and comprehensive. Each state program is required to perform an in-depth internal audit of its program and FSIS reviewers, trained in the latest food safety system evaluation methodology, have specific guidance for verifying state program implementation.

**Interstate Shipment**

The 1967 and 1968 Meat and Poultry Inspection Acts prohibit state-inspected products (beef, poultry, pork, lamb and goat) from being sold in interstate commerce. However, the prohibition does not apply to “non-amenable” products—such as venison, pheasant, quail, rabbit, alligator and a host of other meats. With the exception of voluntary inspection offered by FSIS for a fee, these products are normally regulated by the state inspection programs yet, can be shipped in interstate commerce without restriction.
State-inspected meat and poultry are the only commodities that are restricted from sale across state lines. Other commodities, such as milk, dairy products, fruit, vegetables, fish, shellfish, and complex canned products, which are inspected under state jurisdiction, are allowed to be marketed freely throughout the U.S.

Legislation to allow interstate shipment of state-inspected meat and poultry products has been introduced and debated in Congress for more than a decade.

The 1996 Farm Bill required USDA to submit recommendations to Congress on the steps necessary to achieve interstate meat shipment. Following public hearings, USDA developed a concept paper for a legislative proposal, which was reviewed and approved by USDA’s National Advisory Committee on Meat and Poultry Inspection.

Draft legislation based on the concept paper was written by USDA and transmitted to the Senate by then-Vice President Al Gore. A bill to allow interstate shipment (S. 1988) was subsequently introduced in November 1999 by Sens. Tom Daschle (D-SD) and Orrin Hatch (R-UT) with twenty-two cosponsors.

At Senate Agriculture Committee hearings in April 2000, USDA Deputy Secretary Richard Rominger testified for the department and supported removing the ban on interstate meat shipment.

As noted earlier, the 2002 Farm Bill included report language supporting the merits of interstate meat shipment and required USDA to conduct a new, comprehensive review of state inspection programs. The language states:

“The goal of providing a safe, wholesome, abundant and affordable supply of meat and meat food products throughout the U.S. is achieved, in part, through the role played by both state and federal food safety inspection systems. The state and federal meat inspection programs should continue to function together to create an inspection system that ensures food safety and increases consumer confidence in the food supply in both intrastate and interstate commerce. These goals cannot be met in the absence of viable state meat inspection programs that help foster the participation of smaller establishments in the food production economy.”

Three USDA Advisory Committees have recommended that the ban on interstate shipment be removed: USDA’s Advisory Committee on Agricultural Concentration (June 1996); USDA’s National Commission on Small Farms (January 1998); and the National Advisory Committee on Meat and Poultry Inspection (NACMPI), (May 1998 and June 2002).

Development of a Risk-Based Inspection System
In the 1980’s and 1990’s there was much debate about whether the meat and poultry inspection programs, which were first designed in the early 1900’s, had kept pace with changes in the food production and marketing industries, and with perceived hazards—whether naturally occurring or intentionally caused by human intervention.
Traditional inspection under the original meat and poultry statutes provided constant organoleptic inspection (sight-smell-touch) at slaughter operations and daily inspection of sample products and operations at processing plants. In the early 1990’s, food safety officials recognized that most food borne illness traced to meat and poultry products were caused by naturally occurring microbiological contamination that was not adequately addressed by the traditional sight-smell-touch-based system of inspection. Thus, USDA began to add testing for pathogenic bacteria on various species and products to the inspection system. This “modernization” of the meat and poultry inspection system was based on the principles of reducing the “risks” of food borne disease to consumers. In order to maintain “equal to” status, state programs have been required to enact these same measures.

**Hazard Analysis & Critical Control Points (HACCP) System**

In 1996, USDA finalized a sweeping new risk reduction system called Hazard Analysis and Critical Control Point (HACCP) [http://www.fsis.usda.gov/Fact_Sheets/Food_Safety_in_the_Kitchen/index.asp]. Under this system, meat processing establishments must analyze risks in each phase of production, identifying and then monitoring “critical control points” for preventing such hazards, and taking corrective actions when necessary. Record keeping and verification are used to ensure that the system is working. Since January 2000, all slaughter and processing operations are required to have HACCP plans in place. HACCP is intended to operate as an additional measure of safety to the traditional methods of inspection, which are still mandatory under the original statutes.

Under HACCP regulations, all operations must have site-specific standard operating procedures (SOPs) for sanitation. State or federal inspectors check records to verify a plant’s compliance. The HACCP rule also mandates two types of microbial testing: for generic *E. Coli* and for *Salmonella*. Test results help FSIS inspectors verify that plant sanitation procedures are working, and to identify and assist plants whose process control may be under performing. In the initial years of HACCP implementation, plants that failed three consecutive *Salmonella* sample sets could have their USDA inspectors withdrawn. This would effectively shut down the plant until the problem could be remedied. However, a federal court case (*Supreme Beef*) in 2000, upheld on appeal in 2001, ruled that USDA did not have such enforcement authority. USDA has adopted the position that the court decision did not affect the agency’s ability to use the standards as part of the verification of plants’ sanitation and HACCP plans. FSIS inspectors still test samples for *Salmonella* and use the results as one of a number of indicators of plant performance.

**Additional Regulatory Safeguards**

Important federal regulatory programs have been effectively applied in recent years to improve all segments of the Nation’s extensive food safety system, including food production and distribution chain, animal and plant husbandry, production, transportation, and preparation.

Under the risk-based HACCP system, FSIS now has years of food safety testing/verification data that provides timely information to both consumers and industry. USDA continues to develop additional strategies and approaches to address new hazards, technology improvements, and scientific advances. Other initiatives being implemented in the federal food safety inspection system are outlined below. **It is important to remember that in order to**
maintain “equal to” status, state programs have been required to enact these same measures.

In October 1994, FSIS began testing samples of raw ground beef for *E. coli* O157:H7 and declared that any such product found with this pathogen would be considered adulterated — the first time a foodborne pathogen on raw product was declared an adulterant under the meat inspection law. In October 2002 the agency published a notice requiring manufacturers of all raw beef products to reassess their HACCP plans and add control points for *E. coli* O157:H7 if the reassessment showed that the pathogen was a likely hazard in the facility’s operations. The changes at all operations were required to be complete by April 2003.

In June 2003, FSIS announced an interim final rule to reduce *Listeria monocytogenes* (*Lm*) in ready-to-eat (RTE) meats (e.g. cold cuts and hot dogs). The new regulation requires plants that process RTE foods to add control measures specific to *Listeria monocytogenes* (*Lm*) to their HACCP and sanitation plans, and to verify their effectiveness by testing and disclosing the results to FSIS. The rule directs FSIS inspectors to conduct random tests to verify establishments’ programs. Plants are subject to different degrees of FSIS verification testing depending upon what type of control steps they adopt in their HACCP and sanitation plans.

In February 2006, FSIS announced a comprehensive initiative to reduce the presence of *Salmonella* in raw meat and poultry products. FSIS will now provide the results of its *Salmonella* performance standard testing to establishments as soon as they become available on a sample-by-sample basis. This will enable establishments to more readily identify and respond to needed process control in the slaughter-dressing operation.

**Food Security and Emergency Preparedness**

Since September 11, 2001, there has been increased concern about the potential for a terrorist attack on U.S. agriculture and food supply. USDA and FSIS have taken numerous steps to increase oversight of meat and poultry safety. In August 2002, FSIS made security guidelines available to food processors; and it unveiled a new Food Emergency Response Network (FERN) Division in February 2005. In April 2005, FSIS announced the availability of model food security plans and training for meat and poultry plants to help strengthen security measures and prevent potential acts of intentional contamination.

**Import Inspection**

In a manner similar to its reviews of state meat inspection programs, FSIS conducts overseas evaluations to determine that meat imports from foreign countries are processed under “equivalent” inspection systems. Agency officials also verify equivalency by visiting various foreign slaughtering and processing operations. A plant seeking to export meat or poultry to the United States must first receive FSIS certification.

At U.S. ports of entry, meat and poultry import shipments must first clear Department of Homeland Security (DHS) inspection to assure that only shipments from countries free of certain animal and human disease hazards are allowed entry. This function was transferred to DHS from USDA’s Animal and Plant Health Inspection Service (APHIS) when DHS was established in 2002. After DHS inspection, imported meat and poultry shipments go to nearby FSIS inspection facilities for final clearance into interstate commerce.
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Foreign-inspected meat can be shipped to and sold anywhere in the U.S. as long as that country’s foreign inspection program is equivalent to U.S. federal standards—in practice the same standard which state-inspected programs must meet. However, importing countries do not have either the frequency or thoroughness of USDA oversight that state programs undergo.

Imported meat products compose approximately 20 percent of the red meat consumed in the U.S. while state-inspected facilities produce approximately 10 percent of the red meat consumed.


iii This report was originally produced by the National Association of State Departments of Agriculture (NASDA) in 2006.


v 1957 Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.)


vii Poultry Products Inspection Act, 21 U.S.C. chapter 10 §§ 451 et seq

viii FSIS Directive 5720.2 and modified with the re-issuance of the directive in November 2004 (Revision 3)

ix FSIS Directive 5720.2 Revision 3 provides a detailed oversight and review strategy composed of two parts.

x Hazard Analysis and Critical Control Point, or HACCP (pronounced hassip) was adopted by federal agencies via regulation, through current statutory authority. The Food and Drug Administration (FDA) adopted regulations for the low-acid canned food industry. FDA also established HACCP for the seafood industry in a final rule December 18, 1995 and for the juice industry in a final rule released January 19, 2001. In 1998, the U.S. Department of Agriculture established HACCP for meat and poultry processing plants. Most of these establishments were required to start using HACCP by January 1999; very small plants had until Jan. 25, 2000. (USDA regulates meat and poultry; FDA all other foods.)