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May 30, 2013

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The Honorable Thad Cochran
Ranking Member
Committee on Agriculture, Nutrition and Forestry
United States Senate

The Honorable Frank D. Lucas
Chairman
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Committee on Agriculture
House of Representatives

USDA’s Implementation of New State-Delegated Meat Inspection Program Addresses Most Key Farm Bill Requirements, but Additional Action Needed

According to the Centers for Disease Control and Prevention (CDC), contaminated foods cause an estimated 48 million illnesses in the United States each year, including 128,000 hospitalizations and 3,000 deaths. Contaminated meat and poultry are responsible for 22 percent of these illnesses and 29 percent of these deaths, according to CDC data.¹ The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) give the U.S. Department of Agriculture’s (USDA) Food Safety Inspection Service (FSIS) responsibility for protecting the public by ensuring that meat and poultry products that enter interstate commerce are safe, wholesome, and accurately labeled, among other things.² Under its federal inspection program, FSIS inspects establishments that slaughter and/or process meat and poultry products in all 50 states. Federally inspected products are given federal marks of inspection—a mark, stamp, tag, or label—and may be shipped anywhere in the United States (interstate shipment).³ Under FMIA and PPIA, FSIS has the authority to cooperate with states in developing and administering state meat and poultry inspection programs to inspect and provide a state’s mark of inspection to meat and poultry products solely for distribution within their borders, and 27 states have such programs. Of the 27 states, FSIS has entered into cooperative agreements

¹John A. Painter, Robert M. Hoekstra, Tracy Ayers, Robert V. Tauxe, Christopher R. Braden, Frederick J. Angulo, and Patricia M. Griffin, “Attribution of Foodborne Illnesses, Hospitalizations, and Deaths to Food Commodities by Using Outbreak Data, United States, 1998–2008,” *Emerging Infectious Diseases*, 19, no. 3 (March 2013).

²See Federal Meat Inspection Act, 21 U.S.C. §§ 601-683 and Poultry Products Inspection Act, 21 U.S.C. §§ 451-472.

³Meat and poultry products with federal marks of inspection can also be shipped to foreign countries.

with 15 states to allow them to also conduct federal inspections and convey the federal marks of inspection in establishments covered by the agreements.⁴

The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) authorized a new inspection program to support interstate shipment of meat and poultry products from selected establishments—with 25 or fewer employees—inspected by state agencies.⁵ FSIS is responsible for inspecting establishments that slaughter or process meat or poultry in the United States and for implementing the new inspection program, called the Cooperative Interstate Shipment (CIS) program. The new CIS program allows selected small establishments,⁶ which formerly sold only within the state in which they are located, to reach markets in other states and even foreign countries. The 2008 Farm Bill required FSIS to take certain actions to implement and oversee the CIS program and authorized it to select establishments to participate in the program.

The 2008 Farm Bill also directs the Comptroller General of the United States to conduct an audit to determine the effectiveness of the implementation of the CIS program, not less than 3 years and not more than 5 years after enactment of the bill. On March 4, 2013, we provided a briefing to your staff members. This report transmits and updates the information in that briefing (enc. I), which responded to the reporting requirement in the 2008 Farm Bill. Our objectives were to examine (1) FSIS's implementation of the new inspection program and the number of establishments participating and (2) the inspection oversight and standards of existing inspection programs in which states conduct inspections for interstate shipment compared with those of CIS.

Scope and Methodology

To conduct this work, we reviewed FSIS's progress, as of January 31, 2013, in four key program activities outlined in the 2008 Farm Bill to implement the CIS program, including (1) issuing regulations, (2) selecting meat and poultry establishments for participation in the program, (3) designating federal coordinators to ensure selected establishments are operating consistent with laws and regulations, and (4) establishing a technical assistance division to coordinate initiatives directed to very small and certain small establishments (small establishments).⁷ We reviewed FSIS's implementation directives, guidance, and time frames; analyzed an FSIS report on establishment visits for its selection process; reviewed agreements with the four states that received funding from FSIS in fiscal year 2011 to pay for states' assessment of changes they would need to make to comply with CIS; and discussed FSIS's process for approving states and selecting establishments with FSIS officials. We also determined the number of participating establishments by reviewing FSIS documents on the establishments proposed for participation

⁴Under 7 U.S.C. § 450, commonly referred to as the Talmadge-Aiken Act, the Secretary of Agriculture is authorized to enter into cooperative agreements with states to assist in the administration and enforcement of federal laws and regulations when feasible and in the public interest. Citing this authority, FSIS has entered into Talmadge-Aiken and cross-utilization cooperative agreements. According to FSIS officials, cross-utilization agreements were typically used for smaller states. Since 2004, FSIS has recognized no substantive difference in inspection oversight and standards between the two types of agreements.

⁵Also, establishments that employ more than 25 employees but fewer than 35 employees are eligible, but they must have 25 or fewer employees by 3 years after the effective date of the final regulation.

⁶The 2008 Farm Bill provisions generally address establishments with 25 or fewer employees.

⁷Very small establishments have 10 or fewer employees; certain small establishments have 25 or fewer employees, according to FSIS officials.

by states and approved by FSIS. In addition, we obtained views on FSIS's implementation efforts from officials from USDA and certain states (i.e., the states participating in the CIS program, a state seeking to participate in the program, and a state that initially expressed interest and later decided not to participate) and from owners or operators of a nonprobability sample of eight establishments we visited in Ohio, Wisconsin, and Virginia. We selected establishments in those states based on geographic location and the establishments' varied levels of interest or ability to participate in the new program. Because this is a nonprobability sample, the information collected cannot be generalized to all establishments but can be illustrative. To compare the inspection oversight and standards of existing inspection programs in which states conduct inspections for interstate shipment with those of the new inspection program, we reviewed documents, such as authorizing legislation, directives (e.g., FSIS Directive 5720.2, revision 3, November 16, 2004), and cooperative agreements. We also interviewed officials from FSIS and selected states that inspect meat and poultry products for interstate shipment.

We conducted this performance audit from June 2012 to May 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FSIS Has Met Most Key Implementation Requirements for CIS but Is Not Coordinating with Other USDA Agencies and Informing States

FSIS has completed most of the key activities outlined in the 2008 Farm Bill to implement the CIS program, including issuing program regulations, approving states and selecting establishments to participate in the program, designating federal coordinators for states with participating establishments and submitting a draft first quarterly compliance report, and establishing a technical assistance division. Specifically, FSIS issued the program regulations in May 2011, and it provided additional guidance in October 2011 instructing states on what they needed to demonstrate to be approved for the CIS program. After the regulations and guidance were finalized, FSIS approved three states (Ohio, North Dakota, and Wisconsin) and selected eight establishments to participate in the program, as of January 31, 2013. In addition, FSIS established a technical assistance division to coordinate with other USDA agencies on initiatives to provide outreach, education, and training to establishments and grants to states to provide outreach, education, training and technical assistance to establishments, as required by the 2008 Farm Bill.

However, the technical assistance division has not coordinated with other USDA agencies on initiatives to provide the assistance described in the 2008 Farm Bill, according to FSIS officials, although they said that such coordination could be helpful to small establishments. The officials said that FSIS relies on the states to convey information about CIS to their establishments, but that the agency does not monitor whether or how states convey such information. Coordinating with other USDA agencies on initiatives to provide outreach, education, and training to establishments and grants to states for these purposes, as well as technical assistance, would better position FSIS to leverage the other USDA agencies' efforts to provide information and training about the CIS program to potentially interested establishments. Also, FSIS gave about \$200,000 to four states for fiscal years 2011 and 2012 to assess the changes they would have to make to their inspection procedures to meet the 2008 Farm Bill requirements for CIS. Moreover, according to the funding agreements with these states, the results of the assessments by these states were intended to serve as models for other states that might be

interested in the new program. However, FSIS officials said that they have not collected information from the four states—three states that have been approved for participation in CIS and one state that decided not to participate in the program—and FSIS does not plan to provide funds to other states for similar assessments. The officials could not provide an explanation as to why they did not collect this information, but they acknowledged that the information could be useful to other states that may be considering CIS. Collecting information from these four states could better position FSIS to share information with other states to inform their decisions about CIS for their small establishments.

Inspection Oversight and Standards of the Existing Inspection Programs for Interstate Shipment Differ from Those of the CIS Program

The inspection oversight and standards for establishments in the existing programs in which states conduct inspections for interstate shipment differ from those for establishments in the CIS program. Specifically, for the CIS program, the 2008 Farm Bill requires the federal coordinator for each state to (1) visit CIS establishments with a frequency that is appropriate to ensure that those establishments are operating in a manner that is consistent with FMIA and PPIA and (2) submit a quarterly food safety compliance report on each establishment to the Secretary of Agriculture. According to CIS program regulations, the frequency of these visits will be based on factors that include the complexity of the operations conducted, an establishment's schedule of operations, and the establishment's performance under the program. FSIS officials said the agency intends these visits to be conducted at least once every 3 months and to submit quarterly food safety compliance reports on each establishment. In contrast, under the existing inspection programs in which states conduct inspections for interstate shipment, FSIS inspects establishments and issues a compliance report about once every 4 years. FSIS officials told us that oversight for establishments inspected by state inspectors in the existing inspection programs for interstate shipment is also based on the type of operation and the establishments' past performance. The officials were not able to explain why FSIS has such different requirements for frequency of oversight visits and compliance reporting for establishments in programs that all use state inspectors to convey federal marks of inspection. FSIS generally has discretion to change the frequency of visits under the existing programs and, in March 2013, officials told us the agency is considering the need to have some consistency with CIS in administering these programs. Reexamining the frequency of oversight visits and compliance reporting for the existing programs, in light of the 2008 Farm Bill requirements for the new CIS program and its decision to visit CIS establishments quarterly, would allow FSIS to consider whether more similar oversight requirements for establishments that convey federal marks of inspection would be beneficial.

Under the CIS program and the existing inspection programs in which states conduct inspections and convey federal marks for interstate shipment, inspections must be the “same as” or identical to federal inspections, including legal authorities, inspector training, computer systems, and laboratory protocols, among others. However, the fiscal year 2013 cooperative agreements for the existing inspection programs stipulate that inspections must be “at least equal to” the federal inspection standard, not the “same as.” The “at least equal to” standard does not require states to conduct inspections in a manner that is the “same as” the FSIS inspection program and does not prohibit states from establishing safeguards in their inspection programs that the states believe are more effective than FSIS's safeguards. When we pointed out to FSIS officials that the 2013 agreements we reviewed cited the wrong standard, they attributed this to a mistake. The use of the “at least equal to” standard is not consistent with the

requirements for federal marks of inspection and could also create confusion for the state inspectors who conduct both inspections that convey federal marks and inspections that convey state marks.

Conclusions

FSIS has met most of the key 2008 Farm Bill requirements to implement the CIS program and has approved establishments to participate in the program. However, although FSIS designated a technical assistance division, the division has not coordinated with other USDA agencies on initiatives to provide outreach, education, and training to establishments and grants to states for the purposes described in the 2008 Farm Bill. Such coordination could better position FSIS to leverage the other USDA agencies' efforts to provide information and training about the CIS program to potentially interested establishments. Additionally, although the funding agreements between FSIS and the four states that received a total of about \$200,000 noted that the states would serve as models for other states that might become interested in the program, FSIS did not collect information from the states regarding these assessments. Collecting and sharing information from these four states could better position FSIS to provide other states with information to help inform their decisions about CIS for their small establishments.

In addition, the CIS program and existing inspection programs for interstate shipment in which states conduct inspections and state inspectors convey federal marks of inspection have different levels of oversight and inspection standards. FSIS officials were not able to explain why programs that all use state inspectors to convey federal marks of inspection have such different requirements for frequency of oversight visits and compliance reporting for establishments. Now that FSIS officials have acknowledged that they are considering the need for some consistency in administering these programs, reexamining the frequency of oversight visits and compliance reporting for the existing programs, would allow FSIS to consider whether more similar oversight requirements for establishments that convey federal marks of inspection would be beneficial, especially in light of the 2008 Farm Bill requirements for CIS and the agency's decision to visit CIS establishments quarterly. Additionally, although FSIS intends that states meet the "same as" inspection standard for the CIS and existing inspection programs, the fiscal year 2013 cooperative agreements with states for the existing inspection programs for interstate shipment specify the "at least equal to" inspection standard, which is not consistent with the requirements for federal marks of inspection. This could create confusion for state inspectors who conduct both inspections that convey federal marks and inspections that convey state marks.

Recommendations for Executive Action

We recommend that the Secretary of Agriculture direct the Administrator of FSIS to take the following two actions:

- To ensure that small establishments have information about the CIS program, require the technical assistance division to coordinate with other USDA agencies on initiatives to provide outreach, education, and training to small establishments and grants to states for outreach, education, training, and technical assistance to such establishments, as described in the 2008 Farm Bill.
- To inform and assist states that may be interested in the CIS program for small establishments in their states, work with the four states that received funding under agreements with FSIS in fiscal years 2011 and 2012 to collect information that could be shared with other states.

To promote more consistency between the CIS and existing inspection programs in which state inspectors convey federal marks of inspection, we also recommend that the Secretary of Agriculture direct the Administrator of FSIS to take the following two actions:

- Reexamine the federal oversight requirements for these programs and consider whether more similar requirements, such as frequency of visits to establishments and compliance reporting by inspectors, would be beneficial and, if so, modify the requirements accordingly.
- Require that future cooperative agreements with states for the existing inspection programs stipulate the “same as” standard.

Agency Comments and Our Evaluation

We provided a copy of a draft of this report to USDA for review and comment. In its written comments, which are reprinted in enclosure II, USDA agreed with our four recommendations and provided a short overview of its plans for their implementation. USDA’s letter noted that the CIS program builds on existing state inspection programs and that Ohio, North Dakota, and Wisconsin have successfully met the requirements of CIS; selected establishments in these states may produce products bearing the official FSIS mark of inspection and reach markets beyond their state border. The letter also clarified a statement in the report regarding our use of the term “existing state inspection programs” in several places to describe inspections by states under Talmadge-Aiken and cross utilization cooperative agreements. As USDA and our report correctly noted, Talmadge-Aiken is a federal inspection program in which state inspectors conduct federal inspections and convey federal marks of inspection. We revised the term to clarify that these are existing inspection programs in which states conduct the inspections and convey federal marks.

We are sending copies of this report to the Secretary of Agriculture, the appropriate congressional committees, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions concerning this report, please contact me at (202) 512-3841 or garciadiazd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Erin Lansburgh, Assistant Director; Daniel Semick; Kevin Bray; Bernice Dawson; Cynthia Norris; Luann Moy; Carol Herrstadt Shulman; and Walter Vance.

A handwritten signature in black ink, appearing to read "Daniel Garcia-Diaz". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

Daniel Garcia-Diaz
Director, Natural Resources and Environment

Enclosures — 2



USDA's Implementation of State-Inspected Meat and Poultry Products for Interstate Shipment

GAO Briefing to Congressional Committees

March 4, 2013, revised May 20, 2013

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Introduction

- The Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) authorized a new inspection program to support interstate shipment of meat and poultry products from selected establishments—with 25 or fewer employees—inspected by state agencies.
 - The U.S. Department of Agriculture (USDA) delegated to its Food Safety Inspection Service (FSIS) responsibility for inspecting establishments that slaughter or process meat or poultry in the United States and implementing the new inspection program, called the Cooperative Interstate Shipment (CIS) program.
 - The new CIS program is intended to help these smaller establishments that formerly sold only within the state in which they are located reach markets in other states and even foreign countries, according to FSIS officials.
- Other federal and state inspection programs are in effect throughout the United States.

Objectives

- The 2008 Farm Bill directs the Comptroller General of the United States to conduct an audit of the effectiveness of implementation of the CIS program, not less than 3 years and not more than 5 years after enactment of the bill.
- This briefing responds to the reporting requirement in the 2008 Farm Bill. Specifically, we examined
 - FSIS's implementation of the new inspection program and the number of establishments participating, and
 - the inspection standards and oversight of existing inspection programs in which states conduct inspections for interstate shipment compared with those of CIS.

Scope and Methodology

- To examine FSIS's implementation of the CIS program, we
 - reviewed FSIS's progress in four program activities specified in the 2008 Farm Bill, which are key to FSIS's ability to effectively implement the new inspection program, as follows:
 - issuing regulations,
 - selecting establishments for participation in the program,
 - designating federal coordinators, and
 - establishing a technical assistance division.
 - examined FSIS's actions to address these activities as of January 31, 2013, including
 - reviewing implementation directives, guidance, and time frames;
 - analyzing an FSIS report on establishment visits for the selection process; and
 - discussing the selection process as well as the federal role, responsibilities, and technical assistance provided by FSIS.

Scope and Methodology (cont.)

- determined the number of participating establishments by reviewing FSIS documents on the establishments proposed for participation by states and approved by FSIS; and
- obtained views on FSIS's implementation efforts from officials from USDA, the states participating in the CIS program, a state seeking to participate in the program, and a state that initially expressed interest and later decided not to participate. In addition, we obtained views of owners or operators of a nonprobability sample of eight establishments we visited in Ohio, Wisconsin, and Virginia selected on the basis of geographic location and varied levels of interest and ability to participate in the new program. Because this is a nonprobability sample, the information collected cannot be generalized to all establishments but can be illustrative.

Scope and Methodology (cont.)

- To compare the inspection standards and oversight of existing inspection programs in which states conduct inspections for interstate shipment with those required in the new inspection program, we reviewed program documents, such as authorizing legislation and cooperative agreements, and interviewed officials from FSIS and selected states that have the new program or an existing program.
- We conducted this performance audit from June 2012 to May 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

- Under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), FSIS is to protect the public by ensuring that meat and poultry products are safe, wholesome, and accurately labeled, among other things.
- Under its federal inspection program, FSIS inspects establishments that slaughter and/or process meat and poultry products in all 50 states. Federally inspected products are given federal marks of inspection—a mark, stamp, tag, or label—and may be shipped anywhere in the United States and to foreign countries.
- FMIA and PPIA also authorize FSIS to cooperate with states in developing and administering their own state meat and poultry inspection (MPI) programs to inspect and regulate meat and poultry products that are produced and sold solely within their borders, and 27 states have such programs.

Background (cont.)

- According to FSIS guidance, under state MPI programs,
 - the states must operate in a manner and with authorities “at least equal to,” but not necessarily identical to, the federal inspection program;
 - FSIS may contribute up to 50 percent of the states’ costs, as long as the state MPI programs are effectively enforcing requirements that are “at least equal to” the federal program; and
 - inspected items are given the state’s inspection marks, not federal marks of inspection.
- With 15 of the 27 states that have state MPI programs, FSIS has entered into cooperative agreements that allow those states to also conduct federal inspections and convey the federal marks of inspection in establishments covered by the agreements. The inspected establishments are allowed to ship inspected items in interstate and foreign commerce.

Background (cont.)

- These cooperative agreements are authorized by the Talmadge-Aiken Act (7 U.S.C. sec. 450), under which states may help administer and enforce federal laws and regulations when feasible and in the public interest.
- Prior to 2004, FSIS recognized two types of agreements under this authority, “Talmadge-Aiken” and “cross-utilization,” with different amounts of reimbursement allotted for each. Further, according to agency officials, cross-utilization agreements were typically used in smaller states.
- FSIS continues to enter into both types of agreements even though it issued a directive in 2004 that recognized no difference between the two types of agreements and provided for reimbursement of up to 100 percent of states’ inspection costs. FSIS has the following 15 agreements:
 - *Talmadge-Aiken agreements*: FSIS has these cooperative agreements with nine states—Alabama, Georgia, Illinois, Mississippi, North Carolina, Oklahoma, Texas, Utah, and Virginia.
 - *Cross-utilization agreements*: FSIS has these cooperative agreements with six states—Delaware, Louisiana, South Carolina, South Dakota, Vermont, and Wyoming.

Background (cont.)

- The 2008 Farm Bill amended FMIA and PPIA to require USDA to implement the new CIS program in which state inspectors conduct inspections and convey federal marks of inspection on the products from selected establishments and to reimburse states for at least 60 percent of their costs.
- The Farm Bill defines a selected establishment as one that the Secretary of Agriculture, in coordination with a state agency, selects to ship carcasses, portions of carcasses, and meat or poultry items in interstate commerce and to have a federal mark, stamp, tag, or label of inspection on each item that is qualified if, among other things, the establishment
 - is located in a state with a state MPI program;
 - has 25 or fewer employees, on average; and
 - does not already ship in interstate commerce.
- Appendix I shows the types of meat and poultry inspections conducted in the United States.

Summary of Findings

- In establishing the CIS program, FSIS conducted most of the key 2008 Farm Bill activities to implement the program, including issuing program regulations, approving three states and selecting eight establishments to participate in the program, designating federal coordinators for states with participating establishments and submitting a draft first quarterly compliance report, and establishing an office to provide technical assistance.
 - However, FSIS issued program regulations in May 2011—more than 16 months after the date required in the 2008 Farm Bill.
 - In addition, the regulations did not specify all the information states needed to provide to FSIS to participate in CIS, and FSIS’s technical assistance division did not coordinate for outreach to establishments, as required in the 2008 Farm Bill.
- The three types of agreements FSIS has with states for states to inspect products for interstate shipment have different inspection standards and levels of oversight. For example, under Talmadge-Aiken and cross-utilization cooperative agreements, a federal official inspects establishments about every 4 years, but under the CIS program, FSIS officials said the agency intends to inspect establishments at least once every 3 months.

Objective 1: Program Implementation: FSIS's Regulations Implemented Most of the Farm Bill's Requirements

Requirement in the 2008 Farm Bill:

- The Secretary was to issue final regulations to carry out the new program by no later than December 2009 (18 months after enactment of the 2008 Farm Bill). The regulations were to be issued after providing a period of public comment (e.g., conducting public meetings or holding hearings) and were to take effect on the date promulgated.

FSIS's actions as of January 31, 2013:

- FSIS issued regulations for conducting most activities specified in the 2008 Farm Bill, including
 - selecting establishments for the program,
 - designating federal coordinators for the states with participating establishments and submitting a draft quarterly compliance report, and
 - designating an office to provide technical assistance.

Objective 1: Program Implementation: FSIS's Regulations Implemented Most of the Farm Bill's Requirements (cont.)

- However, FSIS issued the CIS program regulations in May 2011—more than 16 months after the date required in the 2008 Farm Bill.
- In addition, because the regulations did not specify all the information states needed to provide to FSIS to assess their requests to participate in the CIS program—FSIS developed clarifying guidance, issued in October 2011, instructing states that they needed to demonstrate, among other things, that
 - state legal authorities for inspections mirror federal legal authorities,
 - inspectors are properly trained in federal inspection methodology,
 - computer systems and forms used to administer the program are the same as FSIS's systems, and
 - laboratories follow the same testing protocols as FSIS's laboratories.

Objective 1: Program Implementation: FSIS's Regulations Implemented Most of the Farm Bill's Requirements (cont.)

- FSIS's timeline for issuing final regulations, which were due on December 18, 2009:
 - **June 18, 2008:** 2008 Farm Bill enacted
 - **June 19, 2008:** USDA requested members for a workgroup to develop proposed regulations
 - **July 19, 2008:** Workgroup convened
 - **December 10, 2008:** Initial draft regulations submitted to USDA's Office of General Counsel (OGC) for review
 - **March 12, 2009:** OGC cleared the draft, and FSIS submitted it for departmental review
 - **June 2, 2009:** USDA cleared the draft and submitted it to the Office of Management and Budget (OMB) for review
 - **September 1, 2009:** OMB cleared the draft
 - **September 16, 2009:** Proposed regulations published in the *Federal Register* for comment
 - **December 16, 2009:** End of comment period (extended from November 16, 2009)
 - **April 2010 to May 2011:** FSIS review and analysis of comments completed; final regulations drafted and submitted and cleared OGC, department, and OMB reviews; submitted to *Federal Register*
 - **May 2, 2011:** Final regulations published in the *Federal Register*
 - **July 1, 2011:** Final regulations took effect

Objective 1: Program Implementation: FSIS Approved a Few States and Selected Establishments to Participate in CIS

Authorized activity in the 2008 Farm Bill:

- The Secretary, in coordination with the appropriate state agency of the state in which an establishment is located, may select the establishment to ship carcasses, portions of carcasses, meat items, or poultry items in interstate commerce and place on each item shipped in interstate commerce a federal mark, stamp, tag, or label of inspection if it qualifies for the federal mark, stamp, tag, or label of inspection under FMIA and PPIA requirements.

FSIS's actions as of January 31, 2013:

- Four states—Indiana, North Dakota, Ohio, and Wisconsin—sent requests to FSIS to participate in the CIS program when FSIS issued final regulations.
- FSIS has approved eight establishments in two of the three approved states:
 - In August 2012, FSIS approved Ohio and selected five of its establishments and subsequently selected two more Ohio establishments.
 - In December 2012, FSIS approved North Dakota and subsequently selected one of its establishments. FSIS officials said North Dakota has contracted for use of Ohio's laboratory to meet the laboratory requirements of the CIS program.
 - In January 2013, FSIS approved Wisconsin and is considering the establishments submitted by Wisconsin.
- FSIS is reviewing Indiana's request.

Objective 1: Program Implementation: FSIS Approved a Few States and Selected Establishments to Participate in CIS (cont.)

- FSIS realized early on that states would need help to meet the CIS program requirements.
 - FSIS gave a total of about \$200,000 to four states—North Dakota, Ohio, Vermont, and Wisconsin—to assess what changes they would have to make to their procedures to meet the requirements.
 - The fiscal year 2011 funding agreements noted that the four states would serve as models for other states that might become interested in the program. However, FSIS has no documentation of the results of these assessments that might benefit other states.
- While North Dakota, Ohio, and Wisconsin subsequently requested participation in CIS, Vermont, which has a cross-utilization agreement with FSIS, decided that it would not participate. Vermont officials told us that the establishments that were initially interested had already become federal establishments or were no longer in business.
- FSIS officials anticipate that more states will apply after they see how the program works in the approved states.

Objective 1: Program Implementation: FSIS Approved a Few States and Selected Establishments to Participate in CIS (cont.)

- About 57 to 81 establishments want to be considered as selected establishments, including additional establishments in Ohio, North Dakota, and Wisconsin and establishments in Indiana, according to those four states.
- To obtain FSIS's approval of establishments, states submit the names of the establishments that want to participate in the CIS program; FSIS visits the establishments and reviews their compliance records. For example, Ohio submitted names of establishments the state believed were eligible. When FSIS visited, it found some food safety problems that needed to be corrected before these establishments could be approved for participation in the CIS program.
- One Ohio establishment that FSIS approved initially—in August 2012—was not able to confirm that it was actually in the program for 5 months. According to Ohio and FSIS officials, FSIS had not determined whether the retail employees of the establishment had to be counted. Counting the retail employees would put the establishment over the limit of 25 employees specified by the 2008 Farm Bill and disqualify it from the CIS program. FSIS decided the establishment was qualified to participate on January 8, 2013, and told the state to notify the establishment.

Objective 1: Program Implementation: FSIS Designated Federal Coordinators to Oversee Compliance by Establishments

Requirements in the 2008 Farm Bill:

- The Secretary of Agriculture is to designate a federal employee as the coordinator for each appropriate state agency to provide oversight and enforcement and to oversee the training and inspection activities of designated state personnel. The state coordinator is under the direct supervision of the Secretary. The state coordinator shall
 - visit selected establishments with a frequency that is appropriate to ensure that these establishments operate in a manner consistent with FMIA and PPIA;
 - on a quarterly basis, submit a report to the Secretary that describes the status of each selected establishment under the coordinator's jurisdiction, including the level of compliance of each selected establishment with the requirements of FMIA and PPIA; and
 - immediately notify the Secretary and deselect or suspend inspection in any selected establishment found to violate any FMIA or PPIA requirement.

FSIS's actions as of January 31, 2013:

- FSIS has designated federal coordinators for Ohio and North Dakota to oversee the training and inspection activities of state personnel and conduct oversight and enforcement visits in establishments;
- Ohio's coordinator submitted a draft quarterly compliance report to FSIS in December 2012 for the first quarter in which compliance visits were conducted; the draft is under FSIS review.
- North Dakota's coordinator was designated in 2012; with a quarterly report due in March 2013; the coordinator for Wisconsin will be designated after establishments are selected.

Objective 1: Program Implementation: FSIS Established a Technical Assistance Division

Requirements in the 2008 Farm Bill:

- Not later than 180 days after USDA issues the final regulations, the Secretary shall establish in FSIS a technical assistance division to coordinate the initiatives of any other appropriate agency in USDA to provide
 - outreach, education, and training to "very small or certain small" establishments; and
 - grants to appropriate state agencies to provide outreach, technical assistance, education, and training to very small or certain small establishments.

FSIS's actions as of January 31, 2013:

- FSIS established a technical assistance division in 2008 and designated the office—now called the Outreach and Partnership Division—to serve this function.
- The division has not coordinated the initiatives of USDA agencies to provide outreach, education, and training to establishments, and grants for these activities and technical assistance.
 - FSIS officials stated that they provided outreach to states in scheduled meetings, conference calls, and webinars, and believe states convey this information to establishments; however, FSIS does not monitor how states convey such information.
 - FSIS officials also stated that establishments can use FSIS's website—AskFSIS—to make CIS-related inquiries but did not know to what extent AskFSIS has been used by establishments.

Objective 2: Inspection Standards and Oversight: Differences Exist Between the Talmadge-Aiken and Cross-Utilization Agreements and the CIS Program

- FSIS now has three different types of agreements with states in which states inspect meat and poultry products and convey federal marks of inspection for interstate shipment. These agreements include different inspection standards and levels of federal oversight.
- FSIS requires these inspections to meet different inspection standards:
 - Under the Talmadge-Aiken and cross-utilization cooperative agreements dated September 2012, inspections must be "at least equal to" the federal inspection standard.
 - In contrast, under the CIS program, inspections must be the "same as" federal inspections, including legal authorities, inspector training, computer systems, and laboratory protocols.
- The "at least equal to" standard does not require states to operate programs in a manner that is the "same as" or "identical to" the FSIS inspection program and does not prohibit states from establishing safeguards the states believe are more effective than FSIS's safeguards.
 - According to FSIS officials, both the "at least equal to" and the "same as" standards, require adhering to FMIA and PPIA. However, they did not know whether the two standards attain the same level of safety.
 - FSIS officials told us that they did not realize that the Talmadge-Aiken and cross-utilization agreements cited the "at least equal to" standard. According to the officials, inspections under these agreements must meet the "same as" standard.

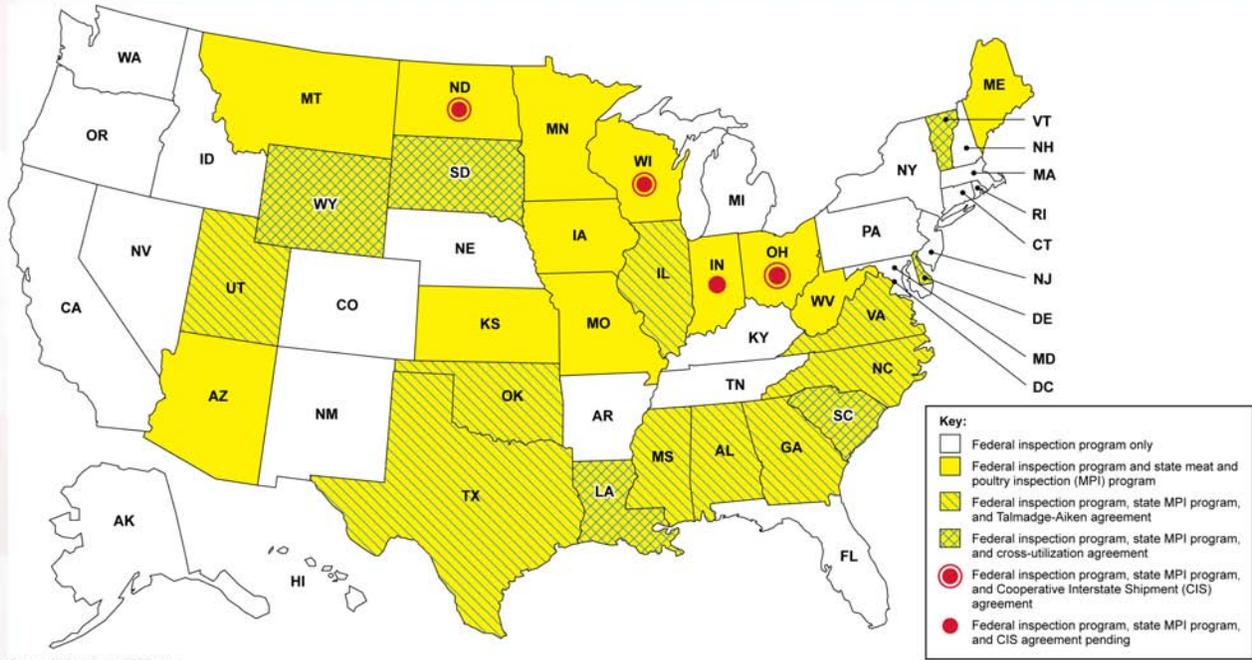
Objective 2: Inspection Standards and Oversight: Differences Exist Between the Talmadge-Aiken and Cross- Utilization Agreements and the CIS Program (cont.)

- FSIS provides different levels of oversight for inspections under these agreements:
 - For Talmadge-Aiken and cross-utilization cooperative agreements:
 - FSIS could not provide documented oversight requirements for inspections conducted under these agreements.
 - However, FSIS acknowledged that
 - no federal employees are present during establishment operations,
 - there are no routine oversight visits by FSIS, and
 - there are no unannounced oversight visits by FSIS in those establishments.
 - According to FSIS officials,
 - a state official attends FSIS's meetings and receives FSIS's communications regarding compliance with federal requirements for the purpose of overseeing the state inspectors.
 - FSIS generally conducts an oversight visit and issues a food safety compliance report at least once every 4 years for each establishment.

Objective 2: Inspection Standards and Oversight: Differences Exist Between the Talmadge-Aiken and Cross-Utilization Agreements and the CIS Program (cont.)

- For the CIS program:
 - The 2008 Farm Bill requires the FSIS coordinator to make visits to selected establishments with a frequency appropriate to ensure establishments are operating in a manner that is consistent with FMIA and PPIA, provide oversight and enforcement, and oversee the training and inspection activities of designated state personnel.
 - If a problem is found, FSIS can eliminate the establishment from the program and place the establishment under review by federal inspectors.
 - Quarterly food safety compliance reports must be submitted by the FSIS coordinator for the state.
 - According to CIS regulations, the frequency of visits will be based on factors that include the complexity of the operations conducted, the establishment's schedule of operations, and the establishment's performance under the program.
 - FSIS officials said the agency intends these visits to be at least once every 3 months.
 - For the purpose of estimating costs to establishments, the CIS regulations assumed monthly visits by federal coordinators.

Appendix I: Types of Meat and Poultry Inspections in the United States



Source: GAO analysis of FSIS data.

Enclosure II:

Comments from the Department of Agriculture



**DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250**

MAY 17 2013

Daniel Garcia-Diaz
Director
Natural Resources and Environment
United States Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20538

Dear Mr. Garcia-Diaz:

The United States Department of Agriculture (USDA) appreciates the opportunity to review the U.S. Government Accountability Office's (GAO) draft report entitled, "USDA's Implementation of New State Delegated Meat Inspection Program Addresses Most Key Farm Bill Requirements, but Additional Action Needed" (13-332R). USDA appreciates GAO's work in planning, conducting and issuing this report.

The Cooperative Interstate Shipment (CIS) program implemented by the Food Safety and Inspection Service (FSIS) builds on existing State inspection programs. The program includes important enhancements that allow selected small State inspected establishments to produce meat and poultry products bearing an official Federal mark of inspection and permits these products to be distributed in interstate commerce. The states of Ohio, North Dakota and Wisconsin have successfully met the "same as" requirements of the CIS program, and selected establishments within these states may now produce products bearing the official FSIS mark of inspection and reach markets beyond their state border. The CIS program has provided a tremendous opportunity for interested State inspected establishments to expand their businesses.

FSIS would like to clarify one statement in the report regarding inspections and compliance reports generated under the "existing state inspection programs for interstate shipment," otherwise known as the Talmadge-Aiken program. The Talmadge-Aiken program is a Federal inspection program in which State inspectors provide Federal inspection on behalf of FSIS at establishments with federal grants of inspection. Inspections at these facilities are performed by State inspection personnel in a manner identical to that performed by Federal inspectors, and non-compliance reports are generated in these establishments almost daily. In addition, FSIS conducts Food Safety Assessments (FSAs) at

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these facilities once every four years or for specific causes, which is the same frequency as FSAs are conducted in all other federally inspected establishments. FSAs are comprehensive assessments that assess the design and validity of an establishment's food safety system.

Recommendation 1:

Ensure that small establishments have information about the CIS program, require the technical assistance division to coordinate with other USDA agencies on initiatives to provide outreach, education, and training to small establishments and grants to states for outreach, education, training, and technical assistance to such establishments, as described in the 2008 Farm Bill.

USDA Response:

FSIS concurs with the recommendation and will partner and regularly communicate with other USDA Agencies, especially within the Mission Areas of Marketing & Regulatory Programs and Rural Development to ensure that small and very small State inspected establishments have information about the CIS program. FSIS' Technical Assistance Division will work with officials from these other Agencies to plan and hold Webinars, as well as publish articles within its monthly newsletter titled *Small Plant News* to provide background information on the CIS program and the various types of grants and services available from USDA to assist these establishments. Furthermore, FSIS will invite officials from these other USDA agencies to participate on its monthly State Directors Webinars and HACCP Contacts and Coordinators teleconference to provide as much information as possible about the CIS program.

Recommendation 2:

To inform and assist states that may be interested in the CIS program for small establishments in their states, work with the four states that received funding under agreements with FSIS in fiscal years 2011 and 2012 to collect information that could be shared with other states.

USDA Response:

FSIS concurs with this recommendation. FSIS gathered lessons learned from states that have successfully met the "same as" requirements of the CIS program. FSIS published a Constituent Update on May 3, 2013, outlining these key lessons learned by State authorities so that other states may learn from their experiences. In addition, FSIS officials will discuss "same as" Federal requirements for the CIS program, and lessons learned during a monthly conference call with 27 State MPI Program Directors by September 2013.

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Recommendation 3:

Re-examine the federal oversight requirements for existing State inspection programs and consider whether more similar requirements, such as frequency of visits to establishments and compliance reporting by inspectors would be beneficial, and if so, modify the requirements accordingly.

USDA Response:

FSIS concurs with the recommendation. FSIS has established a workgroup to develop an FSIS directive that will provide instruction to District Offices on Federal oversight requirements of Federally-inspected establishments being staffed by State inspectors. The workgroup consists of representatives from FSIS' Office of Field Operations (OFO), Office of Outreach, Employee Education and Training (OOEET), Office of Policy and Program Development (OPPD), and the Office of Investigations, Enforcement and Audits (OIEA). The workgroup will develop instructions on the frequency of visits to establishments by FSIS district management officials and procedures for reporting findings.

Recommendation 4:

Require that future cooperative agreements for the existing state inspection programs stipulate the "same as" standard.

USDA Response:

FSIS concurs with the recommendation. FSIS has established a workgroup with OFO, OOEET, OPPD and OIEA to update the cooperative agreements with the States. FSIS will update the Talmadge-Aiken cooperative agreements to make clear that the State inspectors in those plants are to enforce the same Federal standards that are enforced by FSIS inspectors.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were submitted under separate cover. We look forward to working with you on future Department of Agriculture engagements.

Sincerely,



Elisabeth A. Hagen, M.D.
Under Secretary
Food Safety

(361419)

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