



## Protect State Meat Inspection Programs from Arbitrary USDA Action

The Federal Meat Inspection Act gives USDA broad authority over state meat inspection programs, determining whether a state’s program merits “equal to” status. Whether a state meat inspection program is approved or not impacts the entire livestock industry in the state, with many millions of dollars at stake.

**Meat processed in a state-inspected plant can only be sold within that state, yet USDA holds essentially unchecked power over the state programs.** Under the current law, if there is a disagreement over whether the state meets the federal standards, States bear the burden of proof in their own defense. The mere *threat* of USDA withdrawal of this designation – which can be based on informal policies or an individual official’s opinions -- places State officials in the untenable position of having to either abandon state policy or risk losing approval of the state inspection program.

**This has stifled the ability of states to build programs that work for their producers and consumers.** In particular, it has often prevented states from taking steps to support small-scale, local meat production and processing. **While USDA has recently provided grants to small-scale processors, its regulatory arm (the Food Safety Inspection Service, or FSIS) has a continuing track record of harassment of small operations.** (See next page.)

**The proposed bill would protect a State from arbitrary and capricious decisions by USDA officials that are not supported by the statutory or regulatory provisions, ensuring that USDA uses its authority in a transparent, responsible manner.** Under the proposal, once a State administration has certified that its laws and standards align with the FMIA, the burden of proof would shift to the USDA. The USDA would have to show how the State program is not at least “equal to” the federal program, based on the statutory and regulatory requirements, rather than individual opinions or informal policy guidance.

**This provision would not change any statutory or regulatory food safety requirement,** while still enabling small-farm advocates to better work with their local legislators, farmers, and slaughterers to create scale-appropriate solutions to build viable, accessible, local food systems that support our democracy, food security and resiliency. The House Judiciary Subcommittee on the Administrative State, Regulatory Reform, and Antitrust recently held a hearing that explored how different aspects of government regulations create barriers to entry and expansion in the meat industry. Several statements from the witnesses provide insight into the problems with USDA’s abuse of its discretion in meat processing, and are quoted on the next page. The recording is available at [judiciary.house.gov](http://judiciary.house.gov)

## **Proposed amendment to FMIA, 21 U.S.C. 661(c)(1): State and Federal cooperation**

(c)State Meat Inspection Requirements.

(1) .... And provided further that, if the Governor of the State or a representative selected by them certifies that the State has developed and is enforcing requirements at least equal to those imposed under subchapter I and IV of this chapter, the Secretary bears the burden of producing a preponderance of evidence to the contrary based on specific applicable statutory and regulatory provisions prior to revoking such designation.

### **Quotes from June 13<sup>th</sup> Hearing “Where's the Beef? Regulatory Barriers to Entry and Competition in Meat Processing” in the House Judiciary Subcommittee on the Administrative State, Regulatory Reform, and Antitrust:**

A small plant operator dare not object to subjective and political inspector decisions because ‘poke and sniff’ allows retribution toward folks with questions. ... If you dare question a judgment...they can retribute pretty easily.

--Joel Salatin, Virginia farmer and processor

In 2021, I noticed an increase in FSIS aggression towards small plants... Small [meat processing] plant owners in the region soon began sharing horror stories of their aggressive nature that resulted in retained products and delayed production. ... [Recounting an event in her own plant] In a domino-ing chain of events that got increasingly more ludicrous, the FSIS staff went on a rampage, retaining lots of slaughtered poultry for three successive weeks. ... Every step I would take to resolve the situation would be ignored or else accused of falsification of documents. Every test, every food safety expert, every scientific journal that I would produce they would dismiss. ... They would attack my sources and claim mis-application of data with such poor logic that I was astounded. One meeting was only concluded when the regional department head of microbiology openly lied and said that the FSIS didn’t use that testing protocol.... The FSIS prefers to hold small plants accountable to undefined standards, so that the agency can arbitrarily decide if a plant is operating acceptably.

-- Rosanna Bauman, Co-owner and General Manager, Bauman’s Cedar Valley Farm, written opening statement

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