



Christine L. Owens
Executive Director

www.nelp.org

NELP National Office
75 Maiden Lane
Suite 601
New York, NY 10038
212-285-3025

Washington DC Office
2040 S Street NW
Lower Level
Washington, DC 20009
202-640-6520

California Office
2030 Addison Street
Suite 310
Berkeley, CA 94704
510-982-5945

Washington State Office
317 17th Avenue South
Seattle, WA 98144
206-324-4000

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Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
Patriots Plaza 3
1400 Independence Avenue SW
Mailstop 3782, Room 8-163A
Washington, DC 20250

RE: Docket No: FSIS-2016-0017; RIN 0583-AD62

Proposed Rule, *Modernization of Swine Slaughter Inspection*, 83 Fed. Reg. 4780
(February 1, 2018), RIN 0583-AD62

To Whom It May Concern:

The National Employment Law Project (NELP) submits these comments in response to the United States Department of Agriculture’s Food Safety and Inspection Service’s (FSIS) proposal to change Federal meat inspection regulations to establish a new inspection system for market hog slaughter establishments. NELP is a non-profit research and policy organization that for more than 45 years has sought to ensure that America upholds the promise of opportunity and economic security for all workers. NELP is gravely concerned that this proposed rule, if finalized in its current form, will increase serious work-related injuries to the tens of thousands of hog slaughter establishment workers in this nation, and will have serious negative effects on not only these workers, but their families and their communities.

NELP strongly opposes the proposed rule. This new proposal jeopardizes worker safety, consumer health and animal welfare. By removing government-trained food inspectors from the slaughter lines, and permitting an increase of maximum line speeds in hog slaughter plants, the proposal will lead to a direct increase in serious, often crippling work-related injuries among the tens of thousands of slaughterhouse workers throughout the country. FSIS has proposed a rule that will not increase food safety, but will sacrifice the safety and health of tens of thousands of workers in hog slaughter plants in order to increase company profits. As FSIS did in the modernization of the poultry slaughter inspection system in 2014, FSIS must reject any increase in line speeds in hog slaughter plants.

As further described in more detail below, NELP opposes any increase in line speeds in hog slaughter plants, and urges the FSIS to withdraw the proposal.

**FSIS Requests Comments on The Effects of Faster Line Speeds on Worker Safety:
The Proposed Rule’s Increase in Line Speeds Will Jeopardize Worker Safety**

Meatpacking workers already suffer the highest rate of occupational illnesses of **any private industry** in the nation.¹ These illnesses include serious and often crippling disorders such as carpal tunnel syndrome and tendonitis -- disorders caused by the repetitive forceful nature of the work in meatpacking plants. By removing most government-trained inspectors from the factory line and allowing an increase in maximum line speeds in hog plants, this rule will lead to workers in swine slaughter plants working faster and increasing the total number of repetitions at work. This will increase injuries and jeopardize worker safety in an already dangerous industry.

There are over three decades of studies² that point to the fast line speeds and forceful nature of the work in meatpacking plants as the root cause of this staggeringly high rate of work-related injuries and illnesses. Hog slaughter workers already endure exceedingly harsh working conditions to provide cheap pork to American consumers. Meatpacking workers will tell you that they can barely keep up with current line speeds. They work in noisy, slippery workplaces with knives, hooks and saws, making tens of thousands of forceful repetitive motions on each and every shift to cut and break down the hogs. They already process over a thousand hogs per hour. Hog slaughter and processing workers also push huge dangerous trolleys and vats of meat, pack 40-50 hams per minute, and are exposed to an ever-increasing amount of toxic, caustic chemicals (Peracetic Acid) applied to the meat as plants try to control dangerous pathogens.³

According to the Bureau of Labor Statistics (BLS),⁴ based on self-reported injury data from pork slaughter plants, meatpacking workers' current overall injury and illness rate is already 2.3 times higher than the average for all other private industry. Their rate of serious injuries involving time off work or restricted duty is three (3) times higher the rate of all other private industry. And most alarming, as stated above, meatpacking workers face **the highest** rate of occupational illnesses of any other private industry. Their rate of occupational illnesses is more than **seventeen (17) times higher** than the national average for all other industries. These are illnesses that include carpal tunnel syndrome, tendonitis and other musculoskeletal disorders that result from the highly repetitive and forceful nature of the work. According to the most recent BLS data, meatpacking workers suffer incidences of carpal tunnel syndrome requiring time off work that are more than five times higher than the average for all other private industries.⁵ And these rates are increasing.

The numbers above are based on industry self-reported statistics. Recent BLS reports on underreporting of injuries confirm that these numbers may be a severe undercount. According to the BLS,⁶ "Recent external studies find that the Bureau of Labor Statistics (BLS) Survey of Occupational Injuries and Illnesses (SOII), based on employers' OSHA logs, substantially underestimates the US total number of workplace injuries and illnesses." A recent report by the Government Accountability Office, also (GAO),⁷ confirmed underreporting of injuries and illnesses in the meat industry.

¹ <https://www.bls.gov/web/osh.supp.toc.htm>

² <https://www.osha.gov/Publications/OSHA3123/3123.html>

³ <http://www.nelp.org/content/uploads/nelp-comments-niosh-health-effects-poultry-workers-anti-microbial-peracetic-acid.pdf> (Also includes effect on meatpacking workers).

⁴ <https://www.bls.gov/web/osh.supp.toc.htm>

⁵ <https://data.bls.gov/gqt/InitialPage>

⁶ <https://www.bls.gov/osmr/pdf/st100170.pdf>

⁷ <https://www.gao.gov/assets/680/676796.pdf>

At existing line speeds, workers in meatpacking plants describe production pressure as a key factor in the poor working conditions at their plant. The most common theme expressed by 455 Nebraska animal slaughtering workers in a report by Nebraska Appleseed was the relentless speed of the production line. Quotes from the workers include: *“How can it be safe with that line so fast?”* *“They should recognize that we aren’t machines.”* *“Slow the line speed. People are injuring themselves a lot.”* *“Many people are injured and then they fire them.”* Among other findings, 62 percent of the workers said they were injured on the job in the previous year.⁸

So many workers get injured that currently hog and meat plants experience very high turnover rates – with some plants experiencing a turnover rate of 100% annually.⁹

Almost 30 years ago, the Occupational Safety and Health Administration (OSHA) published the “Ergonomic Program Management Guidelines in Meatpacking Plants”¹⁰ to address the high rates of carpal tunnel syndrome and other musculoskeletal disorders in the meatpacking industry (hog and cattle). The American Meat Institute continues to refer to these guidelines as their model for the prevention of musculoskeletal disorders (MSDs).¹¹ Though musculoskeletal disorders (or cumulative trauma disorders, or CTDs) are present in other industries, the high rates in meatpacking plants prompted OSHA to issue these guidelines. The guidelines identify the risk factors and means of prevention to reduce these work-related injuries and illnesses in meatpacking plants. The guidelines are clear that the high injury rates are due to high production rates in pork and cattle plants (e.g., already high line speeds). OSHA says in this guide:

- “Why meatpacking? Most importantly, CTDs are particularly prevalent in the meatpacking industry. Although ergonomic hazards are by no means confined to meatpacking, the incidence and severity of CTDs and other workplace injuries and illnesses in this industry demand that effective programs be implemented to protect workers from these hazards.”
- The guidelines also state that one way to decrease the rates of these injuries and illnesses in meatpacking plants is by “reducing the total number of repetitions per employee by such means as decreasing production rates. “

These OSHA recommendations that were made over 25 years ago remain the same today. The USDA’s FSIS proposal, however, ignores these recommendations and the science they are based on, and gives a green light to pork plants to speed up the lines, which will lead to a devastating increase in injuries.

There are scores of studies listed in the guidelines and others in later reports by OSHA¹² and the National Institute for Occupational Safety and Health (NIOSH)¹³ that demonstrate that already breakneck line speeds, coupled with the forceful and repetitive nature of the jobs, lead to high rates of musculoskeletal disorders for the workers.

⁸ https://neappleseed.org/wp-content/uploads/downloads/2013/01/the_speed_kills_you_100410.pdf

⁹ <https://www.gao.gov/new.items/d0596.pdf>

¹⁰ <https://www.osha.gov/Publications/OSHA3123/3123.html>

¹¹ <https://www.meatinstitute.org/index.php?ht=a/GetDocumentAction/i/83419/>

¹² <https://www.osha.gov/SLTC/meatpacking/>

¹³ <https://www.cdc.gov/niosh/topics/ergonomics/default.html>

Epidemiological studies also reveal that fast line speeds in meatpacking plants lead to other serious injuries—such as lacerations.¹⁴ According to a recent study of injuries in a meatpacking plant published in the *Journal of Occupational and Environmental Hygiene*,¹⁵ “Rushing was identified as the cause of nearly 50% of injuries.” This study also noted that in this plant the “self-reported incidence rate of severe injury was more than twice official industry estimates.”

Unbelievably, just two months before FSIS proposed this new swine slaughter inspection system, the Government Accountability Office (GAO) released a report¹⁶ confirming that dangerous working conditions persist in the nation’s meat industry—including serious amputation hazards, potential health effects from widespread use of toxic chemicals used to disinfect animal carcasses, and illnesses caused by the delay and denial of bathroom breaks for workers in the plants (due to the fast line speeds). According to the GAO: “OSHA and NIOSH officials told us line speed—in conjunction with hand activity, forceful exertions, awkward postures, cold temperatures, and other factors such as rotation participation and pattern—affects the risk of both musculoskeletal disorders and injuries among workers.”

Clearly, the FSIS totally ignored this report and its conclusions when drafting the proposed new inspection system in swine slaughter plants. This proposal flies in the face of published government reports, scientific studies, the findings of three government agencies (GAO, OSHA and NIOSH) and decades of research on preventing workplace injuries in meatpacking plants.

The FSIS is fully aware that this proposed rule will result in workers in both the slaughter and processing (fabrication) sides of hog slaughter plants working even faster and harder --in a highly dangerous work environment. The cost/benefit analysis to the rule supports this reading of the proposal. In the preamble, the agency calculates the economic benefits of the proposal in terms of higher profits for pork processing companies. “This increase in line speed is synonymous with an increase in industrial efficiency. To quantify the benefit associated with this efficiency gain, this analysis used the North American Meat Institutes’ average pork packer margins for 2010-2014, which was reported to be \$4.10 per head in NAMI’s 2105 Meat and Poultry Facts. The pork packer margin is the price the packer receives less the cost of the hog and production costs, making the packer margin an approximation for producer surplus. Assuming establishments increase their line speeds by 12.49 percent and have a packer margin of \$4.10 per head, an average large establishment’s surplus could increase by approximately **\$2.04 million.**” (83 Fed. Reg. 4812-4813) Thus, in calculating the millions in savings to the meatpacking companies from this proposed rule, FSIS does not add in any costs for hiring additional labor to process the extra hogs—the agency just assumes the plant workers will bear the costs of this rule and work harder and faster to increase packinghouse owner profits. And the data is clear, this will result in an increase in serious worker injuries and illnesses, with devastating consequences to workers and their families.

The Cost/Benefit Analysis for the Rule Does Not Include the Cost of Increased Worker Injuries

¹⁴ For example: Kyeremateng-Amoah E, Nowell J, et al. Laceration injuries and infections among workers in poultry processing and pork meatpacking industries. *Am J Ind Med*. 2014. 57:669-682. Lander L, Sorock G. A case crossover study of laceration injuries in pork processing. *Occup Environ Med*. 2012. 69:410416.

¹⁵ <https://www.ncbi.nlm.nih.gov/pubmed/27715500>

¹⁶ <https://www.gao.gov/products/GAO-18-12>

The cost/benefit analysis of this proposed rule is deeply flawed. **Clearly, any analysis of the proposed costs of this rule must include the cost of increased worker injuries and illnesses.** A work-related injury can cause serious physical suffering and have enormous economic consequences for a worker and his/her family. Studies have demonstrated that the financial burden of most work-related injuries falls on the worker, and injured workers are often at great risk of falling into poverty.¹⁷ The agency needs to develop and publish a new analysis of the costs of this rule to include not only the increase in medical costs from an increase in serious injuries and illnesses (80% of such costs are borne by the worker, their families, and taxpayer supported programs), but the cost of lost wages to the worker and family care givers, costs to employers of incident investigations and higher turnover, and costs to taxpayer funded programs. The agency's cost analysis takes none of this into account, and therefore greatly underestimates the costs of this proposed rule.

This is a travesty. It is simply beyond comprehension that the USDA is calculating the corporate benefits of increased line speeds without calculating the human cost to workers and their families.

The failure by FSIS to consider all the relevant factors in this rulemaking may render this rule arbitrary and capricious in violation of the Administrative Procedure Act. Under the Supreme Court's holding in *State Farm*, an agency rule is arbitrary and capricious if the agency has "entirely failed to consider an important aspect of the problem"¹⁸ In addition "[w]here the agency has failed to provide a reasoned explanation, or where the record belies the agency's conclusion, [the court] must undo its action."¹⁹

FSIS Failed to Publish for Public Comment the Analysis of Data Referred to in the Preamble

FSIS claims in the proposal to have conducted a review of injury rates in the pilot hog slaughter plants that serve as a model for this proposal, using industry reported summary data from 2002-2010. But the results of the survey are unpublished and, therefore, have not yet undergone a rigorous review process that ensures that the data and methods employed are statistically appropriate. Second, the FSIS does not explain or provide information on which plants were selected to participate in the review. Further, FSIS does not indicate that its survey collected information about actual line speeds, staffing and hours worked. NELP requested all this information in a FOIA letter on March 6, 2018 and requested expedited processing, but we have never received any information from the FSIS on this injury review (FOIA attached). How can the public comment on a review where there is no study publicly available to review? Further, it is clear that there are serious safety issues in the pilot plants due to the fast line speeds. In a little over a four-month period in 2017, in just one plant, the Clemens Food pork plant in Pennsylvania, two workers suffered injuries severe enough that they required hospitalization, while another worker suffered an amputation reported to the government.²⁰ And in 2016, the Occupational Safety and Health Administration (OSHA) found that the managers at the JBS (Swift) Pork plant in Illinois imposed unreasonable restrictions for workers on the use of toilet facilities, exposing workers to health risks.²¹ In other words, in order to keep the lines running so fast, the company was denying and delaying workers' access to bathrooms.

¹⁷ <https://www.dol.gov/osha/report/20150304-inequality.pdf>

¹⁸ *Motor Vehicles Manufacturers Association v. State Farm*, 463 U.S. 29 (1983).

¹⁹ *Petroleum Commc'ns, Inc. v. FCC*, 22 F.3d 1164, 1172 (D.C. Cir. 1994).

²⁰ www.osha.gov

²¹ OSHRC Docket No 16-0510

FSIS Requests Comments on Whether Line Speeds for the NSIS should be set at the current Regulatory Limit or Some other Number

For all the reasons listed above, NELP is strongly opposed to any increase in line speeds above the current regulatory limit (1,106 hph Maximum Line Speed).

FSIS Requests Comments on Whether the Agency should Maintain the 1,106 hph Maximum Line Speeds for Establishments under NSIS but Grant Waivers from the Maximum Line Speed for Establishments that Agree to Work with the National Institute for Occupation Safety and Health (NIOSH) NIOSH to Evaluate the Effects of Waivers of Line Speed Restrictions on Employee Health

We strongly oppose such a proposal.

As we stated previously in these comments, the line speeds in hog slaughter plants are already too fast and workers are getting injured at very high rates. We are opposed to any waiver of current maximum allowed line speeds. Talk to any worker in any hog plant and the first thing they will talk about is their injuries from the already fast line speeds. Instead of requiring that plants study the impact on worker health of faster line speeds, USDA should require that all plants evaluate the impact of **current** line speeds on worker safety and health and both post such an evaluation in the plant as well as send to FSIS. Second, NIOSH is a very small agency, and FSIS would need to greatly increase NIOSH's budget and staff to be able to conduct any such studies in more than a few plants every few years. So, the proposal is also not feasible or realistic. And third, there must be an agreement that the plant would implement all of NIOSH's recommendations to decrease or prevent injuries --or all this is useless. As FSIS is fully aware, when NIOSH recently looked at the high rates of injuries²² in poultry plants²³ due to the fast line speeds, the poultry plants did not implement NIOSH's recommendations. As NIOSH's agency director said²⁴: "Line speed affects the periodicity of repetitive and forceful movements, which are key causes of musculoskeletal disorders." In other words, the faster the line speed, the greater the risk of harm."

FSIS Is Requesting Comments on Best Practices and Other Measures That Establishments Can Take to Protect Workers Throughout the Plant, Including Possible Protective Factors such as Increasing the Size of the Workforce, Rotating Assignments, Increased Automation or Improved Tools and Techniques

This is a very troubling request coming from the Federal Government, because the Federal Occupational Safety and Health Administration has for decades published a great deal of educational material on exactly this subject on its website and in publications. There is a plethora of information on OSHA's website, as well as a myriad of publications by trade associations, unions, researchers, nonprofits and others. Both the website at the National Institute for Occupational Safety and Health²⁵ and the Occupational Safety and Health Administration²⁶ contain a great deal of information published over the last thirty years on the protection of meatpacking workers.

²² <https://www.cdc.gov/niosh/hhe/reports/pdfs/2014-0040-3232.pdf>

²³ <https://www.cdc.gov/niosh/hhe/reports/pdfs/2012-0125-3204.pdf>

²⁴ <https://www.cdc.gov/niosh/topics/poultry/pdfs/letterapril72014.pdf>

²⁵ <https://www.cdc.gov/niosh/docs/94-124/>

²⁶ https://www.osha.gov/SLTC/meatpacking/hazards_solutions.html

The studies and publications are clear that to decrease injuries, plants need to reduce the number of repetitive forceful movements each employee makes by either hiring more workers, or decreasing force, line speeds and production rates. The plants are already so crowded, however, with workers crammed in around production lines side-by-side (so close together that a common injury is a cut from your neighbor's knife in the plant), that in most plants there is no room to add more workers. We strongly suggest that the FSIS read the many documents on OSHA's website on how to reduce injuries and illnesses in meatpacking.

The Safety Attestation Provision Must Be Strengthened

The proposed rule requires that each establishment operating under the new proposed swine inspection system provide an "annual attestation to the management member of the local FSIS circuit safety committee stating that the establishment maintains a program to monitor and document any work-related conditions that arise among establishment workers." 83 Fed. Reg. 4823. This requirement is identical to a requirement in the agency's 2014 rule modernizing poultry inspections (NPIS). However, the attestation proposed by FSIS is inadequate—it should be expanded. The attestation should not only address the 'reporting' of injuries, but should also address the programs for preventing injuries. It should include specific information about the employer's program for identifying and correcting hazards. We included a sample attestation form at the end of our comments. Further, the attestation should be required for all hog slaughter plants immediately. If there is a change to hog slaughter inspection, the attestation must be required within 30 days of any such changes.

Under the NPIS, we have learned that FSIS does not review the merit of the attestations and simply forwards them over to OSHA without any direction as to what OSHA should do with them. In fact, responses to FOIA requests of those attestations show that neither FSIS nor OSHA staff are aware of these attestations.²⁷ Any attestation requirement must also contain a requirement for FSIS to review the annual attestations to determine whether they are submitted by each establishment and have been completed thoroughly and accurately. FSIS must take responsibility for determining that each establishment is completing the safety attestations truthfully and do in fact have these programs in place.

If a plant does not submit a complete and accurate safety attestation, FSIS should take action, such as by issuing an NR against the establishment or by making a referral to OSHA for enforcement action. Additionally, safety attestations should be collected by FSIS and made available in a centralized location for public access, in addition to being forwarded to OSHA.

We agree that FSIS should work closely with OSHA to develop the safety poster that all hog slaughter establishments will be required to display, and the poster should be modeled after the poster developed for the NPIS plants and posted in all languages spoken by plant employees.

This Rule Will Not Increase Food Safety—But Might Decrease Food Safety

In addition to the devastating impact on worker safety in hog slaughter plants, NELP has serious concerns about the proposal's impact on public health. The proposal would privatize food safety inspection in meatpacking plants. It would reduce the number of government food safety inspectors in the plants by 147 full time employees, remove most of the remaining inspectors from production lines,

²⁷ http://progressivereform.org/articles/USDA-OMB_letter_Attestation_061617.pdf

and instead rely on a reduced number of company employees—who are not required to receive any training. With fewer government inspectors on slaughter lines, there will be fewer trained workers watching out for consumer safety. Faster line speeds will make it harder for the limited number of remaining meat inspectors and plant workers to do their jobs.

The proposal will not lead to safer food. The FSIS **confirms in the preamble** that as regarding the new rule “the level of protection from Salmonella illnesses would be at least as good as the current system.” (83 Fed. Reg. 4785) Thus, FSIS is proposing a radical change to food inspection in hog slaughter plants, despite the fact that there is no data that this will improve public health, but there is a plethora of studies that this will negatively impact worker health and safety and may result in food that is less safe.

USDA claims that the new proposed inspection system can increase food safety by removing FSIS inspectors from the slaughter line and allowing FSIS inspectors to conduct more offline pathogen testing. But that has not been proven to be true for poultry plants in the New Poultry Inspection System (NPIS). The agency’s recent release of testing data in poultry plants shows that 30 percent of the NPIS chicken plants failed the agency’s performance standard compared to only 13 percent that are still using traditional inspection.²⁸ Further, the USDA admits in the preamble to the proposed rule that the increase in offline FSIS activities in hog plants will not be much greater than is done now. (83 Fed Reg 4789) In addition, the agency stopped collecting salmonella samples at hog slaughter plants in 2011, so the agency’s risk assessment for the New Swine Inspection System needs to be questioned.

The proposed rule is modeled after a pilot program called the HACCP-Based Inspection Models Project (HIMP), which began in 1997 and involves five hog slaughter plants. USDA’s own Inspector General (IG) issued a report in 2013 that widely criticized HIMP. The IG found the USDA failed to assess whether HIMP improved food safety at the five plants. The IG said: “Since FSIS did not provide adequate oversight, HIMP plants (the pilot plants) may have a higher potential for food safety risks.”²⁹

Further, an analysis of FSIS data by Food & Water Watch³⁰ found that the five pilot plants had more regulatory violations than five comparably sized non-HIMP plants. The pilot project failed to show that allowing companies to police themselves produces safe food.

Based on data gathered from a series of Freedom of Information Act requests that cover the period January 1, 2012 through November 30, 2016, Food & Water Watch has found that the five HIMP pilot plants had more regulatory violations when compared to five comparably sized non-HIMP plants in the following key areas:

- 84 percent of the citations for not following the plant’s food safety plan were in the HIMP plants;
- 73 percent of the citations for the carcasses/organs being contaminated with fecal material, bile, hair, dirt, and other foreign matter were in the HIMP plants;
- 65 percent of the citations for general carcass contamination were filed in the HIMP plants;

²⁸ <https://www.foodandwaterwatch.org/news/privatized-inspection-system-produces-more-contaminated-chicken>

²⁹ <https://www.usda.gov/oig/webdocs/24601-0001-41.pdf>

³⁰ <https://www.foodandwaterwatch.org/insight/translating-new-swine-inspection-system>

- 61 percent of the citations for unsanitary equipment and utensils were filed in the HIMP plants;
- 54 percent of the citations for plant employees not following hygienic practices while on duty were in the HIMP plants;
- 52 percent of the citations for food contact equipment and utensils not being properly sanitized were in the HIMP plants;
- 51 percent of the citations for non-food contact surfaces for unsanitary conditions were in the HIMP plants;
- 50 percent of the citations for the plant not implementing its own sanitation standard operating procedures were in the HIMP plants;
- Of the 22 instances in which an on-line FSIS inspector found that an on-line plant employee failed to identify that a carcass was so infected that consumption of the meat could cause food poisoning, all 22—100 percent— occurred in the HIMP plants.

This Proposed Rule will Roll Back Progress on Animal Welfare

Faster line speeds will also negatively impact animal welfare. The removal of line speed caps has been shown to increase the chances for rough animal handling, as employees feel the pressure to move hogs quickly through the slaughter. This increase in speed can result in improper stunning that leads to animals being slaughtered while conscious. The USDA has misleadingly titled its rule “Modernization of Swine Slaughter Inspection,” yet expanding HIMP will actually roll back progress and jeopardize animal welfare by speeding up slaughter lines.

In Violation of Requirements, Risk Assessment is Not Peer-Reviewed

Adding insult to injury, the FSIS issued this proposal without completing an external peer review of the rule’s risk assessment. The risk assessment “Assessment of the Potential Change in Human Risk of Salmonella Illnesses Associated with Modernizing Inspection of Market Hog Slaughter Establishments” is the agency’s assessment of the rule’s impact on public health. Since 2004, the Office of Management and Budget (OMB)³¹ has required a peer review before disseminating the assessment to the public. According to OMB, the peer review process must be transparent and provide “the public with the written charge to the peer reviewers, the peer reviewers’ names, the peer reviewers’ report (s), and the agency’s response to the peer reviewers’ report(s).” The OMB’s memorandum laying out the requirements explains that if a risk assessment “is a critical component of rule -making, it is important to obtain peer review before the agency announces its regulatory options,” and “if review occurs too late, it is unlikely to contribute to the course of a rulemaking.” The memo also states that an early peer review may “provide net benefit by reducing the prospect of challenges to a regulation that later may trigger time consuming and resource draining litigation.”

In its rush to publish this misguided new inspection system, the USDA has violated these requirements. The risk assessment has not been peer-reviewed. At a recent stakeholder meeting with the members of the Safe Food Coalition, FSIS officials informed some of the participants that an external peer review is finally taking place (months after the rule has been published for comment). The public, however, has not seen the charge to the peer reviewers or the names of the reviewers.

³¹ http://www.cio.noaa.gov/services_programs/pdfs/OMB_Peer_Review_Bulletin_m05-03.pdf

The public must have this information, as well as access to the completed peer review for at least 60 days to provide informed comments to the agency. Therefore the agency should suspend this rulemaking, and propose it again when the review is ready.

Conclusion

For the many reasons discussed above, we call on FSIS to:

- 1) Reject any increase in line speeds in hog slaughter plants; and
- 2) Withdraw the proposal because:
 - a. It will not increase food safety, but will increase worker injuries with devastating consequences to workers and their families;
 - b. The cost/benefit analysis is flawed because it fails to account for the costs of an increase in worker injuries and illnesses;
 - c. The agency failed to provide a required peer-reviewed risk assessment and other data for public comment;
 - d. The proposal does not require any training for plant workers who might conduct plant inspection activities; and
 - e. Removing inspectors from the line and decreasing the number of food safety inspectors by 147 full time trained government inspectors, will increase food safety risks and endanger animal welfare.

Sincerely,



Christine L. Owens
Executive Director

**Sample Annual Occupational Health and Safety Attestation
For Plants Enrolled in the Food Safety Inspection Systems'**

New Swine Inspection System (NSIS)

Full Legal Name of Controlling Company: _____

Controlling Company Address:

Name and Address of Establishment using NSIS: _____

Establishment FSIS ID:

Name/Title/Email/Phone of Contact Person at Establishment

Employer Attestation (Mark each item Yes or No) 1. Yes No

This establishment has an occupational safety and health management system in place that includes each of these elements: management support; worker participation (including the involvement of a union if one is present at the plant); hazard identification, assessment, prevention and control; and regular program evaluation and improvement.

2. Yes No

This establishment has an occupational safety and health management system in place that includes protocols for investigating non-injury incidents (i.e., near misses or close calls) for the purpose of identifying the organizational failures that contributed to the incident and implementing steps to prevent a similar incident from occurring in the future.

3. Yes No

This establishment has a system to monitor on a regular and routine basis its logs of employee injury and illnesses, nurse and/or medical office logs, workers compensation data, and any other data on worker injury and illnesses.

4. Yes No

This establishment has written policies to encourage early reporting, by employees, of symptoms of work-related injuries and illnesses.

5. Yes No

This establishment does not have policies, programs or practices that discourage workers from reporting of injuries and illnesses.

6. Yes No

This establishment has a method to notify employees of the nature and early symptoms of work-related musculoskeletal injuries, in a manner and language that workers can understand.

7. _____ Yes _____ No

This establishment has posted in a conspicuous place or places where notices to employees are customarily posted, a copy of the FSIS/OSHA poster encouraging reporting and describing reportable signs and symptoms of injuries and illnesses.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the information provided on this form and accompanying documentation is true and correct. Falsification of any statements on this form may subject the employer to civil or criminal prosecution (see 18 U.S.C. § 1001.)

Failure to submit annually this attestation will result in USDA making a referral to the U.S.

Department of Labor's Occupational Safety and Health Administration.

Signature of Establishment Official: _____ Date:

Attachments

OSHA Citation and Settlement Agreement of citations with JBS /Swift: On providing bathroom breaks and preventing associated health risks to workers

List of Scientific Studies on the Cause of Musculoskeletal Disorders

NELP FOIA to FSIS on March 6, 2018 and Appeal

Punnett L, Gold JE. Carpal tunnel syndrome. In: *Preventing Occupational Disease and Injury*. Levy BS, Wagner GR, Rest KM, Weeks JL (eds). Washington, DC: American Public Health Association, 2005.

Punnett L, Gold JE. Tendonitis and tenosynovitis. In: *Preventing Occupational Disease and Injury*. Levy BS, Wagner GR, Rest KM, Weeks JL (eds). Washington, DC: American Public Health Association, 2005.

Punnett L, Gold JE. Upper-extremity musculoskeletal disorders. In: *Preventing Occupational Disease and Injury*. Levy BS, Wagner GR, Rest KM, Weeks JL (eds). Washington, DC: American Public Health Association, 2005.