

June 16, 2017

Ms. Gina Kouba  
Paperwork Reduction Act Coordinator  
Food Safety and Inspection Service  
USDA, Room 6065  
1400 Independence Avenue SW  
Washington, DC 20250-3700

SUBMITTED VIA: Regulations.gov  
Docket #: FSIS-2016-0028

cc: Gina.Kouba@fsis.usda.gov

Desk Officer for Agriculture  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
Washington, DC 20253

SUBJECT: Renewal of Information Collection  
Modernization of Poultry Slaughter Inspection.  
OMB Number: 0583-0156.  
Expiration Date of Approval: 9/30/2017

## **COMMENTS & REQUEST FOR EXTENSION OF TIME**

Dear Ms. Kouba and OIRA Desk Officer for Agriculture:

We are writing concerning the renewal of the information collection (OMB #: 0583-0156) related to the New Poultry Inspection System (NPIS). Our comments pertain specifically to the annual attestation required from every plant that operates under the NPIS. Specifically, each plant is required to submit annually an attestation that it maintains a program to monitor and document any work-related conditions of establishment workers. Some of our organizations were commenters on the initial information collection (79 *Federal Register* 49632, August 21, 2014) and appreciate that FSIS and OIRA incorporated some of our input.

In order to provide meaningful feedback on the information collection, we sent a FOIA request to FSIS in September 2016 to ask for copies of the attestations submitted to date. It was our understanding that as of September 2016 about 50 plants had converted to NPIS. On April 28, 2017, we received a response to our FOIA request, but it only included the safety attestation from one plant. (Although the NPIS took effect in October 14, 2014, we learned that FSIS Directive 4791.16 set a due date of February 28, 2017 for plants to submit the annual safety attestation.)

When FSIS published on April 19, 2017 in the *Federal Register* its notice of a renewal of the information collection for the safety attestation (OMB #: 0583-0156), we sent a second FOIA request to FSIS on April 21. We asked for copies of all safety attestations submitted to date from NPIS plants. Again, our objective was to review the attestations submitted to evaluate the quality, utility, and clarity of the information provided. We have not yet received a response to our FOIA request. Without this information, we have only the one safety attestation to evaluate, which makes it difficult for us to provide FSIS with our assessment of the worker safety information that plants have submitted to FSIS under the approved information collection.

We respectfully request that FSIS extend the deadline for submitting comments on the information collection related to the worker safety attestation. An appropriate new deadline would be 21 days following the response to our FOIA request. We recognize that the information collection approval is set to expire on September 30, 2017, and therefore, we recommend that FSIS request and OIRA grant a temporary extension for the information collection. Otherwise, the agency is requesting feedback on an information collection for which the public has not had an opportunity to evaluate its quality, utility, and clarity.

If OIRA declines to provide a temporary extension on the comment period or the effective date for the information collection, we offer the following in response to FSIS's questions:

a) Is the proposed collection of information necessary for the proper performance of FSIS's functions, including whether the information will have practical utility?

Yes. There is practical utility for the government to collect an annual attestation from each plant operating under the NPIS on its program to monitor and document any work-related conditions of establishment workers. Workers in poultry slaughtering plants are at significant risk of experiencing serious and disabling injuries compared to workers in other industries. The incident rate of illnesses, such as carpal tunnel syndrome, is six times higher for poultry workers than for workers in other occupations, including manufacturing and construction jobs.<sup>1</sup> With respect to the number of amputations and hospitalizations, the poultry industry ranks near the top in mandatory reports submitted from 29 states (i.e., 12 highest in the most recently available 21 months of OSHA data).<sup>2</sup> The safety attestation provides valuable information to assess the impact of NPIS on plant worker safety. Moreover, because FSIS shares safety attestations with OSHA, the utility of the information is multiplied because two agencies are benefiting from the information collection.

(b) What is the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used?

We are unable to answer this question without having the safety attestation records we have requested through FOIA.

Based on the one safety attestation we received, we consider FSIS's estimate of burden hours to be appropriate.

(c) Are there ways to enhance the quality, utility, and clarity of the information to be collected?

We are unable to answer this question without having the safety attestation records we have requested through FOIA.

Based on the one safety attestation we received, the information provided by the plant is incomplete. The attestation fails to include some of the mandatory information set forth in 9 CFR §381.45, such as

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<sup>1</sup> See e.g., BLS. Highest incidence rates of total nonfatal occupational illness cases, 2015. CDC/NIOSH. Evaluation of carpal tunnel syndrome and other musculoskeletal disorders among employees at a poultry processing plant (June 2015); CDC/NIOSH. Evaluation of musculoskeletal disorders and traumatic injuries among employees at a poultry processing plant (March 2014).

<sup>2</sup> National Employment Law Project. Policy brief: OSHA severe injury data from 29 states (April 2017).

attestation that: (i) the required FSIS/OSHA poster is displayed in a conspicuous place or places where notices to employees are customarily posted; (ii) the plant has no policies or programs in place that discourages the reporting of injuries and illnesses; and (iii) employees are notified of early symptoms of occupational illnesses and injuries, in a manner and language that workers can understand. It is vital that FSIS ensure the safety attestations meet all the requirements set forth in 9 CFR §381.45 because these documents will assist OSHA in determining the adequacy of a plant's program to prevent injuries from line speeds and other hazards. Moreover, the attestation would be enhanced by including the name, title, and contact information of the person who completed the attestation.

In order to enhance the quality, utility, and clarity of the information to be collected (and to comply with the regulation) we recommend that NPIS make the attestation available in an electronic form designed so that the respondent would simply mark off a "yes" or "no." We think this would also ease the paperwork burden on the NPIS plants, as they would not have to prepare their own unique record. The electronic form could be modeled after comparable electronic forms required for safety reporting by mine operators under regulations adopted by the Mine Safety and Health Administration (see: <https://arlweb.msha.gov/forms/forms.asp>). An example of such a form is enclosed for your consideration.

We appreciate the opportunity to provide comment on the information collection for the worker safety attestation under the New Poultry Inspection System. Please do not hesitate to contact Dr. Celeste Monforton at [cmonfort@gwu.edu](mailto:cmonfort@gwu.edu) or 703-405-7577 for further information about our comments.

Sincerely,

*Greater Minnesota Worker Center*

*Interfaith Worker Justice*

*National Employment Law Project*

*Nebraska Appleseed Center for Law in the Public Interest*

*Oxfam America*

*Western NC Workers Center*

*Katherine Tracy*

*Center for Progressive Reform*

*Celeste Monforton, DrPH, MPH*

*Beyond OSHA Project*

cc: Ms. Dorothy Daugherty, Acting Asst. Secretary of Labor, OSHA

**Attestation on Worker Health and Safety made by Employers  
Using the USDA/FSIS New Poultry Inspection System (NPIS)**

Full Legal Name of Controlling Company: \_\_\_\_\_

Controlling Company Address: \_\_\_\_\_

Name and Address of Establishment using NPIS: \_\_\_\_\_

\_\_\_\_\_

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 written policies to encourage early reporting, by employees, of symptoms of work-related injuries and illnesses. (If yes, attach a copy the first time this attestation is made, and thereafter annually if it has changed.)
  
2.  Yes  No This establishment does not have policies, programs or practices that discourage workers from reporting of injuries and illnesses. (A "yes" answer means you do not have them.) (For more information see: "Employer Safety Incentive and Disincentive Policies and Practices," OSHA Memorandum, March 12, 2012, at: <https://www.osha.gov/as/opa/whistleblowermemo.html> )
  
3.  Yes  No This establishment has a method to notify employees of the nature and early symptoms of occupational illnesses and injuries, in a manner and language that workers can understand.
  
4.  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.

5.  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. (If a written policy, attach a copy the first time this attestation is made, and thereafter annually if it has changed.)
6.  Yes  No This establishment has an occupational safety and health management system in place that includes each of these elements: management leadership; employee involvement; worksite analysis; hazard prevention and control; and employee training. (If a written policy, attach a copy the first time this attestation is made, and thereafter annually if it has changed.)
7.  Yes  No This establishment has received a copy of OSHA's "Prevention of Musculoskeletal Injuries in Poultry Processing" (OSHA 3213-12R-2013) and at least one current member of management and all current production supervisors have reviewed it. (OSHA 3213-12R-2013) available at:  
<https://www.osha.gov/Publications/OSHA3213.pdf>

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: \_\_\_\_\_