



April 30, 2018

Board of Directors

John Applegate
Alyson Flournoy
Robert Glicksman
Alice Kaswan
Thomas McGarity
Sidney Shapiro
Amy Sinden
Robert R.M. Verchick

Submitted via: Regulations.gov

Paul Kiecker
Acting Administrator
U.S. Department of Agriculture
Food Safety and Inspection Service
Docket Clerk
Patriots Plaza 3
1400 Independence Avenue SW
Mailstop 3782, Room 8-163A
Washington, DC 20250-3700

Re: Comments on the Proposed Rule, Modernization of Swine Slaughter Inspection, 83 Fed. Reg. 4780 (Feb. 1, 2018); Docket No. FSIS-2016-0017; RIN 0583-AD62

Advisory Council

Patricia Bauman
Frances Beinecke
Eula Bingham
W. Thompson Comerford, Jr.
Sally Greenberg
John Passacantando
Henry Waxman
Robert Weissman

Dear Acting Administrator Kiecker:

We write to urge the Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) to withdraw its proposed rule, Modernization of Swine Slaughter Inspection, because it raises serious concerns for worker safety and health. At minimum, we urge the agency to revise the rule to address the concerns outlined herein before moving forward on the proposal.

USDA/FSIS should seek to ensure its regulations of swine slaughter operations do not directly or indirectly jeopardize worker safety and health. Yet under this proposed rule, the agency is seeking to revoke the maximum slaughter line speed and transfer key inspection duties from government inspectors to private workers employed by slaughter plants, raising numerous concerns about the safety and health of workers at these facilities.

Regulations that seek to assist the swine slaughter industry with maximizing its profits and that seek to achieve a very modest cut to agency costs—as this rule proposes to do—certainly should not and must not come at the expense of worker safety and health, food safety, animal welfare, or the environment.

The Existing Cap on Line Speed May Already be Too High and Should Not Be Revoked under Any Circumstances.

In the preamble to the proposed rule, it states, "FSIS recognizes that evaluation of the effects of line speed on food safety should include

the effects of line speed on establishment employee safety.”¹ To this end, we urge FSIS to take into consideration the awful working conditions inside meatpacking plants and decades of studies indicating that faster line speeds increase the risk of workplace injuries.

As we are sure the agency is aware, the National Poultry Inspection System (NPIS) rule adopted in 2014 did not allow for an increase in line speeds in poultry plants.² A primary reason the provision to increase the line speed was removed from the NPIS rule was the legitimate concern about an increase in worker injuries at faster line speeds. The concern is no less real inside swine slaughter facilities. And all the data show increasing line speeds is dangerous for workers.

Working in a hog slaughter plant exposes workers to cold, wet, noisy, and slippery conditions. The nature of the job requires thousands of forceful repetitive motions per shift. Workers must utilize dangerous hooks, knives, and large saws to cut and break down the hogs. Due to these conditions, meatpacking is among the most hazardous industries in the nation. Meatpacking workers experience injuries at a rate of 4.3 injuries per 100 workers, compared to the national average of 2.8 injuries per 100 workers.³ Moreover, BLS data indicate that meatpacking workers experience illnesses at an alarming rate of 17 times the national average (241.4 illnesses per 10,000 workers compared to the national average of 14.1 illnesses per 10,000 workers).⁴ When a worker is seriously injured and must take time off work or is unable to return to work, it has substantially adverse effects on the worker and their family in terms of medical and other bills and emotional stress.

At least as far back as 1993, OSHA has acknowledged the high prevalence of musculoskeletal injuries in the meatpacking industry.⁵ In its guidance on ergonomics in meatpacking plants, OSHA’s recommendation for decreasing high injury rates is to “adjust line speeds” and implement solutions such as “reducing the total number of repetitions per employee by such means as decreasing production rates”⁶ The National Institute for Occupational Safety and Health (NIOSH) has similarly concluded, “Line speed affects the periodicity of repetitive and forceful movements, which are key causes of musculoskeletal disorders.”⁷

More recently, the Government Accountability Office (GAO) released a report in 2017 confirming dangerous working conditions persist in the nation’s meat industry.⁸ In the report, GAO explains that in 2016, it reported “on concerns that high line speeds may exacerbate existing hazards that can cause musculoskeletal disorders (MSD). OSHA and National Institute for Occupational Safety and Health (NIOSH) officials told us that line

¹ 83 Fed. Reg. 4780, 4796.

² Final Rule, Modernization of Poultry Slaughter Inspection, 79 Fed. Reg. 49,566 (Aug. 21, 2014).

³ U.S. Bureau of Labor Statistics, Occupational Injuries/Illnesses and Fatal Injuries Profiles, Number and Rate of Nonfatal Occupational Injuries and Illnesses by Selected Industry, All U.S., Private Industry, 2016 (results from query of Animal Slaughtering (except poultry) Industry (NAICS 311611)).

⁴ *Id.*

⁵ U.S. Department of Labor, OSHA 3-123, Ergonomics Program Management Guidelines for Meatpacking Plants (1993), <https://www.osha.gov/Publications/OSHA3123/3123.html>.

⁶ *Id.*

⁷ Letter from John Howard, Director, National Institute for Occupational Safety and Health, to Alfred Almanza, Administrator, Food Safety and Inspection Service (Apr. 7, 2014), <https://www.cdc.gov/niosh/topics/poultry/pdfs/letterapril72014.pdf>.

⁸ U.S. Gov’t Accountability Office, GAO-18-12, Workplace Safety and Health: Better Outreach, Collaboration, and Information Needed to Help Protect Workers at Meat and Poultry Plants (2017), <https://www.gao.gov/assets/690/688294.pdf>.

speed—in conjunction with forceful exertions, awkward postures, and other factors—affects the risk of MSDs. When plants increase line speed, they may address worker safety by increasing staffing or creating new lines.”⁹

Eliminating the existing cap on maximum line speed, as this proposed NSIS rule seeks to do, would result in an increase in workplace injuries, including amputations and disabling musculoskeletal disorders, in excess of the already high injury and illness rates at these plants. This is because at faster line speeds, workers would need to handle an increased number of hogs than they currently do, without any improvement in working conditions and without any requirement that the establishments increase staffing or make any other changes to reduce repetitive motions that cause MSDs.

While the agency estimates line speeds may increase as much as 12 percent under the proposal, it has not presented evidence to confirm that HIMP establishments can ensure workers are protected from injuries at the higher line speeds. Although FSIS states in the preamble that it conducted a comparison of injury rates between HIMP and establishments operating under traditional inspection procedures from 2002 to 2012,¹⁰ the results of the analysis have not been published. Because the results have not been published, they have not undergone a rigorous review process to ensure the data and methodologies utilized in the analysis are sound. Moreover, FSIS has not indicated that the information voluntarily provided to it by the HIMP plants includes information about actual line speeds, staffing, and hours worked. FSIS itself admits, “[F]actors other than line speeds may affect injury rates (e.g., automation and number of sorters per line).”¹¹

Moreover, under the proposed rule, if FSIS chooses to eliminate the cap on line speeds, and a HIMP plant is unable to maintain process control, it is unclear what happens beyond an inspector issuing an NR to the establishment. As you know and the Inspector General noted in a 2013 audit, FSIS’s inspections and enforcement are not sufficient to prevent repeat violations.¹² More specifically, the OIG audit found the agency was unable to determine whether the goals of the HIMP pilot program were met “because FSIS did not adequately oversee the program.”¹³ The OIG found “the swine HIMP program has shown no measurable improvement to the inspection process; the program was not studied during its first 15 years; three of five HIMP plants had some of the highest numbers of NRs nationwide; and one plant was allowed to forgo an essential food safety procedure.”¹⁴ Based on these findings, the OIG recommended FSIS “determine what measurable improvement the HIMP program achieved and its suitability as a permanent program” and “develop criteria to terminate plants from HIMP that have a pattern of severe violations, require all HIMP plants to perform visual and manual inspections of viscera, and establish formal agreements with plants participating in the HIMP program.”¹⁵

⁹ *Id.* at 37-38 (citing U.S. Gov’t Accountability Office, GAO 16-337, Workplace Safety and Health: Additional Data Needed to Address Continued Hazards in the Meat and Poultry Industry (2016)).

¹⁰ 83 Fed. Reg. 4780, 4796.

¹¹ 83 Fed. Reg. 4780, 4796.

¹² United States Department of Agriculture, Office of Inspector General, Audit Report 24601-0001-41, Food Safety and Inspection Service – Inspection and Enforcement Activities at Swine Slaughter Plants (2013), <https://www.usda.gov/oig/webdocs/24601-0001-41.pdf>.

¹³ *Id.* at 17.

¹⁴ *Id.* at 19.

¹⁵ *Id.*

Notably, the report found, “Since FSIS did not provide adequate oversight, HIMP plants may have a higher potential for food safety risks. Nationwide, 3 of the 10 plants cited with the most NRs continue to participate in the HIMP program.”¹⁶ The report goes on to explain “the swine plant with the most NRs during this timeframe [FYs 2008 to 2011] was a HIMP plant—with nearly 50 percent more NRs than the plant with the next highest number.”¹⁷

In response to the OIG report, FSIS conducted an evaluation of HIMP market hog establishments’ performance, which is summarized in the preamble to the proposed rule.¹⁸ But nowhere in the proposed rule does FSIS specify whether or not it has developed clear criteria to terminate plants with a pattern of severe violations from HIMP, or has implemented any of the other recommendations proposed by the OIG. Given NRs are ineffective and there is no consequence for repeated violations as the IG found, we are concerned the agency lacks any means of ensuring NSIS establishments operating at faster line speeds maintain process control and do not jeopardize food and worker safety.

Consequently, as proposed, this rule would force plant employees to work at crippling rates—above the incredibly fast pace at which they currently work—and increase their risk of injury or illness. The sole “benefit” of removing the line speed cap would be for the plants to operate faster without hiring more workers, meaning plant workers would need to handle more hogs without receiving any reciprocal improvements in working conditions.

The agency’s cost-benefit analysis supports this reading of the proposal. According to the cost-benefit analysis, the primary cost savings from this rule falls under “industrial efficiency,” which is associated with the elimination of the line speed cap and the assumption that, without the cap, HIMP plants will choose to operate 12.49 percent faster than comparable establishments and have a packer margin of \$4.10 per head.¹⁹ The cost savings of “industrial efficiency” is calculated to determine an establishment’s “surplus.” This surplus is potential profit from operating at a faster line speed.

In other words, the rule transfers most of the costs of operating a slaughter plant at a faster line speed from the plants onto the plant workers (in terms of their health and well-being) without accounting for the health and safety of workers at these establishments who will be forced to work under increasingly awful conditions. Meanwhile, the slaughter plants reap all the profits.

Notably, those workers most at risk from this rule are low-paid, non-unionized Hispanic immigrants and other minorities living in rural communities.²⁰ When workers are hurt, they’re forced to rely on a failing workers’ compensation system that pays a small portion of their wages. According to a 2015 report by OSHA, *Adding Inequality to Injury: The Costs of Failing to Protect Workers on the Job*, “Workers’ compensation payments cover a small fraction (about 21 percent) of lost wages and medical costs of work injuries and illnesses;

¹⁶ *Id.* at 17.

¹⁷ *Id.*

¹⁸ 83 Fed. Reg. 4780, 4788-91.

¹⁹ 83 Fed. Reg. 4780, 4812-13.

²⁰ William Kandel, U.S. Dep’t of Agriculture, Economic Research Serv., Meat-Processing Firms Attract Hispanic Workers to Rural America (June 1, 2006), <https://www.ers.usda.gov/amber-waves/2006/june/meat-processing-firms-attract-hispanic-workers-to-rural-america/>.

their families, and their private health insurance pay for nearly 63 percent of these costs, with taxpayers shouldering the remaining 16 percent.”²¹ In other words, when workers inside meatpacking plants are injured, they’re left strapped with the physical pain from their injuries, plus emotional stress and medical bills. For undocumented immigrants, they have the added stress of potentially being deported. And when workers are unable to pay, the surrounding community is forced to cover the cost. This in turn leads to hostility and aggression against low-paid minority communities who are blamed for the economic circumstances created by employers seeking to pass their costs onto workers and communities at every turn.

It is ludicrous that USDA calculates the corporate benefits of increased line speeds without calculating the human costs to workers. It is willful blindness that privileges capital over labor. A proposal that fosters this level of inequity and injustice is cruel, and frankly, beneath the civil servants of USDA and FSIS.

Further, the plants’ profits resulting from this rule in no way trickle down to consumers; there is no guarantee it would result in lower prices of market hogs at the grocery store. The agency itself acknowledges in the proposed rule preamble “this increase in surplus may be an overestimate given that an increase in line speeds may change market hog prices, establishment production costs, retail prices, and export volumes. Additionally, consumer benefits would be conditional on how an increase in line speed affects retail prices.”²² Yet the agency does not incorporate any of those calculations into its analysis. One obvious cost the agency failed to account for is the increased workers’ compensation costs (i.e., increased insurance rates) of the plants as workers suffer more injuries.

USDA/FSIS is under an obligation to undertake an objective and comprehensive cost-benefit analysis of the proposed change. It is not authorized to focus myopically on costs to industry that it is trying to relieve because that approach is inconsistent with Executive Order 12,866. Until and unless E.O. 12,866 is withdrawn or replaced, agencies and departments are obligated to comply with it. The impacts of the change on worker health and safety and on food safety must be analyzed comprehensively.

In addition, 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”²³

Accordingly, as with the NPIS, USDA/FSIS should remove the dangerous provision that would eliminate the existing line speed cap from this proposed rule, if it does not withdraw the proposal altogether. Further, since workers are already being injured at alarming rates under the current cap, the agency should set forth criteria all plants in any NSIS system must establish in determining their line speeds, and one factor every plant should be required to consider is whether it has sufficient workers on the line to maintain the existing level of hogs per worker per hour. Furthermore, FSIS should account for all effects of its rulemaking, rather than looking solely at industry savings while ignoring the

²¹ U.S. Dep’t of Labor, Occupational Safety & Health Admin., *Adding Inequality to Injury: The Cost of Failing to Protect Workers on the Job* (2015), <https://www.dol.gov/osha/report/20150304-inequality.pdf>.

²² 83 Fed. Reg. 4780, 4812.

²³ *Motor Vehicles Manufacturers Association v. State Farm*, 463 U.S. 29 (1983).

very real impact of this rule on workers. Any less than this and the rule would be effectively a government-backed means of allowing swine slaughter plants to squeeze worker productivity at the expense of worker health and safety.

Replacing Trained Federal Inspectors with Private Employees at Establishments Could Jeopardize Worker Safety, Food Safety, and Humane Handling of Animals.

Removing federal inspectors from swine slaughter establishments and replacing them with private-sector plant workers puts the responsibility of food safety onto plant employees. Our concerns with this are two-fold.

First, the proposed rule does nothing to provide plant workers with protection from retaliation for reporting tainted products. Workers who are discouraged from reporting concerns may fear doing so because they do not want to lose their jobs or experience hostility from their supervisors.

According to a survey conducted by Nebraska Appleseed of 455 workers at slaughter facilities in Nebraska, “[m]ore than one-third of the workers surveyed said they feared reporting an accident or injury.”²⁴ Some workers even commented directly about fear of retaliation. Here are a few examples of what workers inside these plants had to say:

“I don’t want to lose my job.”

“My friends say it is better not to report or they’ll fire you.”

“My husband also works here and afterwards they retaliated against everyone in the family.”

“They pressure you until you leave.”

“If one reports they give you more work so that you leave the plant on your own.”

“Sometimes yes [I’m afraid to report], when I see how they treat the others.”

In this proposed rule, FSIS completely fails to consider the potential for retaliation. Consequently, in the likely event a worker does not raise a concern because of the legitimate fear of retaliation, the only line of defense would be the federal inspectors. With fewer federal inspectors in the facilities, it would place a much heavier burden on the remaining inspectors to ensure tainted food products do not enter into commerce.

FSIS could take action to protect plant workers by including training requirements that ensure workers are informed of anti-retaliation laws and their rights under those laws. Further, FSIS could require establishments to certify plants have an anti-retaliation policy and reporting program as part of the safety attestation requirement, which is discussed in more detail below.

Second, we are concerned the proposal requires plant workers to take on numerous new responsibilities without any mandate that the establishment provide adequate training to these workers. Under the proposal, plant personnel would be required to perform

²⁴ Nebraska Appleseed, *The Speed Kills You: The Voice of Nebraska’s Meatpacking Workers* 36-37 (2009), https://neappleseed.org/wp-content/uploads/downloads/2013/01/the_speed_kills_you_100410.pdf.

numerous tasks typically performed by USDA inspectors.²⁵ Yet there is no mandate that the plants provide specific training to workers to ensure they are capable and competent to carry out these tasks. The proposal does reference guidance on training employees and estimates some of the costs to establishments associated with initially training employees to fill positions, annual replacement training, and continuing education training. But nowhere in the rule does FSIS set forth minimum requirements for training or otherwise propose any requirements that must be met for these workers. Again, as noted above with regard to retaliation, if the private plant workers do not catch animal disease conditions and trim and dressing defects, it is entirely left to the federal inspectors—of which there will be fewer present in the plants—to serve as the last line of defense.

According to the agency's cost-benefit analysis, reducing government inspectors inside swine plants is considered a "benefit" because the agency will achieve a slight savings,²⁶ but there is no evidence whatsoever that removing federal inspectors from the line provides any measurable benefit to workers, consumers, or animals. To the contrary, the so-called benefit of a slight savings in the agency's budget equates to roughly 2 cents per year²⁷ for each American. Ultimately, this rule may cost the public a much greater amount in terms of higher rates of foodborne illness, workplace injuries and illnesses, and inhumane practices toward animals. Worse, consumers and households will be forced to pay on a case-by-case basis, and they will never receive any benefit from the so-called "savings."

The Safety Attestations Requirement in the Proposal Has No Teeth.

Under the proposed rule, FSIS indicates it would "require each establishment that operates under the NSIS to 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."²⁸

This requirement is identical to a requirement in the agency's "modernization" rule for poultry inspections (NPIS). While a safety attestation requirement presents an opportunity to ensure HIMP plants are operating safely, under the NPIS, the safety attestations have proven useless because FSIS does not review the merit of the attestations and forwards them to OSHA without any direction as to what OSHA should do with them. In fact, responses to FOIA requests of those attestations show neither FSIS nor OSHA staff are aware of these attestations or are utilizing them to prioritize enforcement actions.²⁹

If USDA/FSIS proceeds with finalizing the NSIS rule, we encourage the agency to keep in and expand the provisions requiring safety attestations. First, the safety attestation requirement should apply to all swine slaughter plants, rather than just the plants operating under the NSIS as FSIS is proposing currently. Second, under the safety attestation requirement, establishments should be required to attest to more than that

²⁵ 83 Fed. Reg. 4780, 4803.

²⁶ 83 Fed. Reg. 4780, 4813-16.

²⁷ This figure was calculated using the agency's annualized costs, assuming a 3 percent discount rate over 10 years, of (6.38) million, divided by an estimated 308 million people living in the United States.

²⁸ 83 Fed. Reg. 4780, 4796.

²⁹ See Letter from Greater Minnesota Worker Center, et al., to Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, et al. (June 16, 2017), http://progressivereform.org/articles/USDA-OMB_letter_Attestation_061617.pdf.

they maintain a program to monitor and document work-related conditions that arise among establishment workers. Specifically, the requirement should be expanded to require attestation that each establishment has a program for injury and illness prevention and for identifying and correcting safety and health hazards, as well as an anti-retaliation program and system for reporting adverse actions in breach of that program.

As we have recommended previously in relation to the NPIS, FSIS should collect safety attestations using a form that is easy for establishments to complete.³⁰ We are appending a sample form we would deem appropriate for the safety attestation requirement.

FSIS ought to review the annual attestations to determine whether they are submitted by each establishment and have been completed thoroughly and accurately, without evaluating each establishment's programs. Thus, we urge FSIS to 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. The safety attestation requirement does not impose a heavy burden on establishments as they are already supposed to be providing a safe and healthy work environment. Thus, establishments that repeatedly fail to comply with the safety attestation requirement should be removed from the HIMP program. Additionally, safety attestations should be collected by FSIS and made available in a centralized location for public access before being forwarded to OSHA.

FSIS Should Provide Time for External Peer Review of its Risk Assessment Before Moving Forward.

On March 9, 2018, the Center for Progressive Reform joined eighteen other consumer, food safety, worker safety, animal welfare, and public health organizations in writing to urge you to conduct public meetings on the proposed rule and to request an extension of the comment period until the completion of the external peer review of FSIS' "Assessment of the Potential Change in Human Risk of Salmonella Illnesses Associated with Modernizing Inspection of Market Hog Slaughter Establishments (Jan. 2018)," so the review may inform public comments.³¹ We wish to reiterate the requests from that letter.

Among the reasons for FSIS to host a public meeting and to extend the comment period is to give the public adequate time to consider the findings of the external peer review. An external peer review is necessary to fulfill a requirement that has applied to all federal agencies since the George W. Bush administration—that "important scientific information shall be peer reviewed by qualified specialists before it is disseminated by the federal government."³²

According to the Office of Management and Budget's (OMB) Peer Review Bulletin, the peer review process must be transparent and provide "the public the written charge to the peer

³⁰ *Id.*

³¹ Letter from APHA-OHSS et. al, to George Perdue, III, Secretary, U.S. Dep't of Agriculture (Mar. 15, 2018), http://progressivereform.org/articles/SonnyPerdue_SwineSlaughterRule_19Orgs031518.pdf.

³² Memorandum for Heads of Departments and Agencies, Issuance of OMB's "Final Information Quality Bulletin for Peer Review" (Dec. 16, 2004), http://www.cio.noaa.gov/services_programs/pdfs/OMB_Peer_Review_Bulletin_m05-03.pdf.

reviewers, the peer reviewers' names, the peer reviewers' report(s), and the agency's response to the peer reviewers' report(s)." As OMB's memorandum laying out the requirement explains, "[I]n the context of risk assessments, it is valuable to have the choice of input data and the specification of the model reviewed by peers before the agency invests time and resources in implementing the model and interpreting the results."

So long as the peer review bulletin remains in effect, the agency should apply it to its regulatory and deregulatory actions, including this proposed rule. Here, FSIS has not fulfilled OMB's requirements for timeliness and transparency with regard to the peer review process, nor has it given a compelling rationale for a waiver.

Because the agency has not completed an external review of its risk assessment, it lacks reliable evidence to proceed with this proposed rule. Moreover, the agency has deprived the public of vital information needed to inform their comments during the notice-and-comment period. The public should have access to the required information for at least thirty days prior to the proposed rule's comment deadline to provide for informed analysis of this rulemaking. If FSIS cannot publish a completed peer review in time for the public to consider it, we call on the agency to suspend the rule until the review is ready.

Conclusion

For the many reasons discussed herein, we call on USDA/FSIS to withdraw this proposal because as written, it presents a significant risk to the safety and health of workers inside swine slaughter establishments. The agency should not proceed with this rulemaking unless and until it revises the proposal to achieve the following:

- Remove provisions that would eliminate the existing cap on line speed;
- Mandate training to be provided to plant workers;
- Expand the safety attestation provisions so they serve a meaningful purpose in evaluating the safety programs of all swine slaughter establishments; and
- Complete external peer review of the agency's risk assessment.

Sincerely,

Martha McCluskey
Professor, William J. Magavern Faculty
Scholar
University at Buffalo Law School
State University of New York
Member Scholar, Center for Progressive
Reform

Thomas O. McGarity
Joe R. and Teresa Lozano Long Endowed
Chair in Administrative Law
University of Texas Law School
Member Scholar, Center for Progressive
Reform

Sidney Shapiro
Frank U. Fletcher Chair of Administrative
Law
Wake Forest University School of Law
Member Scholar, Center for Progressive
Reform

Rena Steinzor
Edward M. Robertson Professor of Law
University of Maryland Francis King Carey
School of Law
Member Scholar, Center for Progressive
Reform

Katherine Tracy
Policy Analyst, Center for Progressive Reform

**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 3213-12R2013) 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: _____