



May 2, 2018

Submitted electronically: <https://www.federalregister.gov/documents/2018/02/01/2018-01256/modernization-of-swine-slaughter-inspection#open-comment>

Paul Kiecker
Acting Administrator
Food Safety and Inspection Service, USDA
Docket Clerk
Patriots Plaza 3
1400 Independence Avenue SW
Mailstop 3782, Room 9-163 A,
Washington, DC 20250

Re: FSIS-2016-0017

Dear Acting Administrator Kiecker,

On behalf of the National Employment Lawyers Association (NELA) please accept these comments expressing our strong opposition to the United States Department of Agriculture (USDA) Food Safety and Inspection Service's (FSIS) proposal to radically change the food safety inspection system in swine slaughter plants, which will endanger public health and worker safety. NELA strongly opposes the proposed Modernization of Swine Slaughter Inspection rule: FSIS-2016-0017 (RIN 0583-AD62). We are particularly opposed to any increase in maximum allowable line speeds in hog slaughter facilities above the current allowed 1,106 head per hour (hph), and urge the USDA to withdraw this proposed rule.

NELA is well qualified to comment on the issues identified in the NPRM because it is the largest professional membership organization in the country comprised of lawyers who represent workers in labor, employment, and civil rights disputes. Founded in 1985, NELA advances employee rights and serves lawyers who advocate for equality and justice in the American workplace. NELA and its 69 circuit, state, and local affiliates have a membership of over 4,000 attorneys who are committed to working on behalf of those who have been treated unlawfully in the workplace. NELA members litigate daily in every federal circuit, which provides NELA with a unique perspective on how proposed regulatory changes actually will play out on the ground.

In addition to the many serious consumer concerns, we are deeply concerned with the risks to worker safety and health posed by this proposed new rule. Any increase in line speeds in swine slaughter plants will further jeopardize worker safety in an already dangerous industry. If adopted, the proposed rule will lead to an increase in serious, sometimes disabling, injuries and possible increase in workplace fatalities in these plants. By removing government trained inspectors from the line and allowing an increase in maximum lines speeds in hog plants, all

workers in swine slaughter plants will be expected to work faster and harder. Meatpacking workers say that current line speeds are extremely physically challenging.

Studies spanning three decades indicate that fast line speeds in meatpacking plants are the root cause for the high numbers of serious injuries and illnesses in the industry.¹ It would be irresponsible toward workers in the meatpacking industry, and there is no rational basis to ignore these studies or to permit a system involving increased line speed that we know will sacrifice worker safety and health. Just as FSIS did in the modernization of the poultry industry inspection system, it must reject any increase in line speeds in swine slaughter plants.

Hog slaughter workers already endure exceedingly harsh working conditions to provide cheap pork to American consumers. They work with knives, hooks and saws, making tens of thousands of forceful repetitive motions on every shift. According to the Bureau of Labor Statistics, the meatpacking industry already reports that workers are injured at rates 2.4 times higher than the national average for all industries. The rate is nearly 3 times as high for those injuries that are so serious they require time off of work or restrict an employee's duties.

Meatpacking workers also experience injury and illness—including disorders such as carpal tunnel syndrome—at a rate that is almost *17 times as high as the average for all other industries*. Because of the high rate of injury hog and meat plants currently experience turnover rates as high as 60% annually. A work-related injury can cause serious physical suffering and have enormous economic consequences for a worker and his/her family, in turn, further exacerbating economic inequality for the nation's working families. Studies demonstrate that the financial burden of most work-related injuries falls on the worker, and injured workers often face great risk of falling into poverty.

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. Among other findings, 62 percent of the workers said they were injured on the job in the previous year.²

Numerous studies confirm that high number of forceful repetitions—fast line speeds—lead to high rates of serious workplace injuries in hog slaughter plants. Over 30 years ago the Occupational Safety and Health Administration (OSHA) was well aware of the very high rates of workplace injuries in meatpacking plants from the fast line speeds. In a publication from 1993, *Ergonomics Program Management Guideline for Meatpacking Plants*³ OSHA stated that musculoskeletal injuries and disorders are particularly prevalent in the meatpacking industry. This publication is replete with over 20 studies linking the high rates of illness and injury in the meatpacking industry with the high number of repetitive forceful requirements of the jobs in the

¹ United States Department of Labor, Occupational Safety and Health Administration, *Meatpacking Hazards and Solutions*, https://www.osha.gov/SLTC/meatpacking/hazards_solutions.html.

² Nebraska Appleseed, *The Speed Kills You* (2009), https://neappleseed.org/wp-content/uploads/downloads/2013/01/the_speed_kills_you_100410.pdf.

³ United States Department of Labor, Occupational Safety and Health Administration, *Ergonomics Program Management Guideline for Meatpacking Plants*, (1993) <https://www.osha.gov/Publications/OSHA3123/3123.html>.

plants. In this publication, OSHA clearly recommends that to decrease the high injury rates in meatpacking plants, plants should **“adjust line speeds” and implement solutions such as “reducing the total number of repetitions per employee by such means as decreasing production rates.”**

The USDA proposed rule asserts that the agency conducted a review of injury rates in hog slaughter plants using industry reported summary data from 2002-2010. The results of the survey are unpublished and, therefore, have not been available for the necessary rigorous review process that ensures that the data and methods employed are statistically appropriate. Also, the FSIS does not explain or provide information identifying which plants were selected to participate in the review. Further, FSIS did not indicate that its survey collected information about actual line speeds, staffing and hours worked. It is utterly inappropriate to seek public comment on a proposed rule predicated on a study that is not available for review.

Just two months before FSIS proposed this new swine slaughter inspection system, the Government Accountability Office (GAO)⁴ released a report 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).

FSIS ignored decades of scientific research and data that specifically conclude that faster line speeds increase injuries in hog plants. Based on existing data, it is predictable that the ***proposed rule will result in an increase in serious injuries***—and possibly work-related fatalities in these plants. 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. Therefore, the FSIS must reject any increase in maximum allowable line speeds and withdraw this rule.

Adding insult to injury, the USDA issued this proposal without any final review of the impact on public health. This proposal, if adopted, would likely increase profits in the industry, but we have been provided no data on the likely public health impact, and know that the proposed rule would likely harm workers. We strongly oppose this proposed rule and urge the USDA to oppose any increase in line speeds and withdraw the so-called, “Modernization of Swine Slaughter Inspection Rule.”

Sincerely,



Terry O’Neill
Executive Director,
National Employment Lawyers Association

⁴ Government Accountability Office (GAO), *Report to Congressional Requesters, 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>.