SAFE FOOD COALITION

1620 I Street, NW, Suite 200, Washington, DC 20006 202-939-1010

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Carmen Rottenberg
Acting Deputy Under Secretary for Food Safety
Food Safety and Inspection Service
U.S. Department of Agriculture
331-E Jamie L. Whitten Federal Bldg.
Washington, DC 20250-3700
Carmen.rottenberg@fsis.usda.gov

RE: National Chicken Council Petition to permit waivers of maximum line speed rates (Petition No. 17-05, Docket ID No. FSIS-2017-0045)

Dear Acting Deputy Undersecretary Rottenberg:

The undersigned members of the Safe Food Coalition submit these comments in opposition to the National Chicken Council (NCC) petition to waive line speed restrictions on chicken slaughter plants. Contrary to the NCC's claims, the available evidence gives little assurance that allowing higher line speeds would not compromise food safety. Before eliminating longstanding protections, the Food Safety and Inspection Service (FSIS) should take a hard look at how existing line speed waivers have affected food safety, and tailor any future reforms to reduce foodborne illness, rather than simply maintain the status quo.

FSIS needs to do more to protect consumers from contaminated poultry.

Contaminated chicken sickens and kills an unacceptable number of consumers in America. Each year, an estimated 48 million people get sick from eating food, 128,000 are hospitalized, and 3,000 die of foodborne diseases. *Salmonella* is the leading cause of foodborne illness that results in hospitalization or death, and chicken is one of, if not the, leading source of Salmonellosis.[1] Taking into account other common pathogens found on chicken like *Campylobacter* and *Listeria*, as well as *Salmonella,* "poultry accounted for the most deaths" from foodborne illness in the most recent estimates from Centers for Disease Control and Prevention (CDC) researchers.[2] In addition to these direct impacts, recent genetic research has linked retail chicken to drug-resistant extraintestinal

[1] Painter JA, Hoekstra RM, Ayers T, Tauxe RV, Braden CR, Angulo FJ, et al. Attribution of Foodborne Illnesses, Hospitalizations, and Deaths to Food Commodities by using Outbreak Data, United States, 1998–2008. Emerg Infect Dis. 2013;19(3):407-415, Technical Appendix 2, at 3, https://wwwnc.cdc.gov/eid/article/19/3/11-1866_article.
[2] *Id.* at 409.

pathogenic *Escherichia coli* (ExPEC) that causes urinary tract infections (UTIs) in humans.[3] Researchers estimate that ExPECs cause around 85 percent of UTIs, the second most common type of human body infection, accounting for 8.1 million visits to health care providers in the United States each year and around $1-2 billion per year in health care expenses.[4]

The NCC argues in its petition that, in recent years, "industry has made significant strides in decreasing the prevalence of both *Salmonella* and *Campylobacter* on young chicken carcasses." As evidence, it cites "current FSIS data for all inspection systems where the industry average for Salmonella on young chicken carcasses is currently 5.42%, well below the FSIS established performance standard of 7.5%." However, FSIS set the current performance standard in 2011, at a level designed to allow approximately 80 percent of establishments to pass it without improving their performance.[5] Performance standards, moreover, represent the maximum *Salmonella* contamination rate allowed by the agency, and when exceeded, establishments are required to take corrective actions. The industry average should, therefore, fall well below the performance standard. Notably, NCC has intimated that the gap between performance standards and average industry contamination should be wider, requesting that FSIS revisit the performance standards and make them easier to meet, on account of a new *Salmonella* testing protocol.[6]

Adoption of that new protocol has accompanied a steep rise in contamination rates, suggesting that some of the chicken industry's progress in reducing *Salmonella* contamination has been illusory. In the 1990s, poultry establishments began to increasingly rely on antimicrobial sanitizers to combat microbiological pathogens like *E. coli*, *Salmonella* and *Campylobacter*. In 2016, however, the USDA Agricultural Research Service (ARS) confirmed that many of the most popular sanitizers were interfering with testing for *Salmonella*, and potentially causing "false negative" test results.[7] A later ARS study identified a new testing solution, nBPW, that helps to address the problem. The nBPW neutralizes the interference of antimicrobials after a sample is taken, and thereby ensures more

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[3] *See, e.g.,* Bergeron et al. "Chicken as reservoir for extraintestinal pathogenic Escherichia coli in humans, Canada." *Emerging Infectious Disease*, 2012 Mar;18(3):415-21. doi: 10.3201/eid1803.111099, *available at*: https://www.ncbi.nlm.nih.gov/pubmed/22377351 ("ExPEC transmission from food animals could be responsible for human infections, and chickens are the most probable reservoir."); Nordstrom et al. "Foodborne urinary tract infections: a new paradigm for antimicrobial-resistant foodborne illness." *Frontiers in Microbiology* (March 6, 2013), *available at*: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3589730/ ("Traditionally, foodborne infections were limited to those affecting the gastrointestinal tract, but a growing number of studies linking foodborne E. coli with urinary tract infections (UTIs) challenge that narrow definition.").

[4] Helena Bottemiller. "Study Suggests Chicken Contributes to Urinary Tract Infections" *Food Safety News*, (March 2012) http://www.foodsafetynews.com/2012/03/study-suggests-chicken-is-contributing-to-urinary-tract-infections/#.WhR9A0qnGUk

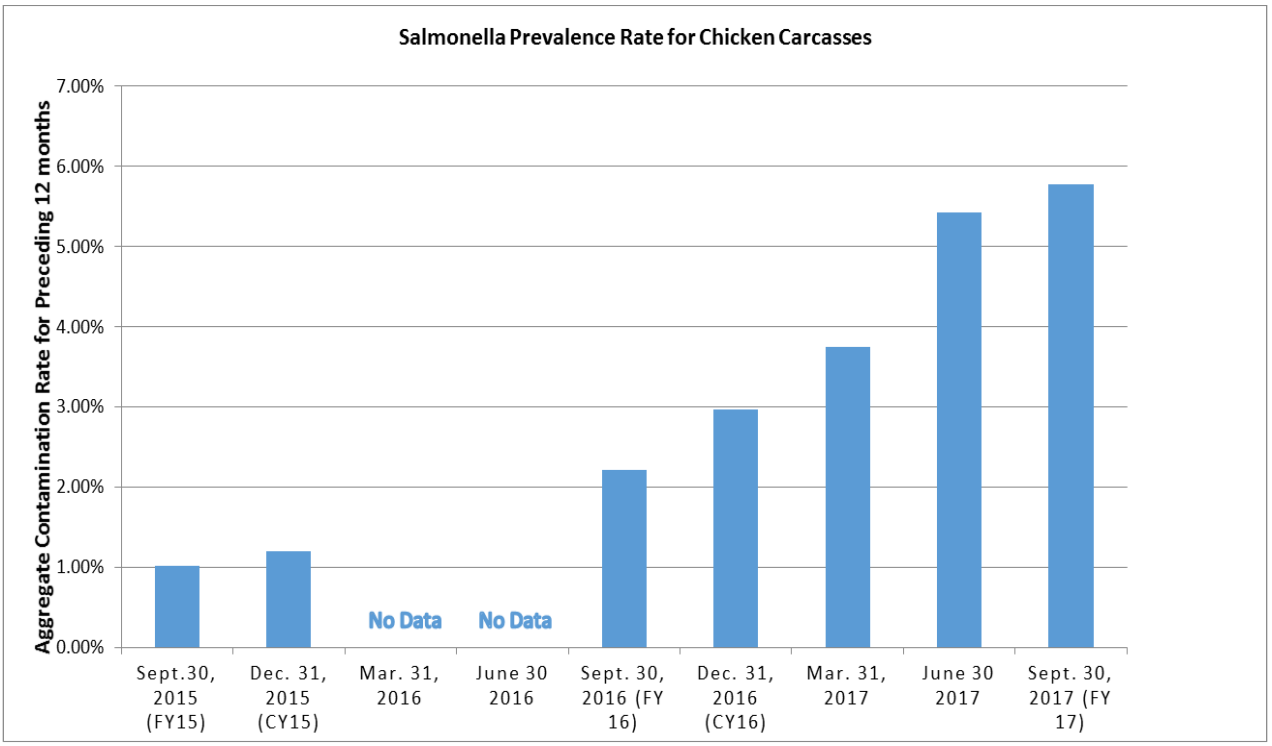
[5] FSIS. "New Performance Standards for Salmonella and Campylobacter in Young Chicken and Turkey Slaughter Establishments: Response to Comments and Announcement of Implementation Schedule" 76 FR 15282 (March 21, 2011).

[6] *See* Interview of Ashley Peterson, PhD, vice president of science and technology, National Chicken Council. *The Poultry Site*, http://www.thepoultrysite.com/poultrynews/39011/new-rule-same-baseline-skews-sampling-for-foodborne-pathogens/ ("We've asked that the performance standards be redone as needed due to the change to neutralized buffered peptone water, but it's going to take some time.").

[7] Gary R. Gamble et al. Effect of simulated sanitizer carryover on recovery of Salmonella from broiler carcass rinsates. Journal of Food Protection. Vol. 79, 710–714 (2016).

accurate test results.[8] However, after FSIS began using the new nBPW testing solution on July 1, 2016,[9] the *Salmonella* prevalence rate for chicken has grown dramatically.

Each bar on the graph represents the average *Salmonella* prevalence rate across the industry, as reported by FSIS, for the twelve months leading up to the date noted on the x-axis. The data posted on the FSIS website does not include a prevalence estimate for the year ending March 31, 2016, or for the year immediately preceding adoption of the nBPW solution, which ended June 30, 2016.[10] Those figures would provide more insight on how much of the recent uptick—more than a *five-fold* increase in the two years leading up to September of 2017—reflects the transition to the new testing solution. Whatever the cause, however, the data casts doubt on the NCC's characterization of the industry's success in decreasing the prevalence of *Salmonella* and other pathogens in poultry.



This data also underscores the need for better oversight to ensure, for example, that new antimicrobial sanitizers do not similarly skew test results. For this reason, Safe Food Coalition members have asked FSIS to require manufacturers to demonstrate that the new chemicals will not create a carryover effect before authorizing their use in plants.[11]

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[8] Gary R. Gamble et al. *Neutralization of Bactericidal Activity Related to Antimicrobial Carryover in Broiler Carcass Rinse Samples, Journal of Food Protection*, Vol. 80, No. 4 (March 17, 2017).

[9] *See* FSIS Notice 41-16. "New Neutralizing Buffered Peptone Water to Replace Current Buffered Peptone Water for Poultry Verification Sampling," (June 8, 2016), https://www.fsis.usda.gov/wps/wcm/connect/2cb982e0-625c-483f-9f50-6f24bc660f33/41-16.pdf?MOD=AJPERES

[10] *See* FSIS. "Sampling Results for FSIS Regulated Products," https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/microbiology/sampling-project-results/results.

[11] FSIS guidelines require a company seeking to introduce a new sanitizer for use in poultry processing to submit a "protocol" that includes:

Line speeds and food safety

On its face, eliminating line speed restrictions would run the risk of exacerbating risks to consumers, for at least two reasons. First, faster line speeds give inspectors and company sorters less time to spot defective bird carcasses during inspection, such as those that are diseased or visibly contaminated with feces. Second, faster line speeds may increase the likelihood that fecal contamination and other hazards occur in the first place.

Inspection matters to food safety. According to FSIS, *Salmonella* is usually transmitted to humans by eating foods contaminated with animal feces.[12] To reduce the risk of fecal contamination and other food safety hazards, FSIS has capped line speeds so that government inspectors—four of whom may be online at any one time—see no more than 35 birds per minute (bpm), meaning lines may not run faster than 140 bpm.[13] At plants enrolled in the New Poultry Inspection System (NPIS), just one government inspector performs online, carcass-by-carcass inspection, reviewing the work of company employees, or "sorters," whose duty is to "address animal disease conditions and trim and dressing defects" beforehand.[14] A second government inspector works off-line, reviewing documentation of process controls and sampling carcasses from the line to check for visible fecal material contamination.[15]

The shift from government inspectors to company sorters under NPIS raises concerns related to inadequate training and increased inspection workloads—concerns that faster line speeds would exacerbate. FSIS made clear in its final rule for NPIS that it expects company sorters to effectively carry out duties previously performed by trained government inspectors.[16] The agency developed "guidance documents to assist establishments in training their sorters . . . based on the training that FSIS provides to online inspection personnel that are responsible for sorting carcasses under the existing inspection systems."[17] Yet FSIS does not require that establishments actually provide *any*

> "A description of the sample collection methods to ensure mitigation of antimicrobial agent carryover. Interventions used immediately prior to sample collection, such as chiller or post-chill dips and sprays may reduce the recovery of Salmonella or any other indicator organism on the sampled product. ***For example, describe the drip time*** or neutralization process used when sampling poultry carcasses after the chill step." FSIS Compliance Guideline Procedures for New Technology Notifications and Protocols, April 2015, https://www.fsis.usda.gov/wps/wcm/connect/c64d8f3b-56aa-49c9-91f3-daf0caaba6bd/New-Technology-Protocols-042015.pdf?MOD=AJPERES, p. 10, (emphasis added).

The ARS study demonstrated, however, that even with a prolonged, unrealistic drip time of five minutes, one commonly used sanitizer "still exhibited significant … bactericidal activity," and the other commonly used sanitizers continued to have a carryover effect after 1-minute of drip time. Gary R. Gamble et al. Effect of simulated sanitizer carryover on recovery of Salmonella from broiler carcass rinsates. Journal of Food Protection. Vol. 79, 713-714 (2016).

[12] *See* FSIS. "Salmonella Questions and Answers," https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/foodborne-illness-and-disease/salmonella-questions-and-answers/

[13] *See* FSIS. "Proposed Rule: Modernization of Poultry Slaughter Inspection." 77 Fed. Reg. 4408, 4432-33 (Jan. 27, 2012).

[14] Modernization of Poultry Slaughter Inspection. 79 Fed. Reg. 49566 (August 21, 2014) ["Final Rule"]

[15] *Id.* at 49567.

[16] *Id.* ("Proper training is necessary if sorters are to make accurate decisions on how to address animal disease conditions and trim and dressing defects. Under the NPIS, if sorters do not make these decisions correctly, FSIS inspection personnel will take appropriate action such as stopping the production line, issuing NRs, and directing the establishment to reduce the line speed to ensure that the establishment is able to maintain process control, that establishment sorters are able to successfully perform their duties, and that FSIS CIs are able to conduct a proper inspection.").

[17] *Id.*

training to sorters.[18] At the same time, company sorters may have comparatively less time to assess a carcass than their publicly employed counterparts. In the final rule adopting NPIS, FSIS indicated that "establishments adopting the NPIS will likely initially expand their labor resources by employing about 0.8 staff-years of online sorters and carcass-inspection helpers that substitute for every 1.0 staff-year of FSIS online inspection program personnel." In other words, four company employees are expected to replace each five online inspectors, meaning a 25% higher workload. All else equal, faster line speeds will reduce the amount of time for inspecting a carcass, and increase the likelihood that diseased and contaminated carcasses go undetected.

Similarly, faster line speeds increase the likelihood that hazards, such as visible fecal contamination, occur at all. Poultry plant workers have told interviewers that fast line speeds often result in chicken carcasses "thrown all over the floor," even ending up "in a pile as high as a car" by the end of a shift, as harried workers fail to keep up with the lines.[19] In another recent survey of 500 poultry workers, over half (54%) of respondents answered "yes" to the question, "Have you ever been forced to do things because of time pressure or line speed that might harm the health and safety of the consumer?" and "almost one-third of workers (31%) responded that they had observed contamination of the poultry meat during processing or packaging."[20]

These accounts suggest that fast line speeds already often cause plants to lose "process control." Indeed, according to one recent study, "feces are present on approximately half of chicken products at retail stores in locations across the United States."[21] The NCC points out that its petition only relates to line speeds during the evisceration portion of processing, and that modern plants have automated many aspects of that process, such as removal of the birds' intestines. However, the industry continues to depend on workers for a variety of tasks in the evisceration process, such as rehanging birds on the shackle conveyor after their feet are cut off, removing remaining viscera, arranging birds for sorting and inspection, and vacuuming out the lungs and kidneys from the carcass.[22] Moreover, higher line speeds may affect machines as well as workers. One former inspector stationed in a HIMP poultry plant recently told National Public Radio that "the higher the line speed, the less accurate the operation of machines," and that machines that pull the viscera of the chicken may malfunction and end up "slinging manure all over the product."[23]

The NCC's petition

The NCC's petition argues that removing line speed limitations "will not compromise food safety" because it will encourage plants to participate in NPIS and the *Salmonella* Initiative Program.

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[18] As noted in the Final Rule, following its 2001 audit of the HIMP pilot, the Government Accountability Office (GAO) recommended that FSIS develop a training program, but FSIS rejected that recommendation in the final rule establishing NPIS, reasoning that if the sorters cannot do their jobs, FSIS inspectors "will take appropriate action." *See id.*

[19] Southern Poverty Law Center, *Unsafe at These Speeds, Alabama's Poultry Industry and its Disposable Workers* (2013) at 32-33, https://www.splcenter.org/sites/default/files/Unsafe_at_These_Speeds_web.pdf

[20] The Northwest Arkansas Worker's Justice Center. Wages and Working Conditions in Arkansas Poultry Plants, at 2 (February 1, 2016) http://www.uusc.org/sites/default/files/wages_and_working_conditions_in_arkansas_poultry_plants.pdf.

[21] http://www.pcrm.org/health/reports/fecal-contamination-in-retail-chicken-products

[22] https://www.osha.gov/SLTC/etools/poultry/evisceration.html#task14

[23] Nicole Erwin, *Too Fast for Safety? Poultry Industry Wants to Speed up the Slaughter Line*, NPR (Oct. 27, 2017), *available at* https://www.npr.org/sections/thesalt/2017/10/27/559572147/too-fast-for-safety-poultry-industry-wants-to-speed-up-the-slaughter-line?utm_campaign=storyshare&utm_source=twitter.com&utm_medium=social

As a preliminary matter, FSIS should undertake reforms that *strengthen* food safety, rather than simply seek to maintain the status quo. For example, it could set standards for incoming pathogen loads on poultry flocks to encourage widespread vaccination of flocks. In the private sector, companies like Walmart have taken this approach with great success.[24] FSIS could also resume publishing the identities of low performing plants on its website, a practice that the USDA Economic Research Service has credited with significant food safety gains.[25] However, even if one were to accept merely maintaining the status quo as a desirable goal, the available evidence does not support the NCC's claim that its proposal will not compromise food safety.

As noted in the petition, since 2007, FSIS has authorized twenty chicken slaughter plants to operate with higher line speeds of up to 175 bpm, as part of the Hazard Analysis and Critical Control Points-Based (HACCP) Inspection Models Project (HIMP) pilot. The New Poultry Inspection System (NPIS), finalized in 2014, grew out of the HIMP pilot, and similarly shifts inspection responsibilities from government to plant employees. However, unlike plants in the HIMP pilot, those enrolling in NPIS may not exceed the 140 bpm line speed cap that applies to traditionally inspected plants. In its 2014 NPIS rulemaking, FSIS acknowledged that line speeds should not increase without further research "to assess establishments' ability to maintain process control as they implement changes to operate under the NPIS."[26] Since then, FSIS has yet to publish any such assessment. The NCC, however, argues that the agency should go ahead and lift line speed caps on the basis of a 2011 FSIS study of the 20 HIMP pilot plants, and the results of a survey that it is reporting on for the first time in its petition.

The NCC's survey is the only new data referenced in its petition. According to the petition, the survey included 40 plants—20 traditionally inspected, 16 former HIMP plants enrolled in NPIS with line speed waivers, and 4 plants enrolled in NPIS without line speed waivers. The survey ran from December 1, 2016, to May 31, 2017. On the basis of the results, the NCC concludes that processing plants with higher line speeds, and those in NPIS overall, performed "as good as if not better than their non-NPIS counterparts" in controlling *Salmonella* and *Campylobacter*. This claim gives rise to several concerns.

First and foremost, 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 fit-for-purpose and statistically appropriate. Second, the NCC does not explain how it selected plants to participate in the survey. If it did not select plants randomly, or HIMP plants were different from non-HIMP plants at baseline, it may have biased the data with better-than-average performing NPIS establishments, or worse-than-average performing non-NPIS establishments. Third, the NCC conducted its survey during the winter months, a time period when *Salmonella* rates are typically

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[24] Coral Beach. Wal-Mart's chicken safety program shows significant results, *Food Safety News* (Aug. 12, 2016), http://www.foodsafetynews.com/2016/08/130453/ ("With four steps, Wal-Mart Stores Inc. has taken a giant leap in poultry food safety, reporting a decrease of the frequency of Salmonella contamination of chicken parts to 2 percent.").

[25] Michael Ollinger, James Wilkus, Megan Hrdlicka, and John Bovay. "Public Disclosure of Tests for Salmonella: The Effects on Food Safety Performance in Chicken Slaughter Establishments." Economic Research Report No. (ERR-231), (May 2017), https://www.ers.usda.gov/publications/pub-details/?pubid=83660 ("The Internet appears to be an effective communication tool through which market forces, set in motion by better information about the food safety performance of slaughter establishments, can discipline establishments that perform poorly on Salmonella tests. The result is a level of food safety determined more by market demand and less by direct regulation.").

[26] 79 Fed. Reg. at 49,591.

significantly lower.[27] Fourth, the NCC claims that the surveyed NPIS plants had lower rates of noncompliance reports related to food safety, but it fails to provide information on the magnitude and statistical significance of the difference. Finally, the NCC seeks to draw conclusions on line speeds beyond the range of actual line speeds studied in its survey. NCC does not indicate that its survey collected information about actual line speeds, but its petition nonetheless seeks to eliminate *any* cap on line speeds at NPIS establishments. FSIS wrote in its 2014 rulemaking that HIMP plants have, on average, run at just 131 bpm, despite being authorized to operate at 175 bpm.

In addition to its survey, the NCC cites a 2011 internal FSIS study, which compares noncompliance reports and microbiological data from HIMP plants and traditionally inspected plants.[28] The 2011 study relies on a 2001 Research Triangle Institute (RTI) report on data collected as early as 1998, comparing that baseline data to HIMP plant data collected between 2009 and 2011, and purporting to show far fewer violations at HIMP plants.[29] The comparison, however, presumes that the industry as a whole failed to make meaningful progress in reducing fecal material contamination and other such defects during more than a decade. The NCC's petition does not address that concern, and it even suggests that the RTI study itself should support expanding HIMP, and its more specific goal of lifting line speed caps. No good reason, however, supports a need to rely on data and analyses from nearly two decades ago now.[30]

The Government Accountability Office found several other flaws in the 2011 internal FSIS study. Referring to the *Salmonella* data, the 2013 GAO report assessed that "FSIS' conclusion about the pilot project was based, in part, on comparisons of data that were not designed to be comparable."[31] GAO further questioned why FSIS ignored much of the data it collected, choosing instead to base its analysis on snapshots whose timing varied between food safety and food quality assessments.[32] The report concluded that FSIS still had "not thoroughly evaluated the performance of each of the pilot projects over time even though the agency stated it would do so when it announced the pilot projects."[33]

In its 2013 report, GAO reiterated a key objection that it first raised in a 2001 review of the HIMP pilot program, related to the selection of participating plants. Specifically, it pointed out that "plants participating in the young chicken pilot project were not randomly selected." Rather, FSIS

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[27] *See, e.g.,* Williams, M.S., et al. (2014). Temporal Patterns in the Occurrence of Salmonella in Raw Meat and Poultry Products and Their Relationship to Human Illnesses in the United States. *Food Control* 35, 267-273 (using FSIS data to identify "a seasonal peak that is 7 months long ($p = 0.015$) and runs from August to February" for *Salmonella* contamination in chicken carcasses).

[28] FSIS (2011) Evaluation of HACCP Inspection Models Project (HIMP), United States Department of Agriculture Food Safety and Inspection Service, p. 20-23. Go to https://www.fsis.usda.gov/shared/PDF/Evaluation_HACCP_HIMP.pdf

[29] *Id.* at 23, Table 3-8.

[30] Even when it was not outdated, the RTI study exhibited serious limitations that pointed to the need for more analysis of HIMP plants' food safety performance. For example, the RTI study compared Salmonella contamination at HIMP plants on the basis of "sampling during only a 6 week period," which a later review conceded would introduce "a potential of seasonal bias." Hargis, BM., Curtis PA, Johnson MG, and Williams JD (2002) Review of the HACCP-Based Inspection Models Project by the National Alliance for Food Safety Technical Team http://www.fsis.usda.gov/OPPDE/nacmpi/Nov2002/Papers/NAFS97.pdf

[31] U.S Government Accountability Office, "More Disclosure and Data Needed to Clarify Impact of Changes to Poultry and Hog Inspections." GAO-13-775, (Aug. 2013), *available at.* http://www.gao.gov/assets/660/657144.pdf

[32] *Id.*

[33] *Id.* at 11.

relied on establishments to volunteer. The resulting cohort "did not include plants from all chicken producing areas or plants of all sizes," and therefore "cannot be generalized to the entire population of chicken slaughter plants in the United States."[34] The NCC petition does not address this critique, or the concern that the vast numbers of establishments for whom its proposal would lift line speed caps might behave differently than the 20 plants previously enrolled in the HIMP pilot.

Legal requirements for raising line speeds

The NCC petition implies that FSIS has the authority to establish a line speed "waiver system" pursuant to 9 C.F.R. § 381.3(b). We disagree for two reasons.

First, nothing in the regulatory waiver regulation suggests its provisions encompass line speed caps. Under 9 C.F.R. § 381.3(b), FSIS may "waive for limited periods" regulatory requirements "in the event of a public health emergency," not an applicable grounds here, "or to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements." NCC does not indicate how lifting line speed caps would fit into the rule's "experimentation" scheme, or what sort of "limited period" might apply. Nor has it explained why simply operating at a higher line speed qualifies as a new "procedure" or "processing technique." Even assuming the NCC's proposal meets these parts of the regulatory requirements, however, the NCC's petition itself undercuts the notion that higher line speeds might "facilitate definite improvements"[35] in food safety, arguing instead that its line speed waiver proposal would merely "not compromise food safety."

Second, FSIS must undertake notice and comment rulemaking if it wants to amend or repeal its line speed restriction.[36] FSIS issued a proposed rule that would have raised line speed caps at NPIS plants in 2012.[37] A vigorous debate ensued. Members of the Safe Food Coalition, along with thousands of others, submitted comments expressing concern or support for various parts of the proposal. In 2014, FSIS explained in a final rule that "the maximum line speed for young chickens will be 140 bpm for establishments operating under the NPIS instead of 175 bpm, as was proposed."[38] This line-speed cap clearly qualifies as a "legislative rule," "issued through notice-and-comment rulemaking" and having "the 'force and effect of law,'" as opposed to an "interpretive rule . . . issued by an agency to advise the public of the agency's construction of the statutes and rules which it administers."[39] FSIS therefore cannot repeal the line-speed cap through the proposed waiver process because "an agency issuing a legislative rule is itself bound by the rule until that rule is amended or revoked" and "may not alter such a rule without notice and comment."[40]

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[34] *Id.* at 3.
[35] 9 C.F.R. § 381.3(b).
[36] *See Nat'l Family Planning & Reprod. Health Ass'n v. Sullivan*, 979 F.2d 227, 231 (D.C. Cir. 1992) ("When an agency promulgates a legislative regulation by notice and comment directly affecting the conduct of both agency personnel and members of the public, whose meaning the agency announces as clear and definitive to the public and, on challenge, to the Supreme Court, it may not subsequently repudiate that announced meaning and substitute for it a totally different meaning without proceeding through the notice and comment rulemaking normally required for amendments of a rule.").
[37] Proposed rule at
[38] Final rule at 49591.
[39] *See, e.g.,* Perez v. Mortg. Bankers Ass'n, 135 S. Ct. 1199, 1203-04 (2015) (internal citations omitted).
[40] Clean Air Council v. Pruitt, 862 F.3d 1, 9 (D.C. Cir. 2017)

Conclusion

For the foregoing reasons, FSIS should reject the NCC's petition. Moreover, it should conduct a thorough analysis of the NPIS program and existing line speed waivers, share its analysis with the public, and pursue the separate reforms necessary to reduce the number of consumers killed or sickened by contaminated poultry.

Sincerely,

Center for Food Safety

Center for Foodborne Illness Research & Prevention

Center for Science in the Public Interest

Consumer Federation of America

Consumers Union

Food & Water Watch

Government Accountability Project

National Consumers League

STOP Foodborne Illness