

SAFE FOOD COALITION

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The Honorable Mike Johnson
Speaker
U.S. House of Representatives
The Capitol
Washington, DC 20515

The Honorable Charles Schumer
Majority Leader
U.S. Senate
The Capitol
Washington, DC 20510

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
The Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
The Capitol
Washington, DC 20510

April 11, 2024

Re: Foodborne Illness Risk from Meat and Poultry Inspection Deregulation

Dear Speaker Johnson, Majority Leader Schumer, Minority Leader Jeffries and Minority Leader McConnell:

The undersigned members of the Safe Food Coalition write to urge you to vote against legislation that would lift prohibitions on the interstate sale of meat and poultry from state inspected facilities, and allow commercial sales from uninspected “custom” slaughter facilities. In particular, we write to call your attention to S. 1512, the Direct Interstate Retail Exemption for Certain Transactions Act of 2023 (“DIRECT Act”), H.R. 2814, the Processing Revival and Intrastate Meat Exemption Act (“PRIME Act”), and S. 846, the New Markets for State-Inspected Meat and Poultry Act of 2023 (“New Markets Act”). These bills would compromise long established food safety standards for consumers in exchange for speculative, thinly supported benefits.

We have long opposed these bills, writing to congressional leaders in 2021 to oppose the DIRECT Act,¹ and in 2018 and 2020 to oppose the New Markets Act and Prime Act.² As in previous Congresses, these bills’ proponents claim that they will clear away barriers to entry for smaller meat and poultry processors, bolster local food systems, and give consumers greater choice. In fact, the available evidence indicates that the legislation would harm many small enterprises by undercutting investments in food safety, while increasing the burden of foodborne illness on American consumers and leaving untouched the fundamental barriers to competition in the meatpacking sector. Rather than stripping away food safety protections, Congress can better support small processors by appropriating adequate funding for technical assistance, and reforming USDA’s overtime inspection fee system.

¹ <https://consumerfed.org/testimonial/safe-food-coalition-opposes-latest-bill-to-deregulate-meat-and-poultry-inspection/>

² <https://consumerfed.org/testimonial/safe-food-coalition-tells-congress-to-oppose-dangerous-deregulation-of-meat-and-poultry-inspection/>

All three bills—the DIRECT Act, the PRIME Act, and the New Markets Act—raise concerns about increased foodborne illness risk for consumers while demonstrating little gain. The DIRECT Act, H.R. 2814, would amend the Federal Meat Inspection Act, 21 U.S.C. 661, and the Poultry Products Inspection Act, 21 U.S.C. 454, to allow establishments and retailers to “sell over the internet and ship by carrier in commerce” state-inspected meat and poultry, so long as the product “is shipped directly to household consumers and in normal retail quantities.”³ The New Markets Act, S. 846, would go further, allowing state-inspected meat and poultry processors to sell across state lines by whatever means they please. Both of the Acts would represent a dramatic overhaul of the nation’s food safety system, potentially allowing consumers to buy state-inspected meat and poultry on sites like Amazon.com, without even knowing it.

The PRIME Act would allow meat and poultry from an *uninspected* “custom slaughter facility” to be sold to consumers at “restaurants, hotels, boarding houses, grocery stores, or other establishments located” within the state’s borders. There is no size limitation on the facilities that might avail themselves of this exemption, nor any prescriptions for states regarding how they regulate these “custom” establishments before their products are unleashed on unwitting consumers. Under current law, the custom slaughter exemption, which the PRIME Act would “amend,” does not allow product from these facilities to enter into commerce. They are “exclusively for use by [the animal owner] and members of his household and his nonpaying guests and employees.” 21 U.S.C. 623(a). Thus, the PRIME Act would represent a particularly abrupt departure from prevailing meat and poultry inspection practices, at least as concerns intrastate sales.

Of these three bills, the DIRECT Act has received the most support. The DIRECT Act’s proponents maintain that the bill’s changes are “small and simple” in part because state meat and poultry inspection (MPI) programs are already required to meet standards to demonstrate they are “at least equal to” federal inspection standards.⁴ However, state MPI programs deemed “at least equal” to the federal inspection program are not actually “equal.” As FSIS Guidance explains, the “‘at least equal to’ standard . . . does not require the States operate their MPI programs in a manner that is the same as or identical to FSIS’s inspection program,” but rather to “operate in a manner that is not less effective than those standards adopted for the Federal inspection program.”⁵ A state MPI may meet the “at least equal to” standard without, for example, having authority under state law to provide the same inspection services as FSIS inspectors in Federal establishments. The ten state MPI programs enrolled in the Cooperative Interstate Shipment (CIS) program are required to have such authority, and in those states, USDA allows state inspected processors enrolled in the CIS program to ship across state lines.⁶

Another important difference between meat and poultry produced in CIS participating establishments versus others subject to state MPI programs concerns recalls. As USDA’s Food Safety and Inspection Service (FSIS) explained in its rulemaking to establish the CIS program:

Under the law, FSIS is responsible for providing oversight and enforcement of the [CIS] program. Therefore, if an establishment operating under the [CIS] program distributes meat or poultry products that present a food safety hazard or that need to be recalled for other reasons, FSIS will

³ <https://www.congress.gov/bill/118th-congress/senate-bill/1512/text?s=1&r=31>

⁴ <https://www.marshall.senate.gov/newsroom/press-releases/sen-marshall-introduces-bipartisan-bill-to-support-livestock-producers/>

⁵ https://www.fsis.usda.gov/sites/default/files/import/At_Least_Equal_to_Guidelines.pdf

⁶ See <https://www.fsis.usda.gov/inspection/state-inspection-programs/cooperative-interstate-shipping-program>

coordinate with the State MPI program to ensure that such product is removed from commerce. FSIS will be responsible for the overall coordination of the recall and for verifying that recalled product that has been shipped interstate has been removed from commerce.⁷

In other words, if a state-inspected establishment participating in the CIS program ships out adulterated product, federal officials will coordinate a recall. They also have authority to seize and detain product that is not recalled effectively, if the recalling establishment fails to conduct an adequate recall. By contrast, FSIS is not responsible for providing oversight and enforcement of inspection rules under state MPI programs outside of CIS, and state MPI program officials lack jurisdiction to conduct recalls beyond their state borders.

Before moving to deregulate sales of state-inspected meat processors, Congress should examine whether such legislation would create unfair competition for small and very small processors, who have invested in meeting federal inspection requirements. A recent survey of small processors in Iowa, Illinois, Indiana, Minnesota, Missouri, North Carolina, Ohio, and Oklahoma found that “facility upgrades and repairs” were the most commonly cited impediment to transitioning from state to federal inspection.⁸ Congress has appropriated significant funding to help small processors make these upgrades. For example, the Consolidated Appropriations Act of 2021 included \$60 million for “making improvements . . . and other such planning activities necessary to obtain a Federal grant of inspection” for small and very small meat and poultry processors.⁹ Bills like the DIRECT Act would undermine such investments.

Congress should also examine whether reforming laws that disproportionately burden smaller processors with user fee payments would better promote the stated objectives of recent deregulation proposals. User fees for overtime and holiday inspection services, required by federal statute,¹⁰ accounted for \$210 million of FSIS’ \$1.4 billion budget in 2023.¹¹ Large processing facilities with a steady flow of animals are able to operate two shifts, with federal inspectors present 16 hours a day, but not subject to overtime fees. By contrast, small and very small establishments tend to have less predictable work loads, and are more likely to need a federal inspector to stay longer than planned, thus incurring overtime fees. The American Rescue Plan included \$100 million to offset the cost of Federal inspectors’ overtime pay at small and very small processing establishments.¹² However, these establishments still incur significant overtime (and holiday) inspection fees, with FSIS recently announcing a plan to reduce the fees for very small establishments by 75%, and for small establishments by just 30%.¹³ Reforms to the user fee law, or additional appropriations to offset the fees, might better support small and very small processors without undermining the food safety oversight system.

Expansion of state-inspected slaughter should not come at the expense of consumer safety. Should states wish to accommodate the interstate-shipment of state-inspected meat and poultry, there is already a means to do so safely: the CIS program. That program requires states and participating establishments to undergo additional certifications, which ensure that they can meet all federal requirements for shipping products across state lines, including the determination that the state has

⁷ https://www.fsis.usda.gov/sites/default/files/media_file/2021-02/2008-0039F.pdf

⁸ <https://www.card.iastate.edu/products/publications/pdf/21pb34.pdf>

⁹ Pub.L. 116–260, Section 764(a), available at: <https://www.congress.gov/bill/116th-congress/house-bill/133/text>

¹⁰ See 21 U.S.C. 468, 21 U.S.C.695, and 21 U.S.C.1053.

¹¹ <https://www.usda.gov/sites/default/files/documents/2025-usda-budget-summary.pdf>

¹² See <https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=2110>

¹³ https://www.fsis.usda.gov/sites/default/files/media_file/2021-07/FSIS-2021-0014.pdf

adequate legal authority over establishments to enforce regulations and proper staffing. Efforts to further expand interstate shipment of state-inspected meat and poultry products are most appropriately channeled towards improving the CIS program.

We respectfully urge you to consider these issues, and to maintain the requirement that meat and poultry shipped in interstate commerce must be “USDA Inspected and Approved,” and that all meat and poultry entering into commerce be subject to reasonable inspection requirements to protect consumers.

Sincerely,

Barbara Kowalcyk, Faculty, George Washington University
Center for Food Safety
Center for Science in the Public Interest
Consumer Federation of America
Consumer Reports
Food & Water Watch
National Consumers League
Stop Foodborne Illness