

SAFE FOOD COALITION

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April 22, 2020

Dr. Mindy M. Brashears
Under Secretary for Food Safety
Food Safety and Inspection Service
U.S. Department of Agriculture

VIA EMAIL

RE: Request for USDA Action to Prevent the Spread of COVID-19 in Meat and Poultry Establishments and to Place a Moratorium On Line Speed Waivers

Dear Under Secretary Brashears:

The undersigned members of the Safe Food Coalition write to express our concern with the recent series of coronavirus outbreaks in the meat and poultry industry, which threaten worker and public health and have the potential to impair consumers' access to a reliable food supply. We ask you to take immediate steps to review working conditions in every FSIS-regulated facility, to ensure that each establishment is adequately mitigating COVID-19 contagion risk for FSIS employees and the people they work alongside.

We also ask you to adopt a moratorium on new line speed waivers for the duration of the COVID-19 crisis. The Food Safety and Inspection Service (FSIS) has announced 16 such "new technology waivers" since the start of the month, which allow major poultry establishments to run slaughter lines at faster speeds than currently permitted under FSIS rules. Rather than waiving its rules to increase line speeds, FSIS should direct slaughterhouses to slow their lines to reduce worker crowding and make it possible to maintain social distancing.

I. USDA Should Take Immediate Steps to Prevent the Spread of COVID-19 in Meat and Poultry Establishments

Across the country, meat and poultry slaughter and processing establishments—including some recent line speed waiver recipients¹—have emerged as hot spots of infection, thwarting social distancing and other efforts to "flatten the curve." Many establishments have ceased operation due

¹ See, e.g. Wayne Farms, P1317 (Albertville). The Wayne Farms waiver was issued in April 2020, meaning the outbreaks recently identified likely began prior to the issuance of the waiver.

to local outbreaks of COVID-19.^{2,3,4,5} Workers at the closed establishments report a lack of social distancing and inadequate personal protective equipment. And while some employers have relaxed prior attendance policies that penalized workers for calling in sick, meat packers still routinely fail to provide paid sick leave, depriving workers of the financial security they need to stay home when they develop symptoms. Even worse, some companies have conditioned hazard pay on perfect attendance records, leading workers to feel they are being bribed to work while sick.⁶

While there is no evidence that COVID-19 spreads through food, these outbreaks threaten public health by spreading the virus between workers and into surrounding communities. Meat and poultry workers deserve the highest possible protection as they place their lives on the line in order to keep our food system running. Moreover, protections for essential food workers will also benefit consumers by helping prevent further repeated outbreaks and plant closures, which could lead to food supply disruptions.

Some companies have begun to adopt strategies to mitigate infection risk, such as increasing spacing among workers, installing physical barriers between work stations, staggering start and break times, and checking each employee's temperature at the beginning of shifts. Companies are also slowing their slaughter lines and reducing shifts to minimize COVID-19 risks and allow employees to stay home to recover from illness or take care of family members.⁷ Yet these measures have yet to be uniformly implemented across the meat industry. So far, the Occupational Safety and Health Administration has also failed to articulate enforceable standards setting out the protections that food workers should expect and demand from their employers.

Story after story of infection clusters in meat and poultry plants has highlighted the inadequate protections for workers who stand shoulder to shoulder along a line. These stories make clear that more precautions are needed, including ensuring social distancing by moving workstations, staggering shifts, and slowing, not increasing, line speeds.

We urge the agency to review conditions in every FSIS-regulated facility to ensure that establishments are providing adequate protection to government inspectors and the people they work alongside. This should include requiring establishments to maintain 6 feet of space between personnel throughout the work day (e.g. by staggering shifts and breaks, slowing line speeds, and

² Tommy Birch and Tyler Jett "Tyson Foods Processing Plant in Rural Iowa Hit Hard By Coronavirus with 186 Positive Cases. *USA Today*. April 15, 2020, available at <https://www.usatoday.com/story/money/business/2020/04/15/testing-rural-iowa-covid-19-coronavirus-tyson-food-pork-processing/5136043002/> accessed April 19, 2020.

³ Bryan Polcyn and Katie Delong. "Smithfield Foods Closing Patrick Cudahy Plant for 2 Weeks 'to Protect Our Team from COVID-19.'" *Fox 6 Now*. April 15, 2020, available at <https://fox6now.com/2020/04/15/smithfield-foods-closing-patrick-cudahy-plant-for-2-weeks-to-protect-our-team-from-covid-19/> accessed April 19, 2020.

⁴ Vincent Del Giudice. "JBS to Shut Colorado Beef Plant Through April 24 on Outbreak." *Bloomberg*. April 13, 2020. available at <https://www.bloomberg.com/news/articles/2020-04-13/jbs-colorado-beef-plant-will-close-for-a-time-governor-says> accessed April 19, 2020.

⁵ Lisa Kaczke. Smithfield Foods in South Dakota is Now Largest Coronavirus Hot Spot in US. *USA Today*. April 16, 2020, available at <https://www.usatoday.com/story/money/2020/04/15/cdc-sioux-falls-smithfield-foods-becomes-largest-coronavirus-hotspot-us/5138811002/> accessed April 19, 2020.

⁶ Makenzie Huber. Smithfield Workers Asked for Safety from COVID-19. Their Company Offered Cash. *Argus Leader*. April 9, 2020, available at <https://www.argusleader.com/story/news/2020/04/09/smithfield-foods-workers-criticize-conditions-coronavirus-covid-19/5124387002/> accessed April 19, 2020.

⁷ Shanker D, Mulvany L, Threat of Sick Workers at U.S. Meat Plants Forces Policy Changes. March 20, 2020, available at <https://www.bloomberg.com/news/articles/2020-03-20/threat-of-sick-workers-at-u-s-meat-plants-forces-policy-changes> accessed April 21, 2020.

moving work stations), improving ventilation, installing work station dividers where distancing is not possible, providing adequate personal protective equipment (PPE), increasing sanitization of surfaces and opportunities for handwashing, and ensuring that policies to keep sick workers home, including paid sick leave, are implemented effectively. FSIS should also focus on measures to ensure that COVID-19 related staffing shortages do not compromise food safety.

While state and local public health departments and OSHA may also act to protect workers, FSIS is fully authorized to verify that such protections are in place in order to protect the health of its own inspectors. The agency has the responsibility to identify and minimize the risk of COVID-19 transmission prior to sending its inspectors into an establishment where they may be exposed to the illness. For example, the agency already requires that companies seeking a line speed waiver submit a request that “Provides support on how the increased line speed **will not negatively impact FSIS employee safety** nor interfere with inspection procedures (e.g., information about safety protocols or line configuration).”⁸ Already, one FSIS inspector has died from COVID-19, and several others have been infected. Clearly the outbreak presents employee safety risks that should be directly addressed and mitigated by the agency.

II. USDA Should Adopt a Moratorium on New Line Speed Waivers for the Duration of the COVID-19 Crisis.

Since the COVID-19 crisis began, FSIS has announced 16 new line speed waivers, more than in the previous twelve months combined.⁹ FSIS has not stated a public explanation for this sudden spike in waivers, which allow slaughterhouses to operate at higher line speeds than are currently permitted by regulation.

Even before the COVID-19 pandemic, the agency’s line speed waiver program posed an unacceptable threat to worker and food safety. Work in meat packing plants was already extremely risky, with some of the highest rates of workplace injury of any job sector.¹⁰ Poultry workers have made clear how faster line speeds contribute to poor working conditions.¹¹ According to the National Institute for Occupational Safety and Health, “[l]inespeed affects the periodicity of repetitive and forceful movements, which are key causes of musculoskeletal disorders.”¹² Strain on

⁸ “FSIS’ Criteria for Consideration of Waiver Requests from Young Chicken Slaughter Establishments to Operate at Line Speeds Up to 175 Birds Per Minute,” (Feb. 2018), <https://www.fsis.usda.gov/wps/wcm/connect/FSIS-Content/internet/main/newsroom/meetings/newsletters/constituent-updates/archive/2018/ConstUpdate022318> Accessed April 21, 2020. (emphasis added).

⁹ FSIS. *Salmonella* Initiative Program (SIP) Participants Table. Last Updated 4/15/2020. Available at www.fsis.usda.gov/wps/wcm/connect/188bf583-45c9-4837-9205-37e0eb1ba243/waiver_table.pdf?MOD=AJPERES accessed April 21, 2020.

¹⁰ U.S. Bureau of Labor Statistics. *Injuries, Illnesses, and Fatalities, 2017*, available at https://www.bls.gov/iif/oshwc/osh/os/summ1_00_2017.htm accessed April 21, 2020.

¹¹ See, e.g., Brian Stauffer, “When We’re Dead and Buried, Our Bones Will Keep Hurting” Workers’ Rights Under Threat in US Meat and Poultry Plants’ (Human Rights Watch, 2019), available at: <https://www.hrw.org/report/2019/09/04/when-were-dead-and-buried-our-bones-will-keep-hurting/workers-rights-under-threat> accessed April 15, 2019.

¹² John Howard, Director, National Institute for Occupational Safety and Health. “Letter to Food Safety Inspection Service: NIOSH Health Hazard Evaluation at a South Carolina Poultry Plant, 2014,” (Apr. 7, 2014), <https://www.cdc.gov/niosh/topics/poultry/letterapril72014.html>

workers in turn has the potential to compromise food safety, as workers pushed to their mental and physical limits may be less likely to spot and address food safety problems.

The prevailing line speed cap of 140 birds per minute (bpm) is required by FSIS regulations.¹³ The agency finalized those regulations in 2014, after an extensive process of notice and comment rulemaking in which thousands of civil society members participated, many for the express purpose of opposing the agency's proposal to raise line speed caps.¹⁴ In February of 2018, however, FSIS announced its intention to raise line speed caps by granting "new technology waivers" that lift the line speed caps for poultry processing establishments meeting certain criteria. The Safe Food Coalition opposed FSIS' new waiver criteria at the time, on the grounds that the waiver system was non-transparent and failed to adequately protect food safety.¹⁵

We are even further concerned about the agency's decision to suddenly increase the number of line speed waivers in the midst of a global pandemic. These waivers will make it possible for plants to speed slaughter lines, increasing stress and risk of injury for workers forced to process additional birds per minute. Running slaughter lines at maximum possible speeds also undermines efforts to maintain social distancing, as plants must maintain high staffing levels in order process the large volume of carcasses produced on the sped-up lines. Rather than waiving regulations to allow slaughterhouses to increase line speeds, FSIS should be directing slaughterhouses to slow their lines and take other measures needed to reduce worker crowding and minimize risks from COVID-19.

III. Conclusion

FSIS, an agency within USDA, faces considerable pressure to support an abundant food supply, particularly in a time when an increasing number of Americans are facing food insecurity. Yet efforts to keep the food system running at maximum capacity without regard to worker health are short-sighted, as they will ultimately contribute to more outbreaks, closures, and disruptions to the food system. While there is no evidence of a meat shortage in the United States,¹⁶ the prospect of further closures is a serious concern, particularly since hunger is on the rise and widespread meat and poultry shortages, if they do occur, would affect many economically disadvantaged groups.

We urge FSIS to take action now to prevent the spread of COVID-19 in meat and poultry plants by implementing measures to ensure worker safety and placing a moratorium on line speed waivers. These measures are urgently needed to protect the health of FSIS employees, other essential

¹³ 9 CFR 381.69(a).

¹⁴ FSIS. "Modernization of Poultry Slaughter Inspection" 79 *Federal Register* 49565 (Aug. 21, 2014). While the agency permitted 20 plants that operated under an FSIS pilot inspection program dating back to the 1990s to operate at up to 175 bpm, it made clear that "the final rule includes a maximum line speed of 140 bpm under the NPIS rather than the 175 bpm allowed in the HIMP pilot."

¹⁵ Consumer Federation of America. "Consumer Advocates Slam USDA Plan to Waive Line Speed Caps for Some Poultry Slaughterhouses. February 27, 2018, available at https://consumerfed.org/press_release/consumer-advocates-slam-usda-plan-waive-line-speed-caps-poultry-slaughterhouses/ accessed April 21, 2020.

¹⁶ Jacob Bunge. "Meat Stockpiles Surge as Coronavirus Epidemic Curbs Exports." *WSJ*. March 2, 2020, available at <https://www.wsj.com/articles/meat-stockpiles-surge-as-coronavirus-epidemic-curbs-exports-11583163780>. Accessed April 19, 2020.

workers, and the public, as well as keep our food system operating smoothly over the course of this pandemic.

Thank you for your consideration of this request.

Sincerely,

Center for Food Safety

Center for Science in the Public Interest

Consumer Federation of America

Food & Water Watch

National Employment Law Project

U.S. Public Interest Research Group