

Testimony of Deborah Berkowitz

National Employment Law Project

On FY 2017 Appropriations for Food Safety & Inspection Service, Re: New Poultry Inspection Program

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Subcommittee on Agriculture, Rural Development, Food and Drug
Administration, and Related Agencies

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The National Employment Law Project (NELP) submits the following testimony on the Fiscal Year 2017 Appropriations for the Food Safety and Inspection Service regarding the New Poultry Inspection System Program. NELP conducts research, education and advocacy to assure that the basic protections afforded by our nation's labor and employment laws extend to all workers, including low wage workers.

NELP opposes any amendment to the Appropriations bill that would allow poultry plants entering the U.S. Department of Agriculture's (USDA) New Poultry Inspection System (NPIS) program to increase their line speeds in defiance of the recently promulgated USDA standard: Modernization of Poultry Slaughter Inspection. We strongly urge the Committee to oppose this amendment that would rewrite the USDA's rule, subverting the normal rulemaking process without any formal public comment or input from the public, who along with poultry line workers, will be negatively affected by any change to this rule.

In August of 2014, the USDA's Food Safety and Inspection Service (FSIS) promulgated the final rule for the [Modernization of the Poultry Slaughter Inspection System](#). The final rule went through almost two years of public comment. When the final rule was published, it did not permit an increase in maximum line speeds in poultry plants.

When this rule was first proposed for public comment in 2012, it contained a proposed increase in maximum line speeds in poultry plants. FSIS asked for comment on this provision, specifically acknowledging the potential for an increase in line speeds to effect employee health and safety. According to USDA, this proposed provision increasing allowable line speeds received the most comments from the public. The comments were focused on the negative effects the increased line speeds would have on the health and safety of workers in the poultry slaughter establishments as well as consumer safety.

In response to all the comments received in the rule making, USDA FSIS decided not to increase the line speed from 140 to 175 birds per minute (bpm) in poultry slaughtering facilities. In the preamble to the final rule, the agency further noted concerns regarding 20 plants that are already in a pilot program (HIMP) that allowed these pilot facilities to increase line speeds to 175 bpm. USDA noted that the data from this existing pilot program found that the average line speed in these plants is 131 bpm—well below the currently allowed 140 bpm and far below the 175 permitted.

The primary concern echoed in the many comments from academia, worker organizations and consumer organization was the detrimental effect of increased line speed on the health and safety of the tens of thousands of workers in the industry. Poultry slaughter and processing workers face many serious job hazards that can lead to serious injury, illness and death. In fact workers in poultry plants are injured at almost twice the rate of workers in private industry. Further the incidence rate of occupational illness cases reported by the industry is more than six times the national [average for all U.S. industries](#). And it is well established, that these rates are under reported. As USDA noted in the preamble to the final rule, and OSHA stated in [its new emphasis program](#) in the poultry industry "the literature suggests the likelihood of substantial under-reporting of worker injuries and illnesses by poultry industry employers."

Poultry processing workers make thousands of forceful cuts a day, using knives and scissors, in cold and damp conditions, with acidic chemicals being sprayed over the meat, and incidentally their bodies, as it moves down the line. Work related musculoskeletal disorders (MSD's) are of significant concern among poultry processing workers. These disorders, including carpal tunnel syndrome, tendonitis, and epicondylitis, affect the nerves, tendons and muscles. Poultry workers

face incidence rates seven times higher than other manufacturing workers for work related carpal tunnel syndrome. In 2014 and 2015, in cooperation with the USDA, the National Institute of Occupational Safety and Health (NIOSH) conducted studies at two different poultry processing facilities and found high prevalence rates among production workers for carpal tunnel syndrome (CTS): [42%](#) and [34%](#), respectively of CTS among workers.

USDA acknowledged the danger to workers of increased line speeds in the preamble of its final rule, and also acknowledged that more study and review was needed before any change in line speed would be made. There has been no such study or review done since this rule was promulgated. Such a review would have to be prospective and take years—to assure that the safety of the tens of thousands of workers is not sacrificed on the altar of decreased government spending.

Just last month, OSHA sent a [hazard alert letter](#) to a poultry company in Ohio for exposing workers to hazardous campylobacter bacteria. Workers at the poultry processing plant had contracted the infection—which can lead to serious gastrointestinal infection. This same company has racked up nearly \$1.9 million in fines from the U.S. Department of Labor’s Occupational Safety and Health Administration from its two plants in Ohio. OSHA had earlier found that this same company fired a 17 year old after his leg was [amputated](#) because of a failure by the company to install a safety mechanism.

That is not an isolated instance. The speed of work in poultry plants already causes far too many workplace injuries and may be impacting [consumer](#) safety as well. OSHA citations and newly released reports have found that to keep the lines going at full speed, workers are often denied their legal right to use a bathroom, soiling themselves at work. Poultry processing plants also penalize workers for taking any sick days, so workers come to work sick while handling the meat on the line.

As workers get injured because companies don’t comply with basic safety precautions, they don’t file workers compensation and heal. The companies do everything they can to preclude that. So instead, workers leave the plants. Many plants report turnover between 50-100%. Poultry processing workers are among the most vulnerable people in the country. Most are minorities and immigrants; some are newly resettled refugees. They are pursuing the American dream—working hard, arduous jobs in a harsh environment—all to help put food on our table.

Congress should not allow the industry to speed up its lines after the USDA studied the issue, heard from the American public, and promulgated a rule that would not allow such an increase. This would be a subversion of the entire rule making process, it would demonstrate utter disregard for the rule of law, and would be a direct slap in the face to the workers and communities that sacrifice to feed America.