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Carmen Rottenberg
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Dear Acting Deputy Undersecretary Rottenberg:

We are writing to urge you to reject the petition by the National Chicken Council, submitted on September 1, 2107, to implement a waiver system to permit chicken slaughter establishments participating in the New Poultry Inspection System and the Salmonella Initiative Program, to be exempt from the line speed requirements, as spelled out in the 2014 USDA rule: Modernization Of Poultry Slaughter Inspection.¹ **This petition would allow these plants to run their lines in violation of the 2014 USDA rule, with no legally required line speed limits, endangering both workers and consumers.**

A Better Balance (ABB) is a national legal advocacy organization dedicated to promoting fairness in the workplace. We help workers across the economic spectrum care for their families without risking their economic security. From speaking with poultry workers and other worker advocates that are intimately aware with the poultry plant industry, it is our understanding that increasing the line speed would only further jeopardize the health and safety of workers, particularly those who may require accommodations in the workplace, such as those with disabilities, those who are pregnant, or otherwise dealing with serious medical issues.

Poultry workers face harsh and dangerous working conditions. Industry reported statistics show they are injured at rates almost twice the national average and suffer illnesses at a rate that is seven times as high. And the USDA, the Department of Labor and two other agencies have all

¹ <https://www.fsis.usda.gov/wps/wcm/connect/00ffa106-f373-437a-9cf3-6417f289bfc2/2011-0012.pdf?MOD=AJPERES>.



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confirmed that this number is a drastic under count. In the preamble to the final 2014 rule noted above, USDA clearly states:

“FSIS recognizes that systematic underreporting of work-related injuries and illnesses could make it difficult to accurately assess the extent to which poultry workers suffer from work related injuries and musculoskeletal diseases and disorders.”²

Workers in the poultry industry already work with break neck line speeds, and increasing the speed will increase worker injuries and illnesses.

Two further studies from the National Institute for Occupation Safety and Health (NIOSH) confirm these findings. They reported staggeringly high rates of injuries directly related to the rapid, repetitive motions. In one study, 34 percent of workers had carpal tunnel syndrome (CTS), and 76 percent had evidence of nerve damage in their hands and wrists.³ In another study, 42 percent had CTS.⁴ These numbers are not an unhappy coincidence.

ABB is particularly concerned about the result any line speed increase could have on pregnant workers, many of whom are already risking their health on the job for fear of requesting reasonable accommodations. In a report called “Women On the Line” by Oxfam America, that ABB advised on, one of the recommendations to ensure a healthy and safe workplace for women was: “Ensure that the work speed is at a pace that does not inflict damage on workers.”⁵ Poultry workers with disabilities who are able to work, but may require a reasonable accommodation in order to not damage their health, may also be at risk from increased line speeds.

The USDA was clear in its 2014 rulemaking that after evaluating years of data and extensive public comments, the agency decided NOT to allow line speeds to increase in poultry plants beyond the allowable and fast 140 birds per minute. The USDA further found that even in those plants that were granted waivers a decade ago, the lines were running at an average of 131 bpm.

It is also clear that the industry petition to USDA to set up a “waiver process” pursuant to 9 CFR 381.3 (b) does not meet any of the requirements of the federal regulation for a waiver. These regulations require that any waiver be “for a limited period” and are to be issued for “experimentation” in poultry plants for “new procedures, equipment and processing techniques.” Faster line speeds are not a new process, nor is there an emergency. USDA already

² 79 Fed. Reg. 49600.

³ <https://www.cdc.gov/niosh/hhe/reports/pdfs/2014-0040-3232.pdf>.

⁴ <https://www.cdc.gov/niosh/hhe/reports/pdfs/2012-0125-3204.pdf>.

⁵ https://www.oxfamamerica.org/static/media/files/Women_on_the_Line_Poultry_Workers.pdf.



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deliberated and studied whether to permit faster line speeds in its recent rulemaking, and the agency made a final decision not to permit faster line speeds. Further, the industry is not asking for anything that is short term or temporary.

In addition, in the Federal Register Notice announcing the 2014 rule creating the New Poultry Inspection System, FSIS stated that they intend to assess the impact of changes adopted by establishments under this new inspection system after the NPIS has been fully implemented on a wide scale for over a year. The system has not been fully implemented on a wide scale yet, and only a few dozen plants have over a year experience. **Therefore, any possible move to even consider a waiver or to create a new regulation that changes line speeds would be very premature, arbitrary and not based on any evidence – and would fly in the face of the agency’s recent previous findings.**

The industry petition also argues that faster line speeds are also necessary to compete with other countries like Brazil. But the evidence points to clear problems with these faster line speeds. In fact, Brazil does not export to the U.S. because its poultry inspection system has not been found to be equivalent to our inspection system. In Germany and Belgium, they are also not permitted to export to the United States – and **the poultry in these plants have high levels of pathogens that continue to be of concern to European food safety officials.**

USDA must reject this petition. The USDA must follow the law and the agency’s own findings and reject this petition. USDA must not bend and break the rules to benefit large corporations at the expense of the wellbeing and safety of workers and consumers.

Sincerely,

Elizabeth Gedmark

Director of the Southern Office/Senior Staff Attorney

Dina Bakst

Co-Founder & Co-President