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Administrator
U.S. Department of Agriculture
Food Safety and Inspection Service
1400 Independence Avenue, SW
Jamie L. Whitten Building, Room 350-E
Washington, DC 20250-3700

Re: Docket No. FSIS-2025-0012: Maximum Line Speed Rates for Young Chicken and Turkey Establishments Operating Under the New Poultry Inspection System

Dear Dr. Ransom:

The National Chicken Council (NCC) appreciates the opportunity to comment on the proposed rule “Maximum Line Speed Rates for Young Chicken and Turkey Establishments Operating Under the New Poultry Inspection System,” published in the *Federal Register* on February 19, 2026 (the “Proposed Rule”) by the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (“FSIS” or the “Agency”).¹ NCC is the national, non-profit trade association that represents vertically integrated broiler companies that produce and process more than 95 percent of the chicken marketed in the United States. Our members would be directly affected by the proposed changes to maximum line speed rates for young chickens outlined in the Proposed Rule.

NCC’s members are committed to providing safe, high-quality, and wholesome products to consumers and ensuring the health and safety of their workers. We appreciate the support FSIS is providing to U.S. industry and farmers through the Proposed Rule and applaud the Agency for using common sense and gold-standard science to remove unnecessary burdens on industry. By raising the maximum allowable line speed for young chicken processors operating under the New Poultry Inspection System (NPIS), the Proposed Rule can help industry realize measurable gains in efficiency, improved allocation of resources, and increase the global competitiveness of the U.S. poultry industry without compromising food or worker safety. NCC supports the Proposed Rule and encourages FSIS to move swiftly in finalizing the rulemaking so that the benefits the rule will provide to consumers, farmers, and industry can be realized immediately.

¹ 91 Fed. Reg. 7926 (Feb. 19, 2026).

In these comments, we first provide a brief background on poultry line speeds highlighting the years of research that have been conducted to evaluate both food safety and worker safety parameters. We then explore the many benefits the Proposed Rule would offer, including benefits for the U.S. economy, rural communities, and U.S. consumers all while maintaining high standards of food and worker safety. Finally, we provide specific feedback on the rule's proposed language aimed at providing clarity to aid in the successful implementation of the Proposed Rule.

I. BACKGROUND ON POULTRY LINE SPEEDS

Poultry line speeds have been thoroughly studied by the federal government. In 1997, FSIS implemented the HACCP-Based Inspection Models Project (HIMP), a voluntary pilot program involving 20 young chicken and five turkey processing plants. The goal of HIMP was to test an alternative food safety inspection system that sought to decrease pathogen contamination in poultry products by refocusing FSIS inspector activities from other low-value consumer protection activities such as carcass sorting to high-value food safety activities such as offline food safety verification tasks. An initial study of the program found that HIMP was successful in improving food safety and reducing carcass contamination during processing.² Plants participating in HIMP were authorized to increase their line speeds to 175 birds per minute (bpm), and despite this increase in line speeds, these HIMP plants continued to show a steady decrease in instances of carcass contamination. The pilot was a success for FSIS, industry, and the public as the Agency and participating establishments expended fewer resources while enhancing food safety for consumers.

In 2014, FSIS published the NPIS regulation, based, in part, on many components of the HIMP pilot project. Specifically, FSIS explained that “permitting FSIS to conduct more food safety related offline inspection activities, will allow for better use of FSIS inspection resources, and will lead to industry innovations in operations and processing.”³ In the NPIS rulemaking, FSIS originally proposed a maximum line speed of 175 bpm for NPIS establishments but ultimately finalized the rule with a maximum line speed of 140 bpm. FSIS granted line speed waivers to the 20 young chicken establishments that participated in the HIMP pilot, allowing them to continue to operate at line speeds up to 175 bpm. The Agency explained that the data from the HIMP pilot demonstrated that these establishments were capable of meeting pathogen reduction and other performance standards while operating at line speeds up to 175 bpm.

In 2017, NCC petitioned FSIS to allow establishments participating in NPIS to operate at any line speed at which they could maintain process control.⁴ FSIS denied the petition, but shortly thereafter announced criteria that the Agency would use when granting line speed waivers requested by young chicken establishments participating in NPIS. As part of this announcement, FSIS discussed its intent to use data generated from establishments granted line speed waivers to assess the ability of NPIS

² *Evaluation of HACCP Inspection Models Project (HIMP)*, FSIS (Aug. 2011), https://www.fsis.usda.gov/sites/default/files/media_file/2020-10/Evaluation_HACCP_HIMP.pdf.

³ 77 Fed. Reg. 4408 (Jan. 27, 2012).

⁴ NCC. *Petition to Permit Waivers of the Maximum Line Speed Rates for Poultry*, FSIS (Sept. 1, 2017) <https://www.fsis.usda.gov/federal-register/petitions/petition-permit-waivers-maximum-line-speed-rates-poultry>.

establishments to maintain process control at higher line speeds and to inform future rulemaking. In 2020, FSIS stopped accepting requests for line speed waivers as it determined there were enough waiver participants to assess the effectiveness of the waiver program and move forward with rulemaking. Following a lawsuit, FSIS modified the line speed waivers to require reporting on various worker safety metrics to support a study on the effects of evisceration line speeds on worker safety, resulting in a report released in January 2025.⁵ The Proposed Rule is the culmination of these data gathering efforts, and it is grounded in robust data and hands-on experience thanks to the HIMP pilot project and line speed waiver programs.

II. THE PROPOSED RULE WILL BENEFIT PROCESSORS AND CONSUMERS

The Proposed Rule is a common-sense deregulatory action that has the potential to increase U.S. global competitiveness, drive food affordability, and support local economies and communities all without compromising food or worker safety. As the data has demonstrated time and time again, processors can maintain process control at line speeds of 175 bpm, meaning that more efficient processing does not result in less safe products. As a result, there are significant gains in efficiency and an economic upside from implementing the Proposed Rule.

a. Processors Can Safely Operate at Higher Line Speeds

In issuing the Proposed Rule, FSIS recognizes that results from previous data collection efforts demonstrate that NPIS establishments can maintain process control at line speeds up to 175 bpm. Specifically, FSIS acknowledges “that the presence of *Salmonella* on young chicken carcasses and other indicators of problems with process control, such as noncompliance records (NRs) for regulations associated with process control and food safety, were not significantly increased in establishments operating at higher line speeds under a waiver, *i.e.*, higher than 140 bpm and up to 175 bpm, compared to establishments with lower line speeds that were not operating under line speed waivers.”⁶ In other words, higher line speeds do not lead to higher rates of *Salmonella* or increased contamination during processing.⁷

FSIS’s *Salmonella* verification sampling data demonstrates that establishments operating under line speed waivers are able to control *Salmonella* prevalence at least as well as establishments not operating under line speed waivers.⁸ Specifically, analyzing whole bird and chicken parts data from January 2023 through June 2025 shows that establishments with line speed waivers had an average

⁵ Harris-Adamson, Carisa, et al., *Poultry Processing Line Speed Evaluation Study (PULSE)*, FSIS (Jan. 10, 2025), [Poultry Processing Line Speed Evaluation Study \(PULSE\)](#).

⁶ 91 Fed. Reg. at 7927.

⁷ In fact, CDC data suggests a relatively consistent rate of salmonellosis over the years, but the rate of salmonellosis cases per pound of chicken consumed has been on a distinct downward trend as Americans have continued to eat more and more poultry. Since 2017, when NPIS line speed waivers were first approved, we have seen a 9.2% decrease in the number of salmonella illnesses per 1 million pounds of chicken consumed (based on data available through 2022).

⁸ *Laboratory Sampling Data*, FSIS (Aug. 28, 2025), <https://www.fsis.usda.gov/science-data/data-sets-visualizations/laboratory-sampling-data>.

Salmonella prevalence of 4.7% compared to 9.8% of establishments that did not operate under line speed waivers.

This is consistent with a landmark 2001 study by the Research Triangle Institute (RTI) that similarly found that “inspection under the new models [HIMP] is equivalent and in some ways superior to that of traditional inspection...and can maintain or even improve food safety and other consumer protection conditions relative to traditional hands-on inspection methods.”⁹ The study collected and analyzed microbial and organoleptic data at eight plants before and after the implementation of HIMP and concluded that the implementation of HIMP resulted “generally in improvements in food safety and OCP [other consumer protection] conditions...”¹⁰

RTI observed the following performance parameters from the eight plants that had the ability to operate under increased line speeds:

- The plants showed a significant decrease in septicemia/toxemia and fecal contamination;
- The plants continued to meet the performance standard for *Salmonella* while their overall prevalence rate for the organism remained virtually unchanged;
- The percentage of acceptable samples for *E. coli* (based on the FSIS performance criteria) increased from 77.9 percent to 93.4 percent; and
- The percentage of unacceptable *E. coli* samples fell from 3.9 percent to 0.7 percent.¹¹

Moreover, in 2017, NCC surveyed member companies operating under NPIS with and without the benefit of a line speed waiver as well as non-NPIS establishments to evaluate food safety performance under the various systems in real-world conditions. The data clearly demonstrated that establishments operating under NPIS were not compromising food safety.

Specifically, 40 broiler establishments participated in this survey and were evaluated over a six-month time period.¹² Of the 40 establishments surveyed, 20 establishments were enrolled in NPIS with 16 of those having line speed waivers. The other 20 establishments were non-NPIS establishments that were operating under traditional, SIS, or NELS inspection systems. The 20 non-NPIS establishments averaged approximately 137 bpm while the 20 NPIS establishments averaged 152 bpm.¹³ The survey

⁹ Cates, S., Anderson, D., Karns, S., & Brown, P. A. (2001). Traditional Versus Hazard Analysis and Critical Control Point-Based Inspection: Results from a Poultry Slaughter Project. *Journal of Food Protection*, 64(6), 826-832.

¹⁰ *Id.* at 831.

¹¹ *Id.* at 831-32.

¹² December 1, 2016 through May 31, 2017.

¹³ It is important to note that though the 16 establishments in this survey had line speed waivers to operate up to 175 bpm, those plants were averaging 155 bpm. There are many factors that contribute to the speed at which an establishment processes birds including, but not limited to, type of equipment, uniformity and size of birds, demand for product, and the ability of the establishment to monitor and maintain process control. Combined, these factors can lead to establishments running below the maximum line speed permitted. In this survey, because most NPIS plants had line speed waivers, comparing the food safety performance of NPIS and non-NPIS plants is informative for evaluating whether operating at increased line speeds affects food safety.

revealed several key findings reinforcing that increased line speeds increase productivity and efficiency without compromising food safety:

- NPIS establishments surveyed had an approximately 6% higher average weekly production volume than non-NPIS establishments.
- NPIS establishments (80% of which had line speed waivers) performed at least as well if not better than their non-NPIS counterparts (which by definition did not operate under increased line speeds) when evaluated using FSIS's *Salmonella* prevalence performance standards for whole birds.
- NPIS establishments surveyed had comparable prevalence rates for *Salmonella* on raw chicken parts as non-NPIS establishments.
- Despite receiving nearly twice as many Public Health Information System (PHIS) inspection tasks and operating at higher line speeds, the NPIS establishments surveyed had PHIS noncompliance (NR) rates that were statistically equivalent to their counterparts operating under non-NPIS inspection systems.
- NPIS establishments in the survey had Public Health Regulation (PHR) NR rates well below the early warning cut point and below that of non-NPIS establishments.

As evidenced by this six-month industry survey of both NPIS and non-NPIS establishments, there are significant and compelling food safety incentives to allow for an increase in line speed. Across the board – from prevalence rates of *Salmonella* on young chicken carcasses and parts to lower PHIS and PHR NR rates – establishments operating under NPIS operate as well as, if not better than their non-NPIS counterparts, despite operating at higher line speeds and reallocation of inspection resources away from carcass sorting activities towards offline, risk-based food safety verification activities. This evidence reinforces that increased line speed can result in robust food safety outcomes and subsequent public health protection. Indeed, were there any reason to believe this was not the case, FSIS certainly would not have continued to allow the former HIMP plants, and later the NPIS plants with waivers, the option of operating at speeds up to 175 bpm. Furthermore, there is no indication in our data, the RTI study, the FSIS HIMP study,¹⁴ or other published research¹⁵ suggesting that establishments were approaching any upper-level limitation in their ability to maintain process control at the line speeds allowed under HIMP or NPIS with waivers.

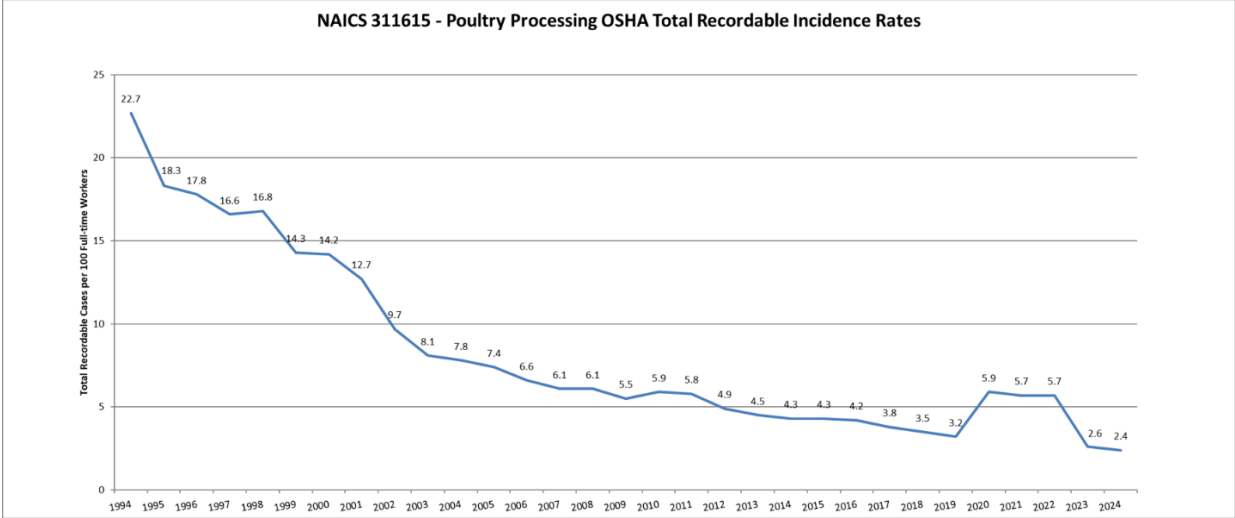
b. Higher Evisceration Line Speeds Do Not Affect Worker Safety

NCC's members are committed to worker safety and complying with all worker safety requirements, including those overseen by the Occupational Safety and Health Administration (OSHA) and state counterparts. For decades, the broiler industry has continuously improved worker safety, resulting in a

¹⁴ *Evaluation of HACCP Inspection Models Project (HIMP)*, FSIS (Aug. 2011), https://www.fsis.usda.gov/sites/default/files/media_file/2020-10/Evaluation_HACCP_HIMP.pdf.

¹⁵ See, e.g., Cox, Louis Anthony, *Higher line speed in young chicken slaughter establishments does not predict increased Salmonella contamination risks*, 2021 *Poultry Science* 100:635–642 (Feb. 2021), <https://www.sciencedirect.com/science/article/pii/S0032579120307367#cebib0010>, showing that *Salmonella* or other indicator organisms are not significantly increased in establishments with higher line speeds.

very safe manufacturing environment. The most recent Department of Labor’s Bureau of Labor Statistics (BLS) report indicates that the incidence of nonfatal occupational injuries and illnesses in the poultry sector – which includes slaughter and processing – remains at an all-time low.¹⁶ The total recordable poultry processing illness and injury rate for 2024 was 2.4 cases per 100 full-time workers (per year) which was lower than the 2024 rate of 3.3 for the entire food manufacturing sector. As depicted in the chart below, poultry processing’s 2024 rate of 2.4 represents a 90 percent decrease from 1994 (the oldest data available on the BLS website), when the recorded rate was 22.7, demonstrating the enormous progress the industry has made in improving safety for its workforce. Furthermore, the more than five-fold decrease in injury rates in the poultry industry from 1994 to 2024 coincided with the increased line speeds under the HIMP trial and subsequent line speed waivers.



Chicken processing plants are separated into two segments commonly referred to as first processing and second processing. The evisceration portion of the process occurs in first processing, which is the most highly automated portion of the operation. Importantly, line speed – the focus of the Proposed Rule – is related only to the line speed in first processing which relies mostly on equipment to do the work with fewer employees sorting carcasses and overseeing operations. Most of the labor involved in processing chicken is in second processing where birds are trimmed, deboned, cut into pieces, and packaged. This portion of the process is not the subject of the Proposed Rule.

When birds complete the evisceration and carcass-by-carcass inspection process, they proceed into a chill system, which is a critical step in the process responsible for temperature reduction and microbial control prior to birds going to second processing. If an establishment increases its evisceration line speed, it will have more birds to manage in second processing. Second processing, however, is structured fundamentally differently than evisceration, and establishments appropriately staff those lines so that employees can properly trim, debone, portion, and package the chicken. Establishments adjust for increased capacity in second processing by adding more employees on the relevant second

¹⁶ *Injuries, Illnesses, and Fatalities: TABLE 1. Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, 2024*, U.S. Bureau of Labor Statistics (Jan. 22, 2026), <https://www.bls.gov/web/osh/table-1-industry-rates-national.htm>.

processing lines and/or adding additional equipment to automate portions of second processing (e.g. automatic deboning equipment). As part of its expanded NPIS line speed waiver process, FSIS required establishments to provide voluminous data and extensive access to independent worker safety researchers. This process led to the publication of a study that concluded that an increase in evisceration line speed was not correlated with an increased risk of musculoskeletal disorder (MSD).¹⁷

In fact, increasing evisceration line speeds leads to job creation, as more employees will be needed for trimming, deboning, and cutting chicken into pieces. Employees will continue to work at the same rate as they do today regardless of the volume of product flowing from first to second processing. Companies will simply staff accordingly. This is critically important not only to maintain worker safety, but also to ensure that both food safety and quality parameters are met.

c. Higher Line Speeds Will Provide Significant Economic Benefits

In addition to being safe, operating at higher line speeds would provide numerous economic benefits. First, increasing line speeds will allow for more efficient poultry slaughter and processing. Importantly, the line speed requirements focus on activities that occur before the carcasses enter the chiller. This portion of poultry processing is highly automated with very little human intervention. Because of this, increasing evisceration line speeds does not have a direct human impact as demonstrated by the PULSE Study. Increasing line speeds will not cost American jobs. In fact, because higher line speeds would allow for faster and more efficient processing, local communities where these establishments are located will be strengthened through increased investment and maintenance of employment opportunities to handle the increased evisceration output.

In addition to its net positive human capital impact, the Proposed Rule will meaningfully improve food affordability for American families. Chicken is a high-quality, nutritious, and affordable protein that has become a cornerstone of the American diet. It is a pillar of the new Dietary Guidelines and the Make America Healthy Again movement. Americans demand for chicken continues to grow. The April 9, 2026, USDA World Agricultural Supply and Demand Estimates (WASDE) report indicated that broiler meat consumption was 101.1 pounds in 2024 and estimates that consumption will be 102.9 pounds in 2025 and 104.3 pounds in 2026 — making chicken the most consumed animal protein in the United States.¹⁸ Meeting this demand efficiently means feeding American families affordably.

By improving efficiency in poultry processing and eliminating arbitrary regulatory burdens, the Proposed Rule will generate significant operational gains that could translate into lower costs for consumers at the grocery store. In the Proposed Rule, FSIS estimates that increased efficiency as a result of higher line speeds could reduce the costs of chicken by between 1.18% and 15.98%.¹⁹ This would directly advance the Trump Administration's efforts to keep food affordable.

¹⁷ 91 Fed. Reg. at 7933.

¹⁸ *World Agricultural Supply and Demand Estimates*, USDA (Apr. 9, 2026), <https://www.usda.gov/oce/commodity/wasde/wasde0426.pdf>.

¹⁹ 91 Fed. Reg. at 7942.

Increased line speeds will also deliver meaningful benefits to the farmers who raise America's chickens. Greater processing throughput allows growers to move more flocks to market, improving farm cash flow and operational planning. For the thousands of independent contract growers and family farm operations that form the backbone of the American poultry industry, this translates into greater economic stability. A more efficient processing system supports the entire supply chain — from the farmer raising flocks in rural America to the family purchasing chicken at their local grocery store.

Finally, the Proposed Rule is a bold deregulatory action that will increase U.S. global trade competitiveness. Between 13% and 17% of the chicken processed in the U.S. is exported valued at over \$4 billion a year. The U.S. is a net exporter of poultry products, and as described in more detail in Section III below, increasing line speeds will help put the U.S. on a more even playing field with our global competitors, many of whom do not have as stringent line speed restrictions. Overall, the Proposed Rule will provide significant economic advantages without sacrificing food or worker safety.

III. CERTAIN REVISIONS WOULD ENHANCE THE PROPOSED RULE

The Proposed Rule outlines a rational approach to line speed regulation for the poultry industry. Below, we propose modifications to the proposed regulatory language that we believe will enhance industry understanding and lead to a more uniform implementation of the Proposed Rule.

a. 9 CFR § 381.69(a) – Definition of Line Speed

Subsection (a) of the Proposed Rule would establish a single line speed definition in young chicken and poultry establishments. Establishing a single, clear definition of line speed would benefit industry and FSIS inspectors by clearly identifying where this regulatory requirement is implemented. Below we suggest a slightly revised version of the proposed language, which we believe will refine the definition of line speeds to make clear which aspects of required online inspection procedures are impacted by the line speed requirements:

The maximum line speed authorized under the New Poultry Inspection System (NPIS) reflects the time it takes for an inspector to ~~effectively~~ perform the required online carcass-by-carcass inspection at a point before the chiller and after the establishment has completed all sorting, trimming, and reprocessing activities ~~procedures required for the NPIS.~~

The above revisions (noted in strike through and underline) would make clear that the line speed referenced in the regulation is specific to the rate at which the inspector is presented birds for a carcass-by-carcass inspection at the established designated inspection point (before the chiller and after all slaughter activities are complete). This revision will eliminate the need to reference additional sections of 9 CFR Part 381 in interpreting the proposed line speed regulation.

b. 9 CFR § 381.69(b) – Line Speeds

We fully support FSIS’s increase of maximum line speeds to 175 bpm and encourage the Agency to move quickly to finalize this new standard. As explored in Section II, increasing line speeds to 175 bpm for young chicken establishments will have significant economic and competitive benefits for both the chicken industry and consumers. Current evisceration equipment can operate safely and effectively at speeds well over 220 bpm, so the benefits of the Proposed Rule will be realized quickly after the rule is finalized and without any additional capital outlay by processors for evisceration equipment.

NCC encourages FSIS to pursue through a subsequent deregulatory action the total elimination of maximum line speeds and to allow NPIS establishments to operate at any line speed at which they can maintain process control. Eliminating line speeds would improve the U.S. poultry industry’s global competitiveness without impacting food or worker safety and align the approaches to line speed within the U.S. meat production industries. The U.S. is the largest producer of and second largest exporter of poultry meat in the world with some of the strictest line speed requirements in the global market.²⁰ Other major markets, including the European Union, the United Kingdom, and Canada have removed line speed requirements while maintaining process control and meeting food safety standards:

- European Union: As discussed in the Proposed Rule, the European Union only requires that line speeds be compatible with animal welfare and food safety standards.²¹
- United Kingdom: “Shackle lines” may be set at any speed where the operation being performed can be done “without undue haste and with proper regard for the welfare of the poultry.”²²
- Canada: Poultry slaughter establishments operating under the Modernized Poultry Inspection Program can operate at any line speed provided the establishment can remain in compliance with the program’s requirements.²³

Each of these countries has demonstrated that safe and wholesome poultry products can be produced without imposing line speed limitations. FSIS should remove maximum line speed limitations to ensure U.S. poultry producers are not handicapped compared to these and other global competitors.

FSIS has already embraced the removal of line speeds in meat processing as seen in the recent proposed rule eliminating line speeds for swine processing.²⁴ As reflected in that proposed rule, line speed limitations can be arbitrary, and actual achievable line speeds are often driven by other considerations. For example, in the proposed rule on swine line speeds, FSIS has recognized that a pig’s walking speed can serve as a natural limitation on processing speed. Likewise, in broiler

²⁰ Pugliese, Jessica, *The Need for Speed: Chicken Line Speeds and U.S. Industry Competitiveness*, U.S. International Trade Commission (Apr. 2023),

https://www.usitc.gov/publications/332/executive_briefings/ebot_the_need_for_speed_poultry_line_speeds.pdf.

²¹ Council Regulation 1099/2009, 2009 O.J. (L. 303) 1 (EC), <https://eur-lex.europa.eu/eli/reg/2009/1099/oj/eng>.

²² SI 2015/1792 (Eng.), <https://www.legislation.gov.uk/ukxi/2015/1782>.

²³ *Post-mortem examination program*, Government of Canada (Jul. 17, 2020), <https://inspection.canada.ca/en/food-guidance-commodity/meat-products-and-food-animals/post-mortem-examination-program#a3>.

²⁴ 91 Fed. Reg. 7905 (Feb. 19, 2026), <https://www.govinfo.gov/content/pkg/FR-2026-02-19/pdf/2026-03228.pdf>.

processing, other factors such as the ability to present the bird adequately for inspection and to maintain process control will serve as natural restraints on an establishment's evisceration line speed. NCC encourages FSIS to finalize this rulemaking, increasing NPIS line speeds to 175 bpm and to then initiate the process of removing arbitrary line speed limits by instead focusing on key food safety indicators, such as process control.

c. 9 CFR § 381.69(d) – Inspectors-in-Charge Line Speed Authority

We appreciate the importance of ensuring Inspectors-in-Charge (IICs) have the authority necessary to address concerns that arise during the poultry slaughter process, however the language in the Proposed Rule is not needed to provide this authority. Specifically, FSIS Directive 6500.1 directs IICs to verify that establishments are operating both at allowed line speeds and in a manner that facilitates effective presentation of birds for carcass inspection.²⁵ Under this directive, the IIC may require a reduction in line speed if carcass-by-carcass inspection cannot be adequately performed.²⁶ Further, the *Salmonella* performance standard verification program allows FSIS to require establishments to take corrective actions when it is determined that the establishment has dropped to Category 3.²⁷ Based on these two preexisting surveillance and enforcement programs, FSIS already has the processes needed to take action in establishments where process control is lost. Because of this, we recommend that the language of the Proposed Rule be revised to better align with these preexisting processes:

Notwithstanding paragraphs (b) and (c) of this section, establishments that operate under the NPIS must slow operations as directed by inspectors-in-charge (IICs). IICs are authorized to require establishments to reduce the rate of establishment operations at any point prior to chilling in the slaughter process when, ~~in their judgment~~, there is a demonstrated loss of process control or when carcass-by-carcass inspection cannot be adequately performed due to the way birds are presented to the online carcass inspector or the health condition of the flock.

These changes will clarify precisely when and where IICs may limit line speeds, providing for more efficient and predictable inspection and enforcement.

d. 9 CFR § 381.69(e) – General Compliance Statement

The language in 9 CFR § 381.69(e) is redundant and may cause unnecessary confusion. The provision specifies that establishments operating under the listed line speed requirements must comply with all other relevant laws, including compliance with the Occupational Health and Safety Act. This is true of all establishments, even those operating outside of the NPIS, and the language is not needed to establish this requirement. In fact, the proposed provision risks causing confusion by falsely implying that those establishments not operating under the provision's line speed requirements are not

²⁵ FSIS Directive 6500.1: New Poultry Inspection System: Post-Mortem Inspection and Verification of Ready-to-Cook Requirement, FSIS, 10 (Aug. 17, 2023). https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/6500.1.pdf.

²⁶ *Id.*

²⁷ FSIS Directive 10,250.2: Performance Standards: *Salmonella* Verification Program for Raw Poultry Products, FSIS (Mar. 2, 2021). https://www.fsis.usda.gov/sites/default/files/media_file/2021-03/10250.2.pdf.

required to comply with Occupational Health and Safety Act. We request FSIS remove this language to avoid any potential confusion and unnecessary regulatory language.

e. Removal of Worker Safety Attestation

NCC fully supports removing the requirement that establishments participating in NPIS submit attestations related to worker safety. NCC members take worker safety extremely seriously and comply with all applicable worker safety requirements. Those requirements, however, are entirely independent of FSIS food safety requirements and are overseen by different agencies with completely different statutory authorities and substantive expertise. Moreover, as explained above, evisceration line speeds do not affect worker safety. This requirement is unnecessary, and we support its removal.

In the Proposed Rule, FSIS asserts that the current requirement that establishments operating under a line speed waiver submit an annual attestation that they maintain a monitoring program and document worker-related conditions at the establishment falls outside of FSIS’s authority. This requirement came about in response to comments on the NPIS proposed rule. In 2025, a new Supreme Court decision clarified the scope with which administrative agencies can reach in performing their regulatory duties. In *Seven County Infrastructure Coalition v. Eagle County, CO*,²⁸ the court explains that when an agency does not have the ability to prevent a certain action or effect due to its limited statutory authority the agency cannot be considered the cause of the “effect” and therefore does not need to account for the effect in its actions.

Specifically, in *Seven Counties*, the court considered an environmental impact statement (EIS) that was put together under the requirements outlined in the National Environmental Policy Act (NEPA) related to the construction of a rail line to transport crude oil from a rural area in Utah. At the lower court, the D.C. Circuit found the EIS inadequate because it did not take into consideration the downstream and upstream impact the relevant project would have. For example, the circuit court asserted that the EIS needed to consider the potential environmental effects of increased oil drilling upstream and increased oil refining downstream. The Supreme Court later reversed this position, explaining that “agencies are not required to analyze the effects of projects over which they do not exercise regulatory authority.”²⁹ In the case in front of the court, this meant that the EIS did not need to take into consideration the potential for upstream oil drilling or additional downstream oil refining because these occurrences would be separate projects from the proposed rail line increase and outside the scope of the Seven County Infrastructure Coalition’s authority.

We agree with FSIS that this holding means that agencies’ actions should be limited in scope to only issues where the agency has a direct grant of authority. In the context of this rulemaking, this would mean that FSIS cannot impose establishment-worker safety requirements on poultry processors.

In fact, removing this requirement clarifies regulatory requirements and simplifies regulatory decision-making. No other poultry processing line speed requirement includes such a worker safety attestation.

²⁸ 45 S. Ct. 1497 (2025).

²⁹ *Id.* at 1516.

Currently, some broiler slaughter establishments must make an annual attestation to FSIS whereas others do not, and FSIS is not even a workplace safety regulator. Removing the attestation requirement restores proper regulatory alignment: FSIS oversees food safety and makes inspectional decisions based on the establishment's food safety system. Workplace safety continues to be stringently overseen by OSHA and its state counterparts, which already have their own reporting and oversight processes, and it remains a top priority for the broiler chicken industry.

IV. ADDITIONAL OPPORTUNITIES FOR EFFICIENCIES

NCC appreciates the Agency's support of the U.S. poultry industry and its focus on taking common sense action to help unburden the U.S. industry and the economy more broadly. In addition to finalizing the Proposed Rule with the minor adjustments discussed in Section III above, we would like to highlight additional areas where simple deregulatory changes would have a significant beneficial impact on industry:

- Implementation of the Final Rule. Upon finalization of the rule, we encourage FSIS to promptly issue any compliance guides, directives, and notices to aid in the effective implementation of the final rule by both the Agency and industry alike.
- Fowl Processing Facilities. We support FSIS initiating deregulatory action to expand NPIS to include fowl processors, as FSIS raised in the proposal.³⁰ Fowl processors operate equipment and processes that are capable of operating effectively above 140 bpm.
- NELS and SIS Processing Facilities. FSIS should assess options for increasing maximum line speeds under NELS and SIS. Establishments operating under these inspection systems also use evisceration processing equipment capable of operating effectively at higher line speeds.
- Inspection Shift Flexibility. While current Agency policy allows inspection staff to work schedules other than five eight-hour shifts, this flexibility is not commonly utilized in practice. We encourage FSIS to support the broader use of four ten-hour shifts to provide greater staffing flexibility and enable more dedicated sanitation scheduling.
- 1/22,000 Sampling. The current 1/22,000 sampling requirement for establishments is overly burdensome and provides no tangible value to FSIS or industry. Because of this, we would encourage FSIS to consider removing this requirement and focusing related resources elsewhere.

We appreciate the Agency's consideration of these additional topics in developing a Final Rule.

³⁰ 91 Fed. Reg. at 7927 ("FSIS has also issued waivers to establishments that slaughter poultry other than young chickens and turkeys, allowing them to operate under NPIS (9 CFR 381.76(b)(1)(iv)) or the Streamlined Inspection System (SIS) (9 CFR 381.76(b)(3)). The Agency intends to evaluate data from these establishments operating under a waiver to determine whether to pursue rulemaking, in a separate action, to expand NPIS or SIS to additional classes of poultry.").

V. CONCLUSION

NCC strongly supports the expansion of line speeds as contemplated in the Proposed Rule and applauds FSIS for its rational approach to promoting U.S. agriculture and chicken production. Increasing line speeds will allow the U.S. poultry industry to thrive through greater global competitiveness and benefit consumers through greater operating efficiencies all without sacrificing food or worker safety. We encourage FSIS to consider our suggested modifications to the Proposed Rule's language and prioritize the swift completion of this rulemaking to begin seeing benefits immediately.

We appreciate the opportunity to comment on this valuable rulemaking and are available to discuss any questions that may arise from these comments.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Ashley B. Peterson".

Ashley B. Peterson, Ph.D.
Senior Vice President, Scientific and Regulatory Affairs
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cc. Dr. Mindy Brashears, Under Secretary, Office of Food Safety, USDA
April Regonlinski, Assistant Administrator, Office of Policy and Program Development, USDA-
FSIS