



NEBRASKA
APPLESEED
STAND UP FOR JUSTICE

May 2, 2018

Paul Kiecker
Acting Administrator
Food Safety and Inspection Service
United States Department of Agriculture
Docket Clerk
Patriots Plaza 3
1400 Independence Ave SW
Mailstop 3782, Room 9-163 A
Washington, DC 20250

Re: FSIS-2016-0017

Dear Acting Administrator Kiecker,

Nebraska Appleseed is a statewide nonprofit, nonpartisan organization dedicated to justice and opportunity for all Nebraskans. We are writing to express our opposition to the USDA's proposal, which will increase processing line speeds and drastically change the food safety inspection system in pork plants across the country. This rule will worsen the already severely dangerous working conditions in meatpacking plants and undermine the safety of our country's food.

Nebraska Appleseed has a substantial history of working on worker safety issues in meatpacking and poultry plants in Nebraska, as well as regionally and with partners across the country, for more than two decades. Each year, we interact directly with hundreds of meatpacking workers, including people who work in pork slaughter and processing. Through these conversations, we have been able to develop many meaningful relationships in communities across the state. Because of these deep connections, we have learned about the industry from workers who have described the dangerous environments they work in and the traumatic effects it has had on their physical and mental health, and on their families.

Permanent, crippling injuries are not only common in meatpacking plants – they are a hallmark of the system. The effects of these injuries are not limited to the workers themselves; they extend to their families and communities. We have directly spoken with hundreds of workers who are unable to play with their children, take care of their loved ones, or perform simple household chores. In preparation for these comments to this proposed rule, we have gathered comments from current meatpacking (pork) workers in Nebraska who chronicled the harsh conditions in

plants, the prevalence of injuries, the abusive and hostile work environments, the lack of dignity in the workplace, and how it all has affected them and their families:

“There is a lot of injustice and yelling. They treat us like slaves.”

“[The] chain is so fast it almost flies.”

“They treat us like slaves. The only thing missing is the whip.”

“Every day the line is faster with more work and fewer workers.”

“At the meatpacking plant, I feel like I’m in a war zone because there are so many injuries and wounded people.”

“What am I going to do now, old and with my hands shattered?”

“I have to sleep with a glove on my right hand because I cannot sleep [from the pain].”

“We can’t even go to the bathroom because they shout at us and humiliate us.”

“In [our plant] all the workers who work in slaughter, on the line, or in packing, get injured.”

“There is no time to sharpen the knives.”

“A knife came in one side of my arm and out the other. A coworker dropped his knife on the line and because it runs so fast, he wasn’t able to get it back. Since I’m on the next line, when I tried to grab the meat, the knife drove through my hand. I reported it and fainted. I have had 2 surgeries... Ever since the accident at my job, I’ve been frustrated because I can’t even comb my hair, [and] my niece helps me every day. I hurt my right hand and it’s so hard because now I can’t cook -- I have no strength in this arm.”¹

In 2009, Nebraska Appleseed published a major meatpacking study, *The Speed Kills You: The Voice of Nebraska’s Meatpacking Workers*.² As part of this report, we surveyed 455 Nebraska meatpacking workers in five communities across the state. Workers detailed their experiences and expressed the most significant concerns they had about the endless and grinding work environment in meatpacking plants. By a significant margin, the overwhelming concern was the unrelenting speed of work, a combination of processing line speeds, insufficient staffing, and intense repetitive motions.³ The following quotes reveal the extent of the workers’ concerns:

How can it improve if the line is so fast? The line is too fast | They fixed some things, but the line speed kills you | The space is small and various coworkers have already complained here and they don’t do anything about it | It continues the same or worse | There have been accidents | The

¹ Nebraska Appleseed, *Nebraska pork workers conversations* (March 2018).

² Nebraska Appleseed, *The Speed Kills You: The Voice of Nebraska’s Meatpacking Workers* [hereinafter *The Speed Kills You*] (2009).

³ See *id.* at 30.

line is too fast, there's little space, there aren't sufficient personnel | More work, the line is faster and there are fewer people on the line | How can it be safe with that line so fast? It's the same and they don't care | The line is faster, fewer people on the line, and more production | The speed of the line hurts you | With the speed of the line you will always be unsafe | Come to the plant and you will see | People say that their hands hurt a lot | The employees don't matter to them | But the people don't want to say anything because you'll lose your job | They give you ice, they give you hot water, they sell you pills and tell you that you have to learn to live with pain | Many people are injured and then they fire them | This line sometimes kills you | The line is too fast | They operated on my hand but there are days that I don't even know where to put my arms. They hurt me | Since I began working, the line has been very fast | Now we do more pieces per minute and one gets tired | They reduce the number of people on the line and increase the speed | Slow down the line | The line is too fast | Reduce the speed of the line | Slow the speed of the line – don't reduce personnel on the line | Slow the chain | Reduce the line speed it's too fast | Slow the line speed – the people are injuring themselves a lot | Rotate personnel in the same shift, reduce the speed of the line | They should recognize that we aren't machines | We need more people on the line | I know 2 people who have urinated and pooped in their pants on the line | We need permission to go to the bathroom sometimes people wet their pants | Slow the line | There are a lot of injuries in the plant | You complain and they give you ice | They treat you worse than an animal | They increase the number of pieces and they pile on more and because of this you cut yourself | The supervisors maintain the speed at their will | Your hands swell and your shoulders hurt | Back pain and inflamed hands | Hand/Finger/Arm pain | Pain in the back, hands, shoulders | I cut my hand with the knife | Problems with my hands | Back injury | Tendons – sometimes you don't say anything because they just tell you to use ice and pills | My hands/fingers lock up | They should treat you like human beings because I know of 3 people who urinated and pooped in their pants on the line and afterwards they laugh at you | Inflammation of the hands and shoulder pain | Shoulder and back pain | My thumb locks up | My hands/fingers lock up | It would be good if the line remained the same speed as when visitors come | In almost all my jobs I have been hurt and operated on... I am tired | They don't take you into account – you seem like a robot | The doctor says that my tendons are already worn out | Today in this plant they operate on you and the next day they have you working | Please try to do something about the speed of the line |

A comprehensive look at extensive surveys, medical literature, and organizational and government reports covering the working conditions inside meatpacking and poultry plants reveal a public health crisis in this industry. The crisis is marked by an epidemic of severe and disabling repetitive motion injuries which are inextricably linked to punishing work speeds.

In 2013, a group of 15 workers' rights and civil rights organizations across the country – including Nebraska Appleseed – submitted a petition to the USDA and OSHA, urging both agencies to implement a work speed standard for meatpacking and poultry plants.⁴ As part of the petition, some co-petitioners – including Nebraska Appleseed – conducted a work-speed survey with 55 meatpacking and poultry workers in four states to document work speed conditions, ultimately finding that workers completed a grueling average of 15,000 to 20,000 motions *per shift* on the lowest end, and up to 40,000 to 100,000 or more motions *per shift* on the high end.⁵ The survey also documented the intense demands placed on workers at different positions on the processing line, and the strenuous, forceful activity that accompanies them:

“Meatpacking plants: Each cutting worker often has to cut, slice, lift or separate a square of ham every twelve seconds, or five times a minute. . . .” A worker interviewed by the Lincoln Journal Star reported that keeping up with this fast line speed for five years

⁴ The Southern Poverty Law Center, Nebraska Appleseed, et al., *Rulemaking Petition to OSHA and the USDA*, [hereinafter *OSHA and USDA Rulemaking Petition*] (2013), available at <http://www.fsis.usda.gov/wps/wcm/connect/cab74978-9bac-4768-ad23-c11f91e7257/Petition-Southern-Poverty-Law-Center-090313.pdf?MOD=AJPERES>.

⁵ *See id.* at 63.

caused him to have shoulder surgery and to suffer from chronic, possibly permanent injuries causing hand, wrist, and elbow pain.

Meatpacking plants: Another pork plant worker described the position of “pulling paddle” to separate the leg joint – a job requiring movements of greater force: 5-6 motions per hog at approximately 5 hogs per minute, including hooking the tool, locking it against the joint, peeling it open and pulling it back (sometimes requiring brute force as the knife dulls).

Meatpacking plants: A worker packing hams described packing 40 hams per minute with 5 motions per ham, including: reaching back with the right shoulder, grabbing the ham and moving it forward, dropping it in a bag opened with the left hand, and then pushing the ham along with the right hand. During an 8-hour shift, this worker makes approximately 96,000 movements.”⁶

The punishing speed of work compels workers to make frequent repetitive motions that involve substantial force to bend, twist, pull, and cut animal flesh, tendon, and bone. The rate and exertion of such motions ultimately lead to severe and lasting damage to workers’ shoulders, necks, arms, wrists, back, and legs. Lacerations, amputations, and burns are also a serious problem for meatpacking workers. As one example of the dangerous combination of speed and close-quarters cutting, one pork worker with whom Nebraska Appleseed spoke to said, “In order for people to work safely, and not get hurt, Hormel should have more space in the work area between people. Because of the lack of space, two coworkers were cut last week.”⁷

The daily experience of meatpacking workers – which has been exhaustively documented by academic and government studies as well as community research and worker surveys – directly corresponds to the broad academic consensus on the causal relationship between highly repetitive work and crippling musculoskeletal injuries.⁸ One comprehensive review of the scientific literature established that the frequency and duration of repetitive motions is a substantial risk factor in musculoskeletal injuries:

"There is strong evidence for a relationship between exposure to a combination of risk factors (e.g., force and repetition, force and posture) and CTS. ... Based on the epidemiologic studies reviewed above, especially those with quantitative evaluation of the risk factors, the evidence is clear that exposure to a combination of job factors studied (repetition, force, posture, etc.) increases the risk for CTS. This is consistent with the evidence that is found in the biomechanical, physiologic, and psychosocial literature.⁹

Another comprehensive review of the evidence stated:

⁶ See *id.* at 65-66.

⁷ Nebraska Appleseed, *Nebraska pork workers conversations*, *supra* note 1.

⁸ See e.g., U.S. Government Accountability Office, *Additional Data Needed to Address Continued Hazards in the Meat and Poultry Industry*, GAO 16-337, at 29-31 (2016); *OSHA and USDA Rulemaking Petition*, *supra* note 4, at 8-14.

⁹ National Institute for Occupational Safety and Health, U.S. Dep't of Health and Human Services, Publication No. 97-141, *Musculoskeletal Disorders and Workplace Factors: A Critical Review of Epidemiological Evidence for Work-Related Musculoskeletal Disorders of the Neck, Upper Extremity, and Low Back*, 5a-28 (Bruce P. Bernard ed., 1997).

The physical job features that are frequently cited as risk factors for MSDs, based on both experimental science and epidemiologic investigations, include rapid work pace and repetitive motion patterns; insufficient recovery time; heavy lifting and forceful manual exertions; non-neutral body postures (either dynamic or static); mechanical pressure concentrations; segmental or whole-body vibration; local or whole-body exposure to cold; and any of these in combination with each other or with undesirable features of the psychosocial work environment like high demands and low degree of control over one's own work.¹⁰

The blistering pace of processing line speeds that require tens of thousands of repetitive motions make injuries inevitable for meatpacking workers, and at higher rates than other industries. According to the Bureau of Labor Statistics, meatpacking workers are injured at a rate substantially higher than other industries, nearly 2.4 times higher than the national private industry average.¹¹

In addition to this disproportionately high rate of meatpacking injuries and illnesses documented by official statistics, these figures in fact significantly *undercount* the genuine frequency of injuries in meatpacking plants.¹² The burden of injury reporting to BLS falls to employers, who, in turn, have many incentives to underreport injuries or create obstacles to deter workers from reporting.¹³ Some obstacles come in the form of “safety” or incentive programs that in practice prevent injury reporting.¹⁴ Workers have frequently documented that reporting injuries is strongly discouraged, and, in many instances, met with retaliation.¹⁵ The type of retaliation spans from penalizing employees through an employer-based “points system” to termination. Furthermore, major surveys, interviews, and studies have documented substantially higher injury rates than what is officially reported.¹⁶ Medical literature and government reports affirm the on-the-ground documentation of higher injury rates and verify that the official numbers fail to capture the true quantity of injuries in plants.¹⁷

Recent NIOSH Health Hazard Evaluations (HHE) in two poultry plants illustrate the gulf between reported official statistics and the actual frequency of injury rates in meat and poultry processing.¹⁸ The agency, among other things, evaluated overall work processes and studied the extent of musculoskeletal injuries among plant workers. At a South Carolina poultry plant,

¹⁰ Laura Punnett and David Wegman, *Work-Related musculoskeletal disorders: the epidemiological evidence and the debate*, *Journal of Electromyography and Kinesiology* 14, 14 (2004).

¹¹ Bureau of Labor Statistics, *Incidence Rates of Nonfatal Occupational Injuries and Illnesses by Industry and Case Types* (2016), available at https://www.bls.gov/iif/oshwc/osh/os/suma1_00_2016.xlsx.

¹² See OSHA and USDA Rulemaking Petition, *supra* note 4, at 25-29.

¹³ See *id.* at 41, n. 166.

¹⁴ See *id.* at 27-29, 41.

¹⁵ See *id.*

¹⁶ See *id.* at 21-25.

¹⁷ See *id.*

¹⁸ Kristin Musolin, et al., National Institute of Occupational Health, *Evaluation of Carpal Tunnel Syndrome and Other Musculoskeletal Disorders among Employees at a Poultry Processing Plant*, Health Hazard Evaluation No. 2014-0040-3232, [hereinafter 2015 NIOSH Poultry HHE] (2015); David Hard, et al., National Institute of Occupational Health, *Evaluation of Musculoskeletal Disorders and Traumatic Injuries Among Employees at a Poultry Processing Plant*, Health Hazard Evaluation No. 2012-0125-3204, [hereinafter 2014 NIOSH Poultry HHE] (2014).

NIOSH found that 42 percent of 301 workers had carpal tunnel syndrome.¹⁹ In a Maryland plant, 34 percent of workers had carpal tunnel syndrome.²⁰

NIOSH also identified inconsistencies with the accuracy of employer's records of worker injuries, records which are required by OSHA. At the Maryland poultry plant, NIOSH noted:

"Sixty-six percent (20/30) reported at least one work-related injury or illness that met OSHA 300 reporting criteria as discussed below, but only one was reported on the 2013 OSHA Logs. On the questionnaire, 95% (18/19) responded that they reported their injury to their supervisor, manager, the plant nurse, or other company representative."²¹

Additionally, NIOSH found that:

“. . . [six] participants reported they had work-related injuries since the evisceration line speed changes were implemented, although there was only 1 entry on the OSHA Logs or on-site medical clinic data during this period.”²²

Relentless processing line speeds are not only closely connected to substantial rates of permanent and devastating injuries, they are also linked to other abuses and indignities. Little to no rest breaks; lack of job rotation; insufficient numbers of workers on the line; little to no access to ergonomically sound tools, including sharpened knives²³; inadequate medical management in plants; and insufficient bathroom access are all features of meatpacking plants.²⁴

One of the most common issues workers point to as a serious safety risk is that employers routinely deny access to bathrooms. Because of the rigid and narrow focus on maintaining high production speeds no matter the cost, supervisors regularly deny bathroom breaks to workers, threaten disciplinary action, and harass and yell at workers who ask to use the bathroom.²⁵ In one disturbing case, a poultry plant charged money for workers who use the bathroom.²⁶

As one worker said in Oxfam America's 2016 report on the denial of bathroom breaks:

“[w]e're human beings who feel, and hurt, and we work the best we can. But it's not enough for them. They demand more and more . . . [t]hey demand more than you can do.”²⁷

¹⁹ See 2014 NIOSH Poultry HHE, *supra* note 18, at 1.

²⁰ See 2015 NIOSH Poultry HHE, *supra* note 18, at i.

²¹ See *id.* at 13.

²² See 2014 NIOSH Poultry HHE, *supra* note 18, at 18.

²³ In Nebraska Appleseed's March 2018 pork worker conversations, workers noted that “[t]here is no time to sharpen the knives” and “[t]here is no time to sharpen the knife and that's why people get back, arm and shoulder injuries.” Nebraska Appleseed, *Nebraska pork workers conversations*, *supra* note 1.

²⁴ As one example, the 2013 OSHA and USDA rulemaking petition's survey revealed how little time, if any, meatpacking and poultry workers had to rest. Outside of one 30 minute break and one 10 or 15 minute break, “[n]ot one worker reported having any pause time between motions or between pieces processed; in fact, laughter commonly accompanied the response to those questions.” See *OSHA and USDA Rulemaking Petition*, *supra* note 4, at 63.

²⁵ Oxfam America, *No Relief: Denial of Bathroom Breaks in the Poultry Industry* (2016).

²⁶ *Id.* at 4

²⁷ *Id.* at 3.

Workers in pork plants with whom Nebraska Appleseed talked this year for this public comment had the same concerns:

“There are people who do not last a long time working in the company because the chain goes so fast and they treat the workers very badly. Supervisors shout a lot and do not want to give workers permission to go to the bathroom.”

"If a worker wants to go to the bathroom and asks the supervisor for permission, they answer, “next time bring a doctor's note explaining why you're going to the bathroom often.”²⁸

The long wait or complete lack of access to bathrooms forces workers to endure extreme and degrading situations. Some have no choice but to urinate and defecate while standing on the processing line. Others wear diapers or restrict fluid intake to hazardous degrees.

All of this evidence clearly demonstrates that increasing pork processing line speed limits above the current maximum speed will further expose meatpacking workers to permanently crippling repetitive motion injuries and other health hazards. In fact, there is an urgent need to *decrease* line speeds to a safe and manageable rate for workers. From the 2013 rulemaking petition that surveyed 55 meatpacking and poultry workers in four states, workers also described what a safe speed would look like:

“When asked what would be a safe work speed, a majority (approximately 75%) described what would constitute a 20% to 50% reduction in speed from current rates. Interestingly, this often correlated with the speed they said they were asked to work when OSHA, USDA, or an outside group was present or touring the plant. Several workers with years of experience also noted that production levels had increased from between 25% to 200% since they had first started.”²⁹

In the context of overall worker safety, it is most helpful to consider safe line speeds alongside other vital factors – such as staffing levels – all under the rubric of “work speed.” These additional components include repetitive motions per minute, staffing levels, job rotations, and the number of necessary rest breaks required per shift.

The 2013 rulemaking petition also outlined a broad standard for meatpacking and poultry plants that took account of all of these elements. At minimum, a work speed standard should:

- “Require a work speed limit that seeks to prevent or minimize CTDs and other MSDs among workers in the meat and poultry processing industries, whether the speed is measured in motions per minute or in other terms. This standard should account for not only total birds per minute, but also for motions per worker per minute to reduce the number of motions each worker is required to do. This may require a set of coordinated standards addressing different positions on the line. One approach to limit

²⁸ Nebraska Appleseed, *Nebraska pork workers conversations*, *supra* note 1.

²⁹ See *OSHA and USDA Rulemaking petition*, *supra* note 4, at 62.

exposure to repetitive motion hazards could be to align line speeds to varying staffing levels.

- Account for sufficient recovery times for workers during each motion cycle before repeating the same motion.
- Require adequate full rest periods during a shift³⁰

The standard itself should incorporate the following:

- “a. A work speed that should not exceed x pieces per minute, aligned to staffing levels, and varying among different job assignments;
- b. A work speed that should not exceed x motions per minute, per 24 hours, or per other time period; and/or
- c. A work speed above which pace may not be sustained without requiring frequent complete and total rest breaks lasting at least fifteen minutes.”³¹

And, in order to reduce the number of repetitive motions, additional steps were recommended:

- “Meaningful job rotation between positions between high-repetition departments, such as deboning, and non-repetitious departments to prevent the onset of repetitive motion injuries, such as carpal tunnel syndrome.
- Ergonomically sound tools, including requiring at minimum that these industries incorporate regular tool sharpening to reduce strain for the workers to accomplish their work.
- Mandatory rest breaks of a length of time sufficient to permit recovery time.
- Develop a protocol for transferring injured workers to other job functions at no loss of pay or set further restrictions on motion or work when a worker reports an injury.”³²

The petition’s work speed framework echoed a consensus on how to prevent permanent, debilitating musculoskeletal injuries that spans at least 25 years. Over the years, for instance, previous assessments from federal agencies and other organizations have outlined similar best practices for the meatpacking and poultry industry. In its recent poultry plant HHEs, NIOSH recommended that plants implement significant measures to prevent injuries, such as: reduce repetitive motions and force performed by each worker; institute a job rotation schedule; provide more than one break per day; ensure access to sharpened knives, and to put into effect the OSHA guidelines for poultry processing plants.³³ Similarly, OSHA published a robust assessment of injuries in the meatpacking industry in 1993, which gathered the best available scientific evidence of the ergonomic risk factors inherent in meatpacking plants.³⁴ Factors such as processing line speed, repetition rate, and work/rest regimes are all identified in the guidance, along with best practices to eliminate them.

³⁰ *Id.* at 61.

³¹ *Id.* at 65.

³² *Id.* at 67-68.

³³ See 2015 NIOSH Poultry HHE, *supra* note 18, at 19-22; 2014 NIOSH Poultry HHE, *supra* note 18, at 27-29.

³⁴ See OSHA, *Ergonomics Program Management Guideline for Meatpacking Plants* (1993), available at <https://www.osha.gov/Publications/OSHA3123/3123.html>.

Our deep concerns about this rule also extend to ensuring food safety for the public. Workers in Appleseed's 2009 report, along with those with whom we interact regularly, expressed serious food safety concerns related to line speed. For example, in our 2009 survey one worker said, "Imagine that there are people who wet their pants on the line. What safety is there in the product?"³⁵ As noted above, the worker safety concerns around lack of bathroom access also touch upon food safety. Workers have described injured co-workers bleeding onto the line, the inability to stop bad meat or non-food debris from speeding down the line, and no choice but to use tools that have fallen on the floor.

Nebraskans want to know that their food and the human beings who process it are safe. We want to know that our state's food industries are sustainable and that food processing workers – who are a part of our families and communities – are taken fully into consideration. That sustainability is impossible if high levels of injuries – with impacts on families, communities, and social safety nets – are a regular cost of business, and increasingly rapid work speed creates additional worker and food safety concerns.

Meatpacking and poultry processing work remain among the most dangerous jobs in the United States. We strongly oppose this proposed rule, particularly in the context of the current and unacceptable working conditions in meatpacking plants – including pork slaughter and processing – across the country. Thank you for your consideration of these comments.

Sincerely,

Omaid Zabih
Federal Policy Director
Nebraska Appleseed

³⁵ See *The Speed Kills You*, *supra* note 2, at 21.