

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH**  
**ADMINISTRATION**  
**AND**  
**THE U.S. DEPARTMENT OF AGRICULTURE, FOOD SAFETY AND INSPECTION**  
**SERVICE**

**I. Introduction and Purpose**

This Memorandum of Understanding (MOU) is entered into by the United States Department of Labor, Occupational Safety and Health Administration (OSHA), and the United States Department of Agriculture, Food Safety and Inspection Service (FSIS) (collectively “the Agencies,” individually “Party” or “Agency”). The Agencies share the goal of protecting the safety and health of workers in FSIS-regulated establishments, including both FSIS and establishment employees. This MOU is intended to facilitate that goal in a number of ways, including by delineating the Agencies’ respective authorities, roles, and responsibilities; by providing for areas of cooperation and the exchange of data and information; and through the cooperation of OSHA and FSIS when either agency is developing standards and regulations that could affect the workers at these facilities.

**II. Background and Authority**

With the Occupational Safety and Health Act (OSH Act) of 1970 (P.L. 91-596), Congress created OSHA to assure safe and healthful working conditions for working men and women by setting standards and enforcing standards and by providing training, outreach, education, and assistance. Section 19 of the OSH Act addresses the safety and health of federal employees, requiring the head of each federal agency to establish and maintain an effective and comprehensive occupational safety and health program. Federal agencies must provide safe and healthful places and conditions of employment for federal employees consistent with the standards promulgated under the OSH Act. Executive Order 12196, issued in accordance with Section 19, gives federal employees the right to report unsafe and unhealthful working conditions to the appropriate federal authorities. In addition, Section 7(c)(1) of the OSH Act authorizes the Secretary of Labor “to use, with the consent of any federal agency, the services, facilities, and personnel of such agency” in carrying out his or her responsibilities.

Section 18 of the OSH Act provides that states may develop and enforce occupational safety and health standards, subject to OSHA’s approval and monitoring. Upon approval, these states, referred to as State Plans, may operate their own federally-monitored safety and health programs, which must be “at least as effective as” the federal program. A list of current states and territories that have OSHA-approved State Plans is available on [OSHA’s website](#).

FSIS administers and enforces the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Product Inspection

Act (21 U.S.C. 1031 et seq.). Its mission is to protect the public's health by ensuring the safety of meat, poultry, and egg products. FSIS does so, in part, by administering a comprehensive system of inspection laws, which ensure that meat, poultry, and egg products moving in interstate and foreign commerce for use as human food are safe, wholesome, and accurately labeled. FSIS is also authorized to promulgate such rules and regulations as are necessary for the efficient execution of statutory provisions. These rules and regulations prescribe requirements designed to ensure that meat, poultry, and egg products capable of use as human food will not be adulterated or misbranded when delivered to the consumer.

In addition, FSIS is responsible for the safety and health of its employees, including inspection personnel working in FSIS-regulated establishments pursuant to requirements of 29 CFR 11960. This MOU does not alter the normal procedure used by FSIS inspectors to report a workplace safety and health hazard that affects them to their supervisor, FSIS, or OSHA.

### III. Definitions

**Serious hazard.** For purposes of this agreement, a serious workplace hazard is a condition or practice that could lead to an incident in which there is a substantial probability that death or serious physical harm could result. Some examples of this type of hazard appear in the appendix.

**State Plans.** State Plans are OSHA-approved workplace safety and health programs operated by individual states or U.S. territories. State Plans are monitored by OSHA and must be at least as effective as OSHA in protecting workers and in preventing work-related injuries, illnesses and deaths.

### IV. Areas of Cooperation

#### A. Training

**Identifying Serious Hazards and Contacting OSHA.** FSIS and OSHA will continue to coordinate FSIS efforts to provide all FSIS personnel working in FSIS-regulated establishments with training on workplace conditions and hazards in those establishments, including training on the hazards listed in the appendix to this MOU. The training will also include the procedures to make referrals and file formal complaints with OSHA. In addition to the training FSIS employees will receive on the process of making referrals to OSHA, OSHA will provide a poster to every FSIS-regulated establishment which outlines how to report injuries to OSHA. FSIS will make those available in the on-site FSIS office.

The training shall be in a format that is mutually agreed to by the parties to this MOU. FSIS will require all FSIS personnel at FSIS-regulated establishments to complete the training, provided by FSIS, within 120 days. FSIS shall provide refresher training annually and when any major changes are made to job procedures.

**FSIS-Regulated Establishments.** In order to ensure OSHA inspectors have a comprehensive and up-to-date understanding of FSIS operations at regulated establishments, FSIS will provide OSHA with new and existing internal training

materials on current practices as needed. OSHA and FSIS will coordinate with the intent of helping OSHA inspectors understand FSIS operations.

- B. Making Referrals.** FSIS personnel should report to OSHA serious workplace hazards affecting both FSIS personnel and establishment workers at the FSIS-regulated establishments. When reporting to OSHA, FSIS employees will follow formal complaint or referral procedures. OSHA will notify State Plans when appropriate.

If OSHA opens an inspection that documents worker safety violations that could endanger FSIS employees, OSHA will notify the FSIS point of contact as soon as practicable, so that FSIS can take appropriate action to protect its employees. Such action could include the withdrawal of FSIS personnel from the establishment until such time as the establishment implements effective corrective actions.

Nothing in this agreement alters FSIS's authority and responsibility to protect its employees where appropriate, regardless of whether an OSHA inspection was conducted.

### **C. Exchange of Data and Materials**

**Safety and Health Materials.** OSHA will continue to share safety and health resources with FSIS and will work with FSIS to develop materials appropriate for FSIS-regulated establishments.

**Injury and Illness Data.** As available, OSHA will provide aggregate injury and illness data from FSIS-regulated establishments to FSIS. The agencies may use this data to determine what training should be developed and/or emphasized for FSIS employees.

**Outbreaks/Hazards.** If FSIS becomes aware of a suspected or confirmed disease outbreak, where there are animal or human cases of an infectious disease at a FSIS-regulated establishment, which could affect worker safety and health, FSIS will inform OSHA. When feasible, the agencies will coordinate efforts to abate the resulting worker safety and health hazards.

FSIS will inform FSIS-regulated establishment employers that they are required to alert FSIS of potential workplace hazards to FSIS employees. (The OSHA information page on "temporary workers" provides a good explanation of employer responsibilities in a "multi-employer" workplace. See <https://www.osha.gov/temporaryworkers/>. In addition, FSIS has a duty to inquire about potential hazards, in order to protect its own employees.

**Production (or Operational) Developments Impacting Safety and Health.** OSHA and FSIS will share any new methods or techniques to monitor or assess new procedures and chemicals that are used in these facilities. In addition, the Agencies will notify each other if they learn of any new chemicals, technologies, or procedures that may impact worker safety and health at the facilities. OSHA and FSIS will coordinate on developing and assessing new technologies and procedures or organization of work changes that may impact workers' safety and health.

**Attestations.** When FSIS requires attestations concerning safety and health protocols at plants FSIS inspects, FSIS will provide them to OSHA. FSIS regulations require establishments participating in the new poultry and swine inspections systems to submit annual attestations to the management member of the local FSIS circuit safety committee stating that the establishment maintains a program to monitor and document any work-related conditions of establishment workers. FSIS will provide OSHA with a list of plants required to provide these attestations on an annual basis. FSIS will also annually provide OSHA with attestations they receive from plants participating in the new poultry and swine inspection system. OSHA may develop inspection programs for those plants.

**D. Other areas of cooperation.**

As the agencies perform their respective duties, they may from time to time identify other potential areas of cooperation. It is their intent to take advantage of the relationships developed under this MOU to add additional areas of cooperation as they arise. This may include enforcement issues under either agency's authority, or other matters that cannot be predicted at this time.

**E. Coordination of OSHA and FSIS Regulatory Actions**

In administering their respective regulatory responsibilities, OSHA and FSIS will, to the extent appropriate, consult and exchange information. The offices will coordinate work on OSHA and FSIS standards and regulations in order to minimize possible inconsistencies between the Agencies' standards and regulations, establish standard and regulation setting priorities, and identify other issues where coordination is desirable. In addition, OSHA and FSIS will exchange information and reports on general enforcement matters and on particular situations of common concern to each agency.

**V. State Plans**

OSHA will encourage State Plans to participate in activities outlined in this MOU, as appropriate. OSHA will also encourage State Plans to participate in all training and information-sharing activities established under this MOU. OSHA and FSIS will coordinate State Plan participation in such activities.

FSIS will recommend to states administering meat and poultry inspection programs that they implement policies and procedures consistent with those outlined in the MOU.

**VI. Review and Modification**

OSHA and FSIS shall conduct annual reviews of the implementation of this MOU. The Assistant Secretary of Labor for Occupational Safety and Health and the Under Secretary of Agriculture for Food Safety will each keep the other informed, either directly or through designees, of any new program, activity, or project that may be initiated or of any augmentation or revision of an existing program, activity or project that affects the implementation of this MOU.

The provisions of this MOU may be reviewed and jointly modified as appropriate when it is determined by OSHA and FSIS that such review and modification is in the interest of their legal responsibilities.

**VII. Effect of this Agreement**

This MOU modifies and supersedes the OSHA/FSIS MOU signed on February 4, 1994.

This MOU is an internal government agreement. It is not intended to, and does not, confer upon any private person or employer, or other entity any rights against the United States or any of its agencies or officers.

Nothing in this MOU shall be interpreted as limiting, superseding or otherwise affecting either agency's normal operations or decisions in carrying out its statutory or regulatory duties. This MOU does not limit or restrict the agencies from participating in similar activities or arrangements with other entities.

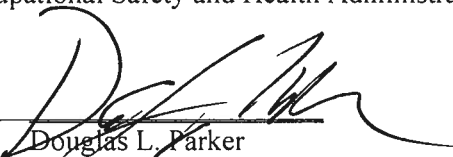
This MOU does not itself authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligation.

**VIII. Effective Date**

This MOU will take effect immediately once signed by both parties and shall continue in force for five years, unless both agencies agree in writing to extend the length of the MOU. The MOU may be terminated by either party upon 90 days written notice to the other agency. Except as expressly provided in this agreement, this MOU constitutes the entire agreement between OSHA and FSIS with respect to the matters set forth herein.

**IX. Signatures**

United States Department of Labor  
Occupational Safety and Health Administration

By:   
Douglas L. Parker  
Assistant Secretary

United States Department of Agriculture  
Food Safety and Inspection Service

By:   
Paul A. Kiecker  
Administrator

## APPENDIX

### SERIOUS WORKPLACE HAZARDS

A serious workplace hazard is a condition or practice that could lead to an incident in which there is a substantial probability that death or serious physical harm could result. Examples of these hazards include, but are not limited to:

- No emergency evacuation plans. Blocked means of egress or exits. Unmarked exits.
- Lack of machine guards.
- No control of hazardous energy during plant maintenance of equipment. Electrical hazards.
- Broken or missing guardrails.
- Falling object hazards.
- Improper Walking/working surfaces, e.g., drain covers.
- Lack of personal protective equipment.
- Release or spill of a toxic chemical.
- Exposure to a hazardous substance that can lead to breathing problems, skin rashes, and/or irritation of the eyes and nose.
- Exposure to hazardous chemicals not included in the plant's hazard communication program.
- Exposure to asbestos.
- Lack of a confined space entry program.
- Exposure to carbon monoxide during warehousing operations, or in areas where dry ice is routinely used.
- Exposure to dust hazards.
- Lack of a hearing conservation program.
- Exposure to sharp objects that could lead to amputations, cuts, and bruises.
- Tasks involving repetitive or awkward movements that could lead to ergonomic related injuries, such as but not limited to back, knee, neck, shoulder, hand, and wrist disorders.
- Exposure to infectious diseases.
- Lack of timely bathroom breaks.
- Lack of appropriate mitigation strategies for respiratory infectious diseases (e.g., COVID-19).