



United States Department of Agriculture

Food Safety and
Inspection Service

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Washington, D.C.
20250

Michael J. Brown
President
National Chicken Council
1152 Fifteenth Street, NW, Suite 430
Washington, DC 20005

JAN 29 2018

Dear Mr. Brown,

The Food Safety and Inspection Service (FSIS) has completed its review of the National Chicken Council's (NCC's) September 1, 2017, petition requesting that FSIS implement a waiver system to exempt young chicken establishments from the regulation that prescribes 140 birds per minute (bpm) as the maximum line speed under the New Poultry Inspection System (NPIS) (9 CFR 381.69(a)). As conditions for the waivers, the petition requests that establishments be required to opt into the NPIS, participate in the *Salmonella* Initiative Program (SIP), and develop a system for monitoring and responding to loss of process control. The petition states that FSIS has the authority to implement such a waiver program under 9 CFR 381.3(b), which provides that "[t]he Administrator may, in specific cases, waive any provision of the poultry inspection regulations so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements, provided that such waivers are not in conflict with the Poultry Products Inspection Act."

We have decided to deny your petition. In regard to implementing a new waiver system, FSIS already has detailed procedures for the submission of new technology notifications and protocols to the Agency. These procedures include a process for submitting to FSIS requests for the use of alternative procedures, such as a faster line speed, that would require regulatory waivers under the SIP. Furthermore, all establishments are currently required to operate under the SIP to receive waivers from regulatory requirements, and all establishments that slaughter poultry are required to incorporate procedures to prevent contamination throughout the entire slaughter operation into their Hazard Analysis and Critical Control Point (HACCP) systems (9 CFR 381.65(g)). These procedures must include ongoing documentation and testing for microbial organisms to monitor the establishment's ability to maintain process control. Thus, the conditions you presented for your requested line speed waiver system for NPIS establishments reflect both the existing conditions for SIP waivers and the existing requirement that all poultry slaughter establishments implement process control procedures. Because FSIS has already implemented procedures for establishments to request regulatory waivers, we have determined that it is not necessary to establish a separate system to provide line speed waivers to young chicken establishments operating under the NPIS. We also have decided to deny your

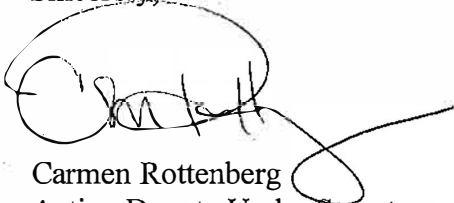
request to allow for waivers that would allow young chicken establishments to operate under NPIS without maximum line speeds. As noted in the preamble to the NPIS final rule, based on our experience under the HACCP-Based Inspection Models Project (HIMP) pilot study, FSIS inspectors are able to conduct an effective online inspection of each carcass at line speeds of up to 175 bpm (79 FR 49592). The petition did not include data to demonstrate that inspectors can conduct an effective carcass-by-carcass inspection at line speeds faster than those authorized under HIMP.

As you know, in the final rule establishing the NPIS, FSIS announced its determination to allow the 20 young chicken establishments that had been granted SIP waivers to operate under HIMP to continue to operate under a SIP waiver to run at line speeds of up to 175 bpm (79 FR 49591). These establishments had demonstrated that they could maintain process control at the line speeds authorized under HIMP during the years they participated in the pilot. Further, FSIS announced that if an establishment operating under such a SIP waiver went out of business or decided to give up its waiver, FSIS would select another establishment to take its place, limiting this waiver to 20 young chicken establishments. The preamble to the NPIS final rule made clear that FSIS would continue to consider line speeds at which establishments are capable of consistently producing safe, wholesome, and unadulterated product and are meeting pathogen reduction and other performance standards (79 FR 49591).

FSIS now has over a year of documented process control history for many young chicken establishments operating under NPIS. Therefore, in the near future, FSIS intends to make available criteria that it will use to consider waiver requests from young chicken establishments, in addition to the current twenty, to operate at line speeds up to 175 bpm. The criteria will include, among other things, a demonstrated history of process control and establishment configuration and procedures that provide for effective carcass-by-carcass inspection at high line speeds. FSIS expects to grant a limited number of additional waivers under the criteria.

Consistent with FSIS's regulations on petitions (9 CFR 392.6), we have made your petition available to the public. We have received over 100,000 comments on the petition and intend to respond to the issues raised by the comments in a separate document that also will be made available to the public. We will be publishing this letter as well.

Sincerely,



Carmen Rottenberg
Acting Deputy Under Secretary
Office of Food Safety