

February 7, 2019

Dr. Mindy Brashears, Deputy Under Secretary for Food Safety
United States Department of Agriculture
Rm. 210-W, Jamie L. Whitten Building
12th Street and Jefferson Drive SW
Washington, DC 20250

Transmitted via facsimile: (202) 690-0820

Dear Dr. Brashears:

On behalf of the advocacy group Food & Water Watch, I would like to express my congratulations on your recent appointment as the Deputy Under Secretary for Food Safety at the United States Department of Agriculture. We look forward to working with you.

I am writing to ascertain when the Food Safety and Inspection Service (FSIS) intends to revoke the line speed waiver for the Norman W. Fries, Inc. plant (Establishment Number P6505) located in Claxton, Georgia. As you know, this plant was part of the original pilot program called the HACCP-based Inspection Models Project (HIMP) in poultry slaughter. As part of the pilot, the number of FSIS inspectors assigned to the slaughter line was reduced and they were replaced by establishment sorters. In addition, the plant was permitted to increase its slaughter line speed above the maximum of 140 birds per minute (bpm) that had been set for slaughter of young chickens.¹

When the final rule was published in August 2014 for the New Poultry Inspection System (NPIS), the original 20 HIMP young chicken slaughter plants were the only ones permitted to run their slaughter lines above 140 bpm to a maximum of 175 bpm.² Establishment P6505 was one of those plants.

As you know, the line speed waiver cap has been the source of much contention. We have been concerned that increasing the line speeds coupled with privatizing the inspection of carcasses will lead to increased food safety violations. Worker safety advocates have raised concerns about the occupational safety implications related to increasing line speeds. Animal welfare advocates have raised issues regarding the abuse of animals that could arise with increasing line speeds.

¹ https://www.fsis.usda.gov/wps/wcm/connect/188bf583-45c9-4837-9205-37e0eb1ba243/Waiver_Table.pdf?MOD=AJPERES

² 79 FR 49583

The poultry industry decided to take a completely different tack. In September 2017, the National Chicken Council filed a petition with FSIS to revoke all line speed caps in chicken slaughter plants.³ The agency received over 100,000 comments on the petition, most of which were opposed to the petition. While the agency eventually rejected the petition on January 29, 2018,⁴ the agency announced in its February 23, 2018 “Constituent Update” its intent to publish a list of criteria that would permit individual young chicken plants which had converted to NPIS to apply for line speed waivers up to 175 bpm.⁵ On September 18, 2018, the agency published a Federal Register Notice outlining the new criteria.⁶ In this Notice, the agency also announced that it would send letters to the original 20 young chicken plants that had been operating under line speed waivers to indicate that they needed to meet the new criteria or they could lose their line speed waivers.

On October 22, 2018, Food & Water Watch filed a Freedom of Information Act request for the letters the agency sent to those 20 young chicken plants.⁷ We received a response on December 17, 2018. I have attached the copy of the October 17, 2018 letter that was sent to George Boudet at the Norman W. Fries, Inc. plant (Establishment P6505) located in Claxton, Georgia. That letter states:

“Eligibility criteria to maintain your line speed waiver and remain in the *Salmonella* Initiative Program (SIP) are as follows: ...Must be in *Salmonella* performance category 1 or 2 for young chicken carcasses;”⁸

Establishment P6505 has been a Category 3 plant ever since FSIS resumed publishing the results of its *Salmonella* verification testing in January 2018, including the results posted on February 1, 2019.⁹ If there were ever a poster child for revoking a line speed waiver based on the agency’s criteria, it would be this plant. Yet, we were chagrined and confused by comments made by agency officials to *Politico* in a January 2, 2019 article in which it appeared that the agency was going to ignore its own criteria when it came to Establishment P6505.¹⁰ The article stated that

³ <https://www.fsis.usda.gov/wps/wcm/connect/7734f5cf-05d9-4f89-a7eb-6d85037ad2a7/17-05-Petition-National-Chicken-Council-09012017.pdf?MOD=AJPERES>

⁴ <https://www.fsis.usda.gov/wps/wcm/connect/235092cf-e3c0-4285-9560-e60cf6956df8/17-05-FSIS-Response-Letter-01292018.pdf?MOD=AJPERES>

⁵ <https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates/archive/2018/ConstUpdate022318>

⁶ 83 FR 49048-49060

⁷ FOIA 2019-FSIS-00043-F

⁸ Letter from Valeria Green, Acting Director of the Risk, Innovations, and Management Staff, Office of Policy and Program Development, Food Safety and Inspection Service to George Boudet, Norman W. Fries, Inc., October 17, 2018.

⁹ <https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/microbiology/salmonella-verification-testing-program/salmonella-verification-testing-program>

¹⁰ Zimmerman, Sarah. “Salmonella not Enough to Slow Down Poultry Line Speeds, says USDA,” *Politico*, January 2, 2019.

the agency was going to base its decision on the line speed waiver for this plant on “promises” for improvement and vague holistic considerations.

Consequently, I am requesting what the agency intends to do with regard to the line speed waiver for Establishment P6505 and the reasons for that decision.

If the criteria are not going to be enforced, then the agency should reopen the comment period on this issue and halt the approval of any additional line speed waiver requests from young chicken plants until there is clarity on the agency policy.

I look forward to your response.

Sincerely,



Wenonah Hauter
Executive Director

Enclosure



United States Department of Agriculture

Food Safety and
Inspection Service

October 17, 2018

Office of Policy and
Program Development

Risk, Innovations, &
Management Staff
Patriot Plaza III

1400 Independence
Avenue, SW,
Washington, D.C.
20250-3700

George Boudet
Norman W. Fries, Inc., P6505
8816 Highway 301 North
Claxton, GA 30417
allen_boudet@claxtonpoultry.com

Dear Mr. Boudet,

On Friday, September 28th, FSIS issued a Federal Register Notice (83 FR 49048) announcing new criteria for young chicken establishments to operate at line speeds of up to 175 birds per minute. The Notice provided that the 20 former Hazard Analysis and Critical Control Point Based Inspection Models Project (HIMP) young chicken establishments granted line speed waivers also will have to meet the new criteria. This is to ensure that data collected from all establishments with line speed waivers will be comparable. You are receiving this letter because your establishment previously participated in HIMP. Pursuant to the Notice, you will have 120 days of receipt of this letter to meet the new criteria.

Eligibility criteria to maintain your line speed waiver and remain in the *Salmonella* Initiative Program (SIP) are as follows:

- Must have been operating under the NPIS for at least one year, during which time the establishment has been in compliance with all NPIS requirements;
- Must be in *Salmonella* performance standard category 1 or 2 for young chicken carcasses;
- Must have a demonstrated history of regulatory compliance. More specifically, the establishment has not received a public health alert for the last 120 days; has not had an enforcement action as a result of a Food Safety Assessment (FSA) conducted in the last 120 days; and has not been the subject of a public health related enforcement action in the last 120 days;
- Must be able to demonstrate that the new equipment, technologies, or procedures that allow the establishment to operate at faster line speeds will maintain or improve food safety;
- Must be in compliance with good commercial practices (GCPs) (9 CFR 381.65(b)) in the past 120 days; and

Mr. Boudet

- Must conduct daily paired Aerobic Plate Count (APC) testing and at least weekly paired *Salmonella* testing.

To maintain your line speed waiver and remain in SIP, you are required to resubmit a waiver request and include documentation justifying eligibility under the new criteria listed in the Federal Register Notice (83 FR 49048). Submit your request via email at SIP.Mailbox.@usda.gov or you may mail your submission to FSIS Office of Policy and Program Development, Risk, Innovations, and Management Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 3789, Patriots Plaza III, Room 9-138A, Washington, DC 20250.

FSIS will follow the procedures in FSIS Directive 5020.2, *The New Technology Review Process*, to verify that your establishment meets the new criteria to be eligible for the line speed waiver. If your establishment does not meet the new criteria, your waiver to operate line speeds of up to 175 birds per minute may be revoked. If your waiver is revoked, you will be required to comply with the New Poultry Inspection System line speed limit under 9 CFR 381.69 (a).

Please note that FSIS understands that you may view information in your submission as confidential commercial information. Pursuant to USDA's Freedom of Information Act (FOIA) regulations (7 CFR 1.1 et seq.), FSIS is responsible for making the determination with regards to the disclosure or nondisclosure of information in records obtained from businesses and establishments. Businesses and establishments are contacted by FSIS if their information is included as part of a FOIA request, at which time they are encouraged to review the redaction for completeness and provide feedback before documents are released.

Sincerely,

**VALERIA
GREEN**

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VALERIA GREEN
Date: 2018.10.17
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Valeria Green
Acting Director
Risk, Innovations, and Management Staff
Office of Policy and Program Development