



## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 310

[Docket No. FSIS 2025-0009]

RIN 0583-AE02

### Maximum Line Speed Under the New Swine Slaughter Inspection System (NSIS)

**AGENCY:** Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

**ACTION:** Proposed rule.

**SUMMARY:** FSIS is proposing to amend the Federal meat inspection regulations to allow establishments operating under the NSIS to determine their own line speeds based on their ability to maintain process control. FSIS is also proposing to clarify that the FSIS inspector may reduce the rate of establishment operations at any point in the slaughter process when, in their judgement, there is a loss of process control, or a carcass-by-carcass inspection cannot be adequately performed within the time available due to the manner in which the swine are presented to the online carcass inspector or the health condition of the particular herd. Finally, FSIS is proposing to amend the regulations to remove the requirement that NSIS establishments submit an annual attestation to FSIS stating that they maintain a program to monitor and document work-related conditions of establishment workers. The proposed amendments would allow NSIS establishments to slaughter swine more efficiently while continuing to ensure food safety and effective online carcass inspection.

**DATES:** Comments on the proposed rule must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** FSIS invites interested persons to submit comments on this proposed rule.

Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal*: This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the online instructions at that site for submitting comments.

- *Mail*: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250-3700.

- *Hand- or courier-delivered submittals*: Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350-E, Washington, DC 20250-3700.

*Instructions*: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2025-0009. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

*Docket*: For access to background documents or comments received, call (202) 720-5046 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250-3700.

**FOR FURTHER INFORMATION CONTACT**: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development, at (202) 205-0495 or [docketclerk@usda.gov](mailto:docketclerk@usda.gov) with a subject line of “Docket No. FSIS 2025-0009.” Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. For a summary of the proposal, please see the rule summary document in docket FSIS-2025-0009 on [www.regulations.gov](http://www.regulations.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

On October 1, 2019, FSIS published a final rule to establish the NSIS (84 FR 52300). The NSIS final rule eliminated the existing maximum line speed of 1,106 head per hour (hph) for NSIS establishments and authorized these establishments to determine their own line speeds based on their ability to maintain process control.<sup>1</sup> The United Food and Commercial Workers Union (UFCW) brought suit in the U.S. District Court for the District of Minnesota challenging the reduction in FSIS inspectors and the elimination of line speed limits in NSIS establishments, arguing that the latter would harm establishment worker safety. On March 31, 2021, the court granted UFCW's motion for summary judgment in part, concluding that FSIS' decision to eliminate the line speed limits in the NSIS final rule was arbitrary and capricious because the Agency, after inviting input from the public on establishment worker safety, failed to consider comments received on the issue.<sup>2</sup> Therefore, the court vacated the portion of the rule that eliminates line speed limits, which is codified at 9 CFR 310.26(c). The court concluded that the Agency's decision with respect to line speeds was severable from the remainder of the regulation.

Since the court's order took effect on June 30, 2021, NSIS establishments have been subject to a maximum line speed of 1,106 hph, unless an establishment has obtained a regulatory waiver from FSIS.<sup>3</sup> In November 2021, FSIS announced that the Agency, in collaboration with the Department of Labor's Occupational Safety and Health Administration (OSHA), had developed a Time-Limited Trial (TLT) through which existing NSIS establishments could apply for a regulatory waiver in order to experiment with ergonomics, automation, and crewing to design custom work environments that protect food safety and establishment worker safety while

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<sup>1</sup> An establishment is maintaining process control when their food safety system is performing as intended to consistently control hazards.

<sup>2</sup> *United Food & Com. Workers Union, Loc. No. 663 v. United States Dep't of Agric.*, 532 F. Supp. 3d 741 (D. Minn. 2021).

<sup>3</sup> The regulation at 9 CFR 303.1(h) provides for the Administrator to waive for limited periods any provisions of the inspection regulations to permit experimentation so that new procedures, equipment, or processing techniques may be tested to facilitate definite improvements.

increasing productivity.<sup>4</sup> During the TLT, which began in March 2022, participating establishments were permitted to operate at increased line speeds, and from March 4, 2022, to August 17, 2022, FSIS granted TLT waivers to six NSIS establishments (accounting for approximately 19 percent of market hogs slaughtered in the United States in 2024).<sup>5</sup> Specifically, FSIS granted the establishments' discrete requests in their waiver applications to operate at maximum line speeds ranging from 1,206 hph to 1,450 hph.

Consistent with other slaughter establishments operating under regulatory waivers, TLT establishments were required to participate in FSIS' *Salmonella* Initiative Program (SIP), in which they collected and analyzed food safety data (i.e., samples for microbial organisms) and shared their results with FSIS.<sup>6</sup> FSIS also hired third-party contractors to conduct a study in the participating establishments (*The Swine Processing Line Speed Evaluation Study* ("worker safety study" or "study"))<sup>7</sup> by collecting data during the TLT that measured the impact of line speeds on establishment worker safety. Review of the initial data collected from TLT establishments found that it was not robust enough to understand the impact of line speed on worker health and safety. Therefore, the TLT waivers were modified on February 27, 2024, to allow for collection of more robust data needed to evaluate both work-related musculoskeletal disorders (MSD) risk and antimicrobial-related respiratory exposure (e.g., direct measures of frequency and force risk factors for establishment jobs and more comprehensive establishment worker evaluations).<sup>8</sup> On January 9, 2025, FSIS published the worker safety study.<sup>9</sup> On January 10, 2025, FSIS extended

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<sup>4</sup> FSIS *Constituent Update*, November 12, 2021, available at:

<https://content.govdelivery.com/accounts/USFSIS/bulletins/2fbad98>.

<sup>5</sup> A list of NSIS establishments operating under a TLT regulatory waiver, including grant dates for each waiver, is available on the FSIS website at: <https://www.fsis.usda.gov/inspection/inspection-programs/inspection-meat-products/modernization-swine-slaughter-inspection>; and the percentage share is based on FSIS, Public Health Information System (PHIS) data, accessed April 2025.

<sup>6</sup> Information on SIP is available on the FSIS website at: <https://www.fsis.usda.gov/science-data/data-sets-visualizations/microbiology/microbiological-testing-program-rte-meat-and>.

<sup>7</sup> *Swine Processing Line Speed Evaluation Study*, U.C. San Francisco, January 9, 2025, available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/documents/PULSE\\_SwineStudy\\_250109\\_Final.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/documents/PULSE_SwineStudy_250109_Final.pdf).

<sup>8</sup> FSIS *Constituent Update*, February 27, 2024, available at: <https://www.fsis.usda.gov/news-events/news-press-releases/special-alert-constituent-update-february-27-2024>.

<sup>9</sup> The third-party study enrolled 574 workers across the six TLT establishments and collected data on job-specific workload, ergonomic exposure, pain levels, and air quality between July 2024 and January 2025. *Swine Processing*

the waivers until May 15, 2025, to allow incoming USDA leadership time to review the study report and consider relevant next steps.<sup>10</sup> On March 17, 2025, USDA announced that it would extend the waivers and that rulemaking to propose line speed increases would begin immediately.<sup>11</sup> In April 2025, FSIS notified the TLT establishments through individual letters that FSIS would initiate rulemaking to consider increasing the maximum line speeds permitted in NSIS establishments and that the establishment's line speed waiver was extended through the duration of the rulemaking process.

FSIS is now proposing to republish 9 CFR 310.26(c) to eliminate the existing maximum line speed of 1,106 hph for NSIS establishments. FSIS is also proposing to amend 9 CFR 310.26(c) to clarify that the inspector in charge (IIC) may require establishments to reduce the rate of their operations at any point in the slaughter process if process control is lost *or* if FSIS cannot conduct effective carcass-by-carcass inspection, as required by the Federal Meat Inspection Act (FMIA or the Act) (21 U.S.C. 601, *et seq.*). FSIS' inspection verification data and establishment SIP data collected during the TLT are consistent with the data and findings that supported the 2019 NSIS final rule (see below, C. FSIS Ongoing Verification). Specifically, the TLT data confirm FSIS' conclusion in the final rule that NSIS establishments approved to operate under a TLT waiver are able to maintain process control and comply with humane handling regulations when operating at increased line speeds. As FSIS showed in the NSIS final rule, permitting NSIS establishments to determine their own line speeds based on their ability to maintain process control would allow the establishments to operate more efficiently while continuing to ensure food safety.

FSIS is also proposing to remove 9 CFR 310.27, which requires that NSIS

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*Line Speed Evaluation Study*; See also FSIS *Constituent Update*, February 27, 2024, available at: <https://www.fsis.usda.gov/news-events/news-press-releases/special-alert-constituent-update-february-27-2024>.

<sup>10</sup> FSIS *Constituent Update*, January 10, 2025, available at: <https://www.fsis.usda.gov/news-events/news-press-releases/constituent-update-january-10-2025>.

<sup>11</sup> USDA Press Release: Secretary Rollins Takes Action to Streamline U.S. Pork and Poultry Processing, March 17, 2025, available at: <https://www.usda.gov/about-usda/news/press-releases/2025/03/17/secretary-rollins-takes-action-streamline-us-pork-and-poultry-processing>.

establishments submit an annual attestation to FSIS stating that they maintain a program to monitor and document work-related conditions of establishment workers. If section 310.27 is removed, then section 310.28 would become obsolete. Therefore, FSIS is proposing to remove 9 CFR 310.28, which states that should a court hold any provision of 9 CFR 310.27 to be invalid, the action will be severable from (i.e., will not affect) any other provision of the FSIS ante-mortem or post-mortem inspection regulations. As discussed in the NSIS final rule, the Agency does not have statutory or regulatory authority to regulate establishment worker safety (84 FR 52300, 52315). OSHA is the Federal agency with statutory and regulatory authority to promote workplace safety and health (see Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*). FSIS' authority with respect to working conditions in FSIS-regulated establishments extends only to Agency inspection personnel.<sup>12</sup> Removing the worker safety attestation requirement would eliminate any confusion about FSIS' lack of statutory or regulatory authority over establishment worker safety. Establishments would still need to comply with all applicable Federal (e.g., OSHA-administered), state, and local worker safety requirements.

Table 1 presents the estimated costs, benefits, and net benefits of the proposed rule. The regulatory impact analysis contains explanations of the assumptions, estimates, details, and alternative scenarios. The analysis also evaluates the number of NSIS and traditional establishments that FSIS expects would increase their line speeds over a range of potential changes. In addition, the regulatory impact analysis provides a discussion of the uncertainty surrounding the net benefits associated with the range of line speed increases that the industry may adopt.

Table 1. Summary of the Net Benefits (million \$)

		Estimates		
		Lower	Mid-point	Upper
Benefits	Industry	110.9	261.6	418.2
	Agency	1.6	1.6	1.6

<sup>12</sup> Section 19 of the Occupational Safety and Health Act of 1970 holds Federal agencies responsible for providing safe and healthful working conditions for their own workers (29 U.S.C. 668).

	<b>Total Benefits</b>	<b>112.45</b>	<b>263.1</b>	<b>419.8</b>
Costs	Industry	6.9	9.7	12.1
<b>Net Benefits</b>		<b>105.6</b>	<b>253.4</b>	<b>407.6</b>

Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding. Details and requests for comment about the underlying analysis appear later in this publication.

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### I. Background

#### A. History of Maximum Line Speeds under the NSIS

FSIS has been delegated the authority to exercise the functions of the Secretary of Agriculture (7 CFR 2.18, 2.53), as specified in the FMIA. The FMIA provides that the Secretary shall cause to be made by inspectors an examination and inspection of all amenable species, including swine, before they enter into any establishment in which they are to be slaughtered and

the meat and meat food products thereof are to be used in commerce (21 U.S.C. 603(a)). All amenable species found to show symptoms of disease are to be set apart and slaughtered separately; the carcasses of such animals are to be subject to a careful inspection (21 U.S.C. 603(a)). The FMIA requires inspectors to conduct a post-mortem examination and inspection, and any necessary reinspection, of carcasses and parts of amenable species, including swine, prepared for human food (21 U.S.C. 604). The FMIA requires that all carcasses and parts found to be adulterated be condemned (21 U.S.C. 604).<sup>13</sup> The Act further provides that the Secretary shall make such rules and regulations as are necessary for the efficient execution of the provisions of the FMIA (21 U.S.C. 621). Finally, the FMIA requires that the livestock be slaughtered and handled in connection with slaughter in a manner that is consistent with the Humane Methods of Slaughter Act (HMSA) (21 U.S.C. 603(b)). Under the HMSA, the handling of livestock in connection with slaughter must be carried out only by humane methods (7 U.S.C. 1902).

#### *NSIS Final Rule*

On October 1, 2019, FSIS published a final rule that established the NSIS as an additional optional inspection system for swine slaughter establishments (84 FR 52300). The NSIS final rule, among other provisions, eliminated the existing maximum line speed of 1,106 hph for NSIS establishments (84 FR 52300). Specifically, the final rule in 9 CFR 310.26(c) stated that line speeds set forth in the regulations at 9 CFR 310.1 do not apply to an NSIS establishment, provided the establishment is able to maintain effective process control and prevent contamination of carcasses and parts by enteric pathogens and visible fecal material, ingesta, and milk. Establishments design and use process control procedures to provide control of those operating conditions that are necessary for the production of safe, wholesome, and

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<sup>13</sup> Under the FMIA, a meat or meat food product is adulterated, among other circumstances, if it bears or contains any poisonous or deleterious substance that may render it injurious to health; it is unhealthful, unwholesome, or otherwise unfit for human consumption; it was prepared, packaged, or held under insanitary conditions whereby it may have been rendered injurious to health; or if damage or inferiority has been concealed in any manner (21 U.S.C. 601(m)(1),(3),(4), and (8)).

unadulterated products. The procedures typically include a means of observing or measuring system performance, analyzing the results generated in order to define a set of control criteria, and taking action when necessary to ensure that the system continues to perform within the control criteria.<sup>14</sup> The procedure is likely to include planned measures that the establishment will take in response to any loss of process control. The procedures can also be used as support for decisions made in the establishment's hazard analysis. Agency inspectors conduct food safety-related verification activities to inspect and evaluate process control at all establishments under FSIS inspection. Under the NSIS final rule, all swine slaughter establishments, regardless of the inspection system under which they operate (i.e., traditional inspection or the NSIS) or the age, size, or class of swine, must conduct sampling and analysis for microbial organisms to monitor process control and develop written procedures to prevent contamination of carcasses and parts by enteric pathogens, and visible fecal material, ingesta, and milk contamination throughout the entire slaughter and dressing operation (9 CFR 310.18(c), 84 FR 52300, 52301).

The NSIS final rule in 9 CFR 310.26(c) also provided that NSIS establishments must reduce their line speed as directed by the IIC and that the IIC is authorized to direct an establishment to operate at a reduced line speed when they determine that a carcass-by-carcass inspection cannot be adequately performed within the time available due to the manner in which the carcasses are presented to the online inspector, the health conditions of a particular herd, or factors that may indicate a loss of process control. FSIS did not establish a specific line speed in the NSIS final rule because, as discussed in the NSIS proposed rule, the speed at which slaughter establishments can run their lines is limited by the establishments' equipment functionality and design, size and condition of the animals coming to slaughter, and their ability to maintain process control when operating at a given line speed (83 FR 4780, 4796; February 1, 2018).

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<sup>14</sup> See FSIS *Directive 6410.1, Verifying Sanitary Dressing and Process Control Procedures by Off-Line Inspection Program Personnel (IPP) in Slaughter Operations of Cattle of Any Age* (November 3, 2011), available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2020-07/6410.1.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/6410.1.pdf) (While this directive provides FSIS inspectors information regarding how to verify that cattle slaughter operations are implementing sanitary dressing and process control procedures, the Agency's definition and purpose of process control procedures apply to all establishments under FSIS inspection).

## *HACCP-Based Inspection Models Project (HIMP)*

On July 25, 1996, FSIS published the final rule, "Pathogen Reduction; Hazard Analysis and Critical Control Point Systems" (PR/HACCP) (61 FR 38806; July 25, 1996), to modernize inspection and reduce foodborne illnesses. FSIS then began experimenting with new approaches to slaughter inspection based on HACCP principles. In 1997, the Agency developed the HACCP-Based Inspection Models Project (HIMP) pilot study to determine whether applying new government slaughter inspection procedures, with new establishment responsibilities, could promote industry innovation and provide at least the same food safety and consumer protection as the other available slaughter inspection systems. FSIS initiated the HIMP pilot study in 20 young chicken, five young turkey, and five market hog establishments on a waiver basis (see 84 FR 52300, 52302).

Under HIMP, establishment personnel were responsible for sorting animals before they were presented for FSIS ante-mortem inspection. Establishment personnel also were responsible for sorting carcasses and parts and trimming dressing defects and contamination before FSIS post-mortem inspection. Finally, establishment personnel were responsible for identifying pathology defects intended for removal under FSIS supervision and carcasses and parts intended for disposal under FSIS supervision (83 FR 4780, 4788). These establishment procedures were similar to establishments operating under the NSIS.

FSIS' experience under the HIMP pilot informed the Agency's elimination of maximum line speeds for NSIS establishments, as it showed that online inspectors in HIMP market hog establishments were able to conduct an effective online post-mortem inspection of each carcass while operating at line speeds above the existing maximum line speed of 1,106 hph (for market hogs under traditional inspection) (84 FR 52300, 52314).<sup>15</sup> The HIMP establishments determined their line speeds based on their equipment, size, and condition of the animals coming to

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<sup>15</sup> See also USDA FSIS Final Report, *Evaluation of HACCP Inspection Models Project (HIMP) for Market Hogs* (November 2014) ("2014 HIMP Report"), available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2020-10/Evaluation-HIMP-Market-Hogs.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2020-10/Evaluation-HIMP-Market-Hogs.pdf).

slaughter, and their ability to maintain process control when operating at a given line speed. The pilot also demonstrated that HIMP provided public health protection<sup>16</sup> at least equivalent to the traditional swine slaughter inspection system (84 FR 52300, 52303). The HIMP pilot supported the NSIS final rule conclusion that NSIS establishments are capable of ensuring food safety when operating at increased line speeds.

### *2019 FSIS Risk Assessment*

The NSIS final rule was also informed by FSIS' 2019 risk assessment that analyzed data from FSIS' microbiological baseline studies and the Agency's *Salmonella* verification results from swine slaughter establishments (84 FR 52300, 52303).<sup>17</sup> The 2019 risk assessment demonstrated that the realignment of Agency inspector resources under the NSIS to more offline activities was unlikely to result in a higher prevalence of *Salmonella* on market hog carcasses (84 FR 52300, 52304). The establishments included in the assessment were generally operating at increased line speeds.<sup>18</sup> As discussed above, establishments determined their line speeds based on their equipment, size and condition of the animals, and their ability to maintain process control when operating at a given line speed. Therefore, the 2019 risk assessment supported the NSIS final rule conclusion that NSIS establishments operating under increased line speeds are able to consistently produce safe, wholesome, and unadulterated pork products.

The NSIS final rule explained, as the Agency's experience under and data from the

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<sup>16</sup> As explained in the NSIS final rule, HIMP had been demonstrated to provide public health protection at least equivalent to the traditional inspection system based on several findings, including: (1) HIMP market hog establishments received more off-line food safety related inspection verification checks than the traditional non-HIMP market hog establishments; (2) HIMP market hog establishments had higher compliance with Sanitation SOP and HACCP regulations, lower levels of non-food safety defects, equivalent or better *Salmonella* verification testing positive rates than traditional non-HIMP market hog establishments, and lower levels of violative chemical residues; and (3) under the HIMP, market hog establishments received an increased level of Sanitation SOP and HACCP inspection (see 84 FR 52300, 52303).

<sup>17</sup> USDA, *Assessment of the Potential Change in Human Risk of Salmonella Illnesses Associated with Modernizing Inspection of Market Hog Slaughter Establishments* (September 2019), available at:

[https://www.fsis.usda.gov/sites/default/files/media\\_file/2020-07/swine-risk-assessment-091719.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/swine-risk-assessment-091719.pdf).

<sup>18</sup> Specifically, in calendar year 2013, the estimated line speeds at the 5 HIMP market hog establishments varied from 885 to 1,295 hph, with an estimated average line speed of 1,099 hph. The 21 non-HIMP comparison establishments had estimated line speeds of 571 to 1,149 hph, with an estimated average line speed of 977 heads per hour. 2014 HIMP Report, available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2020-10/Evaluation-HIMP-Market-Hogs.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2020-10/Evaluation-HIMP-Market-Hogs.pdf).

HIMP pilot and risk assessment supported, that the NSIS allows establishments to provide equivalent or better public health protection than traditional inspection systems while allowing FSIS to conduct more offline inspection activities that are more effective in ensuring food safety improvements and humane handling hazard prevention (84 FR 52300, 52321).

## **B. TLT Waivers and Worker Safety Study**

The UFCW brought suit in the U.S. District Court for the District of Minnesota, challenging the reduction in FSIS inspectors and the elimination of line speeds in NSIS establishments, arguing that the latter would harm establishment worker safety.<sup>19</sup> On March 31, 2021, the court granted UFCW's motion for summary judgment in part, concluding that FSIS' decision to eliminate the line speed limits in the NSIS final rule was arbitrary and capricious because the Agency, after inviting input from the public on establishment worker safety, failed to consider public comments on the issue. The court noted FSIS historically held the position that although the Agency could not enact regulatory requirements related solely to worker safety, it could consider the effects its actions may have on worker safety. However, the court found that the public had no way of knowing about FSIS' legalistic distinction between regulating and considering. The court also criticized FSIS for not explaining its change in position regarding its inability to consider worker safety comments. Further, according to the court, the final rule included an internal inconsistency concerning worker safety considerations. That is, the rule included the requirement in 9 CFR 310.27 that NSIS establishments submit worker safety attestations. The court noted that although the final rule made clear that FSIS would not evaluate the attestations (as it would submit them to OSHA for review), the Agency still imposed a regulatory burden that relates only to worker safety. Therefore, the court vacated the portion of the rule that eliminates line speed limits, which is codified at 9 CFR 310.26(c). The court concluded that the Agency's decision with respect to line speeds was severable from the

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<sup>19</sup> *United Food & Com. Workers Union, Loc. No. 663 v. United States Dep't of Agric.*, 532 F. Supp. 3d 741 (D. Minn. 2021).

remainder of the regulation, which went into effect.

Following the District of Minnesota court's decision striking down the elimination of line speed limits, in November 2021, FSIS announced the TLT to allow NSIS establishments to apply for regulatory waivers to operate at increased line speeds while collecting and submitting data that would be used to evaluate the impact of increased line speeds on workers.<sup>20</sup> As FSIS stated in letters to all NSIS establishments specifying the required conditions to participate in the TLT, establishments were required to demonstrate that they had been operating under the NSIS for at least 120 days and followed all NSIS requirements during that time; had demonstrated a history of regulatory compliance; had not had an enforcement action as a result of a Food Safety Assessment conducted in the last 120 days; had not received an enforcement action for humane handling in the last 120 days; had not been the subject of a public health related enforcement action in the last 120 days; and had not received an OSHA citation in the prior three years, were not the subject of a current OSHA inspection, and were not currently contesting any OSHA citation. All NSIS establishments met the required food safety-related conditions. FSIS granted TLT waivers to six NSIS establishments between March 4, 2022, and August 17, 2022.<sup>21</sup>

During the TLT, participating establishments operated at maximum line speeds ranging from 1,206 hph to 1,450 hph, based on the establishments' discrete maximum line speed requests in their TLT waiver applications. The six TLT establishments, as with all slaughter establishments operating under regulatory waivers, were required to participate in SIP. FSIS uses SIP to encourage slaughter establishments to test for microbial pathogens and to respond to the ongoing results by taking steps when necessary to regain process control and thus to minimize the presence of pathogens of public health concern. Participating establishments share their testing data with FSIS to verify ongoing control of hazards while operating under a waiver.

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<sup>20</sup> FSIS *Constituent Update*, November 12, 2021, available at: <https://content.govdelivery.com/accounts/USFSIS/bulletins/2fbad98>.

<sup>21</sup> A list of NSIS establishments operating under a TLT regulatory waiver, including grant dates for each waiver, is available on the FSIS website at: <https://www.fsis.usda.gov/inspection/inspection-programs/inspection-meat-products/modernization-swine-slaughter-inspection>.

While operating under the line speed waivers, the TLT establishments analyzed carcass samples for *Salmonella* at post chill and analyzed carcasses for indicator organisms (e.g., generic *E. coli*, *Enterobacteriaceae*, or Aerobic Plate Count) at pre-evisceration and post chill. The third-party contractors that the Agency hired to conduct the worker safety study also collected data that measured the impact of line speeds on MSDs.

Review of the initial data collected from TLT establishments found that it was not robust enough to understand the impact of line speed on worker safety. Therefore, the NSIS TLT waivers were modified on February 27, 2024, to allow for collection of more robust data needed to evaluate both MSD risk and antimicrobial-related respiratory exposure (e.g., direct measures of frequency and force risk factors for establishment jobs and more comprehensive establishment worker evaluations), and the waivers were scheduled to expire on January 15, 2025.<sup>22</sup> On January 9, 2025, FSIS published the worker safety study.<sup>23</sup> On January 10, 2025, FSIS extended the waivers until May 15, 2025, to allow for USDA leadership review of the study report and consideration of relevant next steps.<sup>24</sup> On March 17, 2025, USDA announced that it would extend the waivers and that rulemaking to propose line speed increases would begin immediately.<sup>25</sup> In April 2025, FSIS notified the TLT establishments through individual letters that FSIS would initiate rulemaking to consider increasing the maximum line speeds permitted in NSIS establishments, and that the establishments' line speed waivers were extended through the duration of the rulemaking process. FSIS also stated in each letter that the establishment's waiver is time limited in that if regulatory changes result from the rulemaking, the waiver will be terminated at the conclusion of the rulemaking. Alternatively, if the proposed rule is not

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<sup>22</sup> Swine Processing Line Speed Evaluation Study available on the FSIS website at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/documents/PULSE\\_SwineStudy\\_250109\\_Final.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/documents/PULSE_SwineStudy_250109_Final.pdf); See also FSIS *Constituent Update*, February 27, 2024, available at: <https://www.fsis.usda.gov/news-events/news-press-releases/special-alert-constituent-update-february-27-2024>.

<sup>23</sup> Swine Processing Line Speed Evaluation Study, U.C. San Francisco, January 9, 2025, available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/documents/PULSE\\_SwineStudy\\_250109\\_Final.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/documents/PULSE_SwineStudy_250109_Final.pdf).

<sup>24</sup> FSIS *Constituent Update*, January 10, 2025, available at: <https://www.fsis.usda.gov/news-events/news-press-releases/constituent-update-january-10-2025>.

<sup>25</sup> USDA Press Release: Secretary Rollins Takes Action to Streamline U.S. Pork and Poultry Processing, March 17, 2025, available at: <https://www.usda.gov/about-usda/news/press-releases/2025/03/17/secretary-rollins-takes-action-streamline-us-pork-and-poultry-processing>.

finalized, then the waiver will be terminated.

### *Study Findings*

On January 10, 2025, FSIS released the third-party worker safety study report that evaluated the impact of line speed on: 1) the risk of acute and chronic work-related MSDs, and 2) antimicrobial-related respiratory exposure in the six TLT establishments.<sup>26</sup> The study evaluated a range of line speeds, from a baseline of 1,106 hph up to 1,450 hph, as determined by each establishment. The study found that in five of the six establishments studied, there was either decreased MSD risk, or no effect on MSD risk, because of increased line speeds. Increased MSD risk was observed in only one of the participating establishments. Importantly, the study found that the number of hog parts handled per minute by a worker (“piece rate”) was more closely associated with MSD risk, and that increasing line speed (the number of hogs processed per hour) does not necessarily increase piece rate given an establishment’s ability to manage job-specific staffing. Thus, the study concludes establishments can maintain or even reduce piece rate and associated MSD risk by adding staff or redistributing tasks, even as line speed increases. The study’s authors provided several recommendations to reduce MSD risk and improve overall worker safety in swine processing establishments, which aligned with best practices published by OSHA in ergonomics, medical management, and exposure control.<sup>27</sup>

### **C. FSIS Ongoing Verification**

#### *Process Control and Food Safety Verification*

The NSIS final rule, as supported by the HIMP pilot and risk assessment, showed that establishments operating at increased speeds under the NSIS can maintain process control and produce safe pork products (84 FR 52300, 52303). While the worker safety study evaluated line speeds’ impacts on establishment worker safety, FSIS data on the Agency verification activities

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<sup>26</sup> Specifically, the study measured workload, ergonomic exposure, pain levels, and air quality of 574 workers in six NSIS establishments. Report available on the FSIS website at:

[https://www.fsis.usda.gov/sites/default/files/media\\_file/documents/PULSE\\_SwineStudy\\_250109\\_Final.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/documents/PULSE_SwineStudy_250109_Final.pdf).

<sup>27</sup> *Ergonomics Program Management Guidelines for Meatpacking Plants* (DOL/OSHA 1993); *Guidelines for Mitigating Ergonomic Risks in Meat and Poultry Processing* (DOL/OSHA 2013) at:

<https://www.osha.gov/meatpacking>.

during both the TLT and the prior period when NSIS establishments were permitted under the NSIS final rule to operate at increased line speeds support the prior rule's conclusions that NSIS establishments are able to maintain process control and produce safe, wholesome, and unadulterated products at increased line speeds. As in all federally inspected establishments, FSIS inspectors in NSIS establishments continuously inspect and evaluate establishment process control through food safety-related verification activities. If inspectors observe noncompliance with a regulatory requirement, they are to document the finding on a noncompliance record (NR) to the establishment. Inspectors verify that establishments take necessary action to return to compliance and verify the corrective actions when required by regulation (9 CFR 416.15, 417.3).

FSIS reviewed the rate of NRs issued across the TLT establishments during two periods for select HACCP and sanitation related regulations and compared it with the rate of NRs issued across similar large, high-volume traditional establishments during the same two periods.<sup>28</sup> Specifically, FSIS evaluated NR rates for general sanitation (9 CFR 416.1), sanitation procedures (9 CFR 416.14), sanitation monitoring and corrective actions (9 CFR 416.16(a)), HACCP verification (9 CFR 417.2(c)(4)), HACCP recordkeeping (9 CFR 417.5(a)(1)), and HACCP monitoring and corrective actions (9 CFR 417.5(a)(3)). For the first period, FSIS reviewed data from the period in which all future TLT establishments had converted to the NSIS through the Minnesota court order vacating the portion of the rule that eliminated line speed limits (from May 1, 2020, to June 29, 2021, when NSIS establishments were not subject to any regulatory line speed limit). For the second period, FSIS reviewed this NR data from the date each line speed waiver was granted through when FSIS determined it had sufficient data to initiate rulemaking (from March 4, 2022, to February 28, 2025, when individual TLT establishments began operating at line speeds between 1,206 hph to 1,450 hph). As demonstrated in the following tables, the NR rate data from both periods demonstrate that TLT establishments were

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<sup>28</sup> See *Swine Establishment Noncompliance Rates for Select Hazard Analysis and Critical Control Point and Sanitation Related Regulations*, available at: [https://www.regulations.gov/docket/FSIS\\_2025-0009](https://www.regulations.gov/docket/FSIS_2025-0009).

able to maintain process control while operating at increased line speeds, with either similar or improved NR rates compared to traditional establishments.

**Swine Establishment Noncompliance Rates for Select Hazard Analysis and Critical Control Point and Sanitation-Related Regulations**

**May 1, 2020 – June 29, 2021**

<b>Regulation Verified</b>	<b>Non-Compliance Rate (%) for Traditional Establishments</b>	<b>Non-Compliance Rate (%) for TLT Establishments</b>
General Sanitation (416.1)	5.94	0.31
Sanitation Procedures (416.14)	0.83	0.05
Sanitation Monitoring and Corrective Actions (416.16(a))	0.24	0.02
HACCP Verification (417.2(c)(4))	1.20	0.58
HACCP Recordkeeping (417.5(a)(1))	0.04	0.65
HACCP Monitoring and Corrective Actions (417.5(a)(3))	0.21	0.07

**March 4, 2022<sup>29</sup> – February 28, 2025**

<b>Regulation Verified</b>	<b>Non-Compliance Rate (%) for Traditional Establishments</b>	<b>Non-Compliance Rate (%) for TLT Establishments</b>
General Sanitation (416.1)	5.86	0.73
Sanitation Procedures (416.14)	0.38	0.29
Sanitation Monitoring and Corrective Actions (416.16(a))	0.25	0.08
HACCP Verification (417.2(c)(4))	1.79	0.12
HACCP Recordkeeping (417.5(a)(1))	0.10	0.15
HACCP Monitoring and Corrective Actions (417.5(a)(3))	0.05	0.15

Because NR rates were consistently low across both systems, and the few differences were small and expected (due to additional verification tasks performed in NSIS establishments), the data show that the NSIS and traditional systems are comparable. Indeed, aside from recordkeeping issues, the data show that establishments operating at higher line speeds often performed better than traditional establishments at slower line speeds.

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<sup>29</sup> FSIS granted individual TLT line speed waivers to the six participating establishments between March 4, 2022, and August 17, 2022.

FSIS also reviewed SIP data (along with the line speed in effect when the data was collected) submitted by participating establishments during the TLT to verify that they were able to maintain process control. Specifically, FSIS reviewed the TLT establishments' indicator organism sampling results and found that they demonstrated a consistent reduction from pre-evisceration to post-chill (i.e., the point in the slaughter process after the carcass has chilled in the cooler and after all slaughter interventions incorporated within the establishment's HACCP system are completed). FSIS also reviewed the TLT establishments' weekly post-chill *Salmonella* sampling results and found that the average *Salmonella* positive rate across the TLT establishments was 1.63 percent. These results were low and very comparable to a 2010-2011 FSIS baseline survey to estimate the national prevalence of *Salmonella* in market hogs, which found an estimated prevalence of *Salmonella* at post-chill to be 1.66 percent with a 95 percent confidence interval between 0.82 percent and 2.51 percent.<sup>30</sup> As discussed in the NSIS proposed rule, this estimated prevalence was so low that FSIS responded to the results by discontinuing its *Salmonella* verification sampling program for market hogs, stating that the Agency did not find enough pathogen positives to justify the resources (e.g., time and supplies) to conduct sampling (83 FR 4780, 4786).

FSIS staff reviewed each SIP establishment's sampling results to verify that results were within their stated acceptable control limit range (e.g., no more than 6 positives in 55 samples, as referenced in 61 FR 38806, 38865), and FSIS inspection personnel verified that the establishment was following their written process control plan and responded when a sampling result exceeds the upper control limit. As with all establishments participating in SIP, FSIS verified that each TLT establishment followed their individualized plans for responding to a loss of process control. FSIS continues to review SIP data from establishments, and inspection personnel continue to review that establishments meet conditions of their waiver. The TLT

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<sup>30</sup> USDA FSIS, The Nationwide Microbiological Baseline Data Collection Program: Market Hogs Survey August 2010 – August 2011, available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2020-07/Baseline\\_Data\\_Market\\_Hogs\\_2010-2011.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/Baseline_Data_Market_Hogs_2010-2011.pdf); see also 83 FR 4780, 4786.

establishment *Salmonella* sampling data support FSIS' determination that NSIS establishments are able to maintain process control at line speeds faster than 1,106 hph.

FSIS follows the procedures in FSIS *Directive 5020.1, Verification Activities for the Use of New Technology in Meat and Poultry Establishments and Egg Products Plants* (October 6, 2016),<sup>31</sup> to verify that establishments that have been granted waivers remain eligible for their waivers and are following the process control procedures (e.g., data collection and submission) agreed to as a condition for the waivers. FSIS did not revoke any waivers during the TLT, as Agency verification found that each establishment demonstrated continued eligibility through its submitted SIP data. Taken together, FSIS data on process control and food safety-related verification activities during the TLT support the NSIS final rule conclusion that NSIS establishments operating at increased line speeds can maintain process control and produce safe, wholesome, and unadulterated products.

#### *Humane Handling Verification*

Under the NSIS, the Agency can effectively verify establishments' compliance with humane handling requirements because more inspection resources are available to conduct offline inspection activities that are more effective in verifying the humane handling of animals, in accordance with the HMSA (84 FR 52300). FSIS data from its verification activities during the TLT continue to show that establishments operating under increased line speeds are able to handle livestock in a humane manner. To evaluate humane handling requirement compliance across the TLT establishments, FSIS reviewed inspector humane handling verification task data for establishments operating from the start date of each TLT waiver through February 28, 2025.<sup>32</sup> FSIS found that, during this period, inspectors conducted 25,821 total humane handling verification tasks across the six TLT establishments and issued only eleven NRs related to

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<sup>31</sup> Available on the FSIS website at: <https://www.fsis.usda.gov/policy/fsis-directives/5020.1>.

<sup>32</sup> FSIS inspectors verify that establishments comply with the HMSA by performing Humane Activities Tracking System (HATS) tasks that are divided into nine categories, measured by the time (in one-quarter hour increments) devoted to verifying humane handling activities for each category. See FSIS *Directive 6900.2, Humane Handling and Slaughter of Livestock*, September 24, 2020, available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2021-03/6900.2.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2021-03/6900.2.pdf).

humane handling.<sup>33</sup> In every instance, the establishment took immediate corrective action, and none of the NRs documented egregious inhumane treatment of livestock.<sup>34</sup> It also should be noted that none of the NRs documented any incidents of market hogs slipping or falling, which indicates that no animals at TLT establishments were forced to move faster than normal walking speeds in an effort to maintain increased line speeds. Together, these TLT data support the NSIS final rule's conclusion that the NSIS allows for effective verification of whether establishments operating at increased line speeds are able to meet humane handling requirements.

Ongoing FSIS data from the TLT waivers further confirm the NSIS final rule conclusions that establishments are able to produce safe, wholesome, and unadulterated products and comply with humane handling requirements while operating at increased line speeds.

## **II. Proposed Rule**

### *Elimination of Line Speed Limitation*

FSIS is proposing to republish 9 CFR 310.26(c), which stated that line speeds set forth in 9 CFR 310.1 do not apply to an NSIS establishment, provided the establishment is able to maintain effective process control and prevent contamination of carcasses and parts by enteric pathogens and visible fecal material, ingesta, and milk.

Under FSIS Directive 6600.1, *New Swine Slaughter Inspection System: Ante-mortem and Post-Mortem Inspection and Verification of Food Safety and Ready-to-Cook Requirements*,<sup>35</sup> IICs may slow the line if an establishment's procedures are not in control to prevent fecal and enteric pathogen contamination or when presentation of persistent unattended trim or processing defects affects the inspector's ability to adequately conduct a carcass-by-carcass inspection. IICs document when they slow a line for these reasons. FSIS is also

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<sup>33</sup> FSIS, Public Health Information System (PHIS) database, accessed November 2025.

<sup>34</sup> Under FSIS inspection policy, an egregious inhumane treatment situation is an act or condition that results in severe harm to animals. For examples of egregious inhumane treatment and additional information, see FSIS Directive 6900.2, *Humane Handling and Slaughter of Livestock*, September 24, 2020, available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2021-03/6900.2.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2021-03/6900.2.pdf).

<sup>35</sup> FSIS Directive 6600.1, *New Swine Slaughter Inspection System: Ante-mortem and Post-Mortem Inspection and Verification of Food Safety and Ready-to-Cook Requirements* (December 19, 2019), available at: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2020-07/6600.1.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/6600.1.pdf).

proposing to clarify in 9 CFR 310.26(c) that the IIC may reduce the rate of establishment operations at any point in the slaughter process when, in their judgement, there is a loss of process control, *or* a carcass-by-carcass inspection cannot be adequately performed within the time available due to the manner in which the swine are presented to the online carcass inspector or the health condition of the particular herd. For example, under this proposed rule, the IIC would slow establishment operations based on repeated regulatory public health enforcement actions. The proposed regulatory provision in 9 CFR 310.26(c) for slowing establishment operations is consistent with the food safety objectives of the food safety TLT waiver criteria.

The elimination of maximum line speeds at NSIS establishments would remove an unnecessary regulatory obstacle to industry innovation (84 FR 52300). The NSIS final rule showed, as informed by the HIMP pilot and risk assessment, that market hog establishments are capable of consistently producing safe, wholesome, and unadulterated pork products, and complying with humane handling requirements, while operating at line speeds above 1,106 hph. Recent FSIS data from the TLT, during which participating establishments operated at an average line speed of 1,276 hph (with individual establishment maximum line speeds ranging from 1,206 to 1,450), further supports the Agency's conclusion during the NSIS rulemaking that the NSIS provides public health protection equivalent or better than the traditional swine inspection system. TLT establishments produced 19 percent of U.S. market hogs in 2024, as noted above, and these establishments are similar to the establishments identified in the economic impact analysis as most likely to increase their line speeds if this proposed rule is finalized. For example, these establishments are all large, high-volume operations with production volumes and operational characteristics similar to other NSIS establishments that would be eligible to operate at faster line speeds, making them an appropriate group for assessing the potential impact of the proposed rule. Further, as noted above and in the NSIS proposed rule, establishments would determine their line speeds based on several considerations, such as their equipment, animal size and condition, and their ability to maintain process control at any given

line speed (83 FR 4780, 4796; February 1, 2018). There are both natural and practical restrictions on line speeds during swine slaughter. For example, the large size of swine limits how quickly each animal can be safely and effectively processed. In addition, most swine carcasses must be chilled before further processing; therefore, the number of carcasses that establishments can handle at one time is limited by cooler capacity.

Should this proposed rule become final, all NSIS establishments would be allowed to operate at increased line speeds, provided they meet the requirements of 9 CFR 310.26(c). Accordingly, on the effective date of the final rule, FSIS would end the line speed waiver extensions that were granted to the TLT establishments on March 17, 2025.<sup>36</sup> The TLT establishments would no longer need to obtain a waiver and participate in the SIP in order to operate at increased line speeds. The former TLT waiver criteria and SIP participation requirement would be unnecessary, as existing regulatory requirements would ensure that NSIS establishments choosing to operate at increased line speeds are able to consistently produce safe, wholesome, and unadulterated pork products. For example, although they would no longer be required to meet the former TLT waiver criteria or participate in the SIP, these establishments (as with all establishments that slaughter swine under FSIS inspection) would continue to be required to collect and analyze pre-and post-chill samples for microbial organisms at the minimum frequencies prescribed in 9 CFR 310.18(c)(1) to monitor their ability to maintain process control. Further, as with all establishments under FSIS inspection, Agency inspectors would conduct food safety-related verification activities to inspect and evaluate process control at NSIS establishments choosing to operate at increased line speeds. Inspectors would document all findings of noncompliance and verify that the establishments take necessary action to return to compliance. Also, as mentioned above, FSIS is proposing to amend 9 CFR 310.26 to make clear that the IIC may reduce the rate of establishment operations at any point in the process if

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<sup>36</sup> See USDA Press Release: Secretary Rollins Takes Action to Streamline U.S. Pork and Poultry Processing, March 17, 2025, available at: <https://www.usda.gov/about-usda/news/press-releases/2025/03/17/secretary-rollins-takes-action-streamline-us-pork-and-poultry-processing>.

process control is not maintained or if FSIS cannot perform an effective carcass-by-carcass inspection.

#### *Removal of Attestation Requirement*

FSIS is also proposing to remove 9 CFR 310.27, which requires that NSIS establishments submit an annual attestation stating that they maintain a program to monitor and document work-related conditions of their workers. If section 310.27 is removed, then section 310.28 would become obsolete. Therefore, FSIS is also proposing to remove 9 CFR 310.28, which states that should a court hold any provision of 9 CFR 310.27 to be invalid, the action will be severable from (i.e., will not affect) any other provision of the FSIS ante-mortem or post-mortem inspection regulations.

#### *Analysis*

Agencies may not assume regulatory authority where Congress has granted none. Thus, in *Seven County Infrastructure Coalition. v. Eagle County, Colorado*, 145 S. Ct. 1497, 1516 (2025), an agency was not required, under the National Environmental Policy Act (NEPA), to analyze the environmental effects of projects over which it possesses no regulatory authority because “where an agency has no ability to prevent a certain effect due to its limited statutory authority over the relevant actions, the agency cannot be considered a legally relevant ‘cause’ of the effect.” *Id.* (citing *Department of Transportation v. Public Citizen*, 541 U.S. 752, 770 (2004)). “[A]gencies are not required to analyze the effects of projects over which they do not exercise regulatory authority.” *Id.* These principles bear directly on this proposed rulemaking because FSIS does not have statutory authority to *regulate* worker safety. FSIS therefore has no legal obligation to analyze the impacts to the safety of workers in the plants it inspects. Any prior statement to the contrary by FSIS has been rendered moot by the Supreme Court’s clarification of agency responsibilities in *Seven County*. *See id.* Prior court rulings suggesting that FSIS had a duty to consider worker safety concerns have similarly been overruled by the Supreme Court’s recent holding. *Compare UFCW Local No. 663*, 532 F. Supp. 3d 741 (D.

Minn. 2021) (finding that FSIS's rule was arbitrary and capricious because it failed to consider public comments on the issue of worker safety), *with Seven Cnty.*, 145 S. Ct. at 1516 (holding that agencies are not required to analyze effects over which they hold no regulatory authority).

As discussed in the NSIS final rule and reaffirmed here, the Agency does not have statutory authority to regulate establishment worker safety (84 FR 52300, 52315). FSIS' legal authority with respect to regulating working conditions extends only to FSIS inspection personnel.<sup>37</sup> OSHA, not FSIS, is the Federal agency responsible for establishment worker safety issues.<sup>38</sup> Although FSIS does not have the statutory authority to require that establishments adopt the study's recommendations to assist them in adhering to applicable worker safety requirements,<sup>39</sup> FSIS commends the report's recommendations to its inspected establishments as well as the resources available on OSHA's website.<sup>40</sup> FSIS retains the ability to slow line speeds should those speeds not allow FSIS to ensure that process control is maintained or that FSIS can perform an effective carcass-by-carcass inspection as required by law.

Even were FSIS mistaken in its interpretation of *Seven County*, the available evidence demonstrates that limiting establishments' line speeds is not an effective mechanism for reducing worker injuries. There was either no increase in risk or a decrease in risk to worker safety for five of the six studied establishments. Because line speeds do not meaningfully impact worker safety, the elimination of the prior limits on line speed should not represent a marked change to establishment worker safety. The study's findings provide no basis for USDA to decline to

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<sup>37</sup> Section 19 of the Occupational Safety and Health Act of 1970 holds Federal agencies responsible for providing safe and healthful working conditions for their own workers (29 U.S.C. 668).

<sup>38</sup> Of note, in February 2015, OSHA denied a 2013 petition for rulemaking from the Southern Poverty Law Center to end a mandatory standard on work speeds in the meatpacking and poultry industries. In the denial letter to the petitioner, OSHA stated, in part, that several factors contribute to MSDs, including the number of repetitions per shift, the force of the movements, the posture of the workers, and cool temperatures in the workplace. Therefore, "any effort to prevent MSDs in the meatpacking and poultry industries must take all of these factors into account, not just the line speeds." Also in the denial letter, OSHA stated that the agency's limited resources at the time (rather than any lack of statutory or regulatory authority) did not allow for OSHA to move forward with a comprehensive analysis and rulemaking effort (<https://www.regulations.gov/docket/FSIS-2025-0012>).

<sup>39</sup> For example, under the General Duty Clause of the OSHA Act, establishments must keep their workplaces free from recognized serious hazards, which includes ergonomics hazards (see 29 U.S.C. 654(a)(1), providing that each employer "must furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.").

<sup>40</sup> See, for example, OSHA's Safety and Health Topics webpage, available at: <https://www.osha.gov/meatpacking>.

remove the limit on NSIS establishment line speeds. FSIS is concerned with protecting the public health of consumers and ensuring that the pork it inspects is safe for human consumption. Years of data and agency analysis confirm that line speeds do not reduce FSIS' ability to ensure the safety of pork products for consumers.

To the extent that FSIS was perceived to have regulated, or actually regulated, worker safety in the past, it acted *ultra vires*, or beyond its authorization. FSIS is committed going forward to act where it is statutorily authorized; to act otherwise would detract FSIS from its core, critical mission to protect consumers.<sup>41</sup>

FSIS has been delegated the authority to exercise the functions of the Secretary of Agriculture under the FMIA (7 CFR 2.18(a)(1)(ii)(A), 2.53(a)(2)(i)). The FMIA authorizes FSIS to administer and enforce laws and regulations to protect consumers by verifying that meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged (21 U.S.C. 601, 602). The FMIA also requires that the livestock be slaughtered and handled in connection with slaughter in a manner that is consistent with the HMSA (21 U.S.C. 603(b)). Congress's policy intentions are set forth in Sections 2 and 3, which provide that the FMIA was enacted to prevent "the use in commerce of meat and meat food products which are adulterated" and to prevent the "inhumane slaughtering of livestock" (See 21 U.S.C. 602 and 603). Likewise, in Section 10, Congress limited prohibited acts under the FMIA to those pertaining to food safety (21 U.S.C. 610). The FMIA authorizes FSIS to administer and enforce laws and regulations to protect the health and welfare of consumers – not the health and welfare of non-FSIS establishment workers.<sup>42</sup> The Administrative Procedure Act specifically bars an agency from acting "in excess of statutory jurisdiction, authority, or limitations, or short of

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<sup>41</sup> See 21 U.S.C. 602.

<sup>42</sup> *Dawkins v. U.S.*, 226 F.Supp.2d 750, 757 (M.D.N.C. 2002) ("[T]he purpose and intent of the FSIS is to ensure food safety, not workplace safety. The Government's efforts to ensure food safety are intended to have little effect on [establishment] workers.").

statutory right” (5 U.S.C. 706(2)(C)). Indeed, the Supreme Court recently reaffirmed that an agency can only act within its statutory authority.<sup>43,44</sup>

OSHA is the Federal agency with statutory authority to promote workplace safety and health. OSHA was created by the Occupational Safety and Health Act of 1970 (“OSHA Act,” 29 U.S.C. 651 et seq.) to assure safe and healthful working conditions by setting and enforcing standards and by providing training, outreach, education, and assistance. OSHA has many resources on its website, including ergonomics program management guidelines for meat establishments and case studies on participatory ergonomic interventions in meat establishments. Consistent with the OSHA Act, swine establishments are responsible for providing a safe and healthful workplace for their employees and for finding and correcting safety and health problems OSHA identifies. The proposed rule would increase efficiency for U.S. industry while, as FSIS’ extensive line speed waiver experience and data demonstrate, maintain food safety and humane handling. NSIS establishments would be able to determine their line speed while producing safe, wholesome, and unadulterated pork products. Removing the worker safety attestation requirement would also eliminate any confusion about FSIS’ lack of statutory authority over establishment worker safety.

### **III. Executive Orders 12866, as amended by 13563, and 14192**

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. This proposed rule has been designated an “economically significant” regulatory action under section 3(f) of E.O. 12866. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for

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<sup>43</sup> *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

<sup>44</sup> *Biden v. Nebraska*, 600 U.S. 477, 518–19, 143 S. Ct. 2355, 2382–83, 216 L. Ed. 2d 1063 (2023) (Barrett, J. concurring) (“Another telltale sign that an agency may have transgressed its statutory authority is when it regulates outside its wheelhouse.”) (citing *Gonzales v. Oregon*, 546 U.S.243, 254, 275, 126 S. Ct. 904 (2006); *King v. Burwell*, 576 U.S. 473, 485-486, 135 S. Ct. 2480 (2015); *Alabama Ass’n of Realtors v. Department of Health and Human Servs.*, 594 U.S. at \_\_\_, 141 S. Ct. 2485, 2489 (2021) (*per curiam*); *National Federation of Independent Business v. OSHA*, 595 U.S. \_\_\_, 142 S. Ct. 661, 663,665 (2022) (*per curiam*)).

improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. FSIS has developed the proposed rule consistent with E.O. 13563. E. O. 14192, “Unleashing Prosperity Through Deregulation,” requires that any new incremental costs associated with certain significant regulatory actions “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

#### *Need for the Rule*

This proposed rule, if finalized, would amend the Federal meat inspection regulations by eliminating the existing line speed limit of 1,106 hph for NSIS establishments and allow NSIS establishments to determine their line speeds based on their ability to maintain process control. FSIS is also proposing to amend the regulations to remove the requirement that NSIS establishments submit an annual attestation stating that they maintain a program to monitor and document work-related conditions of establishment workers. As food processing and safety technology advances, FSIS has worked to reform its regulations with a focus on HACCP-based process control, enabling establishments to have more flexibility in tailoring their products and processes. This proposed rule is needed because, for certain establishments, the current line speed restriction has been shown to be unnecessary and limiting an establishment’s ability to operate at maximum efficiency. Additionally, allowing NSIS establishments to operate more efficiently would reduce production costs and optimize the production processes while maintaining process control and food safety.

#### *Baseline*

In 2024, there were 751 federally inspected establishments that slaughtered approximately 127.8 million hogs<sup>45</sup> with an estimated retail value of over \$135 billion and an

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<sup>45</sup> FSIS, PHIS database, accessed February 2025.

average retail price of \$4.97 per pound.<sup>46</sup> Swine production at federally inspected establishments increased in 2023 and 2024, growing 2.1 and 1.3 percent, respectively, after a slight decline in previous years.<sup>47</sup> The majority of swine production, 74 percent, is consumed domestically; however, average annual consumption declined by 0.5 percent from 2020-2024.<sup>48</sup>

Based on FSIS’ Public Health Information System (PHIS) data, in February 2025 there were 17 market hog establishments operating under NSIS.<sup>49</sup> Each of the NSIS establishments exclusively slaughters at least one million market hogs annually. Six of the NSIS establishments participated in the TLT and had an average line speed of 1,276 hph while operating under a line speed waiver. The maximum line speed for the 11 NSIS establishments operating without a waiver is 1,106 hph. Additionally, there are 10 establishments operating under the traditional inspection system (referred to as “traditional establishments” in this analysis) that, similar to the NSIS establishments, exclusively slaughter at least one million market hogs annually. These 10 establishments have line speeds of at least 850 hph and up to the 1,106 hph maximum line speed.<sup>50</sup> Table 2 shows the number of establishments included in the Proposed Regulatory Impact Analysis (PRIA) and their market shares.

Table 2. Baseline: Establishments Included in the PRIA

Establishment	Number of Establishments	Share of Market Hog Production (%)
NSIS – Waiver*	6	18.8
NSIS - No waiver	11	45.6
Traditional	10	27.8

<sup>46</sup> FSIS calculated this value using the 2024 average retail price for pork products (sliced bacon, bone in and boneless ham, bone in and boneless pork chops) of \$4.87 per pound and a 2024 U.S. production estimate of 27,790 million pounds. Sources: USDA, Economic Research Service (ERS), “Meat Price Spreads,” Pork values and spreads (dataset), March 13, 2025, <https://www.ers.usda.gov/data-products/meat-price-spreads/>; USDA, “World Agricultural Supply and Demand Estimates (WASDE),” March 11, 2025, <https://www.usda.gov/historical-wasde-report-data-3>.

<sup>47</sup> These production growth calculations are based on slaughtered headcounts using USDA, ERS, “Livestock and Meat Domestic Data,” All Meat Statistics, Meat Statistics tables, historical (dataset), March 27, 2025 <https://www.ers.usda.gov/data-products/livestock-meat-domestic-data/>.

<sup>48</sup> Measured in retail weight, per capita disappearance (pounds) using USDA, ERS, “Agricultural Projections (Annual report),” February 18, 2025, <https://www.ers.usda.gov/data-products/agricultural-baseline-database/visualization-us-agricultural-baseline-projections>.

<sup>49</sup> FSIS, PHIS database, accessed February 2025.

<sup>50</sup> Of the remaining 696 swine establishments, 569 establishments slaughtered multiple swine classes, 127 exclusively slaughter market swine, but either slaughtered less than one million head annually or operated at a maximum line speed of less than 850 hph.

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\*The waiver indicates the TLT regulatory waiver. Numbers may not sum due to rounding.

For this PRIA, FSIS assumed this proposed rule would benefit these 27 market hog establishments. These establishments were included in the analysis because they exclusively slaughter a sufficient number of market hogs at a sufficient rate to justify the likely costs associated with operating increased line speeds or converting to NSIS. The six establishments that already have a line speed waiver would not incur any additional quantifiable costs or benefits but would benefit from eliminating regulatory uncertainty regarding the duration of their waivers. The 11 NSIS establishments operating without a line speed waiver would experience costs and benefits associated with increasing their line speeds, if they choose to increase their line speeds. Similarly, the 10 traditional establishments would experience quantified costs and benefits if they choose to convert to the NSIS and increase their line speeds. FSIS estimates that, if the proposed rule is finalized, it would be net beneficial.

For this analysis, FSIS assumed establishments would voluntarily increase their line speeds over a 10-year adoption period with roughly consistent annual adoption rates starting the year the final rule is published, should this rule become final.<sup>51</sup> The six NSIS establishments currently operating under a line speed waiver would continue to operate at faster line speeds. FSIS assumed the 11 NSIS establishments would adopt faster line speeds in years one through five, and the 10 traditional establishments would voluntarily convert to NSIS and adopt faster line speeds in years six through ten.<sup>52</sup> For all establishments, the Agency assumed costs would

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<sup>51</sup> FSIS chose a ten-year adoption period as it is standard practice based on guidance from the Office of Management and Budget. While the rule has been estimated to be net-beneficial regardless of the adoption period, FSIS assumed a ten-year adoption period because establishments will have to hire new employees, train new and existing employees, conduct HACCP reassessments, and adjust input and production schedules prior to increasing their line speeds. Office of Information and Regulatory Affairs, February 7, 2011, "Regulatory Impact Analysis: Frequently Asked Questions (FAQs),"

<sup>52</sup> FSIS assumed the non-waiver NSIS establishments would increase their line speeds prior to the traditional establishments, because the traditional establishments will have to first convert to NSIS a process that takes additional labor, training, and planning.

occur in the year the establishment increased their line speed or converted to the NSIS, while the benefits would occur in the following year. FSIS incorporated these assumptions into the following costs and benefits estimates. FSIS is seeking comments on this assumed adoption period.

*Estimated Costs of the Proposed Rule*

The Agency expects the 11 establishments currently operating under the NSIS without a waiver and the 10 traditional establishments likely to convert to the NSIS, if this proposed rule is finalized, to incur costs if they choose to increase their line speeds or convert to the NSIS. Establishments would voluntarily incur these costs and would do so only if the benefits outweigh the costs. These costs are associated with additional labor, training, and HACCP plan reassessment. FSIS also estimated a de minimis cost of \$90 per firm for rule familiarization. Establishments converting to the NSIS would also incur costs for complying with ready-to-cook (RTC) requirements, which is a requirement under the NSIS.<sup>53</sup> FSIS is seeking comments on any potential additional costs establishments may incur if they choose to increase their line speeds.

*Additional Labor Costs*

FSIS estimates that the 11 NSIS establishments currently operating without a waiver would hire an additional 88 workers if they increase their line speeds, while the 10 traditional establishments would hire an additional 153 workers if they convert to NSIS and increase their line speeds, for a total of 241 workers at the mid-point estimate. The combined mid-point annual labor cost estimate for these 21 establishments is \$9.5 million, assuming a 10-year adoption period and discounted at 7 percent (Table 3). Below are additional details on how FSIS estimated these potential labor costs.

Table 3. Estimated Costs of the Proposed Rule: Additional Labor Costs

Establishment	Workers Mid-point	Annualized Costs (million \$)		
		Lower	Mid-point	Upper
NSIS – No Waiver	88	4.0	5.3	6.7

<sup>53</sup> 9 CFR 310.26(d)(1); 84 FR 52300.

Traditional	153	2.8	4.2	5.1
<b>Total</b>	<b>241</b>	<b>6.8</b>	<b>9.5</b>	<b>11.8</b>

Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

The Agency expects the 11 NSIS establishments that choose to operate at increased line speeds would hire additional production workers. The Agency estimates that the 11 NSIS establishments may hire between 3 and 5 additional workers per line per shift, with four workers as the mid-point estimate to maintain process control.<sup>54</sup> FSIS estimated that these workers would be paid wages of \$38.62 per hour<sup>55</sup> and that they would work 269 days per year.<sup>56</sup> The 11 NSIS establishments have a total of 22 lines across all shifts. Therefore, these 11 NSIS establishments may hire 88 workers (4 workers per line × 22 lines) at the mid-point estimate, with a range of 66 (3 workers per line × 22 lines) to 110 (5 workers per line × 22 lines) workers. The estimated labor costs that the 11 NSIS establishments may incur is \$7.3 million (\$38.62 wage × 4 additional workers × 22 lines × 8 hours per day × 269 production days), which annualizes to \$5.3 million assuming a 10-year adoption period and discounted at 7 percent (Table 3). FSIS is asking for comments on the number of additional workers that current NSIS establishments would hire to operate at higher line speeds.

FSIS estimates that 10 traditional establishments that convert to the NSIS and increase their lines speeds would have to dedicate additional labor to cover certain activities. Establishment workers would 1) sort and remove unfit animals before ante-mortem inspection; 2) trim and identify defects; and 3) identify animals or carcasses that they have sorted and removed for disposal. These traditional establishments that convert to the NSIS may also allocate additional labor to production lines operating at increased line speeds. These traditional

<sup>54</sup> The Agency learned that establishments operating under waivers added between 3 and 5 employees per line per shift to provide adequate coverage on the line and for redistributing tasks.

<sup>55</sup> The wage estimate includes a labor cost of \$19.31 per hour for a production employee multiplied by a benefits and overhead factor of two. U.S. Bureau of Labor Statistics (BLS), Occupational Employment and Wage Estimates, 2024: 51-3023 Slaughterers and Meat Packers in Industry Animal Slaughtering and Processing. May 2024. <https://data.bls.gov/oes/#!/industry/311600> (accessed April 2025).

<sup>56</sup> FSIS used this estimate in the 2019 Modernization of Swine Slaughter final rule. A previous FSIS analysis of PHIS data found that large market hog establishments operated 269 days per year. 84 FR 52324.

establishments converting to the NSIS and increasing their line speeds would require an increase in labor of 6 to 11 additional workers per line per shift, or 9 workers at the mid-point estimate.<sup>57</sup> FSIS estimated that the 10 establishments that may convert to the NSIS have a total of 17 slaughter lines across all shifts, resulting in an increase in labor of 153 workers (9 workers per line × 17 lines) at the mid-point, with a range of 102 (6 workers per line × 17 lines) to 187 workers (11 workers per line × 17 lines). The estimated labor costs that the 10 traditional establishments may incur is \$12.7 million ( $\$38.62 \text{ wage} \times 9 \text{ additional workers} \times 17 \text{ lines} \times 8 \text{ hours per day} \times 269 \text{ production days}$ ), which annualizes to \$4.2 million assuming a 10-year adoption period and discounted at 7 percent (Table 3).

An establishment would only incur these costs if the benefits outweigh the additional production costs because the choice to operate under NSIS at increased line speeds is a voluntary business decision. FSIS is asking for comments on the number of additional workers that establishments would hire in response to the proposed rule for NSIS establishments operating at higher line speeds and for traditional establishments that convert to the NSIS.

### *Training Costs*

Based on the NSIS final rule, FSIS expects establishments that choose to increase their line speeds or convert to the NSIS may incur employee training costs.<sup>58</sup> NSIS establishments operating at a faster line speed would provide initial training for new workers, training replacement workers due to turnover, and continuing education training for retained workers. For establishments converting to NSIS, establishments would provide initial training for new workers, training to existing workers in NSIS activities, training to replacement workers due to turnover, and continuing education training for retained workers. This analysis assumed per worker training costs would range from \$399 to \$1,197, with a mid-point estimate of \$798.<sup>59</sup>

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<sup>57</sup> 84 FR 52300

<sup>58</sup> 84 FR 52324-5232

<sup>59</sup> FSIS updated the wage estimate and HACCP training costs in the "Cost of Food Safety Investments" using 2024 wages from the BLS and the 2024 Implicit Price Deflator for the Gross Domestic Product. RTI, (2015). Costs of Food Safety Investments (Table 4-4). Contract No. AG-3A94-B-13-0003). Prepared by Catherine L. Viator, Mary

The combined one-time worker training cost for the 11 NSIS establishments that would increase their line speeds and the 10 traditional establishments that would convert to NSIS is approximately \$0.06 million, annualized assuming a 10-year adoption period and discounted at 7 percent. The Agency expects the initial training to occur in the first year when establishments begin hiring new workers, specifically, years 1 through 5 of the assumed 10-year adoption period for NSIS establishments increasing their line speeds and years 5 through 10 for traditional establishments converting to NSIS. The 11 NSIS establishments would train 88 new workers, (4 new workers per line × 22 lines) resulting in the mid-point cost estimate for this training of \$70,224 (88 workers × \$798). The 10 traditional establishments would train 153 new workers (9 new workers per line × 17 lines) resulting in the mid-point cost estimate for this training of \$122,094 (153 new workers × \$798). These traditional establishments would also train 612 existing workers (36 existing workers per line × 17 lines) on NSIS activities, at an estimated cost of \$488,376 (612 existing workers × \$798).

Table 4. Estimated Costs of the Proposed Rule: Training Costs

Establishment	Number of Workers	Annualized Costs (million \$)		
		Lower	Mid-point	Upper
NSIS - No Waiver				
New Worker	88	0.003	0.008	0.015
Replacement Workers	32	0.01	0.02	0.03
Continuing Education	56	0.01	0.03	0.05
Traditional				
New Worker	153	0.005	0.014	0.026
NSIS Activities	612	0.013	0.040	0.083
Replacement Workers	281	0.02	0.05	0.11
Continuing Education	484	0.00	0.01	0.02
<b>Total</b>		<b>0.058</b>	<b>0.168</b>	<b>0.328</b>

Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

K. Muth, Jenna E. Brophy, [https://www.fsis.usda.gov/sites/default/files/media\\_file/documents/Costs\\_of\\_Food\\_Safety\\_Investments\\_FSYS-2022-0013.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/documents/Costs_of_Food_Safety_Investments_FSYS-2022-0013.pdf); BLS, Occupational Employment and Wage Estimates, 2024: 51-3023 Slaughterers and Meat Packers, in Industry Animal Slaughtering and Processing. May 2024. <https://data.bls.gov/oes/#/industry/311600>, accessed April 2025; and U.S. Bureau of Economic Analysis, "Table 1.1.9. Implicit Price Deflators for Gross Domestic Product," accessed April 11, 2025.

Establishments would also incur additional recurring costs due to worker turnover each year. As the workers leave over time, establishments would need to train replacement workers beginning the year after establishments increase line speeds or converts to NSIS, following the assumed 10-year adoption period. The combined annual recurring training cost due to turnover for the 11 NSIS and 10 traditional establishments is approximately \$0.07 million, annualized assuming a 10-year adoption period and discounted at 7 percent. The 11 NSIS establishments would train 32 replacement workers (88 workers  $\times$  36.7 percent) resulting in the mid-point cost estimate for this training of \$25,536 (32 replacement workers  $\times$  \$798).<sup>60</sup> The 10 traditional establishments would train 281 replacement workers (765 workers  $\times$  36.7 percent) resulting in the mid-point cost estimate for this training of \$224,238 (281 replacement workers  $\times$  \$798).<sup>61</sup>

Establishments would also incur additional recurring costs due to training for retained workers by providing continuing education each year, which would begin the year after establishments increase their line speeds or convert to NSIS, following the assumed 10-year adoption period. The combined continuing education training cost for the 11 NSIS and 10 traditional establishments for retained workers is approximately \$0.04 million, annualized assuming a 10-year adoption period and discounted at 7 percent (Table 4). The 11 NSIS establishments would train 56 retained workers (88 workers  $\times$  63.3 percent) resulting in the mid-point cost estimate for this training of \$4,312 (56 retained workers  $\times$  \$77).<sup>62</sup> The 10 traditional establishments would train 484 retained workers (765 workers  $\times$  63.3 percent) resulting in the

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<sup>60</sup> The BLS reported that the nondurable goods manufacturing industry had a separation rate of 36.7 percent in 2024. The total separation rate for a given year is the sum of the separation rate for the 12-month period. The retention rate is thus 63.3 percent (100 percent – 36.7 percent). BLS, “Job Openings and Labor Turnover Survey, not seasonally adjusted (2024),” (Series JTU34000000000000TSR), accessed April 11, 2025. Data can be accessed at <https://data.bls.gov/series-report>.

<sup>61</sup> Based on the total employees receiving one time training.

<sup>62</sup> FSIS updated the wage estimate and HACCP training costs in the "Cost of Food Safety Investments" using 2024 wages from the BLS. RTI, (2015). Costs of Food Safety Investments (Table 4-4). Contract No. AG-3A94-B-13-0003). Prepared by Catherine L. Viator, Mary K. Muth, Jenna E. Brophy, [https://www.fsis.usda.gov/sites/default/files/media\\_file/documents/Costs\\_of\\_Food\\_Safety\\_Investments\\_FSIS-2022-0013.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/documents/Costs_of_Food_Safety_Investments_FSIS-2022-0013.pdf); BLS, Occupational Employment and Wage Estimates, 2024: 51-3023 Slaughterers and Meat Packers, in Industry Animal Slaughtering and Processing. May 2024. <https://data.bls.gov/oes/#/industry/311600>, accessed April 2025.

mid-point cost estimate for this training of \$37,268 (484 retained workers × \$77). The combined training costs for the 11 NSIS establishments that FSIS assumed would increase line speeds as a result of this proposed rule and the 10 traditional establishments that FSIS assumed would convert to NSIS is approximately \$0.168 million, annualized assuming a 10-year adoption period and discounted at 7 percent (Table 4). FSIS is seeking comments on the type and cost of establishment worker training.

#### *HACCP Plan Reassessment Cost*

An NSIS establishment that chooses to operate at increased line speeds may need to reassess its HACCP plan. Traditional establishments that convert to the NSIS would also be required to reassess their HACCP plans.

According to the Costs of Food Safety Investments report, a large establishment requires between 30 to 90 hours to reassess their HACCP plan, with a mid-point estimate of 60 hours.<sup>63</sup> Assuming this work is completed by an experienced establishment worker with an hourly labor cost of \$38.62,<sup>64</sup> a HACCP plan reassessment cost per establishment ranges from \$1,159 to \$3,476, with \$2,317 as the mid-point estimate. For the 11 NSIS establishments, the mid-point cost estimate for HACCP reassessment is \$25,487 (11 establishments × \$2,317). For the 10 traditional establishments, the mid-point cost estimate is \$23,170 (10 establishments × \$2,317).

In total, this represents a one-time cost to industry of \$0.005 million at the mid-point, ranging from \$0.003 to \$0.008 million, annualized assuming a 10-year adoption period and a 7 percent discount rate, (Table 5).

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<sup>63</sup> FSIS used the hours of training estimates in the HACCP training costs in the "Cost of Food Safety Investments." RTI, (2015). Costs of Food Safety Investments (Table 4-1). Contract No. AG-3A94-B-13-0003). Prepared by Catherine L. Viator, Mary K. Muth, Jenna E. Brophy, [https://www.fsis.usda.gov/sites/default/files/media\\_file/documents/Costs\\_of\\_Food\\_Safety\\_Investments\\_FSYS-2022-0013.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/documents/Costs_of_Food_Safety_Investments_FSYS-2022-0013.pdf);

<sup>64</sup> The wage estimate includes a labor cost of \$19.31 per hour for a production employee multiplied by a benefits and overhead factor of two. BLS, Occupational Employment and Wage Estimates, 2024: 51-3023 Slaughterers and Meat Packers, in Industry Animal Slaughtering and Processing, May 2024, <https://www.bls.gov/oes/tables.htm>

Table 5. Estimated Costs of the Proposed Rule: HACCP Plan Reassessment Cost

Establishment	Number of Establishments	Annualized Costs (million \$)		
		Lower	Mid-point	Upper
NSIS – No Waiver	11	0.002	0.003	0.004
Traditional	10	0.001	0.002	0.003
<b>Total</b>	<b>21</b>	<b>0.003</b>	<b>0.005</b>	<b>0.008</b>

Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

*Ready to Cook (RTC) Pork Standards Costs*

Under NSIS, establishments are required to collect, record, and analyze documentation to demonstrate that the products resulting from their slaughter operation meet the definition of RTC pork products.<sup>65</sup> Only establishments choosing to convert to NSIS would incur these costs because existing NSIS establishments are already implementing these requirements. FSIS assumes a quality control (QC) technician would collect, record, and analyze documentation to meet RTC requirements, which would take approximately one hour each day to complete.<sup>66</sup> The labor costs associated with this work is \$58.36 per hour.<sup>67</sup> This equates to an annual cost of approximately \$15,699 ( $\$58.36 \text{ hourly wage rate} \times 1 \text{ hour per day} \times 269 \text{ production days}$ ) per establishment per year. On aggregate, for the 10 establishments expected to convert to the NSIS, the RTC pork standards cost is approximately \$0.05 million annualized assuming a 10-year adoption period and a 7 percent discount rate (Table 6).

<sup>65</sup> 9 CFR 310.26, Establishment responsibilities under the new swine inspection system.

<sup>66</sup> FSIS used this estimate as summarized in the 2019 Modernization of Swine Slaughter final rule. A previous FSIS analysis found that large swine establishments can verify they meet other consumer protection performance standards by taking 24-unit samples, requiring roughly 1 hour to collect, record, and analyze the data. 84 FR 52326

<sup>67</sup> The labor cost of \$29.18 per hour for a QC technician is multiplied by a benefits and overhead factor of two. BLS, Occupational Employment and Wage Estimates, 2024: 51-3023 Slaughterers and Meat Packers. Food Science Technicians, <https://www.bls.gov/data/home.htm> accessed April 2025.

Table 6. Estimated Costs of the Proposed Rule: RTC Costs

Establishment Type	Number of Establishments	Annualized Costs (million \$)		
		Lower	Mid-point	Upper
Traditional	10	0.05	0.05	0.05
<b>Total</b>	<b>10</b>	<b>0.05</b>	<b>0.05</b>	<b>0.05</b>

Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

### Capital Costs

Based on industry input and Agency experts, most of the establishments likely impacted by this proposed rule already have the necessary equipment to operate at faster line speeds. As such, this analysis excludes further consideration of capital improvements due to their minor potential costs. If an establishment believes that additional capital expenditures will result in a benefit, they may voluntarily reconfigure or update their facilities to fully capture all the potential production efficiencies offered through increasing their line speeds. FSIS is seeking comments on capital costs associated with increasing line speeds.

### Total Industry Costs

Establishments that voluntarily choose to increase their line speeds, including those that may convert to NSIS, would incur costs associated with labor, training, and HACCP plan reassessment. Establishments converting to NSIS would have additional costs associated with RTC recordkeeping requirements. For all establishments, the largest cost is the likely increase in the number of establishment workers (Table 7). This cost represents approximately 98 percent of the costs for NSIS establishments that choose to increase their line speeds and approximately 97 percent of the costs for establishments choosing to convert to NSIS. The total industry cost estimates are \$9.7 million at the mid-point and range from \$6.8 million at the low estimate to \$12.1 million for the high estimate annualized assuming a 10-year adoption period and a 7 percent discount rate (Table 7).

Table 7. Estimated Costs of the Proposed Rule: Total Industry Costs

Establishment Type	Cost elements	Annualized Costs (million \$)		
		Lower	Mid-point	Upper
NSIS – No Waiver				
	Additional Labor	4.0	5.3	6.7
	Training	0.02	0.05	0.1
	HACCP Reassessment	0.002	0.003	0.004
	<b>Total</b>	<b>4.02</b>	<b>5.4</b>	<b>6.7</b>
Traditional				
	Additional Labor	2.8	4.2	5.1
	Training	0.04	0.12	0.23
	HACCP Reassessment	0.001	0.002	0.003
	RTC requirements	0.05	0.05	0.05
	<b>Total</b>	<b>2.86</b>	<b>4.31</b>	<b>5.33</b>
<b>Total</b>		<b>6.8</b>	<b>9.7</b>	<b>12.1</b>

Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

#### Estimated Benefits of the Proposed Rule

##### *Changes in production efficiency*

If the proposed rule were finalized, the six NSIS establishments operating with a line speed waiver would benefit from a reduction in compliance costs associated with elements of the current waiver program that would no longer be necessary under the revised regulation.

Additionally, these establishments would benefit from the certainty that they could continue to operate at faster line speeds. The 11 NSIS establishments operating without a waiver and the 10 traditional establishments that may convert to NSIS would benefit from an increase in production efficiency if permitted to operate above the current maximum line speed limit. In 2024, the 11 NSIS establishments operating without a waiver accounted for 45.6 percent of total slaughtered headcount, while the 10 traditional establishments accounted for 27.8 percent, for a combined 73.4 percent of total slaughtered headcount (Table 8). FSIS estimated a range of line speed increases based on the reported line speeds at waiver establishments during the TLT, which

ranged from about 6 to 24 percent faster, with a mid-point average increase of 15 percent.<sup>68</sup> For this analysis, the increase in production efficiency is calculated by multiplying the share of impacted swine slaughtered headcount by an estimated increase in line speed.

This analysis assumed industry would increase their production efficiency over time as resources and market conditions allow. To account for this time, FSIS assumed production efficiency at these 21 establishments would incrementally increase over a 10-year adoption period. The additive effect of increased production efficiency at each establishment would increase total production efficiency. For instance, the model estimates total production efficiency could increase by approximately 1.4 percent in year one, assuming between 2 and 3 establishments that account for approximately 9.3 percent of 2024 slaughtered headcount, increase their line speeds by 15 percent (9.3 percent × 15 percent) (Table 8). Likewise, by year 10, total efficiency could increase approximately 11 percent (73.4 percent × 15 percent) (Table 8). FSIS is requesting comments on the estimated number of establishments that would increase their line speeds, including those that would convert to the NSIS, the portion of slaughtered headcount impacted by this proposed rule, as well as the expected increase in line speeds.

Table 8: Estimated Change in Production Efficiency Over the Adoption Period

Year <sup>1</sup>	Portion of 2024 Swine Slaughtered Headcount (%)	Production Efficiency Gain (%) <sup>2</sup>		
		Low (6%)	Mid (15%)	High (24%)
1	9.3	0.6	1.4	2.1
2	18.0	1.2	2.7	4.3
3	27.3	1.8	4.1	6.4
4	36.0	2.3	5.4	8.6
5	45.6	2.9	6.8	10.7
6	46.7	3.0	7.0	11.1
7	50.7	3.3	7.6	12.0
8	56.0	3.6	8.4	13.3
9	62.7	4.1	9.4	14.9
10	73.4	4.4	11.0	17.6

<sup>68</sup> Under the TLT, FSIS collected average line speed information from the 6 NSIS establishments with line speed waivers. For the lower-bound estimate, FSIS calculated the average line speed increase from the maximum line speed of 1,106 hph of the bottom 25 percent of establishments, while for the upper-bound estimate the Agency used the top 25 percent.

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<sup>1</sup> FSIS assumed that the NSIS non-waiver establishments would increase their line speeds in years 1 – 5, while traditional establishments would convert to NSIS and increase their line speeds in years 6 – 10.

<sup>2</sup> The change in line speeds estimates represent an increase from 1,106 hph and production efficiency gain is calculated by multiplying the share of swine slaughtered headcount by the estimated line speed increases of 6, 15, and 24 percent for low, mid and high production efficiency gain, respectively.

### *Cost savings from production efficiency gains*

Establishments may obtain the efficiency gains from removing the maximum line speeds for NSIS establishments through multiple ways. For example, establishments may choose to process more swine per hour while reducing their hours of operation. This flexibility would allow establishments to optimize their productivity and potentially lower production costs. Further, elimination of the maximum line speed would provide establishments enhanced flexibility to increase their line speed in a limited or intermittent manner, to account for changes in daily production such as unexpected stoppages, equipment breakdowns, inclement weather, and supply chain disruptions.

### *Changes in retail prices and cost savings*

In discussing potential next steps of this analysis, FSIS uses a standard partial equilibrium model<sup>69</sup> and publicly available data to illustrate estimated benefits associated with allowing NSIS establishments to determine their own line speeds based on their ability to maintain process control.<sup>70</sup> The results of such an analysis include potential retail price changes and industry cost savings. The Agency seeks comments on the model and assumptions used in this analysis.

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<sup>69</sup> In this linear model,  $P = a/b - (1/b) Q_d$  represents the pork products inverse market demand equation, while  $P = c/d + (1/d) Q_s$  represents the pork products inverse market supply equation, keeping all other factors affecting demand and supply constant. Further explanation about partial equilibrium and comparative statics can be found in Varian, Hal R., *Intermediate Microeconomics a Modern Approach*, seventh edition, 2006, W. W. Norton & Company.

<sup>70</sup> FSIS used the values of -0.636 for the elasticity of demand ( $\epsilon^d$ ) and 0.65 for the elasticity of supply ( $\epsilon^s$ ). These elasticities were, respectively, adapted from Meekhof, Ronald L., Muth, Mary K., Zhen, Chen, Beach, Robert H., Karns, Shawn A., Taylor, Justin L., and Viator, Catherine L. "Pork Slaughter and Processing Sector Facility-Level Model," RTI International Project 08893.009. Contract No. 53-3A94-03-12, Delivery Order 9, June 2007. [https://www.rti.org/sites/default/files/resources/muth\\_pork-slaughter\\_final.pdf](https://www.rti.org/sites/default/files/resources/muth_pork-slaughter_final.pdf).

FSIS established the initial equilibrium condition using the 2024 pork products supply total of 27.8 billion pounds,  $Q_0$ , and the 2024 average retail price for pork products of \$4.87 per pound,  $P_0$ .<sup>71</sup> FSIS assumed that increases in production efficiency,  $ef$ , can be represented by increasing the market supply (Table 8). The Agency estimated that, everything else constant, with an 11.0 percent mid-point increase in production efficiency, the new equilibrium price of pork would be \$4.73 per pound, or approximately a 3 percent decrease  $[(4.73 - 4.87) / 4.87] \times 100$  (Table 9), and the new equilibrium quantity would be approximately 28.3 billion pounds.<sup>72</sup>

There are limitations with using a linear model to estimate equilibrium prices and quantities to approximate industry cost savings associated with this rule. Allowing establishments to determine their own line speeds could reduce their production costs, such as their average per unit labor costs as establishments process more swine per hour. FSIS estimated these reduced costs as industry cost saving associated with this proposed rule by calculating the difference in total variable costs (TVC) pre- and post-implementation for each of the 10 years in this analysis.<sup>73</sup> For example, FSIS estimated the pre-implementation TVC in year 10 to be

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<sup>71</sup> FSIS obtained the 2024 quantity of pork products of approximately 27.8 billion pounds from USDA, “World Agricultural Supply and Demand Estimates (WASDE), Historical WASDE Report Data (dataset),” March 11, 2025, <https://www.usda.gov/historical-wasde-report-data-3><https://www.usda.gov/historical-wasde-report-data-3>. The 2024 pork products retail price of approximately \$4.87 per pound is from USDA, ERS, “Meat Price Spreads, Historical monthly price spread data for beef, pork, broilers (dataset),” March 13, 2025, <https://www.ers.usda.gov/data-products/meat-price-spreads/>.

<sup>72</sup> FSIS first calculated the coefficients of these models using the data and elasticities: where  $b = -\epsilon^d \times Q_0 / P_0 = 0.636 \times 27.8 / 4.87 = 3.63$ ,  $a = Q_0 + bP_0 = 27.8 + 3.63 \times 4.87 = 45.48$ ,  $d = \epsilon^s \times Q_0 / P_0 = 0.65 \times 27.8 / 4.87 = 3.71$  and  $c = -Q_0 + dP_0 = -27.8 + 3.71 \times 4.87 = -9.73$ . The coefficient  $a$  is the level of demand for pork products as the retail price is set to zero, while the coefficient  $c/d$  is interpreted as the price level of pork products that is needed to cover all the fixed costs for the swine industry. The parameter  $ef$  represents the estimated efficiency gains across the industry at the 10-year adoption period of 11 percent at the mid-point (Table 8). While keeping the elasticity of supply constant, the Agency estimated the new equilibrium retail price using the identity  $P^{new} = (a + c(1 + ef)) / (b + d)$  then  $P^{new} = (45.48 - (9.73(1 + 11\%))) / (3.63 + 3.71) = \$4.73$  per pound and quantity of pork products as  $Q^{new} = a - bP^{new} = [45.48 - (3.63 \times 4.73)]$  billion pounds = 28.3 billion pounds. Note that numbers may not sum due to rounding. Calculating  $P^{new} = (a + c(1 + ef)) / (b + d)$  implies that efficiency gain percentage  $ef$  could be applied at the Q-axis intercept, and feedback is requested on this practice of estimating the shift of the supply curve in a manner that emphasizes a distant-from-equilibrium point.

<sup>73</sup> In a simplified competitive market assumption, the additional cost to produce additional pounds of pork products, known as marginal costs, is approximated by the market supply. In addition, the difference between the estimated equilibrium price and quantity supplied pre- and post-implementation can be interpreted as a change in the total variable costs (TVC) of production. This change represents the decrease in such production costs as a result of production efficiency gains. For the linear market supply equation, FSIS used the standard formula to estimate the

approximately \$44.00 billion, and the post-implementation TVC to be approximately \$43.49 billion.<sup>74, 75</sup> FSIS used the estimated increases in production efficiency, as outlined in Table 8, to estimate the post-implementation TVC. Hence, assuming the 21 establishments would increase their line speeds by 15 percent on average, the swine industry could save approximately \$508 million (\$43.49 - \$44.00 billion) in production costs in year 10. The combined mid-point annual cost savings are approximately \$262 million, annualized over the 10-year adoption period and assuming a 7 percent discount rate, with a range of \$111 to \$418 million (Table 9).<sup>76</sup> This benefit could be translated into an average cost saving of \$2.03 per hog (\$262 million/129 million market hogs).

Table 9: Estimated Benefits of the Proposed Rule: Benefits from Increased Industrial Efficiency

Establishment	Lower	Mid-point	Upper
	Cost Savings (million \$)*		
NSIS – No Waiver	97.1	229.2	366.8
Traditional	13.8	32.4	51.4
<b>Total</b>	<b>110.9</b>	<b>261.6</b>	<b>418.2</b>
	Potential Change in Retail Price (%)		
NSIS – No Waiver	-0.80	-1.85	-2.92
Traditional	-0.49	-1.13	-1.78
<b>Total</b>	<b>-1.28</b>	<b>-2.98</b>	<b>-4.70</b>

TVC for producing pork products as  $TVC = \frac{1}{2} \times P \times (Q - c)$ , where P and Q are the established equilibrium retail price and quantity of pork products in the market, respectively, and c is as defined above.

<sup>74</sup>  $TVC^{(pre)}$  would be approximately \$44.00 billion,  $\frac{1}{2} \times \$4.87$  per pound  $\times (27.8 - 9.73)$  billion pounds, where c is approximately 9.73 billion pounds, which is the amount of production calculated by setting P=0 in  $Q_s = 9.73 + 3.71P$ . Note that numbers may not sum due to rounding.

<sup>75</sup>  $TVC^{(post)}$  would be approximately \$43.49 billion,  $\frac{1}{2} \times \$4.73$  per pound  $\times (28.3 - 9.91)$  billion pounds, where the new level of production,  $c^{new}$  is approximately 9.91, is calculated using the new equilibrium and market supply equation but keeping price elasticity of supply constant (0.65),  $c^{new} = -Q^{new} + d^{new} \times P^{new}$  where  $d^{new} = \epsilon^s \times Q^{new} / P^{new}$ . Note that numbers may not sum due to rounding.

<sup>76</sup> After adding the annual present value estimates from year 1 to 10 for the mid-point estimate, FSIS estimated the total cost savings for the swine industry associated with this proposed rule at \$1,837 million, or \$262 million annualized over 10 years, assuming a 7 percent discount rate. Total cost savings = sum of present values /  $((1 - (1 + \text{discount rate})^{-\text{total number of years}}) / (\text{discount rates})) = \$1,837 \text{ million} / ((1 - (1 + 7\%)^{-10}) / (7\%)) = \$262 \text{ million}$ . This can also be calculated using Microsoft Excel's PMT function =PMT (7%, 10, 1837×-1) = \$262 million. Note that numbers may not sum due to rounding.

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\* Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding. Please see the surrounding discussion for details and requests for comments related to the model parameters underlying these illustrative estimates.

The estimated cost savings could lead to an increase in industry profits, lower consumer prices, or a combination of both. Additionally, consumer benefits would be conditional on how an increase in line speed affects retail prices. As such, the Agency is seeking comments on the extent to which an increase in line speed would affect market hog prices, establishment hours of operation, consumer prices, and export volumes.

### *Costs and Benefits to FSIS*

#### FSIS Staffing Changes

If traditional establishments choose to convert to NSIS, FSIS may experience staffing changes. At traditional establishments, FSIS typically assigns food inspectors (FIs) to perform online inspection on the slaughter line and Consumer Safety Inspectors (CSIs) to perform offline inspection tasks. At NSIS establishments, inspectors rotate throughout the shift and work both on and off the slaughter line, and for this reason, all inspection positions in NSIS establishments are under the CSI classification. At traditional establishments, FSIS assigns up to seven online FIs to each slaughter line per shift and up to five offline CSIs to each shift, while at NSIS establishments, FSIS typically assigns three online CSIs to each slaughter line per shift and two additional offline CSIs to each shift.<sup>77</sup> The estimated hourly wage for an FI is \$53.24 per hour, which represents a General Schedule (GS) 7, step 5 wage rate multiplied by a benefits and

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<sup>77</sup> 84 FR 52336. Staffing at Traditional establishments varies depending on the number of lines, configuration, slaughter class, other non-slaughter processing, and shifts an establishment operates.

overhead factor of two.<sup>78</sup> FSIS estimated the hourly wage for CSIs is \$67.04, which represents a GS 9, step 6 wage rate and a benefits and overhead factor of two.

The 10 establishments that are under traditional inspection and may convert to NSIS operate a total of 17 lines across 14 shifts. The Agency currently has approximately 57 FIs and 67 CSIs, for a total of 124 positions staffed at the 10 establishments, with annual costs of approximately \$16.20 million (57 FIs × \$53.24 wage × 8 hours per day × 269 production days and 67 CSIs × \$67.04 wage × 8 hours per day × 269). If these 10 establishments convert to NSIS, the Agency may assign approximately 79 CSIs [(17 lines × 3 CSIs) + (14 shifts × 2 CSIs)], with annual cost of approximately \$11.40 million (79 CSIs × \$67.04 wage × 8 hours per day × 269 production days) per year. As such, if these establishments convert to NSIS, this analysis estimates a net change of 45 positions (decrease of 57 FIs and an increase of 12 CSIs). The estimated change in the Agency’s annual costs is a decrease of \$4.80 million (\$16.20 million - \$11.40 million), which equates to \$1.57 million, annualized assuming a 10-year adoption period and a 7 percent discount rate (Table 10). The Agency may utilize personnel made available as a result of establishments converting to NSIS to fill vacant positions.

Table 10. Changes in FSIS staffing at traditional establishments expected to convert to NSIS

Staffing	Positions	Costs (\$ millions)
Current Total	124	16.20
FIs	57	6.53
CSIs	67	9.67
Expected Total CSIs	79	11.40
<b>Change (decrease)</b>	<b>45</b>	<b>-4.80</b>
<b>Annualized costs (savings)</b>		<b>-1.57</b>

Estimated costs were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

<sup>78</sup> Office of Personnel Management, 2024, Pay and Leave (Salary Table 2020-RUS), [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/RUS\\_h.aspx](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/RUS_h.aspx)

## *FSIS Training*

New CSIs or FIs becoming CSIs receive training on Inspection Methods to perform both online and offline activities necessary for those positions. This training involves a three-week meat inspector course with a two-hour test. The total time associated with the length of the training is 114 hours (14 days × 8 hours + 2-hour test). As described above, FSIS estimated the hourly wage for CSIs is \$67.04. In addition, there would be temporary replacement labor costs for relief inspectors required to fulfill the work that would have been completed by the employees receiving training. There is also an estimated meal and incidental expense of \$1,850 per CSI. In summary, the one-time cost for training 12 new CSIs, including training, relief inspectors, and meals and incidental expenses, results in \$0.21 million [(12 CSIs × 114 hours × \$67.04 wage per hour) × 2 to account for relief inspectors + (\$22,200 in meals and incidental expenses)].<sup>79</sup> This results in \$0.02 million annualized assuming a 10-year adoption period and a 7 percent discount rate.

## *Combined Estimated Impact on FSIS*

The Agency's costs would potentially be impacted by changes to personnel and training requirements in the future. If these 10 establishments convert to NSIS, the Agency's annual remuneration costs may decrease by \$1.57 million, annualized assuming a 10-year adoption period and a 7 percent discount rate. In addition, the Agency plans to provide training for additional CSIs, has an estimated cost of \$0.02 million annualized assuming a 10-year adoption period and a 7 percent discount rate. The combined changes to the Agency's costs would be a net reduction of roughly \$1.55 million annually assuming a 10-year adoption period and a 7 percent discount rate (Table 11).

Table 11. Costs and Benefits to FSIS: Combined Estimated Impact on FSIS

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<sup>79</sup> 12 CSIs × \$1,850. FSIS, Office of Training, Transformation, and Distance Learning staff, average MI&E cost per FTE attending the Inspection Methods training in 2024.

Total Annualized Benefits and Costs	Midpoint Agency Cost Changes (million \$)
Change in Staffing	1.57
Training Cost	-0.02
<b>Net Benefit</b>	<b>1.55</b>

\*Mid-point is the average of the low and high estimates of change in Agency costs for changes in inspectors.  
 Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

### *Cost Savings for Removing Attestation of Work-Related Conditions*

Establishments operating under the NSIS would no longer need to submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers. The cost savings from removing this attestation, which is estimated to take approximately 2 minutes per establishment or a combined total of one hour for the industry, are \$63.04 annually.<sup>80</sup>

### *Net Benefits of the Proposed Rule*

Allowing NSIS establishments the flexibility to operate at faster line speeds would promote industrial innovation while maintaining food safety. Establishments would only choose to operate at faster line speeds if the benefits of doing so outweigh the costs. This PRIA estimated the potential costs and benefits from cost savings of removing the maximum line speed requirement for NSIS establishments. In addition, FSIS also estimated the benefit from more efficient use of the Agency’s resources.

<sup>80</sup> FSIS used the time estimate included in 84 FR 52323 and the hourly mean wage rate for Food Scientists and Technologists of \$31.52 multiplied by a benefits and overhead factor of two. BLS, “Occupational Employment and Wage Statistics,” Animal Slaughtering and Processing (311600), May 2024 (Occupation code:19-1012), June 3, 2025, <https://data.bls.gov/oes/#/industry/311600>.

The mid-point estimated cost for the industry associated with this proposed rule is approximately \$9.7 million, with a range of \$6.9 to \$12.1 million, assuming a 10-year adoption period and a 7 percent discount rate (Table 12). Most of this cost is associated with establishments voluntarily hiring additional labor if they choose to increase their line speeds or convert to NSIS. The proposed rule’s mid-point benefits from cost savings for the industry is approximately \$262 million, with a range of \$111 to \$418 million, assuming a 10-year adoption period and a 7 percent discount rate. In addition, the Agency could experience a net reduction in FTEs of roughly \$1.6 million, assuming a 10-year adoption period and a 7 percent discount rate. Overall, this rule is net beneficial for the range of line speed increases FSIS analyzed, with an estimated mid-point net benefits of \$253 million, ranging from \$106 to \$408 million, assuming a 10-year adoption period and a 7 percent discount rate (Table 12). The estimated mid-point net benefits are \$267 million, ranging from \$111 to \$429 million, assuming a 10-year adoption period and a 3 percent discount rate (Table 13).

Table 12. Net benefits of the proposed rule at 7 percent discount rate over 10 years

Establishment	Lower	Mid-point	Upper
	Costs (million \$)		
NSIS- No Waiver	4.0	5.4	6.8
Traditional	2.9	4.3	5.4
<b>Total</b>	<b>6.9</b>	<b>9.7</b>	<b>12.1</b>
	Benefits (million \$)		
NSIS- No Waiver	97.1	229.2	366.8
Traditional	13.8	32.4	51.4
<b>Total</b>	<b>110.9</b>	<b>261.6</b>	<b>418.2</b>
<b>FSIS</b>	<b>1.6</b>	<b>1.6</b>	<b>1.6</b>
	Net Benefits (million \$)		
<b>Net Benefits</b>	<b>105.6</b>	<b>253.4</b>	<b>407.6</b>

Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding.

Table 13. Net benefits of the proposed rule at 3 percent discount rate over 10 years

Establishment	Lower	Mid-point	Upper
	Costs (million \$)		

NSIS- No Waiver	4.2	5.6	7.0
Traditional	3.2	4.9	6.0
<b>Total</b>	<b>7.4</b>	<b>10.5</b>	<b>13.1</b>

	Benefits (million \$)		
NSIS- No Waiver	100.7	237.9	380.9
Traditional	16.0	37.5	59.6
<b>Total</b>	<b>116.8</b>	<b>275.4</b>	<b>440.5</b>
<b>FSIS</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>
	Net Benefits (million \$)		
<b>Net Benefits</b>	<b>111.1</b>	<b>266.7</b>	<b>429.2</b>

Estimates were annualized assuming a 10-year adoption period and a 3 percent discount rate. Numbers may not sum due to rounding.

#### IV. Alternatives

##### A - Taking No Action and Ending the Line Speed Waivers

FSIS considered taking no further regulatory action and ending the line speed waivers. Under this alternative, the six NSIS establishments operating under a waiver would be required to slow their operations to the pre-waiver maximum line speed of 1,106 hph. If the Agency were to rescind the line speed waivers, establishments would incur costs associated with reverting back to pre-waiver equipment, personnel, or operations. Further, establishments with line speed waivers would forgo benefits that they have accrued through improved efficiency. The estimated mid-point forgone industry cost savings is approximately \$105 million, annualized assuming a 7 percent discount rate. Other NSIS establishments would also be unable to benefit from improved production efficiency from increased line speeds. Traditional establishments may also lack the incentive to convert to the NSIS, forgoing potential industry and government cost savings. The Agency rejects this alternative because it would prevent NSIS establishments from benefitting from more efficient line speeds.

##### B– The Proposed Rule

Allowing NSIS establishments the flexibility to operate at faster line speeds would promote production efficiency. Establishments would only choose to operate at faster line speeds if the benefits of doing so outweigh the costs. This PRIA estimated the potential costs and

benefits from cost savings from allowing establishments the flexibility to operate at faster line speeds. At the mid-point estimate, the annualized cost associated with this proposed rule is approximately \$9.7 million, annualized assuming a 10-year adoption period and a 7 percent discount rate (Table 13). Most of this cost is associated with additional labor to voluntarily increase establishments' line speeds or convert to the NSIS. The proposed rule's estimated annualized benefit from cost savings is approximately \$262 million, annualized assuming a 10-year adoption period and a 7 percent discount rate. In comparison to alternative A, the proposed rule has an estimated net benefit for the industry of \$252 million and cost savings of \$1.6 million for FSIS, annualized assuming a 10-year adoption period and a 7 percent discount rate. For this reason, the Agency selects this alternative.

#### C– Requiring Traditional Establishments Converting to the NSIS to Wait One Year before Being Allowed to Increase Line Speeds

This alternative requires traditional establishments converting to NSIS to wait one year before being allowed to increase line speeds to ensure that they are able to maintain process control. This alternative could create an unnecessary regulatory burden for traditional establishments choosing to convert to the NSIS, because they would be required to wait an additional year after making investments and changes to production processes, including preparing their workforce to operate under the NSIS. The mid-point cost savings for the industry under this alternative are approximately \$248 million, annualized assuming a 10-year adoption period and a 7 percent discount rate. This represents a 5.1 percent reduction in cost savings compared to the proposed rule. This may be an underestimate as this unnecessary regulatory burden would result in reduced incentives for establishments to convert to the NSIS, compared to the proposed rule. For this reason, FSIS rejects this alternative.

Table 14. Alternative Policy Options<sup>81</sup>

Alternatives	Benefits	Costs	Net
A. Taking No Action and Ending the Line Speed Waivers	No benefit	NSIS establishments would lose their line speed waivers, reducing their productivity and likely incurring costs associated with adjusting their production process.	This alternative is net costly.
B. The Proposed Rule	This alternative could generate \$262 million annualized industry cost savings at the mid-point.	Industry could incur \$10 million annualized costs at the mid-point.	Industry could gain \$252 million annualized net benefits at the mid-point.
C. Requiring Traditional Establishment Converting to NSIS to Wait for One Year before They Increase Line Speed	This alternative could generate \$248 million annualized industry cost savings at the midpoint. Cost savings for traditional establishments would be lower compared to the proposed rule.	This alternative could impose an unnecessary burden for some traditional establishments and reduce their incentive to convert to the NSIS.	Approximately 5 percent lower annualized net benefits compared to the proposed rule. <sup>82</sup>

#### IV. Regulatory Flexibility Act Assessment

The FSIS Administrator has made a preliminary determination that this proposed rule, if finalized, would not have a significant economic impact on a substantial number of small entities in the U.S., as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). FSIS is proposing to republish 9 CFR 310.26(c), which stated that line speeds set forth in 9 CFR 310.1

<sup>81</sup> Estimates were annualized assuming a 10-year adoption period and a 7 percent discount rate. Numbers may not sum due to rounding. Please see earlier portions of the regulatory impact analysis for details and requests for comments related to the model parameters underlying these illustrative estimates.

<sup>82</sup> The estimated production efficiency gains shown in Table 8 for years 6 to 10 would be altered based on this alternative. At the mid-point line speed increase of 15 percent, the new production efficiency would be approximately 6.8, 7.0, 7.6, 8.4 and 9.4 percent for years 6 to 10, respectively. Recalculating the model using these production efficiency gains, the estimated present value for the total cost savings associated with this alternative is approximately \$1,734 million, or \$248 million annualized over 10 years, assuming a 7 percent discount rate. This represents a reduction of approximately 5 percent  $(((248-262)/262) \times 100)$ , compared to the proposed rule. Note that numbers may not sum due to rounding.

do not apply to an NSIS establishment, provided the establishment is able to maintain effective process control and prevent contamination of carcasses and parts by enteric pathogens and visible fecal material, ingesta, and milk. Should this proposed rule become final, all NSIS establishments would be allowed to operate at increased line speeds. Accordingly, establishments would no longer need to obtain a waiver and participate in the SIP in order to operate at increased line speeds.

**How many small entities are impacted by the proposed rule?**

The U.S. Small Business Administration (SBA) defines the size standard for small businesses for swine slaughter establishments as having 1,150 employees or less.<sup>83</sup> Swine slaughter establishments are in the 311611-Animal (except Poultry) Slaughter sector of the North American Industry Classification System.<sup>84</sup> Based on U.S. Census Bureau Statistics of U.S. Businesses (SUSB) data,<sup>85</sup> approximately 1,208 firms (98 percent) in the Animal (except Poultry) Slaughter sector are small and approximately 22 firms (2 percent) in this industry are large (Table 15).<sup>86</sup> FSIS estimates that one of the 1,208 small firms may voluntarily adopt faster line speeds and be impacted by the proposed rule.

Table 15. Small entity by firm size and receipts, SUSB data, 311611-Animal (except Poultry) Slaughter sector

Enterprise Size	Number of Firms	Receipts (Million \$)
Less than 5 employees	399	326

<sup>83</sup> United States Small Business Administration (SBA), Table of Small Business Standards Matched to North American Industry Classification System Codes. Effective January 1, 2022. Available at [https://www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table.pdf](https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf)

<sup>84</sup> This category includes firms engaging in other than swine slaughtering activities, such as cattle slaughtering. U.S. Census Bureau North American Industry Classification System (NAICS). Available online at <https://www.census.gov/naics/?input=31&chart=2022&details=311611> (last accessed in April 2025).

<sup>85</sup> U.S. Census Bureau. (2022). *2022 SUSB Annual Data Tables by Establishment Industry: U.S. and states, NAICS detailed employment*, [Data file]. April 2025. <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html>

<sup>86</sup> SUSB employment data are reported in ranges rather than at the exact SBA size standard of 1,150 employees. To provide a conservative estimate, FSIS classified firms with 1,499 or fewer employees as small.

5-9 employees	310	583
10-14 employees	165	412
15-19 employees	79	343
20 to 500 employees	235	9,507
500-749 employees	7	1,888
750-999 employees	9	4,168
1,000-1,499 employees	4	1,772
<b>Total</b>	<b>1,208</b>	<b>18,999</b>

**What are the criteria for “significant impact” and “substantial number of small entities”?**

The Regulatory Flexibility Act requires the Agency to analyze whether the proposed rule, if finalized, would have a significant impact on a substantial number of small entities. FSIS defines a significant economic impact as one that is greater than 1 percent of small entities’ annual receipts. FSIS considers a regulation to have an impact on a substantial number of small entities if it affects over 30 percent of the small entities identified in this analysis.

**What are the economic impact and compliance costs per firm?**

In the Regulatory Impact Analysis of this proposed rule, FSIS estimated the costs associated with this proposed rule if an entity chooses to operate at faster line speeds. On average, the approximate cost per entity is \$0.43 million, annualized at a 7% discount rate. FSIS has estimated that, on aggregate, this proposed rule would be net beneficial and noted that entities would only choose to operate at faster line speeds if the benefits outweigh costs for their operations. FSIS also estimated a one-time cost of \$90 to account for the time needed for a small entity to become familiarized with this proposed rule.

**Does the proposed rule have a significant impact on a substantial number of small entities?**

Using SUSB data, FSIS estimated that the 1 percent “significant impact” criterion for the small entities impacted by this proposed rule is \$3.9 million. The “substantial number” criterion of 30 percent of small entities results in a total of 363 small entities. This means that this proposed rule would have a significant impact on a substantial number of small entities if it has an estimated impact of over \$3.9 million on at least 363 small entities. FSIS estimates the impact to the single small entity that may voluntarily adopt faster line speeds at 0.11 percent of the

estimated revenue.<sup>87</sup> This small entity represents less than 1 percent of the total number of small firms (1/1,208) and does not amount to a substantial number of small entities that may experience a significant impact from this proposed rule.

The estimated one-time cost of \$90 for a firm to familiarize themselves with the proposed rule would amount to less than 1 percent of annual receipts for all entities. The \$90 familiarization cost for 399 firms with less than 5 employees is 0.01 percent of their average annual receipts.

### **What are the direct and indirect impacts?**

FSIS does not anticipate direct costs or benefits to a substantial number of small entities, because the proposed rule does not impose additional requirements on industry and removes the need to obtain waivers and participate in SIP to operate at faster line speeds. Small entities are permitted to operate at increased line speeds if they choose to operate under NSIS. FSIS assumes most small entities would not choose to do so due to economic constraints.

Small and very small entities generally operate in local niche markets, in which they source inputs from small producers and sell products to consumers who have shown an increased demand for locally produced products.<sup>88</sup> The proposed rule, if finalized, is not expected to directly impact these local niche markets or the entities that participate in them.

### **Certification**

FSIS preliminarily certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities in the United States. FSIS invites comments on the assumptions, data, potential unidentified direct or indirect costs, methodologies, and

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<sup>87</sup> The small entity that FSIS assumed would voluntarily increase their line speed in response to this proposed rule likely has between 500 and 1,499 employees. FSIS estimated revenue for firms in the Animal (except Poultry) Slaughter sector having between 500 and 1,499 employees at \$391 million, thus a firm's average threshold for significant impact is \$3.9 million. U.S. Census Bureau. (2022). *2022 SUSB Annual Data Tables by Establishment Industry: U.S. and states, NAICS detailed employment, 2022* [Data file]. April 2025. <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html>

<sup>88</sup> Johnson, R., Marti, D. and Gwin, L. (2012). *Slaughter and Processing Options and Issues for Locally Sourced Meat*. Washington, DC: USDA Economic Research Service, LDP-M-216-01.

conclusions in this analysis.

## **V. Paperwork Reduction Act**

In accordance with subsection 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection and recordkeeping requirements included in this notice have been submitted by the Agency to the Office of Management and Budget (OMB) for approval.

**Title:** New Swine Slaughter Inspection System.

**OMB Number:** 0583-0171.

**Type of Request:** Request to revise an approved information collection.

**Abstract:** FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, et seq.). This statute mandates that FSIS protect the public by verifying that meat products are safe, wholesome, and properly labeled.

The currently approved burden estimate for this collection is 4,348 hours based on 84 respondents. This burden estimate includes the collection of information to ensure that all establishments operating under NSIS monitor their systems through microbial testing and record keeping and that they maintain records to document the total number of animals and carcasses sorted and removed per day and the reasons for their removal. As part of this proposed rule, FSIS requests to eliminate the current requirement for each establishment operating under the NSIS to submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers. The elimination of this attestation requirement would reduce the total burden estimate by one hour for a revised total of 4,347 hours. The current approval for this information collection will expire on February 28, 2026.

FSIS has made the following estimates based upon an information collection assessment.

**Respondents:** Official swine slaughter establishments.

**Estimated No. of Respondents:** 84.

**Estimated No. of Annual Responses per Respondent:** 91,078.

**Estimated Total Annual Burden on Respondents:** 4,347 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250-3700; 202-720-5046.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253. To be most effective, comments should be sent within 60 days of the publication date of this proposed rule.

## **VI. E-Government Act**

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

## **VII. Executive Order 12988, Civil Justice Reform**

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be

preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

### **VIII. Executive Order 13175**

This rule has been reviewed in accordance with the requirements of E.O. 13175, "Consultation and Coordination with Indian Tribal Governments." E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe requests consultation, FSIS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

### **IX. Environmental Impact**

Pursuant to the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) (NEPA), Federal agencies fulfill their NEPA obligation to study the effects of major Federal actions in one of three ways. For a major Federal action that will have significant environmental effects, the agency prepares a detailed Environmental Impact Statement (EIS) (42 U.S.C. 4336(b)(1)). If it is unclear whether the proposal will have significant effects, the agency may prepare a brief Environmental Assessment (EA) (42 U.S.C. 4336(b)(2)). Finally, categorical exclusions are classes of actions that normally do not have significant effects on the environment and do not require an EA or an EIS absent extraordinary circumstances (42 U.S.C. 4336(b)(2)). USDA's NEPA implementing regulations establish a categorical exclusion for specified categories of actions and the actions of certain USDA agencies and agency units (7 CFR 1b.3, 1b.4). USDA

has determined that the listed agencies, including FSIS (7 CFR 1b.4(b)(6)), “conduct programs and activities that have been found to have no individual or cumulative effect on the human environment” (7 CFR 1b.4(a)). The action thus is categorically excluded unless FSIS anticipates that extraordinary circumstances from this rule may have a significant environmental effect.

Under the proposed rule, expected sales of pork products derived from market hogs, rather than maximum line speed, would determine production levels in establishments. Allowing NSIS establishments to operate at faster line speeds may allow establishments to slaughter more efficiently but would not affect consumer demand for the establishments’ products. Moreover, all establishments, regardless of line speed, are required to meet all local, state, and Federal environmental requirements. FSIS does not anticipate that increasing the line speed may have a significant environmental effect (7 C.F.R. 1b.4(a)). Accordingly, this action is appropriately subject to the categorical exclusion from the preparation of an EA or an EIS as authorized under 7 CFR 1b.4 of the USDA regulations.

#### **X. Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: <https://www.fsis.usda.gov/federal-register>. FSIS will also announce and provide a link through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <https://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and

have the option to password protect their accounts.

## **XI. USDA Non-Discrimination Statement**

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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## **Proposed Regulatory Amendments**

### **List of Subjects in 9 CFR Part 310**

Animal diseases, Blood, Meat inspection.

For the reasons set forth in the preamble, FSIS is proposing to amend 9 CFR chapter III

as follows:

## **PART 310 – POST-MORTEM INSPECTION**

1. The authority citation for part 310 continues to read as follows:

**Authority:** 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Republish and amend paragraph (c) of § 310.26 to read as follows:

(c) *Line speed limits.* The line speed limits in §310.1 do not apply to the establishment, provided it is able to maintain effective process control and prevent contamination of carcasses and parts by enteric pathogens and visible fecal material, ingesta, and milk.

Establishments operating under the NSIS must slow operations as directed by the Inspector-in-Charge (IIC). IICs are authorized to require establishments to reduce the rate of establishment operations at any point in the slaughter process when, in their judgment, there is a loss of process control or when carcass-by-carcass inspection cannot be adequately performed due to the manner of presentation or the condition of the animals.

3. Remove § 310.27.

4. Remove § 310.28.

Done in Washington, DC.

**Justin Ransom,**

*Administrator.*

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