

USDA Poultry Regulations To Undergo Major Overhaul

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The U.S. Department of Agriculture's Food Safety and Inspection Service has announced a final rule amending poultry slaughter regulations and establishing a new poultry inspection system for young chicken and turkey slaughter establishments. Part of the USDA's response to a presidential executive order^[1] asking agencies to review and improve existing regulations, the final rule aims to "facilitate pathogen reduction in poultry products, improve the effectiveness of poultry slaughter inspection, make better use of the agency's resources and remove unnecessary regulatory obstacles to innovation."

The first major overhaul of the nation's poultry inspection system in nearly 60 years, the "Modernization of Poultry Slaughter Inspection"^[2] is a 379-page behemoth that replaces the roughly 20-page "Poultry Products Inspection Act" that was signed into law by then President Dwight Eisenhower in 1957.



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A lot has changed in 57 years, but poultry inspection has not — until now. Many of the significant changes under the MPSI shift the onus for regulation and inspection duties from government to industry. This move has been generally supported by industry, although agency inspectors and advocacy groups have raised concerns that these changes will adversely affect workers and consumer safety.^[3]

It is also important to note that certain aspects of the final rule are optional and voluntary, such as participation in the NPIS, while much of the final rule is mandatory and applicable to all poultry slaughter establishments. Here are five things industry should know to comply with the new regulations that will take effect six months after publication in the Federal Register.

New Poultry Inspection System Is Optional and Applicable Only to Establishments Slaughtering Ratites

The NPIS is an option only for young chicken and all turkey establishments, which can choose to retain their current system. NPIS will not replace the Streamlined Inspection System, New Line Speed Inspection System, New Turkey Inspection System or Traditional Inspection, as had originally been proposed. The NPIS was designed using data from the agency's Hazard Analysis and Critical Control Point Systems-Based Inspection Models Project pilot study.^[4] Citing HIMP study results, FSIS has emphasized that NPIS will allow inspectors "to perform more offline inspections activities that are more

effective in ensuring food safety, while providing for a more efficient and effective online carcass-by-carcass inspection.”

In particular, the new system will: (1) “requir[e] that establishment personnel sort carcasses and remove unacceptable carcasses and parts before the birds are presented to the FSIS carcass inspector” (“CI”); (2) “shift[] agency resources to conduct more offline inspection activities that are more effective in ensuring food safety, which will allow for one offline verification inspector per line per shift and will reduce the number of online inspectors to one”; (3) “replac[e] the Finished Product Standards, which will apply to establishments that continue operating under SIS, NELS, NTIS, [and traditional inspection] with a requirement that establishments that operate under the NPIS maintain records to document that the products resulting from their slaughter operations meet the definition of ready-to-cook poultry”; and (4) “authoriz[e] young slaughter establishments to operate at a maximum line speed of 140 birds per minute, provided that they maintain process control.”

Inspections and line speeds will be discussed in greater detail below. Establishments that slaughter poultry other than young chickens or turkeys are not eligible to operate under the NPIS unless they obtain a waiver under the Salmonella Initiative Program.[5]

Pathogen Reduction

The new MPSI pathogen prevention rules are mandatory and applicable to all poultry slaughter establishments regardless of the inspection system under which they operate. These new regulations are a key part of USDA’s Salmonella Action Plan, unveiled in December 2013, which is the agency’s blueprint for combating contamination by enteric pathogens originating from poultry products.[6] To this end, FSIS has removed the codified Salmonella pathogen reduction performance standards and has also rescinded the generic E. coli testing regulation for all poultry slaughter establishments.

In lieu of the old testing standards, the MPSI will require all poultry facilities “to take measures to prevent Salmonella and Campylobacter contamination, rather than addressing contamination after it occurs.” For the first time ever, all poultry slaughter establishments will be responsible for developing a microbiological sampling plan, which must include carcass sampling and testing “at the prechill and postchill points in the process to monitor process control for enteric pathogens.”

Specifically, establishments must develop, implement and maintain written procedures in their HACCPs and SOPs to ensure that they are testing samples for enteric pathogens both before and after birds enter a chill tank, where they are commingled with other carcasses. Slaughter establishments must also ensure that carcasses contaminated with visible fecal material do not enter the chiller. Processors will be required to keep daily records documenting the effectiveness of their microbiological sampling and testing procedures. Failure to implement effective measures to control Salmonella and Campylobacter contamination would be a basis for FSIS inspectors to take appropriate regulatory action, including suspending operations at the establishment.

The prechill testing is intended to monitor the effectiveness of all process controls up to the point of the chiller at the end of the evisceration process; an establishment will need to conduct postchill testing after it has completed all interventions, which is the same point in the process that FSIS collects samples for Salmonella and Campylobacter verification testing. FSIS will require establishments to collect a pair of samples, one at prechill and one at postchill, minimally at a frequency of once per 22,000 processed carcasses for chickens and once per 3,000 processed carcasses for turkeys, ducks, geese, guineas and squabs, and FSIS will periodically review these records and continue its own testing to ensure

compliance.

Because an establishment's microbiological sampling plan will be part of its HACCP system, each establishment will be required to provide scientific or technical documentation to support the judgments made in designing its sampling plan. FSIS is also amending the regulations to permit the use of: (1) approved online reprocessing anti-microbial systems or (2) offline reprocessing anti-microbial agents, including chlorinated water containing 20 ppm to 50 ppm available chlorine or other anti-microbial substances that have been approved for reprocessing poultry. Use of online or offline reprocessing must also be addressed in an establishment's HACCP systems.

Some exceptions to these new pathogen prevention rules will apply to very small and very low volume establishments that continue to operate under traditional inspection. For example, the smallest establishments will be required to conduct microbial testing only at the postchill point in the slaughter process. Otherwise, the new pathogen reduction strategies under the MPSI will be applicable industry wide.

Inspections and Line Speeds

FSIS will continue to staff all establishments that do not choose to operate under the NPIS with their current number of online inspectors, with processing lines running at their current speeds. SIS slaughter establishments currently operate at a maximum line speed of 70 bpm with two online inspectors, although facilities with a high-speed line waiver can operate at 140 bpm with four online inspectors. Maximum line speeds under the NELS are currently 91 bpm with three online inspectors; while the NTIS caps line speeds at 51 bpm for light turkeys with two online inspectors and 45 bpm with heavy turkeys and two online inspectors. Traditional Inspection line speeds are 39 bpm for turkeys and 64 bpm for young chickens. There are also currently 20 young chicken establishments that are operating line speeds at a maximum of 175 bpm under a SIP waiver as part of the HIMP pilot program.

FSIS will continue to allow these 20 young chicken establishments to operate at line speeds of up to 175 bpm under the NPIS. For all other young chicken slaughter establishments that decide to operate under NPIS, the maximum line speed will be capped at 140 bpm. The maximum line speeds for turkey slaughter establishments operating under the NPIS will be increased from 51 to 55 bpm.

For those establishments that choose to operate under the NPIS, there will be one online CI and one offline verification inspector assigned to each evisceration line. CIs will conduct a continuous online inspection of carcasses that have been sorted, washed and trimmed by processors at a fixed location immediately before the chiller. CIs will issue a noncompliance report if they find any birds contaminated with fecal material at this point in the line.

Verification inspectors will conduct carcass verification checks on carcass samples collected before the CI station to ensure that establishment processors are effectively sorting carcasses and producing products that comply with FSIS' zero visible fecal tolerance and other performance standards. Specifically, every hour, verification inspectors will pull 10 birds off the line to check for visible fecal material and other potential defects missed by the company's sorters.[7] Detection of these defects may result in a noncompliance report and possible production stoppage.

In addition to carcass verification checks, verification inspectors will perform a variety of offline activities, such as verifying compliance with SOP, SPS and HACCP regulatory requirements, and verifying that establishments are effectively preventing contamination by enteric pathogens and fecal material

throughout the entire slaughter and dressing process. In this regard, verification inspectors will ensure that poultry are slaughtered in accordance with good commercial practices, take samples for microbial testing, examine plant and equipment sanitation, check plant records and observe the companies' employees and equipment at work to assess overall process control.

Establishments that decide to implement the NPIS, as with those currently operating under the HIMP, will have the advantage of configuring their evisceration lines to accommodate only one online CI. Accordingly, NPIS establishments will arguably have greater control over their lines and therefore greater flexibility over their production process. For example, because only one CI is required at the end of the line, NPIS establishments will not need to adjust their production schedules based on the availability of FSIS inspectors to be stationed online. Operating under NPIS will give poultry processors direct control of the sorting process within their facilities with less reliance on agency inspectors.

Elimination of Time/Temperature Chilling Requirements

Under current USDA regulations, poultry slaughter establishments are required to lower the temperature of carcasses to 40 degrees Fahrenheit within four hours (for 4-pound broilers), six hours (for 4 pounds to 8 pounds) and eight hours (greater than 8 pounds or turkey). Following implementation of the MPSI, establishments will be able to develop their own performance-based, validated chilling procedures for RTC poultry, and will be required to incorporate these procedures into their HACCP systems. Processors will need to validate their chilling procedures according to the HACCP validation regulations.[8]

Under the new regulations, establishments must: (1) document the scientific or technical support for the judgments made in their chilling process and (2) repeatedly test the adequacy of their chilling process controls to demonstrate that their chilling process will perform as expected. FSIS will consider the existing time and temperature chilling regulations as safe harbors and will incorporate these requirements into forthcoming compliance guidance.

Additionally, FSIS has revised the definition of air chilling to read as follows: “[a]ir chilling is the method of chilling raw poultry carcasses and parts predominantly with air. An anti-microbial intervention may be applied with water at the beginning of the chilling process if its use does not result in any net pickup of water or moisture during the chilling process. The initial anti-microbial intervention may result in some temperature reduction of the product only if the majority of temperature removal is accomplished exclusively by chilled air.”

FSIS believes this revised definition will allow change and innovation by industry, while still meeting the essential criteria for approval of the “air-chilled” labeling claim. In theory, this will provide industry with more options to develop and apply innovative anti-microbial interventions to improve the microbiological characteristics of poultry products by reducing the numbers of foodborne pathogens and spoilage organisms.

Notification and Applicability Dates

All young chicken and turkey slaughter establishments that choose to convert to the NPIS will have six months from the date of publication of the final rule in the Federal Register to notify their district office in writing of their intent. Establishments that do not timely comply with the notification period will be deemed to have chosen the inspection system under which they are currently operating. Young chicken and turkey slaughter establishments that decide to participate in the NPIS after the initial notification

date, however, may notify FSIS of their intent at any time thereafter.

Initial implementation for those establishments that choose to convert to NPIS within the initial notification period will begin 60 days after the date of publication in the Federal Register. FSIS will implement the NPIS in phases by clusters of establishments in close geographic proximity to one another based on a computerized ranking system to determine the order and scheduling. The ranking system will take into account a number of factors, including FSIS staffing needs, past performance of the establishment, the location of the establishment vis-a-vis other FSIS-inspected establishments and establishment readiness to transition to the NPIS.

Again, while transitioning to the NPIS remains optional for young chicken and turkey establishments, a number of other regulations under the MPSI are mandatory and applicable to all poultry slaughter establishments. For instance, large establishments, small establishments and very small establishments will be required to implement the new pathogen reduction and microbiological sampling requirements 90 days, 120 days and 180 days, respectively, after publication of the final rule.[9]

Conclusion

Overall, the MPSI is poised to modernize and privatize poultry inspection while simultaneously providing proactive pathogen reduction. Eligible industry establishments should examine their current inspection systems and perform a cost-benefit analysis of conversion to NPIS to determine whether and when they ought to make the switch. Regardless of whether eligible establishments choose to implement the NPIS, all poultry slaughter establishments need to be prepared to implement the mandatory regulations under the MPSI within the requisite time frames.

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[1] E.O. 13563.

[2] 77 FR 13512.

[3] See Benjamin Goad, USDA overhauls poultry inspection rules, *The Hill*, July 31, 2014; Benjamin Goad & Tim Devaney, Overnight Regulation: Groups squawk over poultry rule, *The Hill*, July 31, 2014.

[4] See “Evaluation of HACCP Inspection Models Project (HIMP)”, August 2011 (available on the FSIS Website at: http://www.fsis.usda.gov/wps/wcm/connect/fcd9ca3e-3f08-421f-84a7-936bc410627c/Evaluation_HACCP_HIMP.pdf?MOD=AJPERES).

[5] See FSIS Directive 5020.1, Verification of Salmonella Initiative Program, Aug. 12, 2011 (available on the FSIS Website at: <http://www.fsis.usda.gov/OPPDE/rdad/FSISDirectives/5020.1.pdf>).

[6] See Strategic Performance Working Group Salmonella Action Plan, Dec. 4, 2013 (available on the FSIS Website at: <http://www.fsis.usda.gov/wps/wcm/connect/aae911af-f918-4fe1-bc42-7b957b2e942a/sap-120413.pdf?mod=ajperes>).

[7] See Poultry Slaughter Modernization FAQs (available on the FSIS Website at: http://www.fsis.usda.gov/wps/wcm/connect/3b7e7781-c17e-4f73-810f-f66a904f66f3/Poultry-Slaughter-FAQ_073114.pdf?MOD=AJPERES).

[8] 9 CFR 417.4 (a).

[9] 9 CFR 381.65 (f)-(h).

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