

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Parts 381 and 500

[Docket No. FSIS–2011–0012]

RIN 0583–AD32

### Modernization of Poultry Slaughter Inspection

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is extending the comment period for the proposed rulemaking “Modernization of Poultry Slaughter Inspection” and responding to questions and addressing issues that have been raised concerning the proposed rule. The comment period was scheduled to close on April 26, 2012. During the comment period, a coalition of consumer advocacy organizations and two trade associations representing the poultry industry asked that FSIS clarify certain aspects of the proposed rule to help inform their comments. This document summarizes the issues raised by these groups and FSIS’s response. FSIS is also soliciting additional comments on how it should implement the final rule resulting from the proposal and requesting available data on any worker safety issues associated with increased line speeds.

FSIS received a request to hold a public technical meeting on the proposed rule. FSIS does not believe that such a meeting would be useful. The Agency will, however, assess public understanding of the proposed rule in connection with its review and evaluation of the comments submitted and will respond as appropriate.

**DATES:** The proposed rule published January 27, 2012 (77 FR 4408) is extended. Comments are due May 29, 2012.

**ADDRESSES:** Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site 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 <http://www.regulations.gov>. Follow the online instructions at that site for submitting comments.

- *Mail, including floppy disks or CD-ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, Docket Clerk, Patriots Plaza 3, 355 E. Street SW., 8–163A, Mailstop 3782, Washington, DC 20250–3700.

*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2011–0012. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Daniel Engeljohn, Assistant Administrator, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–3700, (202) 720–2709.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 27, 2012, FSIS published a proposed rule, “Modernization of Poultry Slaughter Inspection” (77 FR 4408). In that document, the Agency proposed a new inspection system for young chicken and turkey slaughter establishments that would replace all of the existing inspection systems except for traditional inspection. Key elements of the proposed new inspection system include: (1) Requiring that establishment personnel sort carcasses and remove unacceptable carcasses and parts before the birds are presented to the FSIS carcass inspector; (2) reducing the number of on-line carcass inspectors to one; (3) permitting faster line speeds than are permitted under the existing inspection systems; and (4) replacing the existing Finished Product Standards (FPS) with a requirement that establishments that operate under the new inspection system maintain records to document that the products resulting

from their slaughter operations meet the definition of ready-to-cook poultry. In addition to the proposed new inspection system, FSIS also proposed changes that would require, among other things, that all establishments that slaughter poultry other than ratites develop, implement, and maintain written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal material, and that they incorporate these procedures into their HACCP plan or sanitation standard operating procedures (SOP) or other prerequisite programs.

During the comment period for the proposal, FSIS officials met with representatives from a coalition of consumer advocacy organizations and two trade associations representing the poultry industry. The consumer advocacy coalition and one of the trade associations had requested that FSIS clarify certain aspects of the proposed rule to inform their comments on the proposal. Because the issues addressed in these meetings may be relevant to the development of comments from other stakeholders, a brief summary of these issues and the Agency’s response are described below. The other trade association requested that FSIS provide additional information on how the Agency intends to implement the proposed new poultry inspection system. The groups submitted written questions to the Agency to consider before each meeting. The issues raised on implementation are summarized in a separate section of this document that outlines and requests comments on how the Agency plans to implement the final rule.

#### Summary of Issues Raised and FSIS Response

In addition to the questions outlined below, certain members of consumer advocacy organizations requested that FSIS hold a public technical meeting on the proposed rule. FSIS is clarifying certain aspects of the proposed rule in this **Federal Register** notice and will assess public understanding of the proposed rule in connection with its review and evaluation of the comments submitted. The Agency will provide any needed clarification if a final rule is adopted.

Following is a summary of the issues raised and FSIS’s response.

### 1. Issues Raised by the Consumer Advocacy Coalition

*Comment:* Why does FSIS believe that it is preferable for plant employees to sort carcasses?

*FSIS response:* Under the existing inspection systems, on-line inspectors conduct activities that do not have a direct impact on public health. If the proposal is finalized, and the establishment conducts sorting activities, the only birds presented to the carcass inspector (CI) would be those that are likely to pass inspection. Therefore, the CI will be able to focus on food safety-related activities, such as verifying that carcasses affected by septicemia or toxemia or contaminated with visible fecal material do not enter the chiller. For these reasons, the Agency is proposing to remove certain on-line inspection activities that are not directly related to public health.

*Comment:* Is there any guarantee that FSIS inspectors would be performing more food safety-related activities under the proposed new inspection system?

*FSIS response:* Yes, generally inspectors would be performing more food safety-related activities. There are three important aspects of the proposed rule that would allow FSIS inspectors to conduct more food safety-related activities. First, because the on-line CI would not be responsible for sorting carcasses for quality-related defects, the amount of time that the CI spends focusing on food safety-related activities would increase. Second, under the proposed new inspection system, the offline verification inspector (VI) would primarily conduct food safety-related activities, such as verifying compliance with HACCP and sanitation SOP requirements and collecting product samples. Third, because FSIS considers contamination by enteric pathogens and fecal contamination to be hazards that are reasonably likely to occur, FSIS is proposing to require that all establishments that slaughter poultry have written programs to address sanitary dressing procedures, and that, at a minimum, these procedures include microbiological testing at pre-chill and post-chill to monitor process control. In addition to conducting verification checks on carcasses, FSIS off-line inspectors would be reviewing the establishment's records and test results to verify that the establishment maintains process control.

*Comment:* What type of training would FSIS require for establishment employees assigned to sort carcasses?

*FSIS response:* The proposed rule does not prescribe training for establishment employees. However, as

noted in the preamble to the proposed rule, FSIS expects to convert the current instructions that it provides to Agency inspectors into guidance for industry to use to train plant sorters (77 FR 4419).

*Comment:* What would establishment employees be required to do as part of their sorting activities?

*FSIS response:* Should the rule become final, establishment sorters would be required to identify carcasses with septicemia/toxemia and other condemnable conditions and to remove them from the line before they reach the CI. Establishment employees would also need to conduct trimming and re-processing before the birds reach the CI.

*Comment:* Will establishment employees need to look inside the bird as part of their sorting responsibilities?

*FSIS response:* Septicemic/toxemic birds exhibit signs on the outside of the carcass, so there is no need to look at the viscera. The regulations that prescribe conditions for condemnation in 9 CFR 381.81–381.93 would still apply. Establishment personnel would need to conduct sorting activities to address these condemnable conditions before the birds reach the CI. The conditions described in these regulations can be readily identified by examining the outside of the carcass.

Lesions on the viscera do not require condemnation of the entire carcass except for lesions associated with visceral leukosis. The proposed rule provides for a 300-bird inspection of young chickens with the viscera (77 CFR 4421–4422). If the inspector finds signs or symptoms associated with visceral leukosis, then the entire flock would be inspected for the disease. All growers vaccinate birds for visceral leukosis. Therefore, it is seen only on rare occasions if the vaccine fails.

*Comment:* How does the proposed rule address other consumer protection (OCP) issues, such as digestive tract contents found on products, that may affect internal parts of the carcass?

*FSIS response:* There is a difference between fecal material and ingesta as digestive tract contents. We have no evidence to show that ingesta carries the same microbes as fecal contamination. Under the proposal, FSIS would enforce OCP processing defects that are associated with digestive tract contents, other than fecal contamination, in enforcing the ready-to-cook (RTC) poultry standard.

*Comment:* Where would the establishment's critical control point (CCP) for visible fecal contamination be located?

*FSIS response:* FSIS does not prescribe where establishments must locate CCPs. The CI would be located

before the chiller. Visible fecal contamination would need to be removed before the carcass is presented to the CI. The VI would be conducting verification checks for fecal contamination off-line. If the VI detects fecal contamination offline, the plant has exceeded the zero tolerance for visible fecal contamination.

The present inspection system is similar to the proposed system in that there are inspectors located upstream, and zero tolerance is enforced at a point at final wash, before the carcass enters the chiller. However, under the proposed new system the CI is more likely to observe visible fecal contamination because the carcasses would be free from animal diseases and trim and processing defects.

*Comment:* Under the proposed rule, can FSIS take regulatory action throughout the entire dressing process?

*FSIS Response:* The proposed rule would require that establishments develop, implement, and maintain procedures to address contamination by enteric pathogens and fecal material throughout the entire slaughter and dressing process. Through inspection activities, FSIS would ensure that the establishment's procedures are effective, and the Agency would take appropriate regulatory action when necessary.

*Comment:* Would there be an approval process for the establishment's procedures to prevent contamination with enteric pathogens and fecal material?

*FSIS response:* There would be no pre-approval of an establishment's procedures. However, establishments would need to ensure that their procedures for preventing contamination are effective. To verify that an establishment's procedures are effective, FSIS would consider: (1) The microbiological data that the establishment would be required to collect pre-chill and post-chill to demonstrate process control; (2) presence of visible fecal contamination; and (3) FSIS sampling results for *Salmonella* and *Campylobacter*.

*Comment:* What was the basis for the baseline sampling numbers presented in the preamble to the proposed rule (74 FR 4442)?

*FSIS response:* The estimates for sampling come from the economic analysis and reflect what we estimate to be the amount of sampling that plants would conduct if the proposed rule is adopted by the Agency. We are not proposing to prescribe how often establishments must test.

Establishments would need to determine the frequency and type of sampling that would be sufficient to

demonstrate that they are maintaining process control.

*Comment:* Why is FSIS not mandating a frequency for testing?

*FSIS response:* As stated in the preamble to the proposed rule, FSIS is proposing to require that an establishment's sampling frequency be adequate to monitor the effectiveness of its process control for enteric pathogens (77 FR 4428). The frequency with which establishments would need to conduct such testing would depend on a number of factors, including their production volume, the source of their flocks, their slaughter and dressing process, and the consistency of their microbial test results over time. Because the testing frequency would be an integral part of an establishment's HACCP system verification procedures, establishments would need to collect and maintain data to demonstrate that their testing frequency is adequate to verify the effectiveness of their process control procedures.

*Comment:* Why did the Agency propose two points for microbiological testing instead of three?

*FSIS response:* As noted in the preamble to the proposed rule, FSIS had considered requiring testing at three points in the process, i.e., re-hang, pre-chill and post-chill (77 FR 4428). The proposed rule provides for testing at pre-chill and post-chill because the Agency tentatively concluded that verification testing conducted at these two points would provide the evidence establishments need to verify that their process control measures are effective in preventing carcasses from becoming contaminated with pathogens. In the preamble to the proposed rule, the Agency explained that it considered requiring a third verification test at the re-hang position to monitor the incoming load of pathogens but tentatively decided that it was not necessary to impose the additional costs that would be associated with testing at this point (77 FR 4428). FSIS also considered requiring only one verification test at any position along the production line to provide maximum flexibility but concluded this approach may not be sufficient to monitor the effectiveness of an establishment's procedures to prevent contamination throughout the slaughter and dressing operation. The Agency requests comments on these alternatives.

*Comment:* Can CI inspectors stop or slow the line?

*FSIS response:* If the CI observes a condemnable condition, either food safety or generalized OCP condition requiring condemnation of the entire

carcass, the CI would be authorized to stop the line to prevent such carcasses from entering the chiller. The CI would communicate the findings to the VI and inspector-in-charge (IIC). The IIC would consider available data to reset the line speed. Line speed would be determined by IIC's assessment of the frequency of carcass defects identified by the CI and the VI and the plant's control of its processes.

*Comment:* Would offline inspectors be available to visually inspect carcasses under the proposed new system.

*FSIS response:* The off-line VI would be checking carcasses to verify that they do not contain food safety-related contamination or defects.

*Comment:* How many HACCP verification activities would occur under the new system versus the old system?

*FSIS Response:* HACCP and sanitation verification activities would be a higher fraction of inspection activities under the proposed new inspection system as the Agency reduces its focus on quality and other OCP defects.

*Comment:* What is the relationship between the ready-to-cook (RTC) poultry standard in the proposed rule and the existing Finished Product Standards (FPS)?

*FSIS response:* Poultry products that comply with the FPS meet the definition of RTC poultry under the existing regulations; i.e., they are suitable for cooking without the need for further processing. The FPS have been in place for many years and were used to inform the OCP standards in the HIMP pilot. These OCP standards reflect OCP performance in establishments before HIMP. Establishments operating under HIMP maintained OCP defect levels that average about half the corresponding OCP performance standards. Therefore, FSIS has determined that it is not necessary to require that establishments operating under the proposed new inspection system meet prescriptive OCP performance standards in order to produce RTC poultry. Under the proposed rule, establishments operating under the proposed new inspection system would have the flexibility to implement the process controls that they have determined would best allow them to produce RTC poultry.

*Comment:* What happens to the carcasses and parts that are rejected by the plant?

*FSIS response:* All regulations that apply to condemned carcasses/parts would still apply under the new inspection system, e.g., denaturing and diverting away from human food. The off-line VI would verify that the plant is

properly disposing of inedible and condemned carcasses and parts.

*Comment:* For OCP defects under HIMP, there is a moving window in which there is non-compliance if the plant exceeds OCP standards. What about under the proposed rule?

*FSIS response:* The Agency is moving away from using the moving window to meet OCP performance standards. Under the proposed rule, establishments would determine how they would document that they are producing RTC poultry. The Agency is not prescribing where or how establishments would address OCP defects.

*Comment:* If establishments under the proposed new inspection system are permitted to increase the line speed, would the CI continue to detect problems?

*FSIS response:* Analysis of HIMP data shows that CIs are able to detect fecal contamination and septicemia/toxemia at line speeds of up to 175 birds per minute (bpm) for young chickens.

*Comment:* Did the Agency consider the effects of faster line speeds on worker safety?

*FSIS response:* FSIS did consider potential effects on safety. The Agency is prepared to address worker safety within the bounds of its regulatory authority and will coordinate with the Occupational Safety and Health Administration (OSHA) as the regulatory process moves forward. The National Institute for Occupational Safety and Health (NIOSH) study described in the proposed rule is a start to determine what the current baseline performance indicators for worker safety in plants are before an increase in line speeds. We will use the NIOSH assessment tool and consider ways that we can supplement the NIOSH study. We are interested in comments on the effects of line speed and worker safety.

*Comment:* Why did the Agency propose to reduce the length of the CI inspection station so that there is no room for a helper?

*FSIS response:* Helpers are necessary under the existing inspection systems because the inspectors are sorting, and the birds have more defects. The proposed rule does not preclude an establishment from assigning a helper, but because the birds presented to the CI would have fewer defects, there is no need for a helper. Therefore, under the proposed rule, the requirement for the helper stand at the inspection CI inspection station would be removed.

*Comment:* The *Salmonella* results in the HIMP report compare HIMP plants with comparison plants. How many of the HIMP plants, and how many of the comparison plants, had received

waivers for on-line reprocessing (OLR) in each year since the HIMP pilot began? Is it possible that OLR was responsible for lower *Salmonella* positive rates?

*FSIS response:* Before November 2011, FSIS did not track the date of implementation of approved waivers for OLR systems. In November 2011, all establishments with existing waivers were required to participate in the *Salmonella* Initiative Project (SIP) or forfeit their waivers. FSIS is able to track the dates that OLR waivers were implemented under SIP. Based on information obtained under SIP, as of March 2011, 15 of the 20 HIMP plants had waivers for OLR (75%), and 61 of the 64 comparison plants had waivers for OLR (95.3%).

## 2. Issues Raised by the Trade Association

*Comment:* Can FSIS clarify how visible fecal contamination would be handled under the new poultry inspection system?

*FSIS response:* An important aspect of the proposed rule is the provision that requires that all poultry establishments develop procedures to prevent fecal contamination and contamination by enteric pathogens throughout the entire process and not just cleaning up the birds at the end of the process. These written procedures would need to be incorporated into the HACCP system. Therefore, FSIS would not just be checking at the end of the line to verify that the establishment's procedures for preventing contamination are effective. FSIS would be conducting verification activities throughout the entire process to assess whether the process is in control, including proper implementation and effective corrective actions. Findings of fecal contamination throughout the process would indicate a lack of process control. The proposed rule also requires that all poultry slaughter establishments have procedures to prevent carcasses with visible fecal contamination from entering the chiller, and that they incorporate these procedures into their HACCP system. FSIS would consider these procedures to be ineffective if a contaminated carcass entered the chiller.

*Comment:* How were the line speeds referenced in the proposed rule determined? Do you have any additional data on how maximum line speeds for turkey plants were determined?

*FSIS response:* The line speeds were based on our experience under HIMP. We are interested in comments and data on the proposed line speeds.

*Comment:* What are the expectations for validation under the proposed rule, particularly for the proposed changes to the time and temperature chilling requirements?

*FSIS response:* The validation requirement under the proposed rule would be the same as what is required under the existing regulations (9 CFR 417.4(a)). There would not be any special validation requirement under the new poultry slaughter rule.

*Comment:* Should establishments continue to apply for SIP waivers if they are interested in pursuing new technologies in their slaughter operations, or should they wait until FSIS issues a final rule on the new poultry inspection system?

*FSIS response:* Establishments should continue to request waivers of regulations that impact slaughter operations, such as OLR and alternative chilling procedures, if they are interested in operating under such waivers. Existing SIP waivers would continue until FSIS implements the final rule. If a waiver is not addressed in any final rule resulting from this proposal, then it would remain in effect until another final rule is published.

*Comment:* What is pre-chill? When would the pre-chill testing occur? Is post-chill testing supposed to be conducted after the final intervention?

*FSIS response:* Pre-chill occurs just before the chilling operation, at the end of the evisceration process. The pre-chill testing is intended to monitor the effectiveness of all process controls up to the point of the chilling operation. Therefore, pre-chill testing should be conducted before the chiller, at the end of the evisceration process. Post-chill testing would be at the same point in the process as it is now for FSIS *Salmonella* and *Campylobacter* verification testing, that is, after all interventions.

*Comment:* What would the parameters for faster or slower line speeds be?

*FSIS response:* The on-line inspector would be authorized to stop the line to prevent adulterated carcasses from entering the chiller. The IIC would be authorized to slow the line. This is the same as in current HIMP and non-HIMP establishments. The on-line CI and off-line VI would communicate and inform the IIC if they observe excessive food safety or non-food safety-related defects, and the IIC would assess the need to reduce the line speed or take other appropriate measures.

*Comment:* If the final rule becomes effective, would plants be able to start running at the faster line speeds right

away or would there be a gradual increase in line speeds?

*FSIS response:* To operate at faster line speeds, plants would need to comply with all of the requirements in any final rule that results from this rulemaking. The establishment's maximum line speed would depend on the ability of the establishment to maintain process control, and whether conditions are affecting the ability of the CI to properly inspect.

## Implementation of the Proposed New Inspection System

### 1. Proposed Implementation Approach

In the preamble to the proposed rule, FSIS invited interested persons to submit comments on how the Agency should implement the new poultry inspection system if it finalizes the proposed rule. The Agency specifically requested comment on whether it should phase-in the implementation of the final rule to provide additional time for small and very small establishments to adjust their operations to comply with the new requirements (77 FR 4408). The Agency also requested comments on how it can make the phased implementation most effective. In this document, FSIS is providing additional information on how it intends to implement the new poultry inspection system to solicit more focused comments on this issue.

The Agency has tentatively decided that if it finalizes the proposed rule, it would then provide a time period in which all young chicken and turkey slaughter establishments would have an opportunity to contact the Agency to indicate whether they are interested in operating under the proposed new inspection system. Those establishments that choose to operate under the new inspection system would then inform the Agency concerning when they wish to begin implementing the new inspection system in their facilities. The Agency is considering giving establishments six months to decide whether they would operate under the new inspection system and up to 3 years to switch to the new system. FSIS requests comments on this proposed implementation approach and the proposed time periods.

### 2. Issues Raised on Implementation

*Comment:* How would the district offices direct their resources to implement the final rule?

*FSIS response:* The FSIS implementation plan would be coordinated from headquarters through the districts to ensure resource availability and fair and equitable

implementation across all interested establishments.

*Comment:* Does the Agency anticipate making additional resources available to implement a final rule, even if only on a temporary basis?

*FSIS response:* As discussed in the preamble to the proposed rule, there would be two consumer safety inspector (CSI) positions for every slaughter evisceration line assigned to establishments that choose to adopt the new poultry slaughter inspection system, one CI and one VI (77 FR 4421–4422). This represents a reduction in the number of inspectors because under the existing system, inspectors conduct sorting activities. At this time, the Agency does not anticipate that additional resources would be needed to implement the new poultry inspection system but would make additional resources available, such as guidance for industry and training to FSIS inspectors, as needed to ensure smooth implementation of the final rule.

*Comment:* In the preamble to the proposed rule, the Agency estimated that 219 poultry slaughter establishments would choose to operate under the proposed new inspection system. How does the Agency intend to implement the proposed new system in all 219 establishments in a smooth and fair manner?

*FSIS Response:* The Agency is interested in comments on the implementation phase-in and would use comments to inform implementation planning, including strategies for recruitment, staffing, training, and other actions needed to ensure FSIS readiness to implement the proposed rule in an efficient and fair manner. The Agency intends to begin implementing the proposed NPIS when it finalizes the rule. However, implementation would not take place at all eligible plants at the same time. It would be phased in over time to ensure proper FSIS inspection force readiness to successfully implement the new system.

*Comment:* How does the Agency intend to train inspectors in the new inspection system and familiarize them with the new requirements?

*FSIS response:* Inspectors assigned to work in poultry slaughter establishments converting to the proposed new inspection system would receive training on the new system before the establishments they are assigned to convert to the new system. The Agency is considering various approaches to ensure effectiveness and uniformity in its workforce training.

*Comment:* Is the Agency planning to provide any type of standardized programs to assist in training the

establishment sorters in disease recognition and disposition for trimmable defects or is this responsibility being left up to the establishments?

*FSIS response:* As noted in the preamble to the proposed rule, FSIS plans to convert the current instructions that it provides to Agency inspectors into guidance for industry to use to train plant sorters.

*Comment:* Does the Agency anticipate developing a framework by which establishments or inspectors can receive quick and consistent clarification on requirements or feedback on inspectional decisions from headquarters?

*FSIS response:* The Agency would continue to provide technical support to its workforce and industry through its standard channels. For example, FSIS would continue to encourage referring questions to its Policy Development Division through askFSIS at <http://askfsis.custhelp.com> or by telephone at 1–800–233–3935. The Agency would develop appropriate instructions to inspectors as well as appropriate compliance guides.

#### Worker Safety Issues

FSIS's direct legal authority with respect to regulating working conditions extends only to inspection personnel. The Department of Labor's OSHA is the lead Federal agency responsible for establishment worker safety issues. However, FSIS recognizes the importance of establishment worker safety and is interested in additional information about the potential intersection of increased line speeds and worker safety.

As noted in the preamble to the proposed rule, FSIS has asked NIOSH to evaluate the effects of increased line speed by collecting data from one to five non-HIMP plants that requested waivers from line speed restrictions under the *Salmonella* Initiative Project (SIP) (77 FR 4422). NIOSH expressed its willingness to evaluate the effects of increased production volume on employee health, with a focus on musculoskeletal disorders and acute traumatic injuries. NIOSH will prepare a report based on its findings of short-, intermediate-, and long-term effects from the process modifications. We expect that the NIOSH report will also make recommendations to the Agency as appropriate. FSIS, in collaboration with OSHA, will consider the available data on employee effects collected from NIOSH activities when implementing the final rule resulting from the proposal.

To facilitate further evaluation of this issue, FSIS requests specific comments on the effects of increased line speeds and production volume on worker safety. The Agency is particularly interested in comments on the availability of records or studies that contain data that NIOSH may be able to use to assist the Agency in analyzing the effects of increased line speed on the safety and health of employees throughout the establishment, including effects prior to and following the evisceration line. The Agency is interested in the availability of records and studies that include documentation on employees' work, injuries, and illnesses, as well as plant production, both before and after establishments made changes to their operations to increase production volume. Such records and studies include, but are not limited to:

- Human resources and payroll data for all employees on hours worked per year, department, job title, hire date, separation date, and position responsibilities;
- OSHA logs, workers' compensation claims, first reports of injury or illness, dispensary logs and records, and other injury or illness narratives for all employees; and
- Daily production hours;
- Results of ergonomic or industrial engineering studies, such as time-and-motion analyses that document the actual pace of work or physical stresses on workers; and
- Any self-assessments of worker safety conducted by establishments.

Comments on this issue should describe the type of data available, whether the data are available in an electronic or paper format, where the records are maintained, (e.g., at the establishment or at corporate headquarters), and any other information that can be used to assess the utility of the data. The comments should provide information, including contact information, on how FSIS or NIOSH can gain access to the data or studies.

In addition, FSIS will continue its collaboration with NIOSH and OSHA, developing guidance materials on measures that establishments could adopt and implement to promote and better ensure worker safety. To facilitate the development of such guidance, FSIS requests comments on best practices and other measures that establishments can take to protect workers throughout the plant, including possible protective factors such as increasing the size of the workforce, rotating assignments, increased automation, or improved tools and techniques.

### Additional Public Notification

FSIS will announce the availability of this **Federal Register** notice on-line through the FSIS Web page located at [http://www.fsis.usda.gov/regulations\\_&\\_policies/Proposed\\_Rules/index.asp](http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp).

FSIS also will make copies of this **Federal Register** publication available 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 *Update* is communicated via Listserv, a free email subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The *Update* also is available on the FSIS Web page. Through Listserv and 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 [http://www.fsis.usda.gov/news\\_&\\_events/email\\_subscription/](http://www.fsis.usda.gov/news_&_events/email_subscription/). Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done in Washington, DC on April 23, 2012.

Alfred V. Almanza,  
Administrator.

[FR Doc. 2012-10111 Filed 4-25-12; 8:45 am]

BILLING CODE 3410-DM-P

## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[CPCLO Order No. 008-2012]

### Privacy Act of 1974; Implementation

**AGENCY:** Bureau of Prisons, Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In the **Federal Register**, the Bureau of Prisons (Bureau or BOP), a component of the Department of Justice, has published a notice of a revised Privacy Act system of records, Inmate Central Records System (JUSTICE/BOP-005). In this notice of proposed rulemaking, the Bureau proposes to amend its Privacy Act regulations for the Inmate Central Records System

(JUSTICE/BOP-005) by now exempting this system from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (H), and (I), (5), and (8); (f); and (g) of the Privacy Act of 1974 pursuant to 5 U.S.C. 552a(j) and (k) for the reasons set forth in the following text. The exemptions are necessary to avoid interference with the law enforcement and functions and responsibilities of the Bureau.

Public comment is invited.

**DATES:** Comments must be received by May 29, 2012.

**ADDRESSES:** Address all comments to the Privacy Analyst, Office of Privacy and Civil Liberties, National Place Building, Suite 1000, Washington, DC 20530, or by facsimile 202-307-0693. To ensure proper handling, please reference the CPCLO Order number in your correspondence. You may review an electronic version of the proposed rule at <http://www.regulations.gov>. You may also submit a comment via the Internet by using the comment form for this regulation at <http://www.regulations.gov>. Please include the CPCLO Order number in the subject box.

Please note that the Department is requesting that electronic comments be submitted before midnight Eastern Standard Time on the day the comment period closes because <http://www.regulations.gov> terminates the public's ability to submit comments at that time. Commenters in time zones other than Eastern Standard Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

**Posting of Public Comments:** Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov> and in the Department's public docket. Such information includes personally identifying information (such as name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personally identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the term "PERSONALLY IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personally identifying information you do not want posted online or made available in the public docket in the first paragraph of your

comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the term "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personally identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Department's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

**FOR FURTHER INFORMATION CONTACT:** C. Darnell Stroble, Attorney-Advisor, Federal Bureau of Prisons, 202-514-9180.

**SUPPLEMENTARY INFORMATION:** In the Notice section of today's **Federal Register**, the Bureau published a revised Privacy Act system of records notice, Inmate Central Records System (JUSTICE/BOP-005). This system assists the Attorney General and the Bureau of Prisons in meeting statutory responsibilities for the safekeeping, care and custody of incarcerated persons. It serves as the primary record system on these individuals and includes information critical to the continued safety and security of federal prisons and the public.

In this rulemaking, the Bureau proposes to exempt this Privacy Act system of records from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). Although this system of records was previously exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), the Bureau is seeking additional exemptions pursuant to 5 U.S.C. 552a(j)(2), adding exemptions pursuant to 5 U.S.C. 552a(k), and consolidating the exemptions together in one location of the Code of Federal Register. Therefore, the proposed rule seeks to delete all references of the Inmate Central Records System (JUSTICE/BOP-005) from paragraphs (a)