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September 4, 2009

Docket Clerk,
U.S. Department of Agriculture, FSIS
1400 Independence Ave., SW
Room 2534 South Agriculture Building
Washington, DC 20250-3700

RE: Docket No. FSIS-2009-0016, "Notice of Request for a New Information Collection (Industry Responses to Noncompliance Records)"

The American Association of Meat Processors (AAMP) appreciates the opportunity to comment on Docket No. FSIS-2009-0016, "Notice of Request for a New Information Collection (Industry Responses to Noncompliance Records)."

AAMP is an international organization whose members include meat and poultry processors, slaughterers, caterers, food service companies, wholesalers, retailers, suppliers, and consultants to the meat and poultry industry. There are 32 state, regional, and provincial associations of meat processors that are also affiliated with AAMP. Majority of our members are small and very small businesses, with most of them being family-owned and operated. While small and very small meat processors represent about 5% of the meat production volume in the U.S., our members represent about 95% of the total number of meat processing businesses.

Noncompliance Records (NRs) can be informative pieces of information for inspection personnel and FSIS when citing noncompliances within federally inspected establishments, as long as used effectively by the Agency. NRs are an official means for communicating failures in compliance with federal regulations and provide written documentation that a potential problem occurred within the establishment. Plant personnel may respond by documenting on the record their corrective actions and protocol for remedying the problem, but are not required to do so in writing. AAMP, however, encourages its members to respond to NRs in writing in order to properly document the sequence of events that occurred during and after a noncompliance.

There is considerable concern regarding the inconsistencies in the NRs written, due to the subjective nature of meat inspection. Differences between inspectors can lead to a multitude of inconsistencies when comparing NRs between and with establishments and FSIS districts. There is no way to guarantee that the opportunities for receiving NRs are applied equally across all inspected establishments due to the differences in human nature of FSIS inspection personnel. The type of inspector can very easily determine how often establishments receive NRs, or what areas the establishments receive NRs, because they all focus on different areas during their respective inspection routines.

If it is not already, a system should be implemented whereby inspection personnel who write NRs have those NRs, or a sampling of those NRs, evaluated by their supervisors in order to ensure additional accountability when they are written. This also can be said for some sort of evaluation policy for NRs that are appealed. Additionally, inspection

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personnel need to be sure to discuss the noncompliances with the establishments they are regulating during the weekly meetings they conduct with plant management. This will help to ensure that all parties understand the situation, as well as how to remedy it, and therefore benefitting both inspection personnel and plant management. Inspection personnel need to be encouraged by FSIS to be as detailed as possible with all of the information included within the NRs. Without detailed information regarding the situation (regulatory citations, specific sequence of events, times, etc.), it can be difficult for plant management to respond to or appeal the NR effectively. It is also important the information is detailed because this record is available publicly through the Freedom of Information Act (FOIA).

Inspection personnel should give establishments the NRs as soon as possible after a noncompliance is determined. This will allow for timely responses and corrective actions for the situation if they have not already been corrected. While an establishment may not respond or appeal right away, an NR given in a timely manner enables management to do so as quickly as possible after the situation occurred and the incident details are fresh in their minds. Also, the appeals process is one that can be quite lengthy for establishments wishing to exercise their right to appeal inspection decisions. FSIS needs to be aware of the amount of time is spent within the appeals process, and apply appropriate measures to help ensure that appeals are dealt with as quickly as possible. This is especially true when facilities are suspended, or product is retained.

Based on the estimates that FSIS made, AAMP believes that the Agency has not accounted for enough burden of time, nor the number of responses per year that were estimated. FSIS estimates that it will take approximately 30 minutes for respondents to respond to each NR. This may be true for simple NRs, but for more complicated situations, it may take more time to answer the NR appropriately. Establishments may take time to seek assistance from their trade organization representation if they are not knowledgeable about the regulation that is referenced in the NR. This type of investigation will cause the establishment to devote more time to the NR response. It also takes a significant amount of time to go through the appeals process, and no where does the burden estimate account for that amount of time.

Additionally, FSIS estimated the number of responses annually at five responses per respondent. If this number equates to only five NRs per plant per year on average, AAMP believes that this number is too low and not representative of an average across all establishments based on data collected by the Agency. Also, the estimate also does not account for NRs generated through Food Safety Assessments (FSAs). These types of responses can be more time consuming to respond to than NRs cited through daily inspection tasks.

AAMP encourages FSIS to review the burden estimates more closely to determine if the estimates truly reflect the average number of NRs that plants must respond to and the time it takes to respond to them. We also hope that FSIS continues to oversee the number and types of NRs that are written in order to ensure that NRs are a useful tool for inspection personnel and industry. Also, if the Agency is planning to utilize any data related to NRs within the public health risk-based inspection system that is under development, the NRs need to be categorized and ranked appropriately in order to quantify them properly within the system. Not all NRs can be treated equally, and certain categories or noncompliances in certain areas have more impact on food safety than others. This must be considered when looking at NRs and determining their value for decision making related to risk.

Our Association appreciates this opportunity to comment on Docket No. FSIS-2009-0016, "Notice of Request for a New Information Collection (Industry Responses to Noncompliance Records)." While AAMP agrees that NRs can be informative pieces of information for inspection personnel and FSIS when citing noncompliances within federally inspected establishments, they must be used effectively and provide detailed information in order for establishments to properly respond to the situation.

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Thank you for your time and consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Andrea H. Brown". The signature is fluid and cursive, with the first name "Andrea" being more prominent.

Andrea H. Brown
AAMP Director of Legislative and Regulatory Affairs

cc: Jay B. Wenther, Ph.D., AAMP Executive Director
Tom Inboden, AAMP President