

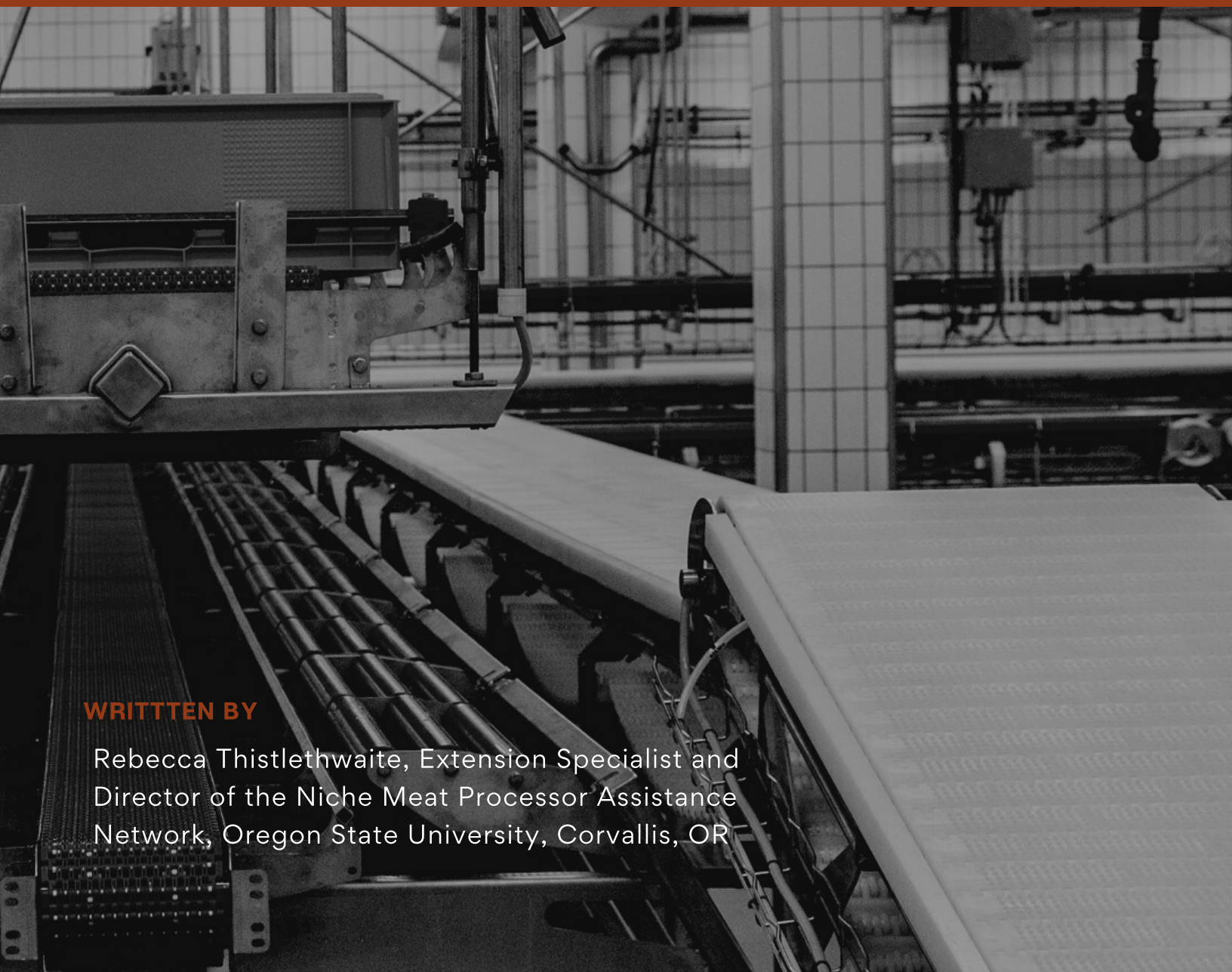
# REPORT ON UNITED STATES DEPARTMENT OF AGRICULTURE FOOD SAFETY AND INSPECTION SERVICE

GUIDANCE AND OUTREACH TO SMALL AND VERY  
SMALL MEAT PROCESSORS

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# EXECUTIVE SUMMARY

This report was authorized by Congress in section 12107 of the 2018 Farm Bill. Its purpose is to assess the USDA Food Safety and Inspection Service's (FSIS) interactions with small and very small meat processors in the following three areas: outreach, information tools, and responsiveness. Small and very small meat processors are very different from large processors in fundamental ways, not just their scale of operation. These differences have implications for the effectiveness of FSIS communication with SVS plants.

Assessments of outreach, information tools, and responsiveness were conducted by compiling feedback from SVS processors about their experiences with the FSIS and comparing those experiences to FSIS policy and its recent efforts in the relevant topic areas. Processor feedback was collected via round table discussions, surveys, interviews, and key informant reviews of early versions of this report.

## **Key Recommendations Include:**

- Continuing to find ways for small and very small processors to interact and share experiences directly with high-level FSIS leadership
- Standardizing the information provided by FSIS across platforms, documents, and personnel to eliminate conflicting or confusing information
- Studying inspection decisions and enforcement actions across circuits, districts, and inspectors to identify potential inconsistencies or biases
- Frequently updating information sources to eliminate out-of-date information
- Upgrading information access tools
- Providing explicit benchmarks and procedural guidance for meeting regulatory requirements with the time and financial constraints of SVS plants in mind
- Closely examining humane handling regulatory procedures for small and very small plants

FSIS has made an effort in recent years to collect small and very small processor feedback through roundtable listening sessions. Also, in the last few months, FSIS has made new guidance documents and webinar resources targeted at issues faced by small plants. These efforts are appreciated, and we hope that they represent a renewed effort by the Food Safety and Inspection Service to connect with their small and very small plant stakeholders that will continue well into the future.



# BACKGROUND

As part of the 2018 US Farm Bill, the following study was authorized:

## **"SEC. 12107. REPORT ON FSIS GUIDANCE AND OUTREACH TO SMALL MEAT PROCESSORS.**

*(a) IN GENERAL.—The Secretary shall offer to enter into a contract with a land-grant college or university or a non-land-grant college of agriculture (as those terms are defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101)) to review the effectiveness of existing Food Safety and Inspection Service guidance materials and other tools used by small and very small establishments, as defined by regulations issued by the Food Safety and Inspection Service, operating under Federal inspection, as in effect on the date of enactment of this Act, including—*

- 1. The effectiveness of the outreach conducted by the Food Safety and Inspection Service to small and very small establishments;*
- 2. The effectiveness of the guidance materials and other tools used by the Food Safety and Inspection Service to assist small and very small establishments; and*
- 3. The responsiveness of Food Safety and Inspection Service personnel to inquiries and issues from small and very small establishments."*



# THE NICHE MEAT PROCESSOR ASSISTANCE NETWORK (NMPAN)



**The Niche Meat Processor Assistance Network (NMPAN)**, a project housed within the Center for Small Farms & Community Food Systems in the College of Agricultural Sciences at Oregon State University, is an Extension-based community of practice focused on the long-term viability of small and mid-sized processors who are essential to the local and regional meat and poultry sectors. The organization provides education, technical assistance, and original research for the niche meat sector across the country.

NMPAN was awarded a cooperative agreement with USDA Food Safety and Inspection Service (FSIS) on August 1, 2019, to carry out the study as authorized in the 2018 Farm Bill described above. Subcontractor, the **National Sustainable Agriculture Coalition (NSAC)** based out of Washington, D.C., provided research support, organized stakeholder meetings, and developed the humane handling case study at the conclusion of the report.

## SCALE DISPARITIES IN MEAT PROCESSING: A PRIMER

Understanding the scale disparities between small and very small (SVS) meat processors and large meat processors is an important first step to examining how SVS processors interact with FSIS. According to the FSIS Meat, Poultry, and Egg Inspection database, there were 6,479 inspected establishments as of September 1, 2020 (not all of them process meat).<sup>1</sup> Meat processor establishment sizes are defined in the 1996 Hazard Analysis Critical Control Point (HACCP) Final Rule<sup>2</sup> and are based on employment or sales numbers rather than production volume:

- Large establishment: 500 or more employees
- Small establishment: From 10 to 499 employees
- Very small establishment: Fewer than 10 employees or less than \$2.5 million in annual sales

There is no category for mid-scale processors. According to the Meat and Poultry Inspection (MPI) Directory,<sup>3</sup> of all inspected meat slaughter and processing establishments, 319 (6.5%) are large, 1,894 (38.6%) are small, and 2,692 (54.9%) are very small. Thus, the majority of inspected meat establishments are small and very small (SVS) processors. SVS establishments comprise the bulk of FSIS constituents at 93.5%.

FSIS has released some new demographic datasets<sup>4</sup> that help illustrate the vast differences in slaughter and processing volumes at plants of various sizes (Tables 1-2). Most SVS plants fall into the lowest three volume brackets for slaughter and processing. For slaughter, 721 (66%) of the 1,091 of plants that slaughter livestock or poultry are in the lowest three volume brackets of animal slaughter establishments. For processing, 4,001 (73.2%) of 5,465 plants are in the lowest three volume brackets of meat processing establishments.

**TABLE 1: NUMBER OF MEAT AND POULTRY SLAUGHTER ESTABLISHMENT IN EACH VOLUME BRACKET**

ANIMAL SLAUGHTER VOLUME BRACKET (HEAD PER YEAR)	NUMBER OF ESTABLISHMENTS IN VOLUME BRACKET	PERCENT OF ESTABLISHMENTS IN VOLUME BRACKET
Less than 1,000	254	23%
1,000-9,999	306	28%
10,000-99,999	161	15%
100,000-9,999,999	201	18%
10,000,000 or more	169	16%

<sup>1</sup> USDA FSIS, *Meat, Poultry and Egg Product Inspection Directory* (2020), <https://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/mpi-directory>.

<sup>2</sup> *Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems*, 61 Fed. Reg. 38806 (July 25, 1996).

<sup>3</sup> USDA FSIS, *FSIS - Establishment Demographic Data - Meat and Poultry Inspection (MPI) Directory Supplement*. (2020), <https://catalog.data.gov/dataset/fsis-establishment-demographic-data-meat-and-poultry-inspection-mpi-directory-supplement>.

<sup>4</sup> *Id.*



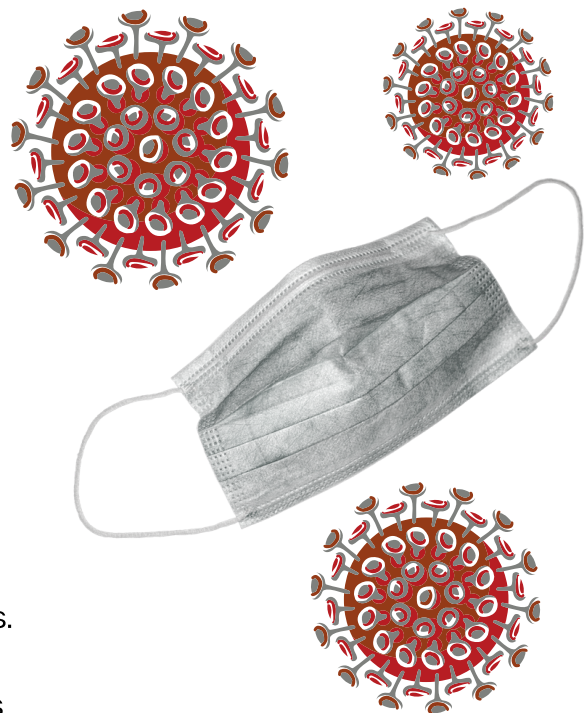
**TABLE 2: NUMBER OF MEAT AND POULTRY PROCESSING ESTABLISHMENTS IN EACH VOLUME BRACKET**

MEAT PROCESSING VOLUME BRACKET (POUNDS PER MONTH)	NUMBER OF ESTABLISHMENTS IN VOLUME BRACKET	PERCENT OF ESTABLISHMENTS IN VOLUME BRACKET
Less than 10,000	1,107	20%
10,000-99,999	1,868	34%
100,000-999,999	1,026	19%
1,000,000-9,999,999	997	18%
10,000,000 or more	467	9%

The numbers above demonstrate the vast differences between large and SVS establishments. They are orders of magnitude different. To walk through a very small, 5,000 square foot plant may take less than a minute. A plant this size may process eight to ten cattle per day. On the opposite extreme is an 850,000 square foot plant that may process 5,600 cattle per day and could take you several hours to walk through. Aside from the difference in pace of activity in large and SVS plants, there is a scale disparity in management resources. Smaller plants typically have fewer management resources available to them, so it may be more time consuming to respond to inspector requests for additional information or operational process changes. Because small plants typically have fewer staff with less time available to devote to regulatory compliance, small plant staff may reach out to FSIS directly to seek guidance, whereas large plants have staff whose entire jobs are to interpret regulations and ensure the plants are in compliance. FSIS's effectiveness at interacting with SVS plants is, therefore, of paramount importance for the successful functioning of these plants.

## CONTEXT OF THE COVID-19 PANDEMIC

During the preparation of this report, the global pandemic of SARS-CoV-2, known colloquially as coronavirus or COVID-19, took hold and began to dramatically change the way that meat processors do business and consumers purchase meat. The long-term effects on meat processing are still unknown. Yet, the current experience is that small processors are witnessing unprecedented demand and are balancing heavy workloads with the need to keep their employees safe and satisfied. In response to fully booked slaughterhouse schedules, many farmers and other entrepreneurs are exploring purchasing or building new meat processing facilities. Several are applying for new USDA FSIS grants of inspection. Meat trade support organizations such as





NMPAN, American Association of Meat Processors (AAMP), and land grant university meat programs are receiving a flood of requests for technical assistance from SVS establishments or start-ups. FSIS employees are working hard to keep up with the extra demands of the situation, while also navigating coronavirus risks themselves. Even if only a fraction of the new plants that are currently under consideration are eventually constructed, there will be considerably higher demand for FSIS inspection services, outreach, and support. The public interest in having a more geographically distributed, diversified meat supply system is higher than ever.

Federal legislation has been introduced on multiple fronts to remove regulatory barriers and fund SVS meat plant renovations and expansions.<sup>5</sup> At least 14 states have grant programs for small-scale meat processors, and more states are expected to launch similar programs in the near future. At least one state (Oregon) just approved a new state meat inspection program, and others are looking into the option. The momentum behind SVS meat processing highlights the critical need for FSIS to support SVS meat processors by responding to their needs and concerns, as well as providing more attuned outreach, tools, guidance documents, webinars, and one-on-one technical assistance.

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<sup>5</sup> See H.R. 2859, and S. 1620, *PRIME Act*, 116th Cong.; H.R. 547, *DIRECT Act*, 117th Cong.; S. 107 *New Markets for State Inspected Meat and Poultry Act of 2021*, 117th Cong.; S. 370 and H.R. 1258, *Strengthening Local Processing Act of 2021*, 117th Cong.



# FINDINGS AND RECOMMENDATIONS

The sections that follow lay out background information, agency actions, industry feedback, and recommendations for the three research areas: outreach, information tools, and responsiveness and inclusion. The report also includes a special humane handling case study because humane handling was the most common reason for plant suspensions,<sup>6</sup> as well as the top concern brought up in small plant roundtables over the last four years. FSIS response to the humane handling issue is informative for how FSIS reacts to SVS plant concerns and requests for assistance. The topic also provides great opportunity for improvement in FSIS outreach to SVS plants and “leveling the playing field.” The humane handling case study was researched and written in partnership with NSAC.

## OUTREACH

Outreach refers to the effectiveness of communication with and information dissemination to SVS establishments by FSIS.

### *Background*

The authors of this report define outreach as the activity of providing services to any population that might not otherwise have access to those services. In addition to delivering services, outreach has an educational role, such as raising awareness about existing services. It includes identification of underserved populations and service referral. For the purposes of this study, we define “effective outreach” as a state in which all SVS plants are able to ask their questions and get useful and timely answers that inform how they support their businesses and stay in compliance with regulations. There is some overlap between outreach and information tools, as many of them are being used for similar purposes of providing clarity, answering questions, and disseminating key information to stakeholders. Therefore, findings and recommendations may be similar.

FSIS focuses their outreach efforts on SVS establishments, as well as new and beginning establishments. FSIS employs a variety of methods to conduct outreach, including direct outreach from in-plant personnel (IPP), circuit staff, and their 10 District offices. In 2018, FSIS also began a renewed emphasis on outreach by the Enforcement Investigations and Analysis Officer (EIAO) staff, who work across circuits and regions.<sup>7</sup> EIAOs now are supposed to

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<sup>6</sup> Dr. Hany Sidrak, Deputy Assistant Administrator in the FSIS Office of Field Operations, stated “Humane [handling] violations are the reason for most of the plant suspensions,” on p. 10 of the Texas roundtable meeting notes from February 2020, accessed at <https://www.nichemeatprocessing.org/wp-content/uploads/2020/02/Summary-of-Texas-Meeting-Feb.-2020.pdf>.

<sup>7</sup> USDA FSIS, *FSIS Launches Outreach Initiative for Small and Very Small Plants*, FSIS Constituent Update, 2018, [https://www.fsis.usda.gov/wps/wcm/connect/2b1ff5f0-2867-491a-a6ab-efd6b7b36367/ConstiUpdate051118.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=2b1ff5f0-2867-491a-a6ab-efd6b7b36367](https://www.fsis.usda.gov/wps/wcm/connect/2b1ff5f0-2867-491a-a6ab-efd6b7b36367/ConstiUpdate051118.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=2b1ff5f0-2867-491a-a6ab-efd6b7b36367).

dedicate up to 25% of their time to the provision of outreach. In addition, FSIS uses its website tools, as well as a Small Plant Help Desk and askFSIS web portals and phone numbers, to improve accessibility of this information and help provide answers for those who have questions. Likewise, FSIS is hosting constituent meetings and roundtables both in Washington, D.C. and around the country so that agency leadership can talk with more stakeholders directly.

### **FSIS Outreach to SVS Processors**

- **FSIS Small Plant Survey:** FSIS developed and delivered its first small plant survey to all SVS inspected establishments in 2018. The purposes of the voluntary survey were to (1) provide FSIS with feedback to inform communication, outreach, and technical support and (2) assess current outreach efforts related to food safety, humane handling, and food defense. The voluntary survey was completed by 1,371 plants. Although the survey results are not available to the public, FSIS is using them to make internal changes and shared survey results with NMPAN for this report.
- **Opportunities for dialogue with FSIS:** FSIS leadership is meeting with small plant stakeholders around the country to hear directly from them. They are also making their phone numbers and emails available to a wider audience and inviting small plants to contact them directly should they encounter problems and need clarity on an issue. Top FSIS leadership has attended eight small plant stakeholder meetings organized by NMPAN and NSAC since 2016. In addition, they have organized at least another nine meetings in various states. These meetings have provided a space to listen to feedback from SVS plants, answer questions, and provide updates on key policy changes, guidance documents, label approval backlog, testing requirements, and other issues.
- **Enforcement Investigations and Analysis Officer (EIAO) outreach program:** FSIS renewed its dedication to outreach by expanding the EIAO outreach program to be up to 25% of their time in hopes of improving communication and overall responsiveness to SVS plant needs. EIAO staff are reaching out to establishments to offer them non-regulatory outreach visits to answer questions, review plans, and provide advice prior to audits.
- **COVID-19 support:** SVS plants were invited, along with large plants, to participate in calls focused on meat processor operations during COVID-19.

### **SVS Processor Feedback on FSIS Outreach**

- **Opportunities for dialogue with FSIS:** Roundtable events have received mixed reviews by SVS processors. Attendees of several of the small plant roundtables have been pleased with the opportunity to speak directly with top FSIS officials.

They appreciate their efforts to travel and conduct outreach in different parts of the country. Participants in these meetings have remarked that they believe communication lines have been opened and overall responsiveness has been improved.<sup>8</sup>

However, some of the FSIS-organized roundtables have been poorly attended with little notice or outreach to SVS processors located near the meeting locations. Some of the meetings have included large plants that do not meet the criteria for SVS plant status. Additionally, FSIS has determined the agenda at these meetings and allowed for few processor-led discussions. The meetings have been more of a “talking-at” format rather than a “listening-to” format.<sup>9</sup> NMPAN members who reviewed a draft of this report confirmed this assessment.

Despite these occasional roundtables, which processors can attend at their own expense, SVS processors feel they lack opportunities to provide a voice and sit at the table in the development of new policy, directives, guidance documents, and programming. Other than submitting public comment on Federal Register items, which takes an inordinate amount of time for SVS operators who are also busy running their businesses, there are few opportunities to influence FSIS. The National Advisory Committee on Meat and Poultry Inspection (NACMPI) met in September 2020 for the first time in four years.<sup>10</sup> While the meeting provided a valuable opportunity for processors to interact with FSIS staff and weigh in on current issues, four years is too long of a gap in meetings, and the authors of this report recommend more frequent meetings.

In addition, the committee historically has only featured one or two small plant operators or industry stakeholders out of twenty seats. The purpose of this federal advisory committee is to provide advice to the Secretary concerning State and Federal programs with respect to meat, poultry, and processed egg products inspection; food safety; and other matters that fall within the scope of the Federal Meat Inspection Act, Poultry Products Inspection Act, and the Egg Products Inspection Act. SVS plants find it frustrating that they do not have more representation on federal committees. However, the most recent committee appointments did include at least four SVS representatives, as well as several other appointees that understand SVS needs. This is welcome news.

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<sup>8</sup> Niche Meat Processor Assistance Network, *Policy Engagement for Processors: Small & Very Small Plant Working Group Roundtable Notes (2020)*, <https://www.nichemeatprocessing.org/policy-engagement-for-processors/>.

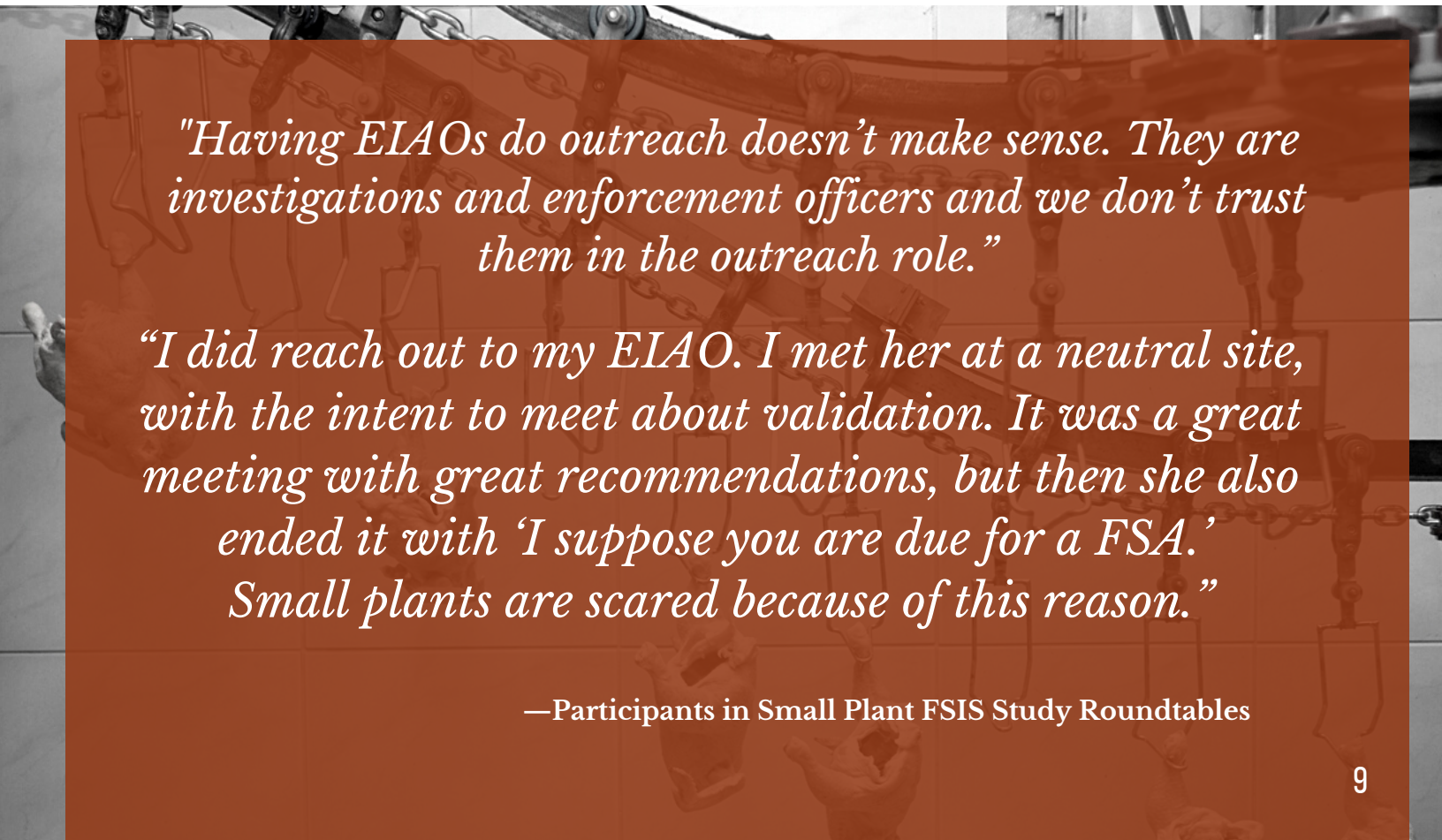
<sup>9</sup> *Id.*

<sup>10</sup> USDA FSIS, *National Advisory Committee on Meat & Poultry Inspection: Meetings (2020)*, <https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi/nacmpi-meetings>.



Another example of opportunities for dialogue between FSIS and SVS plants relates to pathogen testing, requirements, and research. According to several respondents, performance standards are made with little SVS plant input. They are non-regulatory but are being used in a way that looks and feels like regulatory compliance to some processors. This is because food safety assessments (FSAs) are often initiated when standards are not consistently met, and this can lead to new non-compliance (NRs) reports being written, although it should be noted this is not always the case. Another issue that SVS processors raised is that pathogen liability falls completely on the plants, even though many of the pathogens are coming in on the animals from earlier steps in the supply chain.

- EIAO outreach program: Small plants are still generally unaware of the EIAO outreach program, how to contact officers, and how outreach differs from enforcement. Small plants continue to be wary of requesting EIAO outreach services. Some report being frustrated at not being able to ask for advice, particularly when applying for a grant of inspection, seeking approval for HACCP plans, or developing a Robust Systematic Humane Handling Plan. Processors do not feel comfortable interacting with EIAOs in an outreach capacity. EIAOs are primarily enforcement staff, so small plants are very hesitant to come to them with problems because EIAOs cannot “unsee” a possible regulatory deficiency. Processors may be concerned that asking an EIAO for guidance in an outreach capacity may result in an FSA or otherwise indirectly influence enforcement actions. Hesitation on the part of processors to ask questions of the personnel in charge of outreach will lead to poor communication and will inhibit outreach efforts. The agency’s goal of improved outreach and its current structure of assigning EIAOs to the outreach task are incompatible.



*"Having EIAOs do outreach doesn't make sense. They are investigations and enforcement officers and we don't trust them in the outreach role."*

*"I did reach out to my EIAO. I met her at a neutral site, with the intent to meet about validation. It was a great meeting with great recommendations, but then she also ended it with 'I suppose you are due for a FSA.' Small plants are scared because of this reason."*

—Participants in Small Plant FSIS Study Roundtables

- Inspector training: SVS meat processors observe inconsistency in the training of inspection personnel across districts, high turnover of inspectors, and lack of proper inspector training. Two reviewers of this report mentioned inspector confusion between FSIS directives versus CFR regulations, or pointing out regulatory infractions versus not meeting an ideal standard. Another reviewer reported a culture among inspectors of developing an opinion of a processor based on its reputation with other inspectors and before assessing the plant themselves. Processors who are aware of this culture may be less willing to engage with FSIS because they feel that any sort of information sharing with FSIS could be used against them in the future. In addition, SVS plants often receive inspectors who are new to the FSIS agency or come from working in a large single-species plant and are unfamiliar with the diversity and complexity of multi-species co-packing plants or value-added product establishments. This unfamiliarity can engender confusion, miscommunication, or an excessive number of NRs being written.



*“I have heard from multiple inspectors over the years that the training that they receive is tilted toward more of an adversarial relationship with plants. In addition to improving outreach I think it would be beneficial for USDA to consider how training their inspectors is also contributing to the difficulty in outreach efforts that we all experience.”*

—Key Informant Report Reviewer

*“In our experience, there is a high turnover of staff, and from training staff on the smaller side, they come in with a lack of confidence in interpreting humane handling issues and automatically take it to veterinarian or district office. Some issues an experience[d] [in-plant] inspector could handle, it doesn’t get handled, and once it is at district level it ends up a 3-4 day...suspension, especially on a Friday afternoon.”*

*“I believe...a general mindset shift [is] needed [in] FSIS from confrontation to collaboration.”*

—Participants in the Small Plant FSIS Study Roundtable

- Disparities between districts: Some processors report inconsistency in different districts’ prioritization of outreach to SVS plants. Some district managers have been very helpful and committed to addressing small plant concerns, while others have not. Small plants do not want to have to go to district managers every time there is an issue with the IPP or circuit staff, but they often feel it is their only recourse.



- Talmadge-Aiken (TA) states: TA states have an agreement under which state-certified inspectors fulfill federal inspection duties. Alabama, Georgia, Illinois, Mississippi, North Carolina, Oklahoma, Texas, Utah, and Virginia are all TA states. Some processors in these states feel that information from FSIS does not always reach them as quickly, efficiently, or clearly as it reaches processors in non-TA states.

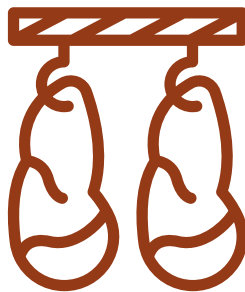
### ***Recommendations for FSIS Outreach to SVS Processors***

- Opportunities for dialogue with FSIS: FSIS should allow stakeholders to organize small plant roundtable meetings that FSIS leadership will attend. It should ensure SVS plants are able to participate and add more space in the agenda for SVS plants to bring up their questions and discussion items. SVS plants could even submit their proposed agenda items ahead of time so that FSIS can build the agenda around their needs. FSIS leadership should take SVS plant tours when attending the regional roundtables so they can improve their knowledge of the physical and operational constraints that SVS plants face. FSIS could create a monthly or quarterly conference call specifically for SVS plants to talk with FSIS leadership, hear about the latest policies and guidance documents that may affect them, and engage in other discussion as needed. This is especially important as COVID-19 limits people's abilities to travel. Important details for organizing a successful call include providing a system for plants to submit questions or agenda ideas beforehand and promoting the conference call to SVS inspected establishments.

If SVS plants make up approximately 90% of inspected establishments, it would make sense for them to be given a more proportionate number of seats on federal committees. In terms of SVS processor representation on the NACMPI, it may make sense to reserve some seats, perhaps 25% of all seats on the committee, for SVS processors. There is precedent for this recommendation with the National Organic Program, which has a specific number of seats set aside for organic farmers.



**ORGANIZE SMALL PLANT ROUNDTABLE  
MEETINGS**



**TAKE SVS PLANT TOURS**



**CREATE MONTHLY CONFERENCE CALLS  
TO TALK WITH LEADERSHIP**

- EIAO outreach program: There is a structural conflict in having EIAOs dedicate up to 25% of their time to outreach. One option is to rename EIAOs to emphasize their regulatory role less and their outreach role more, but this option does little to address the structural problem of conflicting job functions. A second option is to house the outreach function within the public health veterinarian (PHV) role, but PHVs already have a high workload. We therefore recommend a third option: removing “outreach” from the EIAO job description and housing FSIS outreach efforts within a different position, ideally in the Office of Policy and Program Development (OPPD). The OPPD is not responsible for enforcement and is also knowledgeable about FSIS policy, so it is a good candidate to conduct outreach efforts. One shortcoming of this approach is that OPPD staff are less regionally based and more centrally located in the D.C. office, so traveling to plants in person for outreach purposes would be time-consuming. We also recommend searching for more opportunities for FSIS staff, especially outreach personnel, to attend relevant meat processor conventions, conferences, and gatherings. They could set up booths in trade shows and disseminate more information directly to processors.
- Inspector Outreach personnel training: More standardized and ongoing education and training for inspection outreach personnel is needed. More communication between staff and across districts could improve results. An example would be for EIAOs to develop a shared digital folder to disseminate tools, tips, and best practices that they have learned while doing SVS plant outreach over the last couple years. In addition, some report reviewers suggested that inspectors could break their notes into two categories: regulatory infractions/disciplinary consequences and suggested but optional changes to better comply with best practices. This practice would clarify for both parties which operational changes are mandatory versus suggested. Some processors have reported policy or practice inconsistencies across inspectors or districts, so FSIS should examine its practices for disseminating policy memos and protocol updates to ensure that all inspectors and districts are receiving uniform information.





While training for PHVs should include training in plants of all sizes and all species, it makes sense for slaughter inspectors to specialize in the type of plant they will work in (i.e., small or large) and the species they will come into contact with frequently (i.e., pick one species in most large plants and receive multi-species training if they work in a small plant). SVS and multi-species plants should have inspectors with more training because they are more likely to process multiple types of animals, so the inspectors are required to draw on a large body of knowledge, not just specialized experience with one species.

*“[There are moving] targets from floor inspection staff in regards to facility changes. We had our [Cooperative Interstate Shipment] telling us to change a table and our line inspector was happy...in small communities there is a revolving door of inspectors. And new inspectors come in and say I want one thing, I want another thing if it’s a different inspector.”*

*“I feel...like I have to learn every new inspector’s preferences and they all focus on something different. I have a rotation of four inspectors in [my] area.”*

*“It’s been really good for us to have a rotation sometimes. It’s been helpful for us to get better because each inspector brings a different perspective and skillset with them. We have seen that there is often a specific item that they want to focus on.”*

*“Our last four inspectors were new trainees and it was all learning on the job...We had new inspectors say we had a mis-stun where there [were] no signs of consciousness. [Inspectors] should understand signs of consciousness.”*

*“The line inspector changed recently and did not have adequate training because we are a multi-species plant and the inspector came out of a large poultry plant.”*

—Participants in Small Plant FSIS Study Roundtables

- Disparities between districts: A participant in a Small Plant FSIS Study Roundtable suggested that FSIS compile district-level data on numbers of inspectors, regulatory infractions documented, and suspensions by plant size every year and analyze them for patterns in discrepancies between districts. Follow-up questions could provide insights into why certain patterns exist.
- TA states: Extra effort should be made on the part of FSIS to communicate with state inspectors in TA states to ensure that they are up to date on the most recent FSIS policies and protocols. FSIS should be aware of different practices at state agencies that affect implementation of federal policy and work to ensure that SVS plants in TA states are receiving the same information and resources that plants in states inspected by federal inspectors are receiving. Likewise, more communication and training should be offered to state inspection programs, providing them all of the same outreach and information tools to reach their state inspected plants.



## INFORMATION TOOLS

Information tools refers to the effectiveness of the guidance materials and other tools used by FSIS to assist SVS establishments.

### **Background**

Guidance documents are non-regulatory in nature but seek to provide the current understanding of best practices to comply with FSIS regulations and maintain a safe meat supply. The guidance documents include information targeted at SVS inspected establishments. The agency updated the guidance document template in 2014, making it easier to read and more concise. As soon as a new guidance revision is published, it is disseminated via the FSIS Constituent Update, in monthly stakeholder meetings, and via IPP who often pass them along to establishments as applicable. Other information tools that FSIS uses include its website, webinars, reports and documents, and responses to questions via the Small Plant Help Desk and the AskFSIS portal. Just like in the outreach section above, we define "effectiveness" as a state in which all SVS plants are able to access and understand the guidance documents and other information tools that FSIS provides them so that they stay in compliance with regulations and maintain a safe meat supply.

### **FSIS Information Tools for SVS Processors**

- Small plant assistance (Help Desk and askFSIS): FSIS enhanced the coordination of SVS plant technical assistance by combining operations of the Small Plant Help Desk with askFSIS in 2019, partially in response to recommendations coming out of their Small Plant Survey. These two entities are now both housed within the OPPD. This change has resulted in more consistency of response and a faster response time. In 2019, these entities received over 12,532 inquiries, with the vast majority coming from SVS establishments.
- Information standardization: Around three OPPD employees answer all domestic questions, but sometimes questions are sent to OPPD Regulations Development staff. FSIS has created standard operating procedures for answering questions, so they are answered in a timely and consistent fashion. AskFSIS publishes an archive of hundreds of question and answer documents to clarify issues of confusion identified by monitoring questions received from a wide variety of customers.<sup>11</sup> The searchable database can be utilized by establishments to gain clarity and circumvent the need for them to submit a new question.

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<sup>11</sup> USDA FSIS, AskFSIS: Answers (2020), <https://askfsis.custhelp.com/app/answers/list>.

- Customer service dashboard: OPDP is creating a customer service dashboard and an annual customer service plan. Additionally, major website improvements are planned for March of 2021.
- Weekly Constituent Update: FSIS publishes and emails a weekly Constituent Update that goes to all inspected establishments and others who sign up for it. All updates are also archived on the FSIS website.
- FSIS website: In 2019 FSIS updated its website to be more user friendly and accessible, with picture tiles for key topic areas, an enhanced search engine, a new retail section, and other improvements.
- Webinars: During the summer and fall of 2020, FSIS provided webinars on USDA assistance for small-scale meat processors (July 28),<sup>12</sup> labeling claims (August 12 and September 11),<sup>13</sup> and animal raising claims (August 18 and September 17).<sup>14</sup>
- Clarity of guidance documents: FSIS made guidance documents shorter and easier to read. It performs plain language reviews to make sure documents avoid jargon and are readable.
- Frequency of updates to guidance documents: FSIS is updating guidance documents more frequently and with stakeholder inclusion. It seeks public comment on all new guidance documents or major revisions.
- Model HACCP Plans: FSIS reposted model HACCP plans, as well as a revised guidance document on how to assemble a HACCP plan, to its website in September 2020.<sup>15</sup>

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<sup>12</sup> USDA FSIS & USDA Rural Development, *Webinar: USDA Assistance for Small Scale Meat Processing (2020)*.

<sup>13</sup> USDA FSIS, *FSIS to Host Webinar of Labeling Claims, FSIS Constituent Update, 2020*, [https://www.fsis.usda.gov/wps/wcm/connect/7d2d8efe-ab86-4f5c-ba9e-f56df8bb6376/ConstUpdate073120+.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=7d2d8efe-ab86-4f5c-ba9e-f56df8bb6376](https://www.fsis.usda.gov/wps/wcm/connect/7d2d8efe-ab86-4f5c-ba9e-f56df8bb6376/ConstUpdate073120+.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=7d2d8efe-ab86-4f5c-ba9e-f56df8bb6376).

<sup>14</sup> USDA FSIS, *FSIS to Hold Animal Raising Claims and Negative Claims Webinar, FSIS Constituent Update, 2020*.

<sup>15</sup> USDA FSIS, *Guidebook for the Preparation of HACCP Plans and Generic HACCP Models (2020)*, <https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/haccp/small-and-very-small-plant-outreach/haccp-models>.



## SVS Processor Feedback on FSIS Information Tools

- Small plant assistance (Help Desk and askFSIS): It is somewhat unclear what the different roles and uses are of the Small Plant Help Desk and askFSIS, especially since they now utilize the same staff.
- Information standardization: askFSIS is a useful tool, as both an archive of questions already submitted and a place to ask new questions. However, the answers provided are considered “agency interpretation” but not a definitive final answer. This can cause confusion for both inspection personnel and plant operators. One of the most common suggestions made by surveyed SVS plants who reviewed a draft of this report is that they need more assistance with practical advice on how to comply with regulations. In addition, processors report they often receive information from their IPP that conflicts with the CFR, the FSIS website, or guidance documents and directives. In the 149 conversations on the NMPAN listserv (that is comprised of 1,500 individuals, the majority of whom are small or very small meat processors) that related to FSIS concerns and questions, the vast majority were centered around these topic areas: 1) Regulatory information, 2) Technical information, 3) Inspector Issues/FSIS personnel, and 4) Food safety questions. Many of the conversations might have been solved by submitting questions to askFSIS or calling the Small Plant Help Desk. However, in many instances, processors chose not to utilize those resources, perhaps reflecting that those resources are difficult to use or provide inconsistent information. A number of the issues mentioned on the listserv were about conflicting information from IPP compared to what is in the CFR, the FSIS website, or guidance documents/directives.

*“Ask FSIS is a good resource but sometimes they don’t state the source or directive.”*

*“AskFSIS/SPHD is clunky, hard to navigate through, and even with answers in hand, IPP has issues “interpreting” the bottom line.”*

*“I wish askFSIS was more clear and consistent. Answers depend on who you get that answers the question, and often there is a lot of back and forth to get clarity on a question.”*

*—Participants in Small Plant FSIS Study Roundtable*

- **FSIS website:** In various sections of the FSIS Small Plant survey, respondents routinely commented that the FSIS website is difficult to navigate, is not user friendly, and query results of a targeted search using key words did not return relevant information. As such, respondents stated that utilization of Google and other search engines provided quicker, more targeted results to inquiries.<sup>16</sup> It is important to note that major revisions have been made to the website since the FSIS survey was administered in 2018. Surveyed NMPAN members who reviewed a draft of this report confirmed that the website was difficult to navigate, and since the NMPAN survey was conducted after the website revamp, the website is still difficult to use for those who have visited the new version of the site. Significant improvements to the website are expected in early 2021.
- **How small plants receive information:** In the FSIS Small Plant Survey, the majority of small plants stated they currently receive information from various outlets but most commonly (in order of use): FSIS IPP (81%), FSIS email communications (44%), FSIS website (43%), askFSIS (42%), FSIS Small Plant News (38%), and search engine searches (34%). A very small percentage (1% or less) said they used FSIS webinars or YouTube videos. All of the SVS plants who reviewed a draft of this report use both the FSIS Website and the askFSIS Web Portal when they have questions. But only 33% of respondents found the website moderately effective to very effective at answering their questions and 63% found the askFSIS web portal moderately effective to very effective.<sup>17</sup> The next most commonly used resources were Extension/Universities and Trade Associations.

Extensions/Universities were found moderately effective to very effective by 81% of respondents, and Trade Associations were found moderately effective to very effective by 94%. Eighty percent of participants consulted IPP, and 74% consulted EIAOs. Sixty percent of those who used in-plant inspectors commonly found them to be at least moderately effective, while only 36% of those who used EIAOs commonly found them to be at least moderately effective. SVS plants' preferred methods for receiving information from FSIS are a tie between "do my own research on the FSIS website" and "other," followed by a four-way tie among "read the Code of Federal Regulations," "talk to the district staff," "talk to my in-plant inspectors or other circuit staff," and "read guidance documents or other written documents." The "other" category included the Code of Federal Regulations handbook and NMPAN.

- **Frequency of updates to guidance documents:** The poultry exemptions guidance document has not been updated since 2006, despite the agency stating it is actively being revised at several roundtable meetings over the last few years. Stakeholders reported that out-of-date guidance makes it difficult for processors to comply with regulations.

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<sup>16</sup> USDA FSIS, *FSIS Small and Very Small Meat and Poultry Establishment Survey (2018)*.

<sup>17</sup> Rebecca Thistlethwaite, *Survey on Draft of Report on USDA FSIS Guidance and Outreach to Small Meat Processors (2020)*

- Model HACCP plans: Stakeholders reported finding the generic HACCP plans that were available online to be helpful in their planning and compliance efforts. The plans were absent from the FSIS website for a period of time, and processors requested that they, or a similar tool, be reposted to the website. FSIS responded to this request by posting several model HACCP plans to the site in September 2020 and plan to publish more in early 2021.<sup>18</sup>
- Peer-reviewed research access: Currently, FSIS requires scientific support in HACCP plans. SVS plants stated that this requirement is costly without a searchable database of all the peer-reviewed, publicly available validation studies. It is burdensome for SVS processors to do all the research themselves, both in terms of time and money, since many peer-reviewed articles require payment for access.

### ***Recommendations for FSIS Information Tools for SVS Processors***

- Small plant assistance (Help Desk and askFSIS): It might be more efficient to coordinate the Small Plant Help Desk and askFSIS more closely or combine them into one entity, especially now that they share staff and fulfill the same function. This would allow them to be more of a “one-stop-shop,” to which establishments can submit questions electronically or place a phone call.
- Information standardization: We recommend that FSIS focus on providing clear and direct guidance around the most frequently asked questions to ensure a clear agency stance on the topic, particularly on platforms such as askFSIS. Three options related to resolving inconsistencies in information are:
  - AskFSIS and Small Plant Help Desk staff, IPP, and plant operators should convene a conference call to clarify askFSIS answers and aim to achieve more definitive responses for SVS plant questions where conflicting answers have occurred. The burden to convene this conference call should not be on the plant operator and should be the responsibility of FSIS. It should also be communicated that resolving information conflicts is always an option.
  - Another option is for FSIS to allocate funds and staff to create an FSIS Small Plant Ombudsman office to help resolve and adjudicate SVS plant issues and concerns, such as inspector inconsistencies or retaliation, humane handling violations, product recalls, overtime charges, etc.
  - Alternatively, a board of industry, academic, and FSIS staff could be established for the same purpose.

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<sup>18</sup> USDA FSIS, *supra* note 14.



The key is to provide a binding means for expert interpretation of the regulations. There should be more accountability and oversight for problematic inspectors who are communicating inaccuracies or making up their own policies and interpretations of policies. FSIS Office of Field Operations (OFO) should study inspection decisions and enforcement actions across circuits and districts to correlate and calibrate inconsistencies and flag potential biases or staff problems.

- FSIS website: The FSIS website is still complex and hard to navigate. It is sometimes easier to use an internet search to find answers rather than the search engine built into the FSIS website. A plain language review and outside website design assistance could prove useful. The website also has very limited resources in Spanish, and those resources are mostly geared toward consumer audiences, not processors. There is an increasing number of plant operators and plant personnel that speak and read Spanish, so providing numerous Spanish language resources for SVS processors are important.
- How plants receive information: There seems to be little processor knowledge of all the FSIS outreach resources, such as webinars, compliance guides, website resources, etc. Perhaps when new plants are applying for a grant of inspection, they can be made aware of all available FSIS resources. Currently plants that already have a grant of federal inspection could view a special section in each Constituent Update that includes new resources, upcoming events, newly published guidance documents, etc. Likewise, IPP could download relevant compliance guides and highlight key points that they think plant operators should be aware of or may prove to be helpful for SVS plants.

Survey results indicate that the best ways to disseminate information to SVS processors include an intuitive and easy-to-navigate website, which should be a priority for FSIS, in addition to publishing effective guidance documents and ensuring their district and inspection staff are trained sufficiently to answer plant operator questions.

- Clarity of guidance documents: Guidance documents should include more visual aids, infographics, flow charts, and decision trees.



- Frequency of updates to guidance documents: Streamlining information and best practices across platforms, offices, and resources, as well as eliminating out-of-date information on the FSIS website is necessary.
- Model HACCP plans: FSIS should maintain model HACCP plans on their website for reference and update them regularly as needed. There are very few tools to help processors develop a HACCP plan that will be FSIS compliant, so these plans provide a valuable resource for processors who might otherwise have to reach out to trade associations or pay consultants instead of getting advice and information from FSIS.
- Peer-reviewed research access:
  - FSIS should create a searchable archive of all peer-reviewed validation studies for different meat products. It should include appropriate support documents for Robust Systematic Humane Handling Plans.
  - University Cooperative Extension may have a larger role to play in providing research and technical assistance to SVS plants, particularly around applicable validation studies for HACCP plans, and FSIS could encourage them to provide such support. Land grant universities and cooperative extension could have a role to play in disseminating peer-reviewed literature and providing technical assistance to SVS processors with regulatory compliance and planning. We encourage FSIS to develop relationships with university extension agents as part of the recommended OPPD outreach efforts. If extension agents receive FSIS policy and protocol updates, they can help processors interpret and comply with new regulations or request additional guidance from FSIS if policy updates are unclear. The same resources should be made available to TA states and state meat inspection program staff.
- How-to guides: OPPD should consider compiling, distributing, and presenting (via meetings, webinars, etc.) “how-to” guides as one of its first tasks in its new outreach capacity as suggested in the outreach section. This action would send a signal and be premise for introducing processors to their FSIS outreach point person. Examples of guides include how to get a grant of inspection, how to get your HACCP plan approved, how to pass an FSA, how to write a robust humane handling plan, and how to determine animal consciousness and stunning effectiveness.

## RESPONSIVENESS

Responsiveness refers to the quality and timeliness of FSIS personnel's reactions to inquiries, comments, and requests for assistance from SVS establishments and inclusion of their concerns in agency functioning.

### *Background*

The scale disparities of SVS plants compared to large plants, which were described at the outset of this report, demonstrate the importance of including SVS plants in policy-making efforts and ensuring FSIS responds to their questions. SVS plants tend to have drastically fewer financial and staff-time resources than large plants, so receiving clear guidance and answers to questions from FSIS is paramount to successful SVS plant management.

Responsiveness includes the speed and quality of responses to inquiries, issues, petitions, phone calls, and meeting recommendations. It also encompasses timely responses during inspection and enforcement processes, such as regulatory control, withholding, and suspensions, so that SVS plants can take corrective actions and get back online quickly.

### *FSIS Responsiveness to SVS Processors*

- Appendix A & B: Guidance documents that received attention and feedback from SVS plants were the 2017 revised Appendix A & B, which are guidelines for validating HACCP plans for further processed meats, such as jerky, sausage, bacon, ground meats, etc. The revised guidance documents were posted in the Federal Register and open to public comment. FSIS received 52 public comments, with the vast majority in favor of utilizing the 1999 versions and with many claiming that the new versions were both inoperable and not science-based. IPP also heard a lot of negative pushback from SVS plant operators when they shared the guidance with them. FSIS responded by allowing processors the option of using either the 1999 version or the 2017 version and decided to reexamine the science. Most guidance documents do not receive this level of public comment or pushback. However, the willingness of FSIS to “go back to the drawing board” on this guidance indicates an openness to feedback and a desire not to overburden SVS plants.
- Promptness of FSIS responses: The agency's goal is for Small Plant Help Desk and askFSIS inspection related or food safety questions to be answered promptly within 24 hours by OPPD staff.
- Petition response: FSIS has a system for responding to petitions, but there is no required timeline. It must post the petition to the Federal Register, receive comments, review all the submitted comments, evaluate them, respond to them, and then eventually make a ruling on the petition. Some petitions take less than a year to be resolved, while others have taken multiple years.



- Labeling: The FSIS Labeling and program delivery staff have been expanding the options of which labels can be approved generically. This has reduced the backlog in the last couple years, with the approval window shrinking from what often would take 30-45 days to only 5-10 days. The Labeling Division has added many additional staff to move more quickly through the backlog. In terms of information dissemination, FSIS provided webinars for options for labels to be approved and animal-raising claims on August 12, 2020, August 18, 2020, September 11, 2020, and September 17, 2020 respectively.

### **SVS Processor Feedback on FSIS Responsiveness**

- Promptness of FSIS responses: Some reviewers of the draft of this report were impressed with turnaround time at askFSIS and the Small Plant Help Desk, while others did not have their questions answered within the target time frame.
- Labeling: SVS processors are experiencing shorter wait times for label approvals compared to in the past. SVS plants find the generic label advisor in the Label Submission and Approval System helpful. Some processors report a lack of enforcement of label claims, such as grass-fed or humanely raised. This puts farmers and processors at a competitive disadvantage if they are actually complying with the requirements of those claims or taking the time to verify them.

*“The USDA gave up their sort of generic grass-fed label several years ago, which is really too bad. It worked for so many of my farmers, who don’t have the energy or resources to get a fully documented claim, even though they are qualified, and it would have given them some market recognition. In general, this is one of the areas where a recognition of the scale disparity in the industry, one that relents on the stringency around label requirements, would be useful. For example, I have many customers who would like to make a breed claim on their labels: “Belted Galloway Beef”, “Katahdin Lamb”, etc. I discourage them from making these or other label claims by charging them a large sum of money to help them get these approved. On the face of it, one look at their livestock tells you that the claim is justified. Yet they may raise and sell a total of 10, 20, maybe 30 animals a year, [which is] not enough to justify getting the paperwork together to get the label approved.”*

*—Small multi-species meat plant operator in the Mid-Atlantic*



- **Salmonella/campylobacter standards:** Salmonella Performance Standards in poultry are non-regulatory, yet they are often used to justify ordering a Food Safety Assessment (FSA). SVS processors feel that optional benchmarks that were intended to help plants monitor their operations have become an indirect part of the regulatory enforcement process, thereby increasing testing and monitoring burdens for SVS plants.
- **Non-amenable species:** There is much confusion regarding non-amenable species (e.g., bison, rabbits, deer, etc.), particularly with regards to the pricing of voluntary inspection, including confusion around who inspects which species, how much it costs for voluntary inspection, and why voluntary inspection rates vary by plant and by state. For example, bison slaughter inspection costs can vary considerably depending on how the inspector charges for their time, adding up to a surcharge of \$15 to \$150 per head, which is a large gap for a SVS processor. For many SVS plants, processing non-amenable species is key to their business.
- **FSIS effectiveness at addressing specific issues:** The NMPAN survey respondents were asked if they had any of a variety of issues in the past four years and, if so, how responsive FSIS was when handling that issue. The list below is ranked by number of respondents who reported having an issue, with the most common issues listed first (Table 3). Of those who had the issue, the percentage of respondents who found the FSIS response to be moderately effective to very effective is also reported.
- **Non-compliance Records (NRs) and enforcement actions:** SVS processors report an excessive number of NRs being written up in their plants. FSIS should analyze the data and correlate and calibrate across inspectors, circuits, and districts based on the sizes of the plants. If it is true that SVS plants receive a disproportionate share of NRs, then FSIS needs to put corrective plans into place to address that issue. NRs become part of the permanent record of a plant, which invites increased scrutiny and potential difficulties for that establishment in the future, threatening their ability to operate under inspection. Appealing NRs is time-consuming and yet another burden that SVS plants are often understaffed for.



**TABLE 3: PROCESSOR ASSESSMENTS OF FSIS EFFECTIVENESS AT HANDLING SPECIFIC ISSUES**

ISSUE	NUMBER OF RESPONDENTS WHO HAD THIS ISSUE (N=19)	% OF RESPONDENTS WHO HAD THIS ISSUE WHO FOUND THE FSIS RESPONSE MODERATELY TO VERY EFFECTIVE
Inspector Communication/Relationship	15	62%
Getting an Answer to an Important Question in a Timely Way	15	78%
Labeling	14	64%
Food Safety Assessments	14	67%
New Regulatory Assessments	13	67%
HACCP Plans	13	75%
SSOPs	13	87%
Recordkeeping	13	73%
PHIS Access	12	64%
Pre-Op Sanitation	12	82%
Humane Handling	11	64%
Pathogen Testing Methods, Protocol, or Frequency	11	67%
Lab Results	11	50%
Questions about Appendix A & B	11	55%
Validation Studies	11	46%
New Pathogen Performance Standards	11	77%
Obtaining Grant of Inspection	10	75%
Appealing a FSIS Decision	10	55%
Voluntary Inspection for Exotics/Non-Amenable Species	10	62%
Billing or Inspection Hours (Including Overtime)	8	88%

Source: NMPAN Survey



- Humane handling: SVS plants receive a disproportionate number of humane handling violations. Small processors believe this is related to the scale disparities between SVS and large plants. Each animal has more proximity and visibility to inspectors in SVS plants because there are fewer animals overall to survey. Inspectors are able to examine SVS plant processes closely because the pace of activity is slower than in large, assembly-line style plants. We explore the topic of humane handling in SVS plants more in the case study that follows the main body of the report.

### **Recommendations for FSIS Responsiveness to SVS Processors**

- Promptness of FSIS responses: FSIS should continue to aim for consistently responding to questions within 24 hours.
- Labeling: FSIS should partner with USDA Agricultural Marketing Service (AMS) to verify label claims and ensure label claims are enforced fairly across the sector. It should remove all label claims that are confusing to consumers and do not have strong scientific underpinnings, such as “healthy,” “natural,” and “free-roaming.” This is incredibly important to level the playing field for SVS plants and niche meat producers.

*“Small farms need the animal raising claim labels in order to be able to compete with commercial meat. If big companies are mislabeling, that reduces prices and could put small, niche market farms out of business.”*

*—Participant in Small Plant FSIS Study Roundtable*

- Salmonella/Campylobacter standards: There is little research being done on how SVS poultry plants can meet the Salmonella and Campylobacter performance standards. FSIS could allocate funds to research in this arena and convene research teams, as it has done with other studies such as modernization of poultry and swine inspection systems.
- Non-amenable species: FSIS should commission a report for Congress on options for the handling and slaughter of non-amenable species, including bison, yak, alpaca, llama, and rabbit, with specific and clear fee structures that could be supported through Congressional funding.
- NRs and enforcement actions: FSIS should be required to study the differences in NRs and enforcement actions across individual inspectors, circuits, and districts. It also needs to evaluate those actions based on plant size. It needs to put corrective actions into place if the data demonstrate significant statistical disparities.

# HUMANE HANDLING CASE STUDY

Humane handling is a top issue for SVS processors who perform animal slaughter. It was one of the most commonly discussed issues in the Small Plant Roundtables, and SVS plants receive a disproportionately high number of suspensions for humane handling issues compared to their larger counterparts. Examining this topic closely allows for analysis of the effectiveness of FSIS handling of an issue of importance to the SVS processor demographic. The case study spans all three topics covered in the report: outreach, information tools, and responsiveness.

## **Motivation and Background**

USDA-inspected SVS establishments in the United States receive a disproportionately higher amount of humane handling violations, from warnings through complete suspensions, compared to their larger counterparts. In analyzing data from 2007 through the end of 2019 from the Animal Welfare Institute<sup>19</sup> (who obtained their data from USDA FSIS Quarterly Enforcement Reports), we found that 98.2% of all humane handling suspensions were received by SVS plants (Table 4), yet SVS plants make up only around 80% of inspected slaughter plants.<sup>20</sup> Of those suspensions, very small plants received by far the most suspensions. That could be due to extremely high visibility of all plant activities to inspectors in very small plants. In 2019 alone, not a single large plant received a humane handling suspension; 100% of the suspensions were incurred by SVS plants. It seems unlikely that these numbers are a reflection of total lack of infractions in large plants. More likely, these numbers reflect the difference in inspector bandwidth to scrutinize the slaughter process in SVS versus large plants, and large plants' ability to quickly respond to infractions with dedicated legal and regulatory compliance staff.

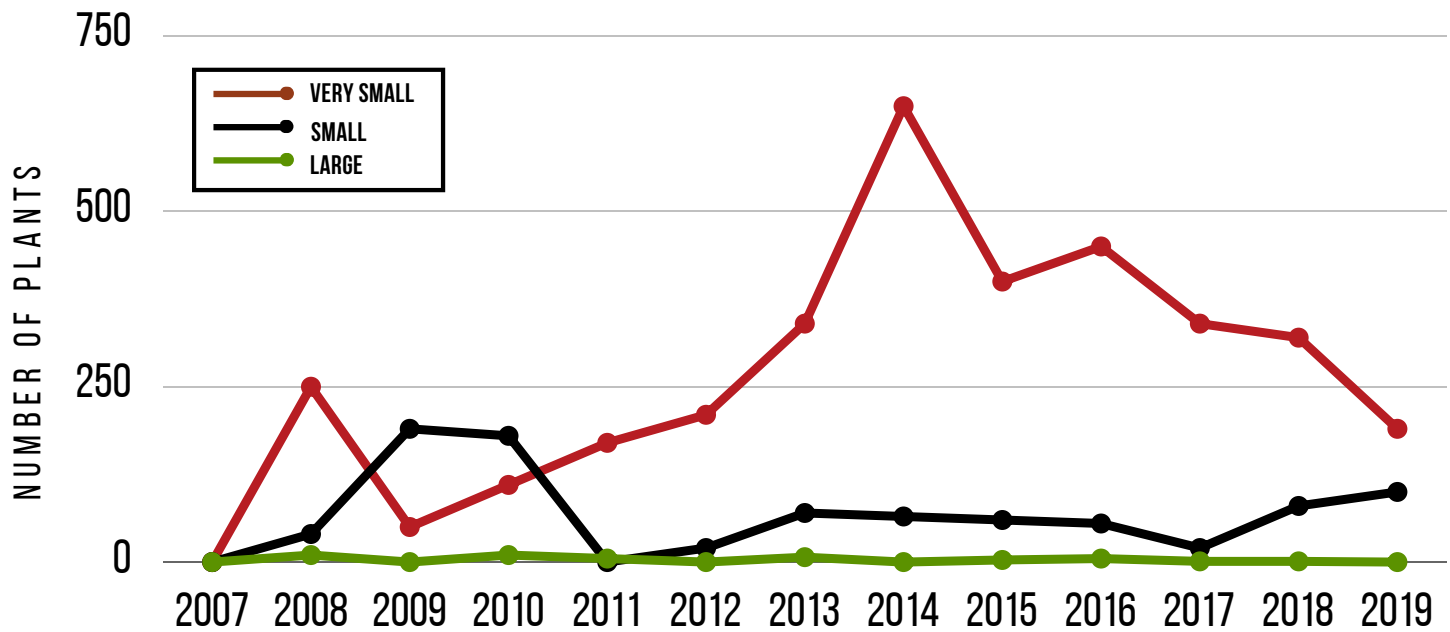
The other concern these data point out is the number of days SVS plants are suspended. Large plants are more likely to be suspended for one day or less, meaning they are back up and running under inspection swiftly. Large plants are more likely to have dedicated staff, such as an attorney or compliance department, to address FSIS concerns, while SVS plants do not have such resources and often rely on the single owner or manager to respond to regulatory issues. The graph below shows the range and median number of days by plant size over time (Fig. 1). SVS plants are more likely to be suspended for a longer period of time than large plants, with three days being the median for a very small plant compared to a one-day median for large plants. Over this time period of 2007 to 2019, the longest a very small plant was shut down was 292 days, compared to only 9 days for a large plant, although it is possible that this particular small plant was not under federal inspection at the time, but instead remained operating as custom-exempt.

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<sup>19</sup> Animal Welfare Institute, *Humane Slaughter Plant Suspension List 1/2009-2/2020* (2020), <https://awionline.org/sites/default/files/uploads/documents/fa-hsplantsuspensionlist.pdf>.

<sup>20</sup> USDA FSIS, *Meat, Poultry and Egg Product Inspection Directory* (2020), <https://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/mpi-directory>.

**FIGURE 1. NUMBER OF PLANTS SUSPENDED, BY SIZE, FROM 2007 TO 2019**



Shutdowns have substantial financial implications for SVS slaughter plants. If the plant is a co-packer for multiple farmers, the shutdown affects those businesses too. While the data do not provide any additional information, such as how quickly the plant management responded to the violation or implemented corrective actions or if the plant had a robust systematic approach plan in place, they do nonetheless present a stunning comparison. These data are concerning and call for a deeper investigation by USDA FSIS staff to understand if their regulations or inspection staff have any implicit bias against SVS plants, or if more outreach is needed to those plants than is currently provided. All enforcement action data should be tracked over time, by district, circuit, and plant size to see if FSIS systems or staff have any deficiencies or biases.

**TABLE 4: LENGTH OF SUSPENSION BY PLANT SIZE 2007-2019**

PLANT SIZE	MEDIAN (DAYS)	HIGHEST NUMBER OF DAYS
Very Small	3	292
Small	2	119
Large	1	9



## FSIS Current Suspension Protocols

FSIS has some steps in place to ensure SVS plants are able to avoid suspensions. The law is vague on when a suspension is necessary in the event of a humane handling violation. Therefore, FSIS used this broad authority to create protocols through Directives, Notices, and Guidance that attempt to instruct FSIS inspectors and plant operators about when suspension is avoidable in the event of a humane handling violation.<sup>21</sup>

FSIS's current protocols for addressing humane handling violations allow for some discretion and assurances that a plant can avoid suspension in the event of a humane handling violation if certain steps are taken by the plant. As noted by the data above, SVS plants are still suspended at disproportionate rates, indicating that these steps have not been clear or flexible enough for SVS plants, or that large plants have access to more legal resources to avoid humane handling violations compared to SVS plants.

In September 2020, FSIS updated their Humane Handling and Slaughter of Livestock Directive 6900.2 ("FSIS Directive 6900.2"). FSIS Directive 6900.2 from 2011 instructs inspectors and plant operators as to when a humane handling violation warrants an immediate suspension. There is not yet evidence to analyze whether these changes will have a substantial impact on the data reported above. In comparing the 2011 Directive language to the 2020 revision, the changes might provide additional clarity for SVS plants that want to take every step possible to assure humane handling and to avoid a suspension.

The revision of Directive 6900.2 from 2011 stated that if a violation of the humane handling requirements causes injury to an animal of an "egregious nature" then the inspector makes a recommendation to the District Manager, which often results in an immediate suspension.<sup>22</sup> In the 2011 Directive, FSIS defined "egregious nature" to include actions that severely harm animals, including "multiple attempts, especially in the absence of immediate corrective measures, to stun an animal versus a single blow or shot that renders an animal immediately unconscious."<sup>23</sup> In comparison, the updated 2020 Directive, defines "egregious" to now include where a plant "fail[ed] to immediately (or promptly) render an animal unconscious after a failed initial stunning attempt (e.g., no planned corrective actions); and multiple ineffective stun attempts (2 or more) that are due to one or more of the following": 1) failing to immediately apply a corrective action; 2) failing to adequately restrain an animal; 3) failing to use adequate stunning methods; 4) poorly trained operator or inexperienced operator; and 5) prolonged discomfort and excitement of the animal after an immediate corrective action is taken.<sup>24</sup>

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<sup>21</sup> See 21 U.S.C. § 603(b). FSIS's authority under the Humane Methods of Livestock Slaughter Act (HMSA) allows, but does not require, inspectors to suspend the slaughtering line when they observe a violation of the Act. The law states "[t]he Secretary . . . may cause inspection to be temporarily suspended" if there is a violation of the HMSA. An Act Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven, Pub. L. 59-242, 34 Stat. 1256, codified as amended at 21 U.S.C. § 603(b).

<sup>22</sup> FSIS Directive 6900.2 Revision 2- Humane Handling and Slaughter of Livestock, 9 C.F.R. § 500.3 (b) (2011) accessed at <https://www.fsis.usda.gov>.

<sup>23</sup> *Id.*

<sup>24</sup> FSIS Directive 6900.2 Revision 3 - Humane Handling and Slaughter of Livestock, 9 C.F.R. § 500.3 (b) (2020) accessed at <https://www.fsis.usda.gov/wps/wcm/connect/2375f4d5-0e24-4213-902d-d94ee4ed9394/6900.2.pdf?MOD=AJPERES>.

In the updated 2020 Directive, there is now more detailed information on what is considered an “egregious” versus “non-egregious” violation.<sup>25</sup> It clarifies that IPP can consider an immediate second stun after a missed initial stun a non-egregious violation. FSIS received feedback at small plant roundtables around their “egregious” policy. SVS plants were worried about the lack of flexibility with the old definition of “egregious” because of the need for flexibility around training new employees and when possible accidents occur.<sup>26</sup> While there are not yet data to show the impact this might have on SVS plants, the ability for plants to immediately apply a corrective action if an accidental failed initial stun occurs, and as a result, avoid an “egregious” violation, might result in fewer suspensions at SVS plants.

Changes to how FSIS enforces egregious humane handling violations in the 2020 Directive have also been updated. Under the 2011 Directive, personnel were instructed by FSIS to not suspend a plant for an egregious humane handling violation if the plant meets all of the following:

1. No recent humane handling violations;
2. Consistently meets humane handling requirements;
3. Has a written animal handling program that is a robust systematic approach;
4. The plant has proven to inspection personnel that all aspects of the plan ensure it is a robust systematic approach.<sup>27</sup>

Under the 2011 Directive, FSIS personnel were also instructed to consider the following when deciding whether or not a plant should continue operating after an egregious humane handling violation:

1. Whether the establishment is operating under an animal handling program that provides for how the establishment will respond if an unforeseeable event of this type occurs;
2. Whether there is any basis for concern that the planned response in the establishment’s animal handling program will not effectively address the problem;
3. Whether the establishment has consistently and effectively implemented their animal handling program over time.”<sup>28</sup>

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<sup>25</sup> *Id.*

<sup>26</sup> USDA FSIS et al., *Small/Very Small Meat Processing Plants Stakeholder Meeting: Denver, CO Notes (2019)*, <https://www.nichemeatprocessing.org/wp-content/uploads/2019/07/FSIS-Stakeholder-Meeting-6.18.19-updated.pdf>.

<sup>27</sup> USDA FSIS, *supra* note 21.

<sup>28</sup> *Id.*

Under the updated 2020 Directive, FSIS personnel are provided with more detailed information about what is an egregious humane handling violation. In deciding if an establishment should receive an Notice of Intended Enforcement (NOIE), FSIS personnel should base that decision on six factors:

1. Whether the plant is operating under a robust systematic approach;
2. Whether the plant can prove the robust systematic approach is effective;
3. The plant's compliance history, as indicated by the number of NRs related to humane handling requirements;
4. Whether the plant has any recent humane handling enforcement actions;
5. Whether a suspension action would prevent the humane handling violations from occurring; and
6. Whether or not the egregious violation is rare or infrequent.<sup>29</sup>

The updated 2020 Directive 6900.2 also states that if there is a “non-egregious stunning effectiveness failure,” IPP should issue an NR.<sup>30</sup> FSIS further defines a non-egregious stunning effectiveness failure as a rare failure to render livestock unconscious by a single stun, and the establishment “promptly and effectively corrected the noncompliance.” Depending on how FSIS IPP interpret this new Directive, this could result in an NR instead of a possible plant suspension, in the event that a second stun is immediately rendered and effective.

The updated 2020 FSIS Directive 6900.2 lacks detailed information about what circumstances a plant may receive a NOS for an egregious humane handling violation, but overall it provides more clarity around what is an “egregious” violation.

### **A Robust Systematic Approach**

FSIS states that a robust systematic approach includes a written humane handling program that includes the four factors of the Systematic Approach to Humane Handling and Slaughter (systematic approach):

- Conduct an initial assessment of where, and under what circumstances, livestock may experience excitement, discomfort, or accidental injury while being handled in connection with slaughter, and of where, and under what circumstances, stunning problems may occur;

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<sup>29</sup> USDA FSIS, *supra* note 23.

<sup>30</sup> *Id.*

- Design facilities and implement practices that will minimize excitement, discomfort, and accidental injury to livestock;<sup>31</sup>
- Evaluate periodically the handling methods the establishment employs to ensure that those methods minimize excitement, discomfort, or accidental injury and evaluate those stunning methods periodically to ensure that all livestock are rendered insensible to pain by a single blow; and
- Respond to the evaluations, as appropriate, by addressing problems immediately and by improving those practices and modifying facilities when necessary to minimize excitement, discomfort, and accidental injury to livestock.

FSIS personnel may then review and verify a plant's robust systematic approach plan.<sup>32</sup> The updated 2020 Directive 6900.2 includes a new requirement that the inspector-in-charge inform the plant when FSIS has approved their robust systematic approach.<sup>33</sup> The 2020 Directive 6900.2 also states that if an establishment is suspended due to an egregious inhumane handling and slaughter event, FSIS will no longer consider them to have an approved robust systematic approach plan. The new 2020 Directive 6900.2 includes additional information on steps that will be taken if IPP determine the plant is not following its robust systematic approach plan and how a plant will be informed that they no longer have an approved plan. Overall, there is more information in the 2020 Directive 6900.2 to ensure plants have notice on when they do or do not have an approved robust systematic approach.

FSIS Directive 6900.2 also includes four pages on the factors inspection personnel review to determine whether or not the written program is a robust systematic approach.<sup>34</sup> FSIS PHVs review the written plan and records on an ongoing basis to determine whether or not a systematic approach is robust on an ongoing basis.

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<sup>31</sup> See description of the four factors (assessment, design, evaluation, and response) in *Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*, 69 Fed. Reg. 54625 (September 9, 2004).

<sup>32</sup> USDA FSIS, *supra* note 23.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> USDA FSIS, *FSIS Notice 04-17: Assessment and Verification Reviews of an Official Livestock Establishment's Robust Systematic Approach Plan for Humane Handling and Slaughter* (2017), <https://www.fsis.usda.gov/wps/wcm/connect/e417b33c-d450-4970-accf-f80ffdc04e28/04-17.pdf?MOD=AJPERES>.



## Impact on SVS Plants<sup>35</sup>

There are a few key issues that have prevented SVS plants in the past from avoiding suspensions in the event of a humane handling violation, some of which have been addressed in the 2020 revision of Directive 6900.2. SVS plant operators indicated two main gaps: 1) the lack of assistance, guidelines, and outreach to ensure SVS plants have and maintain a robust systematic approach; and 2) the lack of inspector consistency to a) interpret what constitutes an “egregious” violation and b) ensure all plants are able to avoid suspension if they have an approved robust systematic plan, no recent violations, and consistently meet humane handling requirements.

Historically, fewer SVS plants implemented the systematic approach.<sup>36</sup> Recent data indicate almost 100% of large plants have maintained a systematic approach, while SVS plants had lower rates of adoption.<sup>37</sup> Data also show 56% of very small plants and 81% of small plants had a systematic approach that same year.<sup>38</sup> In 2017, approximately half of all plants were considered to have a robust systematic approach.<sup>39</sup> The data affirm a lack of widespread adoption of the robust systematic approach, particularly among SVS plants.

SVS plant operators say one reason there is a lack of adoption and FSIS approval of the robust systematic approach is the lack of clarity among both plant operators and FSIS inspection personnel. Plant operators are not always given clear instructions around what should be included and maintained for a systematic approach to be deemed “robust,” and oftentimes it changes from month to month. SVS plant operators stated the Compliance Guide sample template lacks sufficient detail to ensure their written plan will be approved. Some SVS plant owners requested additional outreach and assistance to help develop a robust systematic approach. Overall, there is a lack of resources to ensure all plant owners clearly understand what a robust systematic approach must include.

There are also concerns about the lack of clarity regarding when an NOS might be issued for humane handling violations. SVS plants are concerned that even for plants with an approved robust systematic approach or with a non-egregious humane handling violation, they may still see a suspension because not all inspectors are aware of or applying the updated Directive 6900.2 instructions uniformly.<sup>40</sup>

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<sup>35</sup> There was insufficient time to gather feedback from SVS plants on updated 2020 FSIS Directive 6900.2 before the conclusion of this study.

<sup>36</sup> USDA Office of Budget and Program Analysis, *USDA Budget Explanatory Notes for Committee on Appropriations, Food Safety Inspection Service* (2016), <https://www.obpa.usda.gov/23fsis2016notes.pdf>.

<sup>37</sup> In 2014, FSIS stated that “64% (486 of 755) of livestock slaughter plants have implemented a systematic approach to Humane Handling and Slaughter. Fifty-nine out of 59 large plants have adopted a systematic approach to humane handling. One hundred and sixteen out of 144 small plants have developed a systematic approach to humane handling (81%) and 311 out of 552 (56%) very small plants have adopted a systematic approach.” Subcommittee of the Committee on Appropriations House of Representatives, 114th Congress, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations for 2016 accessed at <https://www.obpa.usda.gov/23fsis2016notes.pdf> <https://www.obpa.usda.gov/23fsis2016notes.pdf>

<sup>38</sup> *Id.*

<sup>39</sup> In 2017, FSIS reported that “[a]pproximately 62 percent of all livestock establishments who received a monthly task had a written program and approximately 82 percent of those have a robust systematic approach. Fifty-one percent of all the livestock establishments assessed monthly for a robust systematic approach had one.” USDA FSIS, *President’s Budget* (2019), <https://www.usda.gov/sites/default/files/documents/22fsis2019notes.pdf>.

<sup>40</sup> USDA FSIS, *supra* note 23.

While the current protocols provide some flexibility to ensure suspension can be avoided if certain conditions are met, it does not address the duration of a suspension when there is a failure to meet all of the conditions. There is no maximum number of days for suspensions, and extended idle periods can have a disproportionate impact on smaller facilities that operate on thinner profit margins.

SVS plants are also concerned about the lack of clarity around when certain enforcement actions will be taken and what happens if a previous violation occurs again within a certain time period. In FSIS Directive 6900.2, IPP are to take regulatory action for non-egregious violations if “a subsequent noncompliance is observed that derives from the same or related cause, thereby indicating a failure to continue effective implementation of previously proffered corrective and preventative measures.” Unfortunately, this does not provide guidance on how soon after the initial violation a second violation would constitute a “subsequent” noncompliance. IPP are also instructed to “request that the operator take the necessary steps to prevent a recurrence,” but there is a lack of guidance around what steps a plant should take to prevent a recurrence.

*“FSIS tends to ask for corrective actions to a humane handling issue that will ‘make sure this never happens again.’ This approach doesn’t always make sense, because nothing ever goes 100% according to plan; the world has ‘random deviations.’ The real regulatory question should be: Did part of the ‘system’ fail? And, if so, what are the reasonably corrective actions for that? Random accidents do happen, and FSIS should be mindful of this.”*

*—Manager of Small Meat Packing House in New England*

### **FSIS Resources to Assist with Compliance**

FSIS developed a Compliance Guide for a Systematic Approach to the Humane Handling of Livestock in 2013 (“Compliance Guide”). The Compliance Guide includes the questions FSIS personnel ask plants to determine if they have a systematic approach and the three additional steps required to have a robust approach: 1) written procedures; 2) written records; and 3) review by FSIS.<sup>41</sup> The Compliance Guide includes the steps plants should take to ensure they have a robust systematic plan, a sample assessment tool, sample written plan language, and sample procedures and records.

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<sup>41</sup> USDA FSIS, *FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock* (2013), <https://www.fsis.usda.gov/wps/wcm/connect/da6cb63d-5818-4999-84f1-72e6dabb9501/Comp-Guide-Systematic-Approach-Humane-Handling-Livestock.pdf?MOD=AJPERES>.

FSIS also committed to additional assistance for SVS plants. FSIS's FY 17-21 Strategic Plan states it will “develop and implement an education and outreach campaign, targeting [SVS] establishments, to ensure more consistent application of humane handling best practices and compliance with humane handling requirements.”<sup>42</sup> A 2017 letter to the Animal Welfare Institute stated that District Veterinary Medical Specialists will promote humane handling best practices by delivering educational material and guidance to establishments when conducting their routine humane handling verification visits, focusing on the most recent information and recommendations on effective animal restraint and stunning.<sup>43</sup>

Overall, FSIS has processes in place that allow plants to comply with the humane handling requirements and avoid suspension if an incident occurs. Therefore, SVS plants that have historically and consistently complied with the requirements and implemented a robust systematic approach should be able to avoid suspension if inspectors consistently apply the protocols in all plants.<sup>44</sup> If implemented widely by plants, these protocols could reduce SVS plant suspensions.

## Recommendations

Overall, FSIS's directives to IPP should help ensure SVS plants are not disproportionately impacted by humane handling violation suspensions. The following recommendations should be undertaken to assist SVS plant operators in complying with humane handling requirements and improving inspector consistency around humane handling requirements and enforcement:

1. FSIS should expand guides, online tools, trainings, outreach, education, and technical assistance to assure SVS plants are able to adopt and maintain a robust systematic approach.

USDA should provide additional examples of robust systematic approach written plans beyond the one short outline in the Compliance Guide.<sup>45</sup> FSIS should include in its Compliance Guide examples of successful robust systematic approach plans written by SVS multi-species plant operators. FSIS should also include in the Compliance Guide information specific to SVS plants and multi-species plants and additional details that may facilitate compliance.

FSIS should include additional information about what FSIS personnel evaluate when reviewing a plant's robust systematic approach on an “ongoing basis” to ensure SVS plants understand when they may lose approval of their robust systematic approach. The factors and requirements that FSIS personnel look for when reviewing a plant's robust systematic approach plan should be included in both guidance and future updates to Directive 6900.2.

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<sup>42</sup> USDA FSIS, *FSIS Final Response to May 2013 Petition Submitted by Animal Welfare Institute*. [Letter: Danial Englejohn to the Dena Jones] (2017), <https://www.fsis.usda.gov/wps/wcm/connect/37c6b39e-fd62-47a3-94e6-8baee9fcade2/13-06-FSIS-Final-Response.pdf?MOD=AJPERES>.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* FSIS's Systematic Approach has become the dominant practice in slaughterhouses. FSIS stated that 35 percent of slaughterhouses had Systematic Approaches in 2013, but that number had risen to 75 percent by the end of 2016.

<sup>45</sup> USDA FSIS, *supra* note 41.

2. FSIS should assess whether or not the robust systematic approach is applicable to small, very small, and multispecies plants, and if there are areas where it should be revised or where additions should be made to assure it is applicable to all plants.

FSIS should collect updated data to determine the number of plants with an approved robust systematic approach throughout an entire year based on plant size (large, small, very small). If the data determine that SVS plants have approved robust systematic approach and written plans at lower rates compared to large plants, FSIS should create a working group of SVS plant operators to gather feedback on the robust systematic approach. FSIS should use that feedback to create guidance that ensures the robust systematic approach is practical for all plant sizes.

3. FSIS should ensure both inspection personnel and plant operations have a clear understanding of when a suspension should not occur for humane handling violations.

FSIS should create a clear decision-making guide specific to SVS plants' compliance with the humane handling requirements that includes information on when suspensions are not warranted. The decision-making guide should be available to both inspectors and plant operators and added to the Compliance Guide and FSIS Directive 6900.2.

The decision-making guide should clearly define what inspectors should consider when determining whether or not a plant has “no recent” humane handling violations.<sup>46</sup> For example, the decision-making guide could state that having no violations in the last eighteen months is sufficient for meeting this requirement. It should also distinguish among humane handling violations for different species. That is, a violation for cattle stunning should not be combined with a violation for hog stunning.

*“Different species have different and unique challenges and should have discretion for treating incidences as separate (e.g., violation due to electric stunner, versus violation due to cattle head restraint issue are two different issues for two different systems and therefore the first incident (hog) should not be considered as a 'recent' violation for the second (beef) incident as they are two completely separate "systems" issues).”*

*—Manager of Small Multi-Species Meat Processing Plant in the Midwest*

<sup>46</sup> USDA FSIS, *supra* note 23.



The decision-making guide should also state that inspectors should issue an NR, rather than an NOIE or NOS, when a mis-stun with an immediate second stun occurs at a plant, which is in line with the updated FSIS Directive 6900.2

A specific request from several SVS processors in the past was for a clearer definition of “egregious” in the context of a humane handling violation. The updated 2020 FSIS Directive 6900.2 includes some additional clarification but could more clearly state that an immediate second stun is not egregious, and clarify what FSIS interprets to mean “immediate” or “prompt.” Interpretation of this timeframe is often left up to individual inspectors and is not always consistent. FSIS should ensure inspectors are aware of the recent changes to FSIS Directive 6900.2 and consistently apply this protocol.

FSIS should consider amending the rule that allows inspectors to suspend inspection without notice. If FSIS makes it clear in Notices, Directives, inspector training, and Guidance that the protocols must be followed, and plants are still suspended that follow the protocols, it may be necessary to remove this from FSIS regulations.<sup>47</sup> The rule could be amended to add an exception that prohibits immediate suspension if the current protocols in Directive 6900.2 are followed. FSIS could also draft a new proposed rule to clarify the protocols if the above suggestions are not sufficient to ensure inspector uniformity.

#### 4. FSIS's current protocols should include a time frame for suspension based on certain factors.

If inspection is suspended, the suspended establishment must “furnish...assurances satisfactory to” the FSIS District Manager, who has broad authority to decide when the establishment has met this standard and may reopen.<sup>48</sup> Often, the ability to provide these assurances comes down to staff time and financial resources, of which SVS plants have fewer than large plants. Unfortunately for SVS plants, this has resulted in shutdowns of several days or weeks.<sup>49</sup>

FSIS should establish protocols for shutdowns that might occur at plants that have historically met the above mentioned protocols. The new protocols could follow a similar approach that includes a requirement that plants implement a robust systematic approach and an assurance that a PHV will be available immediately to assist the plant with reopening if needed. If corrective action is taken immediately, a plant with a robust systematic approach should be able to reopen without delay. FSIS should ensure that plant operators are at least aware of a general time frame for when the plant can resume operation if they have a robust systematic approach and take immediate corrective actions.

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<sup>47</sup> 9 C.F.R. § 500.3.

<sup>48</sup> 9 C.F.R. § 313.50; FSIS rules state that “stunning procedures shall not be resumed until the inspector receives satisfactory assurances from the establishment operator that there will not be a recurrence.”

<sup>49</sup> See Fig. 1 and Table 4.

Finally, FSIS should consider seeking appropriations for a special humane slaughter grant program for SVS plants. Having a proper head catch for beef, transitioning to electric stunning for hogs, or having a properly designed knock-box makes an enormous difference for SVS plants in their efforts to comply with all humane handling regulations. The cost of implementing one of these changes is typically under \$20,000. With a relatively small amount of funding, it might be possible for FSIS to accomplish their goal – humane animal welfare and humane animal slaughter.

## **CASE STUDY CONCLUSION**

Human error, the unpredictable nature of livestock, and the fast-paced environment of plants are all factors that may impact a plant's ability to comply with humane handling requirements. Congress provided discretion to inspectors to ensure they can consider these factors when they decide whether or not to suspend a plant in violation of humane handling requirements. FSIS's protocols are in place to prevent the unnecessary suspension and shutdown of SVS plants. If these protocols are clear, size appropriate, and consistently applied by both inspectors and SVS plant operators, suspension should be avoidable.





# CONCLUSION

The USDA Food Safety and Inspection Service (FSIS) serves a critical role for inspected meat processors. It disseminates information about food safety, humane handling standards, and the inspection process and provides guidance on regulatory compliance. Small and Very Small (SVS) slaughterhouses and meat processors rely heavily on the resources provided by FSIS, as they often do not have personnel dedicated solely to interpreting and operationalizing federal regulations. The staff members who fulfill this function at SVS plants often have many other job duties to attend to, so the ability to access clearly worded, comprehensive, and up-to-date resources about the regulatory process is of vital importance. Resources may take the form of outreach by FSIS staff, information tools, and agency responsiveness to SVS processor concerns. While this report finds that FSIS has made efforts in recent years to address some of the concerns of SVS processors, there is room for substantial improvement. This report has provided recommendations to FSIS in all three subject areas for which it was commissioned, based on the experiences of SVS meat processors during the past four years.



# APPENDIX A: METHODOLOGY + DATA

## METHODOLOGY

The authors of this report followed a three-step methodology to ensure that it accurately reflects SVS processors' experiences.

### **Initial Data Collection**

NMPAN gathered and analyzed what NMPAN and USDA FSIS knew already about these issues, including existing recommendations from different stakeholders. FSIS provided the following information and analysis to NMPAN:

- Description of outreach methods and practices of the last few years, including staff contacts for follow-up inquiries
- Explanation of its process to develop guidance, including how FSIS receives and evaluates comments, makes guidance available to the public, and where all guidance is posted on its website
- Outline of the process it uses to answer questions from SVS businesses through askFSIS (a web-based questions and answer service)
- Demographic data and trends concerning askFSIS questions from SVS establishments
- Publicly posted askFSIS questions and answers (Qs and As), the process FSIS uses to develop these Qs and As, and the responses FSIS has received from users concerning these Qs and As
- History of webinars and meetings hosted by FSIS to provide guidance to processors, including eight roundtables and accompanying transcripts.

Additionally, NMPAN reviewed the following sources of information:

- FSIS's own survey data (most recent and past) at national and regional levels (Although this information is not yet published, FSIS shared the data and preliminary analysis of it with the NMPAN team that compiled this report.)
- Notes from eight small processor roundtables organized by NMPAN and NSAC since 2016 <sup>50</sup>
- Related academic literature and public reports
- NMPAN internal and listserv archives (e.g., documents, discussion notes) from small processor working groups and regional meetings

The above information was analyzed and synthesized to create a draft evaluation of FSIS effectiveness in the three areas named above (i.e., outreach, information tools, and responsiveness) and recommendations for how to improve effectiveness provided by stakeholders.

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<sup>50</sup> All roundtable notes are available on the NMPAN website at <https://www.nichemeatprocessing.org/policy-engagement-for-processors/>.



## **Stakeholder Verification and Feedback**

NMPAN tested and verified the draft report with key stakeholders. The following audiences were invited to review a draft using a combination of interviews, email correspondence, and online surveys:

- Select members of the NMPAN network and board
- American Association of Meat Processors (AAMP) staff and SVS members of NACMPI committee
- Focus groups at processor conventions or regional stakeholder meetings
- Other relevant stakeholders as needed

NMPAN aimed to test (and adjust, change, expand as needed) the draft evaluation with processors that varied across geography, type of operation, and size of operation. NMPAN asked them not only about FSIS effectiveness across those three areas but also their own recommendations for future improvements (e.g., topics, delivery methods, staff training, timeliness).

## **Draft Revisions**

Oregon State University analyzed stakeholder input and revised draft findings to produce two final deliverables:

- Report for USDA FSIS and House and Senate Agriculture Committees
- Public-facing report if requested

NMPAN aimed to test (and adjust, change, expand as needed) the draft evaluation with processors that varied across geography, type of operation, and size of operation. NMPAN asked them not only about FSIS effectiveness across those three areas but also their own recommendations for future improvements (e.g., topics, delivery methods, staff training, timeliness).

## **DATA OVERVIEW**

Data collected for this study were primarily from 2016 to the present. While some of the issues discussed in the report are long-standing, we focused on the last four years of data to get an accurate understanding of the current situation and FSIS's recent efforts. Examining pre-2016 historical data on FSIS structure and strategies may provide insights about effective techniques for the agency, particularly in areas where the agency could improve based on the analysis presented in this report. However, doing so is outside the scope of this study and could be a possible future project.

Both primary and secondary data were collected for this report. Primary data sources included interviews, phone calls, meetings, and materials directly generated by USDA FSIS staff. It also included in-depth interviews, survey responses, focus groups, and roundtable meetings with small meat processors and other meat supply chain stakeholders. Through this process, approximately 357 individuals provided feedback to inform the first draft of the report or to review the draft report itself. Secondary data sources included internet research, NGO reports, newspaper articles, relevant academic reports, and the NMPAN listserv archive from the past four years.

Eight key informant reviews of the draft report were collected, and that feedback was incorporated into the final version of the report (15 were invited, eight completed the thorough review). A survey about the draft report was circulated via the NMPAN listserv, which numbers over 1,500 people, and partner organizations. COVID-19 drastically impacted survey response rate, as many processors were exceptionally and unexpectedly busy running their operations during the survey period of late spring/early summer 2020. We analyzed 19 completed surveys for inclusion in this document.

All feedback and data from individuals were anonymized to protect the identity of the person. There was an attempt to highlight the most common responses from processors and pull out the key themes, rather than discuss outlying opinions. The Principal Investigator made every attempt to capture constructive criticism and realistic ideas to mutually work together and solve problems.

The Principal Investigator gathered all known information relevant to the way that the USDA FSIS is regulating and serving the needs of SVS inspected meat establishments. Not every single inspected facility was surveyed for this report because it would have been outside of both the timeline and the budget of this study. The study also did not look at inspected egg establishments nor catfish, which are two other foods that FSIS regulates. There was a stronger emphasis placed on surveying animal slaughter facilities, cut and wrap, and meat processing establishments; and less emphasis on facilities that mostly manufacture processed foods more but may use some USDA inspected meat ingredients, such as a pizza manufacturer that puts cooked sausage on their frozen pizzas or similar such facilities. This is in line with what the 2018 Farm Bill language outlined as “small meat processors.”

## APPENDIX B: REPORT TOPICS BY SECTION

The **Outreach** section includes the following topics:

- FSIS Small Plant Survey
- Opportunities for dialogue with FSIS
- EIAO outreach program
- COVID-19 support
- Inspector training
- Disparities between FSIS districts
- Talmadge-Aiken (TA) states

The **Information** section includes the following topics:

- Small plant assistance (Help Desk and askFSIS)
- Information standardization
- Customer service dashboard
- Weekly Constituent Update
- FSIS website
- Webinars
- How plants receive information
- Clarity of guidance documents
- Frequency of updates to guidance documents
- Model HACCP plants
- Peer-reviewed research access
- How-to guides

The **Inclusion and Responsiveness** section includes the following topics:

- Appendix A & B
- Promptness of FSIS responses
- Petition response
- Labeling
- Salmonella/campylobacter standards
- Non-amenable species
- FSIS effectiveness at addressing specific issues
- Non-compliance records (NRs) and enforcement actions
- Humane handling

# GLOSSARY

**Appendix A & B** – FSIS Salmonella Compliance Guidelines for Small and Very Small Meat and Poultry Establishments that Produce RTE Products and Revised Appendix A & FSIS Compliance Guideline for Stabilization (Cooling and Hot-Holding) of Fully and Partially Heat-Treated RTE and NRTE Meat and Poultry Products Produced by Small and Very Small Establishments and Revised Appendix B

**CFR** – Code of Federal Regulations

**CU** – Constituent Update

**EIAO** – Enforcement Investigations and Analysis Officer

**FR/Fed. Reg.** - Federal Register

**FSA** – Food Safety Assessment

**FSIS** – Food Safety and Inspection Service

**HACCP Plan** - Hazard Analysis & Critical Control Points Plan

**HH** – Humane Handling

**IPP** – In-plant personnel

**NACMPI** - National Advisory Committee on Meat and Poultry Inspection

**NOIE** – Notice of Intended Enforcement Action. NOIE is issued to a plant for non-compliances that do not pose an imminent threat to public health but may warrant withholding the marks of inspection or suspending the assignment of inspectors if not corrected.

**NAS** – Non-amenable species

**NOS** – Notice of Suspension

**NR** – Noncompliance Record

**OPPD** – Office of Policy and Program Development

**PHIS** – Public Health Information System

**PHV** – Public Health Veterinarian

**SPHD** – Small Plant Help Desk

**SVS** – small or very small

**TA** – Talmadge-Aiken

**USDA** – United States Department of Agriculture

