



September 21, 2018

Deputy Assistant Secretary Loren E. Sweatt  
OSHA Docket Office  
Room N-3653  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210

Re: Docket No. OSHA-2013-0023, Tracking of Workplace Injuries and Illnesses

Dear Deputy Assistant Secretary Sweatt,

The Southern Poverty Law Center (SPLC) writes in strong opposition to the provision in the Occupational Safety and Health Administration's (OSHA) new proposed rule, "Tracking of Workplace Injuries and Illnesses," that will repeal injury reporting requirements for large employers. This provision will allow dangerous employers to hide workplace injuries and will seriously hinder OSHA's efforts to identify and prevent workplace injuries.

SPLC is a nonprofit civil rights organization dedicated to seeking justice for the most vulnerable members of society. For many years, we have engaged in a broad range of advocacy on behalf of workers in the poultry processing industry, one of the most dangerous industries in the United States. In 2013, we released *Unsafe at These Speeds: Alabama's Poultry Industry and its Disposable Workers*, a landmark report that describes how Alabama poultry workers often suffer significant injuries and illnesses as they are forced to keep up with the punishing speed of processing lines, or face losing their jobs.

Based on more than 300 interviews, *Unsafe at These Speeds* found that these workers—both U.S. citizens and immigrants—are routinely forced to endure dangerous conditions and are silenced by threats of firing and deportation. Nearly three out of four Alabama poultry workers interviewed described suffering a significant work-related injury or illness, such as debilitating pain in their hands, respiratory problems, cuts, gnarled fingers, and chemical burns. The report also shows that workers in the poultry industry suffer extraordinary rates of repetitive motion injuries that are

directly linked to the punishing work speeds in the plants. Numerous other studies have similarly found that poultry workers suffer from catastrophic levels of injury and illness.<sup>1</sup>

In 2014, after SPLC filed a complaint on behalf of numerous poultry workers in Wayne Farms' Jack, Alabama plant, OSHA fined the company more than \$100,000.<sup>2</sup> OSHA found that Wayne Farms exposed its workers to safety and musculoskeletal hazards. OSHA also found that the company failed to record musculoskeletal injuries properly, allowing the plant to hide the true extent of workplace injuries.

The poultry industry's own statistics show that workers are injured at rates almost twice the national average, and suffer illnesses at a rate that is six times as high.<sup>3</sup> As in Wayne Farms' Alabama plant, these statistics are likely a drastic undercount. In the preamble to the final 2014 rule, the United States Department of Agriculture (USDA) clearly stated:

“FSIS recognizes that **systematic underreporting** of work-related injuries and illnesses could make it difficult to accurately assess the extent to which poultry workers suffer from work related injuries and musculoskeletal diseases and disorders.... [P]oultry processors' injury and illness logs often do not reflect the full extent of work-related conditions experienced by poultry workers”

79 Fed. Reg. at 49600 (emphasis added).

OSHA's new proposed rule repeals part of OSHA's 2016 rule, “Improve Tracking of Workplace Injuries and Illnesses,” and will roll back the requirement that large employers submit important detailed information on injuries at their workplaces, information that companies already maintain. The agency proposes removing this requirement, even though this information would significantly assist the agency in allocating its scarce resources, including compliance assistance and enforcement, to prevent the over 3 million serious workplace injuries that occur every year. Further, the collection

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<sup>1</sup> See, e.g., Northwest Arkansas Workers' Justice Center, *Wages and Working Conditions in Arkansas Poultry Plants* (2016), available at [http://www.uusc.org/sites/default/files/wages\\_and\\_working\\_conditions\\_in\\_arkansas\\_poultry\\_plants.pdf](http://www.uusc.org/sites/default/files/wages_and_working_conditions_in_arkansas_poultry_plants.pdf); Oxfam, *No Relief: Denial of Bathroom Breaks in the Poultry Industry* (2016), available at [https://www.oxfamamerica.org/static/media/files/No\\_Relief\\_Embargo.pdf](https://www.oxfamamerica.org/static/media/files/No_Relief_Embargo.pdf); Oxfam, *Lives on the Line: The Human Cost of Cheap Chicken* (2015), available at [https://www.oxfamamerica.org/static/media/files/Lives\\_on\\_the\\_Line\\_Full\\_Report\\_Final.pdf](https://www.oxfamamerica.org/static/media/files/Lives_on_the_Line_Full_Report_Final.pdf);

<sup>2</sup> Occupational Safety and Health Admin., “Alabama's Wayne Farms poultry plant cited for exposing workers to musculoskeletal, other repeat, serious safety and health hazards” (Oct. 29, 2014), available at <https://www.osha.gov/news/newsreleases/region4/10292014>.

<sup>3</sup> Bureau of Labor Statistics, “Industry Injury and Illness Data,” available at <https://www.bls.gov/iif/oshsum.htm>.

of and access to this data would help the efforts of state agencies, researchers, workers, and worker representatives to identify and prevent workplace hazards. Instead, the proposed rule will allow large employers in dangerous industries to continue to hide their records of workplace injuries.

In the proposed rule, OSHA claims it is repealing injury reporting requirements for large employers in order to protect the privacy of workers. This is not based on evidence or fact, and is completely fabricated. Workers and their organizations overwhelmingly advocated in support of the 2016 rule and for the electronic submission of all this data. Further, the 2016 injury rule was specifically designed to protect worker privacy. It is big business that is opposed to this rule, not workers. The 2016 provisions clearly stated that no information that would identify individual workers was to be reported. If such information were ever accidentally submitted, OSHA made it clear it would never be released to the public. Further, OSHA's sister agency in the Department of Labor, the Mine Safety and Health Administration, has been collecting detailed injury information for decades, makes the information publicly available, and effectively withholds personally identifiable information –just as OSHA will.

It is essential that OSHA receive this data because this information will enable the agency to better identify and address patterns of injuries and causes, as well as emerging hazards. This data will help OSHA be more effective at preventing injuries, particularly in poultry processing and other hazardous industries.

In this proposal, OSHA asserts that a description of an injury is too sensitive for an employer to report to OSHA, but this assertion ignores decades of OSHA practice with regard to injury reporting. Since OSHA's website was created, decades ago, inspections that resulted from an injury or fatality had a lengthy description of the incident available to the public with a few clicks of a mouse. Further, any worker, worker representative, or former employee can get copies of all this data from their company within a day of requesting it. And OSHA has had lengthy descriptions of severe workplace injuries on its website for years. It is flatly disingenuous to contend that OSHA is proposing to roll back this requirement to protect workers.

With this proposal, the Administration is siding with big business against worker safety. We strongly oppose any repeal of the provisions in the original 2016 rule, "Improved Tracking of Workplace Injuries and Illnesses."