



Reply to the attention of:

MAR 19 2018

The Honorable Patty Murray
Ranking Member
Senate Committee on Health, Education, Labor and Pensions
United States Senate
Washington, DC 20510

Dear Ranking Member Murray:

We received your letter regarding the Occupational Safety and Health Administration's (OSHA) response to the recent Government Accountability Office (GAO) report on safety and health at meat and poultry plants. Your letter was forwarded to OSHA for response.

Let me assure you that OSHA shares your concern for meat and poultry worker safety and health, and appreciates GAO's review and feedback. In the last five years (FY 2013 - FY 2017), OSHA conducted 396 inspections of poultry processing establishments, resulting in 801 violations.

Over the years, the GAO has made a number of recommendations to OSHA to help improve agency programs. Where appropriate, OSHA has adopted those recommendations and moved forward to implement those enhancements. However, in some instances, legal, safety, or practical considerations may restrict OSHA from fully implementing the GAO's recommendations.

You express concern regarding OSHA's response to two specific recommendations. In the first recommendation, GAO indicated that OSHA, "should gather more information, such as by asking workers during meat and poultry plant inspections, to determine the extent to which bathroom access is a problem, and how to address any identified issues." OSHA's standard addressing toilet facilities requires that employers at permanent places of employment provide toilet facilities for employees, the number and designation of which are based on the size and make-up of the employee population (29 CFR 1910.141(c)(1)), and time to utilize these facilities.

OSHA's goal during any inspection is to identify violations of OSHA's regulatory requirements and bring them to the attention of the employer so they can be corrected. OSHA's Compliance Safety and Health Officers (CSHOs) accomplish this goal using a number of tools, including personal observation, document review, and a sufficient number of interviews with both management and employees. Using these tools, CSHOs are also able to identify broad-based issues with a company's overall safety and health culture, which could include information to assess bathroom access, or other potential program failures.

On October 28, 2015, OSHA issued a memorandum to all field staff to provide further inspection guidance for poultry slaughtering and poultry processing establishments. The guidance provides

a list of specific hazards to be addressed during inspection of these establishments. The memo clearly identifies and addresses the adequacy of toilet and sanitary facilities.

In addition to the above memo, two of OSHA's regions have Regional Emphasis Programs (REPs) for poultry processing facilities, which have been in effect for almost three years. These REPs specifically require that CSHOs assess the adequacy of toilet and sanitary facilities, and of worker access to them. Based on experience from the REPs, OSHA's investigative techniques have been effective.

While OSHA believes it is adequately addressing the issue of bathroom access during inspections, the agency will conduct refresher training for all field staff, reminding them of the requirements in the October 2015 memo for conducting poultry inspections. OSHA intends to emphasize the use of all available CSHO tools to identify specific hazards, as well as broader indications of overall safety and health failures.

You also raised an issue with OSHA's response to the GAO recommendation that OSHA, "should take additional steps to encourage workers to disclose sensitive concerns during OSHA inspections of meat and poultry plants; for example, by considering additional off-site interviews or exploring other options to obtain information anonymously."

OSHA agrees that employee input is an integral component of workplace safety and health. When employees feel comfortable voicing safety and health concerns, either to their supervisors or to OSHA, hazards are more readily addressed and workplaces are safer. OSHA's current policy provides opportunity and flexibility to conduct interviews in a way that maximizes employee privacy. OSHA can conduct off-site interviews when needed, while still offering continued safety for both the CSHO and the employee.

To safeguard the rights of employees, CSHOs advise every employer of the prohibition against employee retaliation afforded by the Occupational Safety and Health Act (Section 11(c)) during the opening conference. Additionally, employee interviews are conducted privately, and employees are given contact information in case they wish to speak with a CSHO at a later time. Employees are encouraged to contact the agency if they have additional information they wish to share, which could include meeting at an off-site location. OSHA will remind our personnel of the importance of employee input and the options for offsite interviews to ensure adequate employee participation during the inspection process.

In addition to your questions regarding GAO's recommendations, you also asked how OSHA is addressing hazards that impact sanitation workers at meat and poultry plants, and inquired whether OSHA conducts nighttime inspections in those facilities to address those hazards. In addition to responding to unprogrammed activity, such as severe injury reports, OSHA conducts programmed inspections using the REPs for poultry processing facilities referenced. These programs specifically address hazards found in sanitation operations, such as amputation hazards; cuts and lacerations; struck-by, struck against, and caught in equipment; slips, trips, and falls; electrical shock; and biological and chemical hazards.

Current OSHA policy allows for inspections to be conducted outside of regular working hours when circumstances indicate. In instances where sanitation operations cannot be observed during normal working hours, CSHOs can expand or adjust inspection hours to ensure coverage.

Should you have additional questions, please contact the Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,



Loren Sweatt
Deputy Assistant Secretary