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March 8, 2018

Special Rapporteur on Human Rights and Hazardous Substances
Office of the High Commissioner for Human Rights
The United Nations
Geneva, Switzerland

SUBJECT: Submission to study on workers protection from hazardous substances

Dear Special Rapporteur:

We appreciate the opportunity to present evidence about the exposure of U.S. poultry and meatpacking workers to disinfection chemicals, in particular peracetic acid. Most of the workers who are employed in U.S. poultry, beef, and pork slaughtering plants are immigrants, refugees, persons of color, and/or female. They face racial, ethnic, language, and economic discrimination, and often live in isolated, rural communities. For these and other reasons, they are especially vulnerable to labor abuse.

Peracetic acid (PAA) is used extensively in U.S. poultry and pork processing plants. The chemical functions as an antimicrobial agent to reduce contamination from *salmonella*, *campylobacter*, and other fecal pathogens. Industrial poultry and pork producers use PAA because it does not alter the taste or texture of the product and dissipates before it reaches the consumer. Although it may be effective to address pathogen contamination, it has adverse health consequences to workers who are exposed to it.

PAA is a highly corrosive agent and a strong sensory irritant to the eyes, skin and respiratory tract. PAA can cause injury to the eyes and skin. Breathing mist or vapor with PAA can irritate the respiratory system, leading to coughing and difficulty breathing. PAA is classified by the Association of Occupational and Environmental Clinics as an asthmagen.¹ Repeated and prolonged exposure can lead to more severe respiratory effects including pulmonary edema.²

In recent years, the U.S. Department of Agriculture (USDA) has adopted new policies for poultry and meat inspection. USDA has moved from visual inspection to much greater reliance on the application of chemicals. In chicken and turkey plants, for example, the poultry product used to be soaked in dip tanks of PAA prior to processing. Now, the product is not only dipped in PAA *prior* to processing, it is dipped repeatedly in tanks of PAA *during* processing. In many

¹ Association of Occupational and Environmental Clinics. (2015). Comprehensive Occupational & Environmental Exposure Database. <http://www.aoecdata.org/ExpCodeLookup.aspx>

² National Institute for Occupational Safety and Health, U.S. Centers for Disease Control and Prevention. Request for Information: Health Risks to Workers Associated With Occupational Exposures to Peracetic Acid. March 7, 2017; 82 *Federal Register* 12819.

plants, PAA is also sprayed continuously over the slaughtering and processing lines where workers are stationed. This heavier and plant-wide use of PAA results in hundreds of thousands of low-wage meat and poultry workers being exposed to liquid, vapor and aerosolized PAA. More workers are experiencing the adverse effects of exposure to PAA and raising health concerns about the hazard. Complicating the matter is that the chemical mixture poses a challenge to industrial hygienists. PAA is difficult to measure using current air sampling equipment and methods. Although workers are being exposed and experiencing symptoms, companies can dismiss workers' concerns by pointing to the invalid air sampling results. In some poultry and meat plants, exposure to PAA is the first health concern raised by workers in conversations about workplace safety, even though they face significant risk from lacerations, amputations, and ergonomic hazards.

The U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) have approved the use of PAA as an antimicrobial for poultry and meat products. FDA and USDA determined that chemical residue from PAA is safe for consumers to eat and that PAA would not adversely affect the environment from wastewater discharged from poultry and pork plants. Their approval process, however, fails to consider the adverse health consequences of PAA for workers who are exposed to it in the processing plants. The agencies did not review any plant worker safety information and did not request any information on worker exposure or how workers would be exposed in plants. USDA and FDA were also not aware that an occupational exposure limit (OEL) for PAA has not been established by the U.S.'s National Institute for Occupational Safety and Health (an agency within the U.S. Department of Health and Human Services) or the Occupational Safety and Health Administration (an agency within the U.S. Department of Labor.) Identifying an OEL for PAA is not a priority for these agencies. Even if it were, developing a regulation to address worker exposure to PAA would take 7-10 years. Workers in U.S. poultry and meatpacking plants will continue to suffer health consequences from the USDA's and industries' widespread and growing use of PAA.

Human rights groups and labor rights advocates have detailed the abusive working conditions in U.S. poultry and meatpacking plants. These include:

(1) A 2009 report by Nebraska Appleseed Center for Law in the Public Interest based on surveys and interviews with 455 meatpacking workers from five different communities in Nebraska.³ More than 90 percent were immigrants, including 46 percent from Mexico, 29 percent from Guatemala, and 11 percent from El Salvador.

More than 60 percent of workers described being injured on-the-job in the previous 12 months. The most frequently reported safety concern was the relentless speed of the processing line. The workers attributed fast line speeds (e.g., 400 head per hour) to more lacerations and

³ Nebraska Appleseed (2009). The Speed Kills You: The Voice of Nebraska's Meatpacking Workers. https://neappleseed.org/wp-content/uploads/downloads/2013/01/the_speed_kills_you_100410.pdf

musculoskeletal injuries. Workers expressed fear about losing their job if they reported an injury. Their comments included:

- “My friends say it is better not to report or they’ll fire you.”
- “My husband also works here and afterwards they retaliated against everyone in the family.”
- “If one reports they give you more work so that you leave the plant on your own.”
- “Sometimes yes [I’m afraid to report], when I see how they treat the others.”

(2) In 2013, the Southern Poverty Law Center and other civil rights groups filed a petition with the Inter-American Commission on Human Rights (IACHR) about labor practices in U.S. poultry and meatpacking plants. IACHR is part of the Organization of American States. The SPLC petition noted:

“The meat and poultry processing industries violate the fundamental human rights of their workers, coming from all over the hemisphere, but especially from Mexico and Central America, by systematically exploiting the lack of ergonomic and work speed safety regulations in the U.S., and the U.S. negligently permits these industries to inflict disabling harm on thousands of their employees. Every day, workers must endure a punishing, unsafe, and undignified work environment in which they face extraordinary injury rates, abuse by supervisors, and grueling work shifts.

The meatpacking industry's massive disassembly lines can slaughter and process 400 head of livestock per hour, and poultry plants can slaughter and process up to 10,000 chickens per hour, forcing low wage workers to maintain intensely high work speeds in often cold conditions. Slippery floors, electric knives, and inadequate safety equipment can present workers with additional risks. Production lines’ extreme speeds often result in permanently crippling repetitive motion injuries to workers’ hands, wrists, shoulders, and backs due to tendon, nerve, joint, and bone damage. The work speed is so unrelenting that it has forced workers to urinate and defecate in their clothing while working on the line because employers deny reasonable bathroom use, violating workers’ rights to dignity.”⁴

The IACHR granted the petitioners’ request and convened a public hearing to receive testimony from affected workers and a response from the U.S. government. A representative from the USDA said their agency does not have the legal authority to regulate worker safety and that such responsibility falls to the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA). However, the OSHA representative who spoke at the hearing indicated

⁴ Southern Poverty Law Center, Nebraska Appleseed Center for Law in the Public Interest, and the Midwest Coalition for Human Rights. Request for hearing on the human rights situation of meat and poultry processing workers in the United States, January 16, 2014.

his agency has limited resources. He said that developing new worker safety and health regulations is a complicated process that takes many years. OSHA would not commit to adopting new protective regulations for poultry or meatpacking workers.

(3) A 2016 report by the Northwest Arkansas Workers' Justice Center (NWAJWC) addressed wages and safety conditions for the 28,000 workers in the state's poultry industry. About 33 percent of the workforce is Hispanic or Latino, 17 percent African American, 6 percent Asian, with a large portion from the Marshall Islands.

NWAJWC surveyed 500 poultry workers in the state. More than half reported experiencing discrimination on the job, with even higher rates for foreign-born and non-white workers. Women workers described restricted access to the bathroom. Women indicated that male supervisors failed to understand or sympathize with women's needs to use the bathroom more frequently than men. The women consider the companies' restrictions on bathroom access as gender discrimination. One worker said:

“Instead of letting us use the bathroom, they threaten us, humiliate us to the occasion of filing claims with human resources to discharge us.”⁵

The survey of poultry workers in Arkansas by NWAJWC also found that employers fail to provide effective safety training. Their comments indicated that training has been provided in a language that workers do not understand. Workers also reported the inadequacy of training about chemicals used in their workplaces, including those used for disinfecting the product, equipment, and surfaces.

The U.S. Occupational Safety and Health Administration (OSHA) conducts workplace inspections to assess employers' compliance with standards established to prevent injuries and illnesses. The agency, however, does not receive adequate funding and too few workplaces are inspected. There is only one inspector for every 76,402 workers. For industrial market economies, the benchmark set by the International Labour Organization's is one inspector per 10,000 workers. With current funding, it would take OSHA inspectors 159 years to inspect each workplace in the U.S. just once.

Only a fraction of OSHA inspections each year are conducted in poultry and meatpacking plants. A few inspections in recent years were the result of worker complaints, specifically about exposure to PAA. In 2016, for example, OSHA conducted an inspection at a plant in Texas that is owned by the largest poultry and meat processing company in the United States. Inspectors cited the company for failing to protect its employees from burns and eye injuries caused by PAA exposure. The citations included failing to provide safety training under the chemical

⁵ Northwest Arkansas Workers' Justice Center. 2016. Wages and working conditions in Arkansas poultry plants. <https://drive.google.com/file/d/0B9E65CdkTCIHd3k3Z0FlajNYelE/view>

hazard communication standard and appropriate safety equipment for employees who work near the open dip tanks that contain PAA.

In 2017, the American Public Health Association adopted a policy statement calling for better working conditions for U.S. food production workers. APHA noted meatpacking and poultry industry's heavy reliance on refugees and immigrants workers. Nearly 34 percent of workers in meatpacking and poultry process are Hispanic, which is more than twice the share of Hispanics in the overall workforce. Refugees from Somalia, Burma, and Egypt are also often employed at meat and poultry plants.⁶ Poultry and meatpacking employers capitalize on the workers' precarious immigration status. They locate their plants in isolated regions where workers have little option for alternative work and are places that boast being "union free." Policies and practices in the plants create a "climate of fear." Employees are retaliated against for reporting work-related injuries, seeking medical treatment for injuries, and for raising safety concerns.⁷

Whistleblower protections are extremely weak under the Occupational Safety and Health Act. Workers have a very high burden of proof to demonstrate retaliation was related to safety matters; are only given 30 days to file a complaint; and must rely on the U.S. Solicitor of Labor to file a claim in federal court against an employer. Further, under the law, workers are restricted from pursuing a complaint in court on their own behalf.

Corporate and government policies and practices regarding PAA are adversely affecting the health of hundreds of thousands of workers in U.S. poultry and meatpacking plants. Most of these workers are immigrants, refugees, persons of color, and female. Legal institutions in the U.S. fail to protect them from workplace hazards, discrimination, and whistleblowing. We appreciate the opportunity to draw attention to this occupational health issue.

Sincerely,

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⁶ American Public Health Association. Improving Working Conditions for U.S. Farmworkers and Food Production Workers. Policy No. 20177, adopted November 2017.

⁷ Southern Poverty Law Center, Alabama Appleseed Center for Law & Justice. Unsafe at these speeds: Alabama's poultry industry and its disposable workers. 2013.
https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/publication/Unsafe_at_These_Speeds_web.pdf