

**Congress of the United States**  
**Washington, DC 20515**

June 24, 2021

The Honorable Elizabeth Prelogar  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Acting Solicitor General Prelogar,

We are writing to direct your attention to a recent U.S. district court decision which vacated a portion of the Department of Agriculture (“USDA”) New Swine Inspection System (“NSIS”) rule relating to line speeds at NSIS packing plants. By removing this provision six plants will be forced to reduce their output, and by extension, their purchase of hogs.

While the economic impact to these packers will be significant, it is the nation’s small and medium-sized hog farmers who will suffer the greatest harm from upstream impacts. It is imperative that the U.S. government (“USG”) act quickly, and pursue all available options, to prevent this reduction in packing capacity which is set to take place at the end of June.

Although NSIS is relatively new, it is based upon a pilot program that operated successfully for decades. Its predecessor, the Hazard Analysis and Critical Control Point (“HACCP”) Inspection Models Project (“HIMP”) program was developed during the Clinton administration and ran continuously through 2019. As a result of HIMP’s success, USDA began consideration of a permanent program under the Obama administration, and the program was finalized during the Trump administration.

The order to vacate the NSIS line speed provisions was due to the rulemaking process. The court determined the agency failed to satisfy the Administrative Procedure Act (“APA”), claiming it did not address certain comments raising worker safety concerns. Adherence to the APA is crucial to preserve sound and reasoned rulemaking by federal agencies. However, there is compelling data about the safety of workers in NSIS. Specifically, FSIS data between 2002 and 2010 shows fewer worker injuries in NSIS program facilities over time and fewer injuries at NSIS plants when compared to their non-NSIS counterparts.

If the USG fails to act, American hog farmers will face significant harm. Research from Dr. Dermot Hayes at Iowa State University indicates that the decision would reduce national packing capacity by 2.5% which will create a surplus of hogs on the market—dropping prices by \$10.70/cwt or roughly \$23.22 per animal. The total economic loss of this decision on U.S. hog farmers is estimated at \$80 million in 2021.

As the hog production cycle spans nearly a year, hogs set to enter this reduced-capacity market are already being raised. Farmers have little ability to alter their supply in the next year. Many farmers supplying these NSIS plants will need to find alternative destinations for their hogs. The resulting surplus and reduced demand in a concentrated geographic region will shift economic power to pork processing companies. The culmination of economic losses from the pandemic, multiple years of trade retaliation, and the court’s decision may result in some

producers selling their operation. By failing to act, the USG will drive consolidation in the pork industry.

To avoid these consequences, the USG must defend the NSIS program through all available channels while the court-ordered 90 day stay is in place. Failure to do so will leave our nation's hog producers to bear the brunt of the consequences due to no fault of their own. Thank you for your consideration.

Sincerely,



Charles Grassley  
United States Senate



Jim Hagedorn  
Member of Congress



John Boozman  
United States Senator



Dusty Johnson  
Member of Congress



John Thune  
United States Senator



G.T. Thompson  
Member of Congress



Roger Marshall, M.D.  
United States Senator



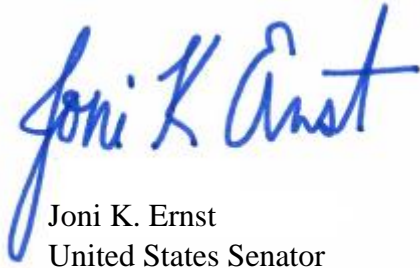
Randy Feenstra  
Member of Congress



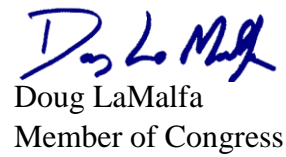
Thom Tillis  
United States Senator



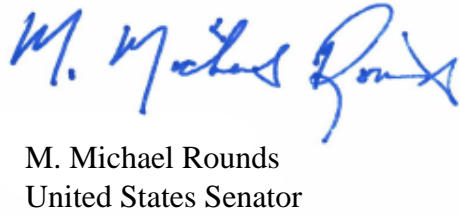
Michelle Fischbach  
Member of Congress



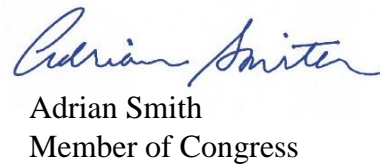
Joni K. Ernst  
United States Senator



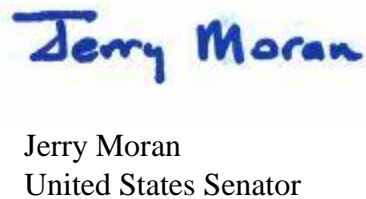
Doug LaMalfa  
Member of Congress



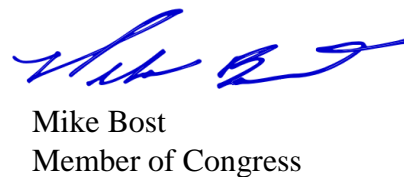
M. Michael Rounds  
United States Senator



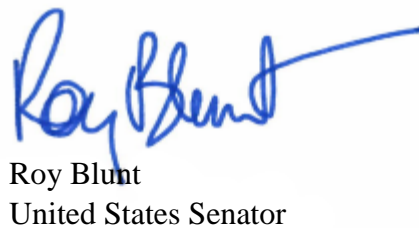
Adrian Smith  
Member of Congress



Jerry Moran  
United States Senator



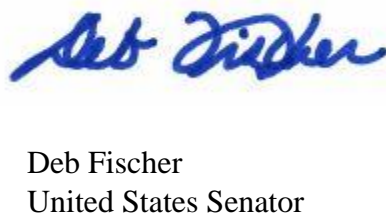
Mike Bost  
Member of Congress



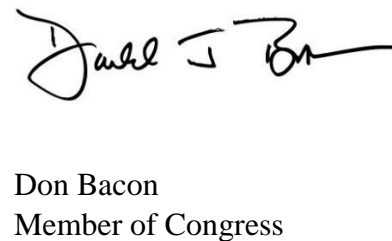
Roy Blunt  
United States Senator



Darin LaHood  
Member of Congress



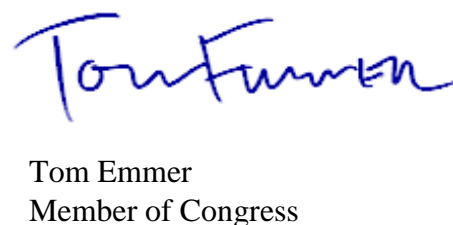
Deb Fischer  
United States Senator



Don Bacon  
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John Hoeven  
United States Senator



Tom Emmer  
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Richard Burr  
United States Senate



James E. Baird  
Member of Congress



Mike Braun  
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Mary Miller  
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Jim Inhofe  
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Warren Davidson  
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Tracey Mann  
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Jeff Fortenberry  
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Rick Crawford  
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Fred Upton  
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Vicky Hartzler  
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Jackie Walorski  
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David Rouzer  
Member of Congress



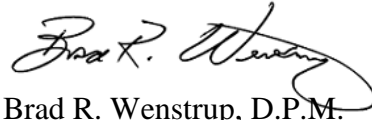
Ashley Hinson  
Member of Congress



Mariannette Miller-Meeks, M.D.  
Member of Congress



Lisa McClain  
Member of Congress



Brad R. Wenstrup, D.P.M.  
Member of Congress



Larry Bucshon, M.D.  
Member of Congress



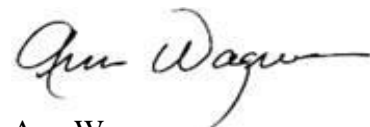
Tedd Budd  
Member of Congress



Greg Murphy, M.D.  
Member of Congress



Fred Keller  
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Ann Wagner  
Member of Congress



Tom Cole  
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Richard Hudson  
Member of Congress



Frank D. Lucas  
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Blake Moore  
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Anthony Gonzalez  
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Mike Kelly  
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Bob Gibbs  
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Madison Cawthorn  
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James R. Comer  
Member of Congress

Chris Stewart  
Member of Congress

Bill Johnson  
Member of Congress

Mike Gallagher  
Member of Congress

A handwritten signature in black ink, appearing to read "Jason Smith". The signature is fluid and cursive, with the first name "Jason" written in a larger, more prominent script than the last name "Smith".

Jason Smith  
Member of Congress