

Testimony of Joe Trotter Before the House Subcommittee on the Administrative State, Regulatory Reform, and Antitrust of the Committee on the Judiciary

Introduction

Good morning and thank you for the invitation to testify before the subcommittee. I am Joe Trotter, Director of the American Legislative Exchange Council's Energy, Environment, and Agriculture Task Force, and I look forward to bringing the American Legislative Council's nonpartisan research and analysis to the discussion. ALEC is America's largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of limited government, free markets and federalism. Comprised of nearly one-quarter of the country's state legislators ALEC members represent more than 60 million Americans and provide jobs to more than 30 million people in the United States.

The issue at hand cuts to the very core of ALEC's principles of encouraging free, competitive markets and balancing state and federal authority.

A little over fifty years ago, Congress passed the Wholesome Meat Act, which prohibited states from setting their own inspection rules on slaughterhouses and meat processing facilities. Congress also prohibited the intrastate sale of meat from cattle, sheep, swine, and goats, unless it was processed at a facility with an on-site inspector subject to federal regulations.¹

As a result, local farmers that are looking to serve their communities, whether it be by supplying grocery stores or farm-to-table restaurants, face essentially the same statutory and regulatory burdens applied to multi-national, vertically integrated corporate conglomerates. It often means local farmers engaging in traditional commerce must truck their cows and pigs to the same slaughter and processing facilities as the major animal agriculture producers, which can be hundreds of miles away.

Thousands of meat processing facilities shuttered their operations over the last four decades, leaving farmers and ranchers with significantly less options for slaughtering and processing their meat. As it currently stands, less than a hundred slaughterhouses are responsible for over 95% of the country's meat production.²

As a result of the laws and regulations governing who can process meat for commercial consumption, there are high barriers to entry for small businesses looking to increase their market capacity. In order to have a full-time inspector or multiple inspectors on site, producers are required to furnish rent-free office space, laundry service, and other amenities for FSIS representatives.³

Today, with facilities staffed by FSIS and state inspectors usually operating at full capacity, farmers and ranchers have fewer choices on where to have their animals slaughtered and processed. While the supply of processing facilities contracted, the demand for meat products throughout the country surged,

¹ <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/slaughter-inspection-101>

² <https://www.nytimes.com/2020/04/18/business/coronavirus-meat-slaughterhouses.html>

³ https://www.fsis.usda.gov/sites/default/files/media_file/2020-08/Grant_of_Inspection.pdf

creating an even higher demand for processing facilities. Farmers are increasingly forced to book appointments months in advance, and they often must travel over state lines.

Centralization also leaves the meat supply chain, and by extension the country's food security, vulnerable to massive disruption. When large plants halt operations, the capacity within the market to pick up the slack largely does not exist, causing meat prices to skyrocket. Unfortunately, we saw this play out to a degree during the COVID-19 pandemic and in other instances when plants had to close due to fire and flood.

Similarly, when things go wrong at large, centralized processing facilities, the impacts on the immediate supply chain are enormous. With 85% of grain-fed cattle processed by the four largest producers, if one of the plants has an outbreak of a foodborne pathogen that forces a recall, there is a massive economic impact on food pricing and availability.⁴ When recalls have happened from the largest processing facilities, millions of pounds of meat are pulled off the shelves that are ultimately destroyed.

However, there is another option to decentralize production that cannot legally bring products to local markets due to federal law and regulation. Custom slaughterhouses exist throughout the nation, but by statute they are only allowed to slaughter meat for personal consumption. With over a thousand of these facilities across the country, they are well positioned to provide the option of locally sourced meat to their communities.

Custom slaughterhouses are required to follow all USDA and state laws and regulations, but they do not have on-site inspectors. Instead of having a persistent inspector presence, they are examined by federal, state, and local authorities throughout the year.

With legislative updates to the Federal Meat Inspection Act, states could, if they wish to, allow custom slaughterhouses and processing businesses to sell meat commercially. This would empower small businesses, including ranchers, farmers, processors, restaurants, and local grocers, while also ensuring food security on a state and local level.

Health and Safety

Opponents of easing the statutory and regulatory burdens of small businesses in the industry often cite consumer confidence as one of the most significant reasons to continue under the status quo. However, no number of laws or regulations, including federal inspectors on site, will fully protect consumers from food safety issues.

When something goes wrong in a large-scale operation, the impacts are significantly more widespread than if they had come from a small business. According to the FSIS, over 2.6 million pounds of beef, pork, and mixed meat products were recalled in 2019.⁵ Despite on-site USDA inspectors, materials such as plastic and metal were found in meat products, as well as Salmonella, Listeria, and E. coli.

⁴ <https://www.reuters.com/business/how-four-big-companies-control-us-beef-industry-2021-06-17/>

⁵ <https://ij.org/initiatives/food-freedom/prime-act/frequently-asked-questions-about-the-prime-act/>

That was not an anomalous year. In fact, in 2014, the USDA recalled 8,742,700 pounds of beef from one USDA inspected facility alone.⁶

To put it plainly, no single independent processing facility that stands to benefit from deregulation could even produce 8.7 million pounds of beef – more than 12,000 cattle – in a year, let alone cross-contaminate it so badly that it would all need to be recalled. With the average American consuming about 57 pounds of beef per year, this single loss was equivalent to the yearly beef intake of 158,958 people.

When millions of pounds of meat products are recalled each year and subsequently destroyed due to cross contamination, it is hard to believe that small custom shops are an increased credible threat to consumer confidence.

There is an existing precedent for less regulation working out favorably. Chicken farmers processing less than 20,000 birds have already been doing this safely for the last 40 years with poultry products.⁷

Food Security

The COVID-19 pandemic was especially debilitating to major meat processing facilities. Large groups of workers in close quarters made viral outbreaks inevitable, with major facilities shutting down at key times during the pandemic. As these plants closed to ensure employee safety, the meat supply chain suffered. Grocery stores were running out of meat, prices skyrocketed, and many Americans were unable to buy meat to feed their families.

Because the U.S. meat market is highly regulated and centralized with only a few processors supplying the vast majority of meat across the states, shortages were rampant.⁸ America learned that the status quo will not always work.

Reducing restrictions in this space would allow for a larger, more diverse, freer market for meat processors in this country. For example, the Processing Revival and Intrastate Meat Exemption Act, better known as the PRIME Act, would expand on exemptions and allow facilities that currently operate under state regulation to participate solely in intrastate commerce.

This proposed policy change would drastically increase the amount of meat processors from which grocery stores, restaurants, hotels, and other food establishments can purchase meat. This would not only allow for a freer market landscape, which has a variety of benefits in and of itself, but it would also help safeguard against future disruptions in the meat supply chain.

In December of 2020, members of the ALEC Task Force on Energy, Environment and Agriculture passed a model Resolution in Support of the PRIME Act.⁹

⁶ <https://www.fsis.usda.gov/recalls-alerts/california-firm-recalls-unwholesome-meat-products-produced-without-benefit-full>

⁷ <https://extension.umd.edu/resource/maryland-regulations-poultry-product-sales>

⁸ <https://time.com/5830178/meat-shortages-coronavirus/>

⁹ <https://alec.org/model-policy/resolution-in-support-of-the-prime-act/>

A Proper Balance of Federalism

A small business that only engages in intrastate commerce should not be subject to the weight of the full federal bureaucracy. Instead, states should be the primary responsible party.

Farmers and ranchers that just want to serve their local restaurants and grocers should not be forced to compete for space in slaughterhouses with multinational corporations when there are small custom shops throughout the country that are ready, willing, and already inspected to USDA standards. This is a perfect example of well-meaning federal regulation run amuck.

As the 50 laboratories of democracy, it should be up to the states to decide whether to allow and how to regulate business within their own borders. This is one of the guiding principles of federalism.

There is an opportunity to empower small business, decrease regulation, and improve food security if Congress decides to act.