United States House of Representatives Committee on Appropriations
Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related
Agencies

Comments on Fiscal Year 2017 Appropriations

March 15, 2016

Written Comments Submitted by:
Matthew Shudtz
Executive Director
Center for Progressive Reform
455 Massachusetts Ave., N.W. #150-513
Washington, D.C. 20001
mshudtz@progressivereform.org
202-747-0698

❖ ❖ ❖

A national network of advocates including Oxfam America, the National Employment Law Project, and Nebraska Appleseed have called your attention to the dangerous conditions that workers face in poultry slaughter facilities, owing to the speed with which young chickens and turkeys are processed. The stories presented in their testimonies and comments, along with the data they have provided, should be enough to warrant rejection of any proposal to allow line speeds to increase at those facilities through the appropriations process as it relates to the Food Safety Inspection Service's New Poultry Inspection System.

These comments approach the issue from a slightly different perspective, but arrive at the same conclusion: using the appropriations process to increase line speeds at poultry slaughter facilities violates principles of good government and will cause lasting damage to workers, their families, and their communities.

On both sides of the aisle, Members of Congress for years have derided the use of "earmarks" to direct government spending toward favored projects and policies. As explained below, such derision should apply with greater force to the abuse of the appropriations process to direct spending *away* from projects and policies that are opposed by a determined minority of members of Congress. Such actions upend the normal legislative process and entrench a system of policymaking that undermines core principles of representative democracy. Last summer, the Center for Progressive Reform published a report on the misuse of appropriations riders to direct agency policymaking. The report's length precludes inclusion in these comments, per the committee's rules, but its key findings are worth noting here:

- *Prohibiting agencies from taking actions disfavored by the rider's sponsors is legislating by extortion*

  Appropriations bills offer ideal vehicles for the use of extortionate riders, because they must be enacted on an ongoing and periodic basis or else the government will cease functioning. As the deadline for completing appropriations bills approaches, the leverage that proponents of particular riders wield to coerce acquiescence in their demands grows greater. With the threat of government shutdown looming, other legislators will feel increasingly compelled to vote in favor of the bill even though they are opposed to a particular rider and would not support it as a stand-alone measure. Similarly, the president may find it difficult to veto an appropriations bill simply because of the antiregulatory riders it contains.

- *Negative riders enable secret sabotage of popular safeguards*

  In contrast to the procedures that govern traditional authorizing legislation, a distinct lack of transparency and accountability marks the appropriations process. In particular, the process of adding riders to appropriations bills is clouded in secrecy, which can make it nearly impossible for the public to hold legislators accountable for sponsoring especially controversial proposals. Because antiregulatory riders are often buried in appropriations bills that run hundreds of pages in length, it is easy for them to slip past the scrutiny of concerned citizens and lawmakers. These bills thus offer the proponents of antiregulatory riders an ideal opportunity to conceal their attacks on popular protections.

  The caps on poultry slaughter line speeds, for instance, were a major point of contention when the Department of Agriculture's Food Safety Inspection Service (FSIS) developed the New Poultry Inspection System. The rulemaking process that FSIS followed, rooted in the Administrative Procedure Act, ensured that the final safeguards reflected the views of stakeholders ranging from workers to experts from the Department of Labor's Occupational Safety and Health Administration. No such process for engaging experts, much less the workers who would be affected by a line-speed increase, is in place here.

- *Riders lobotomize the deliberative process that should govern lawmaking*

  The use of antiregulatory riders also enables lawmakers to engage in a powerful form of substantive policymaking but without the due deliberation that normally accompanies the enactment of authorizing legislation. Broadly speaking, Congress divides the labor of preparing bills for full consideration between the authorization committees—which are responsible for considering substantive legislation creating, modifying, or eliminating federal programs—and the budget and appropriations committees—which are responsible

for funding authorized programs. The institutional design and processes of authorization committees renders them far more suitable to engage in substantive policymaking. Antiregulatory riders generally do not receive anywhere near the same level of deliberative consideration from appropriations committees that usually takes place in authorization committees for the provisions of substantive legislation.

- *Antiregulatory riders encourage pandering to corporate interests*

  Because they are adopted with little transparency or deliberation, antiregulatory riders are uniquely well designed to provide individual lawmakers with the ability to confer benefits on favored special interests. Much like traditional earmarks, which Congress has effectively banned, antiregulatory riders are thus highly susceptible to abuse by Members of Congress looking for an easy way to curry favor with politically powerful businesses or industries.

Thank you for the opportunity to provide these comments.