



September 9, 2015

**FSIS Docket Clerk
Department of Agriculture
Food Safety and Inspection Service
Room 2534 South Building
1400 Independence Avenue, S.W.
Washington, DC 20250-3700**

VIA EMAIL to Mary.Porretta@fsis.usda.gov

RE: Support for FSIS Petition 15-01

Dear Ms. Porretta:

Last Chance for Animals (“LCA”) is a national nonprofit organization dedicated to eliminating animal exploitation through education, investigations, legislation, and public awareness campaigns. On behalf of LCA and over 200,000 supporters, I write to share our concern with the USDA’s Food Safety Inspection Service (“FSIS”) arbitrary and inconsistent enforcement of the Humane Methods of Livestock Slaughter Act (“HMSA”) and the effect this has on the millions of animals slaughtered annually for food in the U.S.

FSIS’s continual failure to meet its statutory and policy obligations under the HMSA and the Federal Meat Inspection Act (“FMIA”) is inexcusable. Arbitrary and inconsistent enforcement of the HMSA must be promptly addressed to ensure that FSIS is meeting all legal obligations including their duty to ensure that livestock animals, at the very least, are humanely treated throughout the slaughter process. In order to assure effective enforcement of the HMSA, we respectfully request FSIS grant rulemaking petition number 15-01, submitted by Animal Legal Defense Fund, Compassion Over Killing, Farm Forward, Farm Sanctuary, Mercy for Animals, and People for the Ethical Treatment of Animals (the “Petitioners”), on September 1, 2015.

FSIS’s inconsistent enforcement of the HMSA results in demonstrably inhumane slaughtering and handling in connection with slaughter. With little or no consequence for the violators, the history of arbitrary enforcement has facilitated animal abuse at slaughter facilities. Establishing clear and specific enforcement criteria through regulatory codification is the only

way to ensure that FSIS adheres to the plain language of the HMSA as well as FSIS's statutory mandate.

Accordingly, we respectfully request that USDA adopt all five of the regulatory actions, as proposed by the Petitioners. Specifically, we request that the USDA:

1. Amend 9 C.F.R. § 500 to provide that FSIS “will” issue at least a Noncompliance Record (NR) for all violations of the HMSA

A mandatory response to *all* violations of the HMSA through regulatory codification is required for FSIS to comply with its statutory duty to enforce the HMSA. Uniform, non-discretionary enforcement rules are needed to address ongoing inconsistent enforcement of the law and to ensure HMSA compliance.

2. Amend 9 C.F.R. § 313 to codify the definition of “egregious” violations of the HMSA given by FSIS Directive 6900.2, rev. 2

FSIS's existing definition of “egregious” inhumane treatment should be codified in the HMSA regulations to bring about the clarity needed for inspectors to properly identify and respond to serious HMSA violations and to ensure consistent application of the HMSA across all USDA districts.

3. Amend 9 C.F.R. § 500 to provide that FSIS “will” issue a Notice of Suspension for all “egregious” violations of the HMSA, as defined in 9 C.F.R. § 313

Egregious violations, like all HMSA violations, require a clearly defined mandatory response. The proposed regulatory change will provide necessary clarity to ensure that all egregious abuse result in plant suspension. This change is essential to guarantee that all facilities face the same consequence for egregious violations, regardless of the facilities' internal protocols, size or location.

4. Amend 9 C.F.R. § 500 to require that all intentional cruelty, as well as egregious and reckless abuse, be referred for criminal prosecution

By failing to enforce the HMSA with criminal sanctions, as authorized by the FMIA, the USDA is arguably condoning widespread animal abuse in slaughterhouses across the country. Intentional cruelty, as well as egregious and reckless abuse ought to result in referral for criminal prosecution to ensure that the inhumane treatment of animals is deterred and that the FSIS's response is in line with the intent of the HMSA.

5. Amend 9 C.F.R. § 500 to provide FSIS with a timeline for withdrawal proceedings based on repetitive HMSA violation

By allowing facilities to repeatedly violate the HSMA with little or no consequence, the FSIS is undermining their own efforts to effectively enforce the HMSA. As requested by the Petitioners, FSIS is urged to implement an enforcement policy that directs district offices to withdraw a grant of federal inspection for any plant where egregious violations of the HMSA occur more than twice in any one-year period.

As canvassed by the Petitioners, the FSIS's appalling HMSA enforcement record reveals the need for the regulatory codification of clear and specific enforcement criteria to ensure that FSIS is in compliance with their statutory mandate. Favorable action on this petition will give the FSIS appropriate tools to comply with their legal obligations under both the HMSA and the FMIA by addressing inconsistent and arbitrary enforcement of the HMSA as well as increasing HMSA compliance.

Sincerely,

Zeynep Graves

Zeynep Graves
Investigative Legal Counsel
Last Chance for Animals

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