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Submitted via email to fsispetitions@usda.gov

FSIS Docket Clerk
Food Safety and Inspection Service
U.S. Department of Agriculture
Room 2534 South Building
1400 Independence Ave., S.W.
Washington, D.C. 20250

Re: Comments in Support of Petition to Require the Use of Video Cameras to Observe the Interior of Gondolas during the Slaughter of Pigs with CO2 to Ensure Compliance with the FMIA and HMSA

To Whom It May Concern,

On behalf of the Animal Legal Defense Fund (“ALDF”), a national nonprofit organization with a mission to protect the lives and advance the interests of animals through the legal system, we respectfully submit this comment in support of the Animal Welfare Institute’s (“AWI”) petition to require the use of video cameras inside gondolas during the slaughter of pigs with CO2 to ensure compliance with the Federal Meat Inspection Act (“FMIA”) and the Humane Method of Slaughter Act (“HMSA”).¹ Implementing a requirement that slaughterhouses install video cameras inside gondolas where CO2 stunning and killing occurs is necessary for Food Safety and Inspection Service (“FSIS”) inspectors to confirm that plant operators are taking all required and necessary steps to prioritize, assess, and address both food safety and animal welfare issues.

The AWI Petition demonstrates how current practices inside pig slaughterhouses that use CO2 for stunning and killing pigs falls short of the inspection requirements required by the FMIA and HMSA. FSIS inspectors are required to critically appraise each animal at all stages of handling, stunning, and slaughter. That is not possible inside facilities that use CO2 stunning without the use of video cameras. As such, to ensure compliance with the FMIA and HMSA, as well as to safeguard animal welfare, health, and safety in the food system, ALDF urges FSIS to require the use of cameras inside CO2 gondolas.

¹ Petition from Animal Welfare Inst., to Food Safety & Inspection Serv. (May 16, 2023) [hereinafter “AWI Petition”].

A. The FMIA and HMSA require that inspectors be able to observe all steps of the slaughter process; this includes observing pigs inside gondolas.

The FMIA was enacted in 1906 to provide workers and consumers with assurance that meat products were handled, slaughtered, and processed under sanitary conditions.² The Act calls for antemortem, concurrent, and postmortem slaughter inspection. Specifically, the FMIA requires inspection during all handling and processing steps, as well as strong controls over the sanitation, facilities, and equipment used in meat packing plants operating under federal inspection.³

In the 1950s, as the demand for meat increased, higher-volume slaughter methods increased animal abuse. In response, Congress passed the HMSA in 1958 to prevent livestock from needless suffering during slaughter.⁴ The HMSA specifies that no method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane.⁵ Under the HMSA, humane slaughter of pigs is defined to require that “animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut.”⁶ The FMIA outlines inspection requirements to prevent inhumane slaughter practices and ensure compliance with the HMSA.

Inspectors appointed to ensure compliance with federal slaughter laws, including the FMIA and HMSA, are required to fully examine and inspect methods of handling and slaughter.⁷ To satisfy this requirement, inspectors must be able to view pigs at all stages during the slaughtering process—including inside gondolas. Inspection connotes a direct observation close enough to disclose pertinent information relevant to the purpose of the observation.⁸ The D.C. Circuit has held that this inspection requirement unambiguously dictates inspectors conduct a “critical appraisal” of each individual animal, rather than a cursory observation of the slaughter facility generally.⁹ Thus, inspection of all stages of slaughter and handling necessarily includes any time pigs spend inside gondolas.

As outlined in the AWI Petition, CO₂ gas slaughter systems have specific operational procedures and requirements that leave pigs out of inspectors’ view. Typically, pigs are driven into a

² See *Nat’l Meat Ass’n v. Harris*, 565 U.S. 452, 455-56 (2012) (citing *Pittsburgh Melting Co. v. Totten*, 248 U.S. 1, 4-5 (1918)).

³ See *id.*; see also *Introduction and Historical Review of Meat Inspection*, in *Cattle Inspection: Committee on Evaluation of USDA Streamlined Inspection System for Cattle* (Nat’l Academies Press 1990).

⁴ 7 U.S.C. § 1901 *et seq.*

⁵ *Id.* § 1902.

⁶ *Id.* § 1902(a). The HMSA also defines certain religious ritual slaughter to be humane. See *id.* § 1902(b).

⁷ 21 U.S.C. § 603(b) (inspectors shall examine “the method by which amenable species are slaughtered and handled in connection with slaughter in the slaughtering establishments”).

⁸ Though the FMIA does not define “inspection,” courts must “assum[e] that the ordinary meaning of that language accurately expresses the legislative purpose.” *United States v. Connolly*, 552 F.3d 86, 89–90 (2d Cir. 2008) (quoting *Shi Liang Lin v. U.S. Dep’t of Justice*, 494 F.3d 296, 305 (2d Cir. 2007) (en banc)). Dictionary definitions of “inspection” confirm this ordinary meaning. *E.g.*, *Inspection*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/inspection> [<https://perma.cc/HV6A-NNV5>] (last visited July 28, 2023) (“a checking or testing of an individual against established standards”); *Inspection*, Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/inspection> [<https://perma.cc/D5P2-XL6C>] (last visited July 28, 2023) (“the act of looking at something carefully in order to discover information”).

⁹ See *Am. Fed’n of Gov’t Emps., AFL-CIO v. Glickman*, 215 F.3d 7, 10 (D.C. Cir. 2000).

gondola that descends into a pit containing a high concentration of CO₂ at the bottom. Upon their ascendance, stunned or dead pigs are then shackled, hoisted, and exsanguinated. Pigs' welfare can be negatively impacted based upon their time in the gondolas.¹⁰ Pigs may experience pain due to formation of carbonic acid on respiratory and ocular membranes, production of so-called air hunger, a feeling of breathlessness, and a direct stimulation of ion channels within the amygdala associated with the fear response.¹¹ These possible negative reactions could violate the HMSA as a chemical process meant to render pigs insensible to pain that is not "rapid and effective."¹² Yet, the nature of CO₂ gondolas means that pigs are left entirely out of inspectors' view. To prevent violations of the FMIA and HMSA inside gondolas, inspectors must be able to view the process.

B. Video cameras are already required inside slaughterhouses around the world.

The required use of cameras in slaughterhouses is not a novel practice. Several countries already recognize that cameras work as a mechanism to deter and to record violations of slaughter laws. In 2015, Israel's Ministry of Agriculture mandated the use of CCTV in slaughterhouses.¹³ Israeli slaughterhouse camera footage is transmitted live to a central control room.¹⁴ Similarly, slaughterhouses in Spain are now required to install CCTV systems in all areas where live animals are kept.¹⁵ Spanish law specifically prohibits any camera blind spots.¹⁶ England and Scotland both mandate the use of CCTV, requiring that footage be held for 90 days and that inspectors have unrestricted access to footage.¹⁷ Further, agreements in Germany, France, Wales, and Northern Ireland between the government and slaughterhouse operators have resulted in the installation of cameras in these jurisdictions as well.¹⁸ These international examples demonstrate a recognition that cameras are an

¹⁰ Søren Saxmose Nielsen et al., *Welfare of Pigs at Slaughter*, 18(6) EFSA J. 6148, 6163 (2020).

¹¹ AWI Petition, *supra* note 1, at 9.

¹² 7 U.S.C. § 1902(a).

¹³ *The Ministry of Agriculture is Ordering the Installation of Cameras in Abattoirs and Slaughterhouses that will Broadcast Live to a Ministry Control Room*, ISR. MINISTRY OF AGRIC. & RURAL DEV. (2015), <https://www.gov.il/en/departments/news/cameras-in-slaughterhouses>.

¹⁴ *Id.*

¹⁵ *España será el primer país de la UE con sistemas de videovigilancia obligatorios en los mataderos* [Spain will be the first EU country with mandatory video surveillance systems in slaughterhouses], MINISTERIO DE CONSUMO (2022), <https://www.consumo.gob.es/es/carrousel/espana-sera-primer-pais-ue-sistemas-videovigilancia-obligatorios-mataderos> [<https://perma.cc/YG52-BH57>].

¹⁶ *Id.*

¹⁷ *Animal slaughter: regulations*, SCOT. GOV'T (Jan. 9, 2019), <https://www.gov.scot/publications/animal-slaughter/#:~:text=The%20Regulations%20mandate%20the%20use,of%20images%20for%2090%20days> [<https://perma.cc/9LJ2-BTLH>]; *CCTV becomes mandatory in all abattoirs in England*, U.K. DEP'T FOR ENV'T, FOOD & RURAL AFFS. (May 4, 2018), <https://www.gov.uk/government/news/cctv-becomes-mandatory-in-all-abattoirs-in-england#:~:text=Legislation%20requiring%20CCTV%20in%20all%20abattoirs%20in%20England%20come%20into%20force%20today.&text=In%20the%20latest%20move%20to,England%20comes%20into%20force%20today>.

¹⁸ *See* Mandatory CCTV Cameras in all Slaughterhouses, EQUALIA, <https://en.equalia.org/ley-camaras-matadero> [<https://perma.cc/G8MH-CYVA>].

effective method to accurately inspect slaughterhouse practices and contribute to the public's peace of mind.¹⁹

Consumers purchase meat and poultry products under the belief that products bearing the USDA inspection seal are ethically sourced. Current inspection processes do not meet consumer expectations, nor do they meet the requirements set forth by the FMIA and HMSA. Inspectors must directly view all steps of the slaughter process, including stunning; given the nature of CO2 gondolas, that is not possible without cameras. The requirement of cameras in slaughterhouses will further serve as an effective tool to guarantee safe and proper handling of animals during the CO2 stun and slaughter process. As such, we support AWI's petition to require the use of video cameras to observe the interior of gondolas.

Sincerely,



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¹⁹ Consumers care about the humane treatment of animals throughout the raising and slaughter process. See Elizabeth Doughman, *10 Takeaways from the 2021 Power of Meat Report*, WATT POULTRY (Mar. 23, 2021), <https://www.wattagnet.com/poultry-future/article/15533233/10-takeaways-from-the-2021-power-of-meat-report?v=preview> [<https://perma.cc/RJK5-36PW>] (60% of survey respondents said that how animals are handled during slaughter matters when making purchase decisions); see also *New Research Finds Vast Majority of Americans Concerned about Farm Animal Welfare, Confused by Food Labels and Willing to Pay More for Better Treatment*, ASPCA, <https://www.aspc.org/aboutus/press-releases/new-research-finds-vast-majority-americans-concerned-about-farm-animal> [<https://perma.cc/DE5AKKWA>] (77% of consumers surveyed reported that they were concerned about the welfare of animals raised for food); *Walmart, Tesco and Carrefour are Set to Lose Customers Over Poor Pig Welfare*, WORLD ANIMAL PROT. (Apr. 17, 2018), <https://www.worldanimalprotection.org/news/walmart-tesco-and-carrefour-are-set-lose-customers-over-poor-pigwelfare> [<https://perma.cc/Y5DZ-MDRK>] (80% of surveyed U.S. consumers were concerned about the treatment of farmed animals).