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Submitted electronically 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

Dear FSIS Docket Clerk,

On behalf of Animal Partisan, I submit this comment in support of Petition 23-05, submitted by the Animal Welfare Institute (“AWI”) on May 16th, 2023, which requests that FSIS undertake rulemaking to require pork slaughter establishments to use video cameras to observe the interior of gondolas during the slaughter of pigs with CO₂, thus ensuring compliance with the Federal Meat Inspection Act (“FMIA”) and Humane Methods of Slaughter Act (“HMSA”).

AWI’s petition is an effort to assist slaughterhouses and the USDA in complying with federal law. Federal law requires that slaughter is performed by a method that is “rapid and effective” to prevent “needless suffering.”¹ In order to ensure that slaughter is performed by such standards, “organoleptic” (using the senses, such as sight and hearing) observation is required.² The structure of CO₂ gondolas makes it impossible for a human being to directly observe the process without exposure to hazardous levels of CO₂. This is because at slaughter, the pigs are driven and lowered into an enclosed pit, where high concentrations of CO₂ are administered through a tunnel. The high amounts of CO₂ cause the pigs to suffocate. Around the metal enclosure, there are no viewing rooms or transparent walls for workers or inspectors to observe the process. Thus, there is no reliable method to ensure that the chambers are functioning properly and not causing prolonged suffering. In addition, FSIS humane slaughter regulations state that “[t]he animals shall be exposed to the carbon dioxide gas in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort . . .”³ As it currently stands, there is no lawful mechanism to ensure that slaughter is performed in compliance with regulations inside the CO₂ gondolas.

This request aligns fully with existing FSIS guidance. The FSIS already recommends that “video technology should be effectively implemented to result in trustworthy and accurate information

¹ 7 U.S.C. § 1902(a); Pub. L. 95-445, Oct. 10, 1978, 92 Stat. 1069.

² *Am. Fed’n of Gov’t Emp.’s v. Glickman*, 215 F.3d 7, 11 (D.C. Cir. 2000).

³ 9 C.F.R. § 313.5(a)(1).

that helps to prevent inhumane treatment . . .”⁴ The guidelines also encourage that cameras should enable “continuous viewing of all steps from unloading to stunning.”⁵ CO2 gondolas should not be excluded from this requirement, especially because 86.2 percent of the pigs slaughtered in the United States are stunned or killed using CO2 gas.⁶ This equates to approximately 113 million pigs annually stunned or killed via CO2 gas in circumstances in which workers and inspectors cannot directly observe their slaughter.⁷ FSIS offers no explanation in its regulations, directives, or guidelines as to why it suggests direct observation in other stunning processes but not CO2 stunning.⁸ The absence of any means of direct observation in CO2 gondolas creates disparate procedures depending on stunning method and could be found to be arbitrary and capricious.⁹

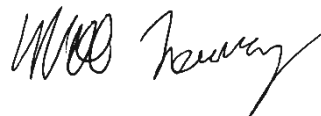
The procedure outlined in AWI’s request is already enacted elsewhere. Regulators in Spain, England, Scotland, and Israel have implemented video monitoring in CO2 gondolas, and there is no evidence as to why the United States cannot follow suit. Installing cameras not only reduces unnecessary suffering, it benefits FSIS inspectors who are more capable of fulfilling their duties and provides the establishment information on the functioning of its systems.

The addendum proposed by AWI to § 313.5 “Chemical; carbon dioxide,” adequately details the changes that are necessary to take place inside CO2 gondolas. FSIS should act swiftly on this matter to comply with federal law and reduce the unnecessary suffering of millions of pigs subjected to CO2 chambers each year.

Thank you for your consideration. Please contact us at wlowrey@animalpartisan.org should you have any questions pertaining to this comment.



Greta Fiedler
Law Clerk
Animal Partisan



Will Lowrey
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⁴ FOOD SAFETY & INSPECTION SERV., FSIS – GD – 2011 – 0001, COMPLIANCE GUIDELINES FOR USE OF VIDEO OR OTHER ELECTRONIC MONITORING OR RECORDING EQUIPMENT IN FEDERALLY INSPECTED ESTABLISHMENTS (2011).

⁵ *Id.* at 1.

⁶ NAT’L AGRIC. STATE. SERV., LIVESTOCK SLAUGHTER 2020 SUMMARY (2021).

⁷ *Id.*

⁸ *See, e.g.*, 9 C.F.R. §§ 313.15, 313.16, 313.30; FOOD SAFETY & INSPECTION SERV., FSIS DIRECTIVE 6900.2, REVISION 3: HUMANE HANDLING AND SLAUGHTER OF LIVESTOCK (2020) 24-25; FSIS COMPLIANCE GUIDELINES, *supra* note 68, at 16-17.

⁹ *See* U.S.C. § 706 (2)(A); *See also, Transactive Corp v. U.S.*, 91 F.3d 232, 237 (D.C. Cir. 1996).