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Food Safety and Inspection Service
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Citizen's Petition to Revoke Equivalency Determinations for the Canadian High Line Speed Inspection System; the Canadian HACCP-based Slaughter Inspection Program for Swine; the Australian Export Meat Inspection System; and the New Zealand Alternative Post-Mortem Meat Inspection Procedure

In accordance with the provisions of 9 CFR 392, "Petitions for Rulemaking," the non-profit consumer advocacy organization Food & Water Watch requests that the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA) immediately revoke the equivalency determinations for the Canadian High Line Speed Inspection System (HLIS), the Canadian HACCP-based Slaughter Inspection Program for Swine, the Australian Export Meat Inspection System (AEMIS, formerly known as the Meat Safety Enhancement Program) and the Alternate New Zealand Meat Inspection Procedure (NZAPMIP). FSIS has based its equivalency determinations for these inspection systems for meat imports on the HACCP-based Inspection Models Project (HIMP) in hog slaughter. That pilot project has been limited to only five hog slaughter facilities in the United States and has never been evaluated by FSIS as to its effectiveness. In addition, issues have arisen about these privatized inspection schemes that call into question the wisdom of FSIS in recognizing these foreign inspection systems as they may be placing U.S. consumers at risk for foodborne illness.

The Canadian High Line Speed Inspection System

The Canadian HLIS permits a beef slaughter facility in Canada to remove most Canadian federal government inspectors from the slaughter line and replace them with facility employees to perform inspection functions.¹ The slaughter line speeds are also permitted to be increased in the facilities that have been approved to use HLIS.

¹ Canadian Food Inspection Agency. Manual of Procedures, Chapter 17, Annex B (see <http://www.inspection.gc.ca/food/meat-and-poultry-products/manual-of-procedures/chapter-17/annex-b/eng/1369406912311/1369406954686>).

On March 2, 2006, FSIS granted equivalency status to HLIS because “FSIS has determined that there are no substantial differences between HLIS for beef and the HACCP-based Inspection Models Project (HIMP) approach for hogs. Therefore, we are granting Canada’s request to export meat and meat products from HLIS beef slaughter establishments to the United States.”²

According to FSIS officials, there are six beef slaughter facilities that use HLIS and are exporting meat products to the United States.³

In the late summer and fall of 2012, Canadian Establishment 38 operated by XL Foods was implicated in the largest meat recall in Canadian history. Canadian Establishment 38 used the HLIS and was approved to export beef products to the United States. Eighteen Canadian consumers were sickened with *E. coli* 0157:H7 from beef processed at that plant. Twelve million pounds of beef products were recalled, including 2.5 million pounds that had been exported to the United States. Ironically, the initial discovery of microbiological contamination associated with beef products from Establishment 38 was made by FSIS border inspection personnel, who took samples from meat shipments originating from that plant. The subsequent test results showed positive findings for the pathogen *E. coli* 0157:H7. An independent review panel was appointed by the Canadian government to analyze the factors leading to the recall. While the panel could not conclude that line speeds contributed to the contamination on the beef that was being processed because the requisite records were not made available to it, the report noted that plant employees and the Canadian government inspectors complained that the line speeds were excessive:

“They noted that the processing establishment was reluctant to slow down line speed unless absolutely necessary; slim profit margins in the industry mean that higher line speeds need to be maintained to maximize production and profits. If the line speed is too fast, workers would have little time to examine and trim off visible contamination from carcasses before being moved to the next processing station. Staff would also have insufficient time to properly sterilize their knives between trimmings. If sprays are not properly applied to the carcass, they could serve to spread the contamination across a wider area.”⁴

When FSIS auditors visited Establishment 38 in November 2012, they found numerous violations for improper sanitation, poor recordkeeping, humane slaughter violations, and

² Correspondence from Sally White, Director of the International Equivalence Staff, Office of International Affairs, Food Safety and Inspection Service to Dr. William Anderson, Director of Food of Animal Origin Division, Canadian Food Inspection Agency, March 2, 2006.

³ Verbal communication with FSIS staff during November 2012 monthly meeting of the Safe Food Coalition and the FSIS Executive Management Council.

⁴ Independent Review of XL Foods Inc. Beef Recall 2012, May 2013 (see http://www.foodsafety.gc.ca/english/xl_reprt-rappрте.asp#g).

lack of enforcement of regulations by Canadian government inspection personnel.⁵ Yet, the plant was cleared to resume exporting products to the United States.

It is also now evident that the United States has also recognized the Canadian HACCP-based Slaughter Inspection Program (HIP) for swine based on the March 2, 2006 letter regarding HLIS,⁶ even though the letter never made any reference to HIP.

The Australian Export Meat Inspection System

The initial equivalency determination for a privatized inspection model for red meat exports from Australia came on June 7, 1999 when FSIS published a Federal Register Notice.⁷ At the time, the new inspection model was called the Meat Safety Enhancement Program (MSEP). Again, as with the Canadian HLIS, Australian government inspectors would be removed from the slaughter line and their inspection responsibilities were to be turned over to company employees to perform. A reduced number of government inspection personnel would remain to perform verification activities.

The determination did not come without controversy, as FSIS was pressured to hold a public meeting to respond to stakeholder concerns and questions regarding this new inspection model and to request public comments. The equivalency determination was conditioned on the successful completion of pilot projects or trials of the new inspection system in the United States after which FSIS would publish the results of those trials. Because of the public outcry both here in the United States and in Australia, the trials as outlined in the Federal Register Notice never took place.

In January 2006, the Australian food safety authorities informed FSIS that one beef slaughter plant, Nolans Meats Pty, Ltd., was interested in exporting meat products to the United States using MSEP.⁸ A trial was developed using MSEP. From late 2006 until the fall of 2008, Nolans piloted the new inspection system before it was permitted to export to the United States. During one of the trial periods, the plant did incur some zero tolerance violations such as fecal, ingesta, and milk contamination.⁹ In late 2008 and in 2009, the plant was permitted to export beef products to the United States using MSEP. According to FSIS, there were no food safety violations in the meat shipments from the Nolans Meats plant at port-of-entry inspections.¹⁰

⁵ United States Department of Agriculture Food Safety and Inspection Service (FSIS). "Final Report of an Audit Conducted in Canada, October 22 through November 9, 2012: Evaluating the Food Safety Systems Governing the Production of Meat Products Intended for Export to the United States of America." (see http://www.fsis.usda.gov/wps/wcm/connect/6badd5fa-b120-4c15-b2b8-1498532c44ce/Canada_FAR_2012.pdf?MOD=AJPERES).

⁶ Ibid., p. 14.

⁷ 64 Fed. Reg. 30299-30303.

⁸ 76 Fed. Reg. 11754.

⁹ Ibid.

¹⁰ Ibid.

Australia has changed the name of the inspection model to the Australian Export Meat Inspection System (AEMIS). Based on the results of the trial involving that one beef plant in Australia, FSIS reaffirmed its 1999 equivalency determination of MSEP/AEMIS. In the March 3, 2011 Federal Register Notice making that reaffirmation, FSIS stated:

“The MSEP/AEMIS performance standards for beef slaughter are based on those used in the FSIS HACCP-Based Inspection Models Project (HIMP) for swine, which were first published in July 1998 (HIMP inspection models) and later detailed in the Federal Register in November 2000 (65 FR 65828-65829; performance standards for HIMP plants).”¹¹

Ironically, a few weeks after FSIS made its decision to reaffirm its 1999 equivalency determination for this privatized inspection model, FSIS inspection personnel conducted an audit of the Nolans Meats plant involved in the trial. In the report filed by the FSIS staff, the following observation was made:

“Employees of the establishment that work as AQIS Approved Officers (AAO) conducting official post mortem inspection, receive financial benefits that are tied to profits generated by the operator of the establishment whose products they inspect. These AAOs receive salaries and profit sharing directly from the establishment. Government officials verify the adequacy of AAO inspection duties and ensure that they meet the expectations of the CCA (Central Competent Authority). However, the fact that AAOs financial benefits are linked to profits generated by their employer appears to be a conflict of interests (sic) that needs the attention of the CCA.”¹²

Australia began to transition most of its red meat plants to AEMIS during 2012. In early 2013, Food & Water Watch obtained internal Australian food safety agency and meat industry documents that revealed that AEMIS was not working. In a December 12, 2012 letter from Dr. Ronald Jones of FSIS to Greg Read, Executive Manager of the Food Division of the Australian Quarantine and Inspection Service (AQIS), Department of Agriculture, Fisheries and Forestry (DAFF), Dr. Jones made the following statement:

“Within the last month, there have been five additional zero tolerance (fecal material/ingesta) POE (point-of-entry) violations in four separate establishments, including one establishment that had repetitive violations during this month, as well as earlier this calendar year...FSIS is...interested in the activities AQIS has planned or is undertaking from a system-wide perspective that will prevent fecal material and ingesta contamination of the carcass during the slaughter process.”¹³

¹¹ 76 Fed. Reg. 11753.

¹² FSIS. “Foreign Establishment Audit Checklist, Nolan Meats Pty. Ltd., Australian Establishment 80.” March 21, 2011, received in response to Freedom of Information Act request.

¹³Letter from Dr. Ronald K. Jones to Greg Read, December 12, 2012.

In Australian meat industry emails that Food & Water Watch obtained, a key industry official was concerned that the number of zero tolerance violations discovered by USDA import inspection personnel could jeopardize further expansion of the AEMIS model. In recounting his discussions with Greg Read, Dr. John Langbridge, Veterinary Counsel for the Australian Meat Industry Council made the following observations:

“Plants supplying meat to the US will need to review their dressing procedures, their carcass and meat hygiene monitoring procedures and their interpretation of ‘zero tolerance’ defects given these rejections...DAFF are also expecting a US audit of Australia’s meat production and certification systems early next year as a result of these recent rejections and rejections for 0157 rejections earlier this year. DAFF are also concerned that FSIS may review their recognition of Australia’s meat production systems as low risk, which may increase the rate of port of entry sampling.

“This situation has the potential to slow down the rate of reform.”¹⁴

We assume that what Dr. Langbridge refers to as “reform” is the further privatization of meat inspection in Australia. Dr. Langbridge also revealed in his email that the number of imported meat rejections of New Zealand products had also increased in recent months.¹⁵ USDA has also granted equivalency status to a privatized meat inspection system for certain red meat products imported from New Zealand.¹⁶

In a December 24, 2012 email, Dr. Langbridge revealed the following:

“Greg Read spoke to the US on Friday.

“I am informed that the US made it clear that Australia is now the worst performer of all their exporting countries.”¹⁷

It is our understanding that FSIS conducted an audit of the Australian food safety system for meat exports to the United States in 2013. The final report has yet to be posted. Indications are the problems highlighted above still persist.

It should also be pointed out that the European Union conducted an audit of AEMIS in 2012. In the audit report that was published on May 11, 2013, the European auditors made the following finding:

“The AEMIS inspection system is not in line with the requirements of Regulation (EC) No 854/2004 because the AAOs who are directly employed and paid by the food business operator (FBO) cannot be considered as

¹⁴Email from Dr. John Langbridge, Australian Meat Industry Council, December 19, 2012.

¹⁵Ibid.

¹⁶See http://www.fsis.usda.gov/PDF/New_Zealand_Equivalence_Determination_10172011.pdf

¹⁷Email from Dr. John Langbridge, Australian Meat Industry Council, December 24, 2012.

official auxiliaries (OA) to perform post-mortem inspection.

“The current wording of the Approved Arrangements (AA) seen at some establishments did not contribute to the effective management of the potential for a conflict of interest. In addition, as currently designed, once an AA is in place covering the certification requirements, the system for certifying the export of meat to the EU is, at establishment level, totally delegated to the FBOs. The (Competent Authority) CA cannot ensure that the certifying officers and the persons, designated by them, providing the attestations on which the certifying officer is relying, have a status which ensures their impartiality and have no direct commercial interest in the animals or products being certified or in the holdings or establishments in which they originate although required by Article 4 of Council Directive 96/93/EC. The role of the DAFF officials is limited to verifying that establishments implement controls over edible products intended for export in accordance with their AA. During on the spot visits in EU approved establishments deficiencies were identified in the process for requesting export permits and discrepancies were noted between the underlying documentation and the statements in the certificates. As a consequence, the system in place for export certification in EU approved establishments operating under AA is not in line with EU requirements.”¹⁸

Ironically, these were the same concerns expressed by the FSIS auditor who visited the Nolans Meats plant in 2011 that were dismissed by FSIS headquarters staff. As a consequence of the European audit findings, Australia has been forced to develop alternate inspection systems to meet the European objections to AEMIS, including the possible reassignment of Australian government inspection personnel to meat plants.¹⁹

The New Zealand Alternative Post-Mortem Inspection Procedure

On October 17, 2011, FSIS granted equivalency status to the New Zealand Alternative Post-Mortem Inspection Procedure (NZAPMIP) that was patterned after the hog HIMP pilot here in the United States, the Canadian HLIS, and the Australian AEMIS.²⁰

While the transition to this new inspection model has been slow, there are at least five plants that are currently using this new procedure and exporting red meat products to the United States. In March 2014, an exposé was published in New Zealand’s *Metro* magazine that revealed serious shortcomings in the manner in which NZAPMIP was being implemented:

¹⁸ European Commission, Food and Veterinary Office. “Final Report of an Audit Carried Out in Australia from 12 to 24 October 2012.” May 11, 2013, Executive Summary.

¹⁹ Condon, Joe. “EU Stipulation Will Mean Big Changes in Meat Inspection.” *Beef Central*, February 20, 2014.

²⁰ FSIS. “Decision Memorandum – Individual Sanitary Measure: New Zealand – Alternative Post-Mortem Inspection Procedure.” October 17, 2011.

- The company employees who had replaced government inspection personnel on the slaughter line did not receive the same level of training as their government counterparts, as required by the FSIS equivalency determination;
- Slaughter line speeds had been increased. As one government inspector observed, “We were seeing copious amounts of faecal and other contamination being missed by the company inspectors...It’s the speed of the chain...You could quickly get behind and it isn’t hard to miss stuff”;
- Government inspectors were threatened when they attempted to slow down or stop the slaughter lines to deal with diseased animal carcasses or visible contamination;
- Government audits of the new inspection procedure are not random and they are announced in advance.²¹

The Basis for Equivalency Determinations is Non-Existent

FSIS has based all of these equivalency determinations on the HIMP pilot in hog slaughter here in the United States. The pilot involves only five hog slaughter facilities that were self-selected to participate using the privatized inspection model. These five represent less than one per cent of all hog slaughter facilities that have federal grants of inspection.²² In addition, FSIS has used this pilot to grant equivalency status to privatized inspection schemes in countries that export red meat products to the United States other than pork. No public analysis of the effectiveness of HIMP in hog slaughter has ever been published by FSIS. In fact, two independent reviews of HIMP in hog slaughter in 2013 revealed some major shortcomings in the efficacy of the pilot.

In May 2013, USDA’s Office of Inspector General (OIG) issued an audit report in which it made the following statement:

“In 1997, FSIS began a pilot program called the HACCP-based Inspection Models Project (HIMP) for swine, which allowed five large plants to have faster line speeds with fewer FSIS on-line inspectors. Although program goals were to increase food safety and plant efficiency, FSIS could not determine whether these goals were met because it did not adequately oversee the program. Specifically, FSIS (1) did not evaluate whether the program resulted in a measurable improvement to the inspection process, (2) allowed one HIMP plant to forgo the standard FSIS policy to manually inspect viscera, and (3) did not have formal agreements with the HIMP plants. This occurred because FSIS’ focus was on other issues, and it did not consider the swine HIMP program a priority. Since FSIS did not provide adequate oversight, HIMP plants may have a higher potential for food safety

²¹ Rashbrook, Max. “Scandal in the Slaughterhouse.” *Metro*, March 2014.

²² United States Department of Agriculture Office of the Inspector General (OIG). “Food Safety and Inspection Service – Inspection and Enforcement Activities at Swine Slaughter Plants, Audit Report 24601-0001-41, May 2013, p. 1.

risks. Nationwide, 3 of the 10 plants cited with the most NRs (non-compliance reports) continue to participate in the HIMP program.”²³

In response to the OIG critique, FSIS Administrator Alfred Almanza stated that a report on the HIMP pilot in hog slaughter would be completed by March 31, 2014.²⁴

In August 2013, the U.S. Government Accountability Office (GAO) also released an audit report in which it conducted an analysis of the HIMP pilots in poultry and swine slaughter.²⁵ The GAO criticized the data limitations in the FSIS analysis of the HIMP pilots in young chicken and young turkey plants to justify expansion of that privatized inspection model to all poultry plants as it proposed in January 2012.²⁶ As that report applied to the HIMP pilot in hog slaughter, GAO made the following observation:

“In 2011, FSIS began drafting a preliminary report evaluating the pilot project at young hog plants. The preliminary report uses analyses similar to those presented in the report evaluating the pilot project at young chicken plants, suggesting that similar limitations may apply. In particular, FSIS did not collect comparable data from plants participating and not participating in the pilot project. In addition, like the turkey pilot project, information collected from the five young hog plants in the pilot project would not provide reasonable assurance that any conclusions can apply more broadly to the universe of 608 hog plants in the United States in 2012 because of the small sample size. FSIS officials agreed that there would be concerns regarding the strength of any conclusions based on five plants. These officials stated that, when the agency develops a proposed rulemaking to modify its slaughter inspection system for hogs, it will need to decide whether to collect additional data. Furthermore, a May 2013 USDA Office of Inspector General report identified areas of risk in FSIS’ inspection of hog plants, including those participating in the pilot project. The report found that FSIS did not critically assess whether the pilot project had measurably improved food safety at each participating plant because the agency did not adequately oversee the program. In response, FSIS stated that it would complete an evaluation that would include an analysis of plants participating and not participating in the pilot project. However, as we previously stated, the analyses that the agency plans to use in this evaluation are similar to those presented in the report evaluating the pilot project at young chicken plants, suggesting that similar limitations may apply. According to FSIS officials, the agency intends to complete this evaluation by March 31, 2014. The officials

²³ Ibid., p. 17.

²⁴ Ibid., p. 4 of USDA Food Safety and Inspection Service’s Response to Audit Report.

²⁵ U.S. Government Accountability Office (GAO). “Report to the Chairman, Subcommittee on Livestock, Dairy, Poultry, Marketing and Agriculture Security, Committee on Agriculture, Nutrition and Forestry, U.S. Senate. Food Safety: More Disclosure and Data Needed to Clarify Impact of Changes to Poultry and Hog Inspections,” GAO-13-775, August 2013.

²⁶ 77 Fed. Reg. 4407-4456.

said that the agency could use its final report evaluating the pilot project at young hog plants to support a rulemaking but currently has no time frame for doing so. FSIS' pilot project at young hog plants will end when a final rule for hog slaughter is published."²⁷

In response to the GAO audit report critique of the HIMP pilot in hog slaughter, then-Under Secretary for Food Safety Elisabeth Hagen reiterated that the FSIS analysis of the pilot would be completed by March 31, 2014.²⁸ That analysis has still not been published.

We respectfully request that all equivalency determinations that have been made based on this untested and unevaluated pilot project be immediately rescinded because they have no legal or scientific basis to support their approvals. According to USDA statistics,²⁹ the United States imported over 2.2 billion pounds of red meat products in 2013 from the countries cited in this petition. FSIS has placed the health and welfare of U.S. consumers in jeopardy by permitting the importation of these products that have received deficient inspection by the exporting countries.

Sincerely,



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²⁷ GAO, p. 16.

²⁸ Ibid., p. 43.

²⁹ United States Department of Agriculture Economic Research Service. FATUS database.