FSIS Docket Clerk  
United States Department of Agriculture  
Food Safety and Inspection Service  
Room 2534, South Building  
1400 Independence Avenue SW  
Washington DC 20250-3700

September 30, 2021

Letter to Supplement Open Petition No. 14-03:  
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 June 2014, Food & Water Watch (FWW) submitted citizen petition No. 14-03, requesting that the Food Safety and Inspection Service (FSIS) for the U.S. Department of Agriculture (USDA) revoke the equivalency determination for the Australian Export Meat Inspection System (AEMIS).¹ This letter serves to supplement the still-open 2014 petition. A recent dramatic increase in zero-tolerance contaminants found in Australian imported meats demonstrates that FSIS should immediately revoke its determination that AEMIS is equivalent to the inspection system mandated under federal law.

As the agency recognizes, fecal matter and ingesta (also known as digestive contents) are highly likely to contain toxic pathogens that are a serious risk to human health and food safety. Thus, FSIS continues to maintain a “zero tolerance” standard for ingesta, fecal matter, and milk on livestock carcasses and parts.²

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² FSIS, Verification of Procedures for Controlling Fecal Material, Ingesta, and Milk in Livestock Slaughter
The new data that FWW submits today shows that Australia ostensibly does not treat such contaminants seriously, however. A Public Health Inspection System Public Health Critical Refusals report for January 1, 2018 to March 2, 2021, which FWW obtained as a result of a Freedom of Information Act request, indicates that FSIS has repeatedly detected zero-tolerance violations and then refused imported shipments of meat from the country.3 The report identified 19 such violations in Australian meat shipments in 2019 and 2020 (covering 294,621 pounds of product),4 12 of which identified fecal matter or ingesta as the reason for the refusal.5 These are violations that FSIS personnel detected after the imported meat had already undergone the purportedly U.S.-equivalent AEMIS inspection.

The increased rate of refusals are particularly concerning. In 2018, FSIS reported four zero-tolerance violations from Australian imported meat for fecal matter or ingesta; yet in 2020 that number nearly tripled to 11, for over 204,585 pounds of (what would have otherwise been) meat for U.S. consumers. The most recent data that FWW obtained suggest that 2021 will be worse, with three violations already detected in January and February.6 Records that FWW received from the Community and Public Sector Union, which represents meat inspectors in Australia, indicates that the “significant rise” in Point of Entry rejection between April 2020 and March 2021 resulted in heightened verification and audits and that the USDA is aware of this (even though it has never publicized it). Shockingly, the document reveals allegations that one meat establishment sought to

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3 Exhibit A.
4 One shipment was ostensibly rejected because it had both fecal and ingesta contamination.
5 Id.
6 Exhibit A.
correct the problem by simply using scrapers to remove the fecal matter from the
contaminated carcasses,\(^7\) notwithstanding that this could spread the contaminants and
make the problem worse.

As the second largest meat importer into the United States, these zero-tolerance
refusals are troubling to say the least.\(^8\) Even if the amount of meat found to be in
violation is small when considering the size of the lots imported, FSIS re-inspects a small
percentage of imported meat.\(^9\) Thus, the amount of contaminated Australian meat that has
been rejected by FSIS is likely far less than the amount that ended up entering the
country.

This new evidence bolsters FWW’s petition that USDA should immediately reject
its 1999 equivalency determination for AEMIS. It has raised significant concerns that
appear to be warranted to this day. For instance, the European Union deemed the system
deficient because of the potential inspector impartiality affecting food safety.\(^10\) While
FSIS affirmed the AEMIS equivalency determination in 2011, stating that “AEMIS
incorporates the same food safety performance standards as established by FSIS for
HIMP, which \textit{included a zero tolerance for post-mortem infectious conditions, fecal
material, ingesta, milk[,]}” violations were detected in both the first and second phases of
FSIS’s review of the AEMIS system—even in the mere 13\% of carcasses inspected in

\(^7\) Exhibit B at 2-3 (highlights in red).
\(^8\) In 2019, Canada, Australia, Mexico, and New Zealand were the top four meat and poultry importers.
Canada and Australia are the top two, together supplying 54.4\% of our nations imported meat and poultry.
In 2019, Australia supplied 760 million pounds (net weight) of meat to the United States. FSIS, Office Of
Field Operations, 2019 Import Data (2019) (see
\(^9\) FSIS, Import Reinspection of Meat, Poultry, and Egg Products Directive 9900.2, 27 (May 2017), available
\(^10\) European Commission, Food and Veterinary Office. “Final Report of an Audit Carried Out in Australia
from 12 to 24 October 2012.” Executive Summary (May 2013).
phase two. More recently, FSIS simultaneously affirmed the equivalency determination, even while acknowledging their refusal of over 700,000 pounds of meat and poultry from Australia between 2015 and 2018 due to food safety problems including “zero tolerance” contaminants. The same audit included observation notes from an Australian slaughter operation inspection that, “the zero tolerance check only included every other carcass, therefore every other carcass was not inspected for feces, milk, ingesta or pathology while the zero tolerance is taking place . . . the line is moving too fast in order to inspect every carcass during the zero tolerance check.”

The data submitted today shows that Australia has never corrected these problems, a perhaps unsurprising revelation since AEMIS is based on the much maligned HACCP-based Inspection Models Project (HIMP). As discussed in FWW’s 2014 petition, the Government Accountability Office identified numerous concerns with the system, including that it lacked adequate FSIS oversight and impartiality. More recently, an FWW analysis found that market hog plants in this system had, on average, nearly double the zero-tolerance violations compared to similarly sized plants that used traditional inspection from 2014 to 2017. And while USDA has approved the HIMP

13 Id. at Appendix A: Individual Foreign Establishment Audit Checklists, Swickers Kingaroy Bacon Factory Observations of Establishment: 55/51.
14 FWW’s Citizen’s Petition also outlines the necessity of revoking the equivalency determinations for Canadian High Line Speed Inspection System; the Canadian HACCP-based Slaughter Inspection Program for Swine, and the New Zealand Alternative Post-Mortem Meat Inspection Procedure because their equivalency was also based on the HIMP system.
15 See Citizen’s Petition, supra note 1, at 7-8 for more detail.
system for some poultry (NPIS) and hog (NSIS) facilities, no court has ever approved of its widespread implementation, and it presently faces a number of legal challenges—in no small part because of the same problems underlying HIMP.\textsuperscript{17} USDA’s position that HIMP-based inspection systems, applicable to 54\% of our imported meat, is equivalent to the U.S. system remains resting on extremely shaky footing, while undermining the agency’s own zero-tolerance standards.\textsuperscript{18}

Given Australian meat’s large and increasing number of zero tolerance violations, FWW urges FSIS to add this supplemental information to Citizen’s Petition No. 14-03 as grounds for immediately revoking the equivalency determination for AEMIS.

Sincerely,

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\textsuperscript{18} See \textit{supra} note 8.
Exhibit A
<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>20/07/2018</td>
<td>09:00</td>
<td>Event A: A meeting to discuss project updates.</td>
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<tr>
<td>21/07/2018</td>
<td>14:00</td>
<td>Event B: A workshop on data analysis techniques.</td>
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<tr>
<td>22/07/2018</td>
<td>10:30</td>
<td>Event C: A seminar on the latest research findings.</td>
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<tr>
<td>23/07/2018</td>
<td>17:00</td>
<td>Event D: A panel discussion on industry trends.</td>
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<tr>
<td>24/07/2018</td>
<td>11:30</td>
<td>Event E: A hands-on session for new employees.</td>
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<tr>
<td>25/07/2018</td>
<td>12:00</td>
<td>Event F: A lunch-and-learn event focusing on career.</td>
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Additional Information:
- Event A will be held in the conference room on the 2nd floor.
- Event D requires pre-registration, and slots are limited.
- Event F will feature a guest speaker from a leading industry expert.
- All events are open to employees and will be recorded for future reference.
Exhibit B
# Meat Consultative Committee (MCC) Meeting Minutes

**Date:** 25 June 2021  
**Time:** 09:15am - 11:30am AEST  
**Venue:** Training Room, Level 2, 42-44 Qantas Drive, Eagle Farm

**Attendees:** Paul Nixon (Chair), Andrew Christie, Mark Connolly, Jason Lucas, Michael Sheehan, Amy Little, Phillip Davidge, James (Shorty) Smith, Anthony Lees and Kellie Holt (Secretariat)

**Apologies:** Nicola Hinder, Adam Balcerak, Nick McArthur and Boyd Ferry

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<tr>
<th>ITEM</th>
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<td>1</td>
<td>WELCOME</td>
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| 1.1  | A/g Assistant Secretary, Paul Nixon, opened the meeting at 09:18am with an Acknowledgement of Country.  
Paul asked if there were any further items to be added to the agenda. Reply was no. | Paul Nixon |
| 1.2  | Action item updates  
CPSU FIS asked for Agenda Item 24.3 to remain open. Chair agreed.  
The MCC agreed to close action items ref 24.1, 24.2, 24.4.  
For Action Item 24.2 Chair would like to acknowledge the efforts of the CPSU FIS FIS/VEMB in contributing to high completion rate for the mandatory training. We have a 95% completion rate with still a few days remaining for staff to complete.  
CPSU FIS asked for the following comment to be added to the previous meeting: “VEMG agreed that until a new verification workload assessment was finalised, no change to any FSMA rover positions would be affected”. | Action owners |

**ACTION 25.1**  
Kellie to add above comment to April minutes.

Chair thanked the committee for accepting the minutes and actions of the previous meeting.

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<th>2</th>
<th>DEPARTMENT UPDATES</th>
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| 2.1 | VEMG update  
Mark Connolly provided an update for the South/West Region.  
Steve Harding, Kevin O’Brien and Mark Connolly are travelling to Western Australia on 5 July to meet with a number of companies who are moving over to AAO inspection model. They will be conducting AEMIS reviews as well. They will also meet with other sheds to see how they are going with the transition.  
August 2 – ensure everything is ready  
COVID lockdown in Victoria – come out unscathed. Mark thanked staff and management. | P. Nixon  
M. Connolly  
A. Christie |

Department of Agriculture, Water and the Environment
Andrew Christie provided an update for the North East Region.

MI4/M13 recruitment sitting with the recruitment team, dealing with QA on documentation. Taking longer than anticipated. Recruitment has a 10 day turn around time for QA processes. Tony Jedroszkowiak is the contact person. Working on who will be on the panel.

Currently running an EOI for OPVs to express interest in moving to on plant vet vacancies. An EOI is run before a recruitment process which will be the next step.

Stock levels remain tight. Establishments are challenged by shortage of labour. Probably affecting production as well as stock levels.

COVID in NSW is a concern. Waiting to see what the next couple of days will bring. We are sticking with our position of mandatory masks. Watching local areas.

North Culture – our relationship with a couple of companies is a focus for us. We have a zero tolerance for any form of intimidation, harassment or bullying. We are working on a few cases, currently, with the full support of the Executive.

Paul Nixon provided an update on the COVID vaccination program. Is working on accessing data to see how many staff have had the vaccination, noting most staff are still yet to receive their second jab.

2.2 Meat Export Branch update

Jason Lucas provided an update on the work in the Meat Exports Branch.

The department has been preparing a cost recovery impact statement (CRIS) for meat export arrangements to recover the cost of regulatory activities. Public consultation has closed. It is noted that the charge for FSMA and OPV activities will increase. ‘Through put charge’ and ‘certification charge’ which have historically recovered the majority of corporate overheads for the program will reduce under revised charging model.

AMIC, Teys and JBS have provided their support of the revised charging model. The pricing model also reflects the outcomes from a recent ANAO audit. Fees and charges go live on 1 July. Work being undertaken with legislation, more information will be available. On track for a 1 July start date.

CPSU FIS asked how many options were put to industry and what their choice was. Department Response: 2 options were put to industry. Both Industry and Department support option 2.

COVID – movement of staff, particularly audit staff – fairly well versed. Have checklists to run through.

Zero Tolerances (ZT’s) – between April 2020 and March 2021 there was a significant rise in POE rejections from the US for ZT. An initial email was sent to all establishments to review their critical control points. A further email was sent to establishments in March advising that the department will be undertaking heightened verification have seen a significant drop – now back to long term average.
Further discussion was held regarding the FOMS and ATMS visiting establishments to review root cause and corrective measures put in place to prevent re-occurrence of issues.

- Establishments provided corrective action plans which include an investigation of root causes. The FOMs/ATMs review the plans and then conduct a physical audit to ensure measures will rectify the root cause. There is engagement with the US and advise is provided on the outcome of the audit.

The CPSU-FIS provided information related to the establishment at Dubbo where it was reported that 6 washers and 6 staff with scrapers were put on production line and told to scrap the faecal material off. This was the action allegedly decided by the FOM and has been happening the last couple of weeks.

Action: Jason Lucas will follow up with the FOM.

Digital Reform – increased presence of IT discovery staff are working with different establishments on how we might make their life easier. Providing a digital pathway to make things more streamlined. Improved access to audit results. Team will be on plant discussing matters.

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<th>2.3</th>
<th>Meat Modernisation update</th>
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<td>Paul Nixon provided an update on the Inspection reform project.</td>
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<td>There are 16 Establishments yet to transition. The department has held discussions with a number of establishments to talk through range of issues and matters and provided support to help transitioning. Concerns focussed on access to third party AAO’s and impacts on market access. Third party providers are running training programs to provide more AAO’s. The department is aiming for a deadline of the end of September to have all establishments transition. The department will work with individual establishments to finalise dates to transition.</td>
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**ACTION 25.2**

Department to keep CPSU FIS updated with transition dates.

Amy Little provided an update on a number of meat modernisation projects.

Legislation process for inspection reform – The department has sought legal advice confirming a small legislative change to the meat Rules will be required to embed the inspection reform policy.

Post mortem inspection and disposition changes to AS4696 – the department is working with State and Territory working group to finalise the Deed of Licence that must be executed with Standards Australia in order to update AS4696.

The CPSU-FIS sought a response regarding commencement of negotiations with export markets. The department will commence negotiations once the Deed is signed. Once the Deed is signed, a mandatory 9 week consultation process will commence and the department intends to align trading partner engagement with this process. Update of the Standards will take approximately 6 months following execution of the Deed.

The department is aware of the risk of finalising the process prior to any agreement with export markets.
The Product Hygiene Indicator (PHI) report is a good news story. All dashboards, bar 1, are rolled out. Excellent feedback from OPVs. The report is delivered to establishments via PDF to prevent data breaches. Work is underway to start testing a means to allow establishments to have direct access to their dashboards by the end of this month.

The culture piece includes three activities including the Joint Statement of Intent (JSOI). The department is looking to engage an external provider with organisational psychology skills to help ‘road-test’ the JSOI with staff and establishments. The intent is to work with staff and establishments to embed the cultural change, noting that this takes a sustained effort from all parties. A letter will be sent to all Establishments by David Hazlehurst and Terry Nolan to raise awareness of the culture pieces.

The CPSU-FIS asked if the department would provide training to the establishments?
It will be the responsibility of each establishment to provide training to their staff. The department is engaging an external provider and will seek feedback on how establishments are placed to effectively embed the intent of the JSOI in their workplace. It is not our responsibility to train establishments in appropriate workplace behaviour. The department is hoping the JSOI, once embedded, will help us work better with establishments. We will work with our staff and their behaviour. For example, working with FSMA’s going forward such as introducing ½ hr meeting and establishing a FSMA working group will help with the cultural change.

Where the department are finding issues with our staff not reflecting appropriate behaviours, we are happy to look at further training. However, it weakens the departments position when we are unaware of issues between our staff and establishments. We need to continue to work with our staff to ensure they are able to manage conflict in the workplace.

The CPSUFIS supports harassment training for department staff.

The CPSU-FIS are happy to support the Department’s direction including face to face training, on-site or in the office.

The CPSU-FIS are happy to provide information via their newsletter to their members based on information the department has sent to staff.

There is no objection from the Department with CPSU FIS using information from their correspondence. The department is looking at sending something out within days.

Carcase disposition dispute resolution process has undergone further work and is still under consultation within the department. Specifically, the process has been revised to remove the procedure where establishment would directly approach an FSMA or AAO, if they disagreed with their disposition. Feedback from departmental staff regarding concerns with this process was incorporated into a revised version, whereby establishment management must engage with the OPV if they are concerned with a disposition made by an AAO or FSMA. The department will send an updated version of the process once complete.
### Reform Update:
Department advised the use of smart glasses is a long way off from becoming a reality as connectivity is a major issue at establishments.

The CPSU-FIS outlined a process for a trial should smart glasses before implementation which was well received by the department, noting the above issues with connectivity.

There hasn’t been any consultation with specific export markets regarding the use of smart glasses. However, Australia did present a paper on the use of ICT tools in regulatory frameworks at the recent 25th session of the Codex Committee on Food Import and Export Inspection and Certification System (CCFICS).

There was further discussion on the FSMA positions on AEMIS lines (Mark Connolly draft arrangements end of line/carcase inspection). VEMB will further discuss the arrangements.

With regard to the multi chain project the CPSU-FIS sought clarification regarding US legislation with regards to 100% FSMA coverage? The department didn’t have the US legislation to hand to be able to answer the question appropriately.

The CPSU asked about surveillance in boning rooms. The department advised work has not been done on this yet.

Mark distributed the draft with regards to the FSMA post mortem inspection roles at red meat Establishment – CPSU FIS has responded and requested further discussion.

CPSU FIS asked about the process for legislating the inspection reform policy. The department advised minor changes for the Rules can be endorsed by the Secretary.

CPSU FIS and Department agreed legislation changes are about future proofing the model.

#### 3.2
Not discussed as this item was addressed at the pre meeting on Thursday 24 June.

#### 3.3
**Superannuation Review:** a number of Meat Inspectors have been contacted.

**ACTION Ref 25.3**
P. Davidge

Paul to arrange a meeting with the Super team + CPSU FIS.

Department has been involved in making sure process moves. Especially with VRs and accelerated packages. In terms of accelerated packages – Nick McArthur is our first point of contact who works with Michael Sheehan. Can defer to Michael Sheehan if need be.

#### 3.4
**COVID Testing for meat inspectors.** Personal leave is available for any employees having a COVID test

CPSU FIS: If someone has the symptoms and needs to get tested, what type of leave do they take?

A: personal leave. If staff don’t have any personal leave left the Department would look it on a case-by-case basis to determine appropriate leave provisions.

P. Davidge
CPSU FIS: If staff have vaccination and get symptoms what type of leave do they take?  
Department: Personal leave. Again, some circumstances will be looked at on a case-by-case basis.

CPSU FIS: What kind of leave can you take if you have COVID?  
Department: This will be included in the information that Michael Sheehan will disseminate. If you have been diagnosed with COVID you can take COVID leave.

CPSU FIS: Is TOIL on Aurion still on track for July?  
Department: Michael Sheehan will confirm.

**ACTION Ref 25.4**  
Michael to pull together previous advice on taking leave for COVID and resend to MCC members

**ACTION Ref 25.5**  
Michael to looking into if TOIL on Aurion is on track for July and advise MCC.

### 3.5 USA POE rejections: update from exports  
Jason Lucas provide an update to this item at the MEB agenda item

Chair confirmed meetings to continue bimonthly. If anything comes up in the between these meetings Paul and Phil to discuss.

*The meeting closed at 10:45am AEST*