

November 5, 2012

Secretary Tom Vilsack
United States Department of Agriculture
Room 200, Jamie L. Whitten Building
12th Street & Jefferson Drive, S.W.
Washington, DC 20250

Transmitted via facsimile: (202) 720-6314

Dear Secretary Vilsack:

I am writing concerning the status of the equivalency determination with Canada with regard to the importation of beef products into the United States and the use of a privatized inspection system in some of Canada's beef slaughter facilities that apparently has received no formal recognition by the USDA's Food Safety and Inspection Service (FSIS). Recent events in Canada have brought a new focus on our food safety relationship with that country.

As you know, Canada has just experienced its largest beef recall in history involving beef products manufactured at the XL Foods plant located in Brooks, Alberta (Establishment 38).¹ From the time the Canadian Food Inspection Agency (CFIA) made its initial recall announcement on September 16, 2012, the agency expanded the recall of products twenty times.² FSIS played a critical role in alerting Canadian food safety officials of potential problems with the beef being produced at Establishment 38 as it was a sample of beef from that plant taken at the Sweetgrass, Montana FSIS border inspection station that resulted in a positive test for *E. coli* 0157:H7 on September 3, 2012.³ Because the United States imports beef products from that plant, on September 13, 2012 FSIS delisted the plant from being eligible to export to the United States.⁴ The agency issued its first "Public Health Alert" on this matter on September 20, 2012 and expanded it four times.⁵ FSIS staff

¹ "XL Foods Recall: E. coli Results in Biggest Beef Recall in Canadian History," The Huffington Post Canada, October 2, 2012, see http://www.huffingtonpost.ca/2012/10/02/xl-foods-recall-biggest-in-history_n_1933714.html

² Canadian Food Inspection Agency. "Timeline of Events: CFIA Investigation into XL Foods Inc. (E.coli 0157:H7)." <http://www.inspection.gc.ca/food/consumer-centre/food-safety-investigations/xl-foods/timeline/eng/1349149063487/1349149874246>

³ United States Department of Agriculture Food Safety and Inspection Service. "FSIS Issues Public Health Alert for Imported Canadian Raw Boneless Beef Trim from XL Foods," October 20, 2012, see http://www.fsis.usda.gov/News_&_Events/NR_092012_01/index.as

⁴http://www.fsis.usda.gov/regulations_&_policies/Eligible_Foreign_Establishments/index.asp

⁵ http://www.fsis.usda.gov/FSIS_Recalls/PHA_XL_Foods/index.asp

informed us after the publication of the first “Public Health Alert” that all products imported into United States had been recovered. At that time, FSIS claimed that 890,000 pounds of beef trim had been imported. By the time the agency amended its alert on October 5, 2012, the amount of products subject to the alert had nearly tripled to 2.5 million pounds that included muscle cuts of beef. At a recent meeting between agency officials and consumer advocacy organizations, agency staff reported that they could not say how much product had been recovered under the most recent “Public Health Alert.”⁶ Food & Water Watch has been very critical of the manner in which the agency has mishandled the recall of these products because actual recall announcements have not been made and the media and consumers are confused by the term “Public Health Alert.”⁷ Contaminated products may still be in U.S. consumers’ freezers because they are not aware that the products have been recalled by Canada.

We understand that FSIS recently sent an audit team to Canada as part of its regular equivalency verification process for that country. We consider it to be extraordinary since FSIS has not visited Canada for nearly three years and it had been customary prior to the Obama Administration for FSIS to make annual audit visits to our trading partners.⁸ We find the interval between audit visits to Canada especially troubling in light of past audit findings reported by FSIS⁹ that found major deficiencies in the meat inspection system in Canada. Additionally, our equivalency determination with that country has received scrutiny by USDA’s Office of Inspector General (OIG) that found that USDA is doing a poor job of enforcing the equivalence determination with Canada.¹⁰ As you may know, the past FSIS audit reports, the OIG’s findings, and the 2007 recall of 21.7 million pounds of hamburger patties contaminated with *E. coli* 0157:H7 that were made from Canadian beef¹¹ prompted Food & Water Watch to file a petition with FSIS on January 28, 2008 to revoke Canada’s equivalency determination. The agency lost the petition for over four years, but it has since been posted on the agency’s website for your review.¹²

⁶ Meeting between the Executive Management Council of the Food Safety and Inspection Service and the Safe Food Coalition, October 17, 2012.

⁷ Food & Water Watch. “Where’s the Recall? Tainted Canadian Beef Presently in the U.S.; Deregulation Plans Underway Would Bring More,” September 21, 2012.

<http://www.foodandwaterwatch.org/pressreleases/wheres-the-recall-tainted-canadian-beef-presently-in-the-u-s-deregulation-plans-underway-would-bring-more/>

⁸ United States Department of Agriculture Food Safety and Inspection Service, “Foreign Audit Reports.”

http://www.fsis.usda.gov/regulations_&_policies/Foreign_Audit_Reports/index.asp

⁹ Ibid.

¹⁰ United States Department of Agriculture Office of the Inspector General. “Food Safety and Inspection Service Assessment of the Equivalence of the Canadian Inspection System,” Report No. 24601-05-HY, January 10, 2006.

¹¹ United States Department of Agriculture Food Safety and Inspection Service. “FSIS Provides Update on Topps Meat Company Recall Investigation,” October 26, 2007.

http://www.fsis.usda.gov/News_&_Events/NR_102607_01/index.asp

¹² http://www.fsis.usda.gov/regulations_&_policies/Petitions/index.asp

At the October 17, 2012 meeting between the FSIS Executive Management Council and the Safe Food Coalition, one of the consumer representatives asked when FSIS auditors last visited XL Foods Establishment 38. The response from agency officials was that they did not know. Food & Water Watch has received information that FSIS auditors last visited Establishment 38 during the 2009 audit of Canada. However, FSIS ceased attaching the individual plant audit checklists as part of countries' audit reports since you became Secretary. On October 18, 2012, Food & Water Watch filed a Freedom of Information Act request with FSIS asking for all Foreign Establishment Audit Checklists that are missing from country audit reports currently posted on the FSIS website. We urge a prompt response to our request as we are very interested in the auditor's findings from Establishment 38 during the 2009 Canadian audit that could give us a clue as to what could have gone wrong in the current situation.

As the CFIA investigation into what happened at Establishment 38 continues to unfold, we became aware that Canada has adopted a privatized inspection model for certain beef slaughter plants. We understand that XL Foods Establishment 38 is one of the plants using this model. Annex B of Chapter 17 of the CFIA Meat Hygiene Manual of Procedures is entitled, "High Line Speed Inspection System (HLIS) – Beef." I have identified the most troubling sections of that Annex:

Technological advances in both building design and the equipment used in modern slaughter and processing facilities has provided new opportunities for establishment operators to function at much higher production volumes. Efficiency in plant monitoring methods has also changed dramatically through the application of science based quality assurance and food safety programs such as the Hazard Analysis Critical Control Point (HACCP) System. These changes to plant operating methods also make it necessary to adjust and modernize the current method and approach to food inspection systems by the Canadian Food Inspection Agency (CFIA) in a modern slaughter facility in order that the Agency may continue to deliver reliable scientifically based methods of food safety inspection at these higher volumes.

The High Line Speed Inspection System (HLIS) is one such system that allows beef slaughter facilities to operate at enhanced line speeds. This system can be implemented in federal establishments that slaughter steers, heifers and mature cattle provided the facility operator agrees to certain facility and equipment modifications as well as specific process controls to ensure that the integrity of the product is maintained when it is produced under these high volume conditions. Before the HLIS is adopted in any slaughter facility it is imperative that clear dialogue occurs between the CFIA and the facility operator regarding the resource impact of plant monitoring responsibilities, training needs, financial and human resource commitments.

The HLIS incorporates modifications to the traditional beef post-mortem inspection procedures and inspection station configurations by establishing

presentation standards (PS) for the heads, viscera, and carcasses prior to inspection and finished product standards (FPS) for carcasses.

The HLIS provides an opportunity for the establishment to adjust to assuming a greater responsibility for managing the quality and safety of their product through an initial one time CFIA certified training program for their plant personnel. The CFIA provides this initial training for any starting facility so an initial block of trained plant personnel may be established. Further training is then assumed by the establishment. This format provides a co-operative and shared inspection approach to the slaughter and carcass dressing procedures. Significant inspection station reductions are realized at higher line speeds due to efficiencies gained through minimized product handling and a shift toward greater responsibility on the part of the company to present and manage its own product.

Under this program the operator will be responsible for the identification and removal of defects that result during live handling, humane stunning, or dressing operations collectively referred to as "manufacturing defects". The operator will also assume responsibility for the removal of certain minor specified trimmable pathological conditions (TPCs). Removal of these defects will be accomplished by plant personnel that have undergone a training and accreditation program to become designated accredited trimmers, presenters, monitors and detectors. The establishment employee training program is to be established in writing and approved by the VIC with consultation of the Area Red Meat Program Specialist and the Regional Veterinary Officer (RVO).¹³

We know that Local 401 of United Food and Commercial Workers Union that represents the plant workers complained that the line speeds at Establishment 38 were too fast and that food safety was being compromised by increased pressure from company management to keep up production.¹⁴ There were reports that the lines were running at 300 to 320 head of cattle per hour. That plant slaughters upwards of 5000 head per day. Among the allegations that the union made included:

Line speeds are a serious problem. Employees are pushed too hard as (XL) is more concerned, it seems, with the quantity of beef produced rather than the quality of beef produced.

¹³ Canadian Food Inspection Agency. Annex B, Chapter 17 Meat Hygiene Manual of Procedures, "High Line Speed Inspection System (HLIS) – Beef, Introduction," June 11, 2012. <http://www.inspection.gc.ca/english/fssa/meavia/man/ch17/annexbe.shtml>

¹⁴ UFCW Local 401. "Union Calls for Worker Voices to be Heard in the Shadow of the XL Foods Safety Crisis," Your Voice at Work. October 9, 2012.

Workers who occupy Quality Control positions are not supported by their bosses. For example, because of the emphasis on production they have no confidence that if they see a food safety problem that the line can or will be shut down.¹⁵

We conducted a thorough search of the FSIS website and we could not locate any document that indicates that FSIS has determined the HLIS has been deemed to be equivalent to our inspection system for beef. We know that FSIS gave its approval to the Australian Export Meat Inspection System (AEMIS) in May 2011 that uses a privatized inspection model for red meat exports to the United States.¹⁶ and to a privatized inspection model for red meat exports from New Zealand.¹⁷ Even though Food & Water Watch disagreed with both of those decisions by the agency,¹⁸ FSIS did not approve those new inspection models until after there were pilots conducted and FSIS had an opportunity to evaluate the microbiological and macroscopic data from the pilots. It does not appear the same scrutiny occurred with the Canadian HLIS.

In light of what I have cited above, I have the following questions:

- 1) Why was FSIS Directive 8080.1, “Recall of Meat and Poultry Products,” not followed in the XL Foods situation for beef products imported into the United States?
- 2) Did FSIS ever make an equivalency determination for HLIS in beef slaughter as currently described in the CFIA Meat Hygiene Manual of Procedures? If so, would you provide us with a copy of the documentation supporting that determination?
- 3) How does HLIS comport with the requirements of FSIS Directive 6100.2, “Post-Mortem Livestock Inspection?”
- 4) If FSIS has not deemed HLIS equivalent, what actions is FSIS going to take to prevent meat inspected under that regulatory regime from entering the United States?
- 5) If USDA intends to make an equivalency determination on HLIS, how can stakeholders express their views on it?
- 6) In light of the XL Foods debacle, is USDA going to consider withdrawing the privatized poultry inspection rule that it proposed in January 2012 that seems to be similar in structure to HLIS?

¹⁵ Ibid.

¹⁶ 76 Fed. Reg. 11752

¹⁷ United States Department of Agriculture Food Safety and Inspection Service. “Decision Memorandum – Individual Sanitary Measure: New Zealand- Alternative Post-Mortem Inspection, October 2011.

http://www.fsis.usda.gov/Regulations_&_Policies/Equivalence_Determinations_Made_By_FSIS/index.asp

¹⁸ [http://www.foodandwaterwatch.org/pressreleases/privatized-meat-inspection-an-import-u-s-consumers-can%E2%80%99t-afford/;](http://www.foodandwaterwatch.org/pressreleases/privatized-meat-inspection-an-import-u-s-consumers-can%E2%80%99t-afford/)

http://www.meatradenewsdaily.co.uk/news/080211/nz__meat_inspection_problems.aspx

- 7) In light of the on-going food safety problems involving imports from Canada, is USDA going to stop any further work on the Beyond the Border pilot that would eliminate border inspection of Canadian meat imports?
- 8) Will FSIS resume the practice of including the Foreign Establishment Audit Checklists in the country audit reports it posts on its website?

I look forward to a reply to my letter. Should you have any questions about this matter, please feel free to contact me.

Sincerely,



Wenonah Hauter
Executive Director

cc: Senator Kirsten Gillibrand
Senator Mike Johanns
Senator Herb Kohl
Senator Roy Blunt
Representative Thomas Rooney
Representative David Scott
Representative Jack Kingston
Representative Sam Farr
Representative Rosa DeLauro
Under Secretary Elisabeth Hagen
USDA Inspector General Phyllis Fong
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