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CONTINUING PROBLEMS IN USDA'S ENFORCEMENT OF THE HUMANE METHODS OF SLAUGHTER ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON DOMESTIC POLICY

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

MARCH 4, 2010

Serial No. 111–136

Printed for the use of the Committee on Oversight and Government Reform

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
http://www.oversight.house.gov

U.S. GOVERNMENT PRINTING OFFICE

65–127 PDF WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CONTINUING PROBLEMS IN USDA'S ENFORCEMENT OF THE HUMANE METHODS OF SLAUGHTER ACT

THURSDAY, MARCH 4, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC POLICY,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 3:47 p.m. in room 2154, Rayburn House Office Building, Hon. Dennis J. Kucinich (chairman of the subcommittee) presiding.

Present: Representatives Kucinich, Cummings, and Welch.

Staff present: Jaron R. Bourke, staff director; Jean Gosa, clerk; Charisma Williams, staff assistant; Leneal Scott, IT specialist, full committee; Jennifer Safavian, minority chief counsel for oversight and investigations; Marvin Kaplan, minority counsel; and Alex Cooper, minority professional staff member.

Mr. KUCINICH. The committee will come to order.

The Domestic Policy Subcommittee of the Oversight and Government Reform Committee now begins.

I want to thank the witnesses and the members of the audience for their patience. The President had asked me to meet with him on an urgent matter, and we were there for about an hour. I was there for an hour, and then we had a series of votes. That is the reason why we are starting so late. But I am grateful for the presence of the witnesses, and I look forward to your testimony.

Thanks to Mr. Cummings for being here.

Today's hearing is the second Domestic Policy Subcommittee hearing on the topic of humane slaughter, the first of which was held on April 17, 2008.

Today the subcommittee will examine the findings of a new Government Accountability Office—that is the GAO—report on the U.S. Department of Agriculture's enforcement of the Humane Methods of Slaughter Act. I requested this report, along with the support of Representative Issa, in 2008.

Now, without objection, I will have 5 minutes to make opening statements. If the ranking minority member has the opportunity to come, he will be granted the same, followed by opening statements not to exceed 3 minutes by any other Member who seeks recognition.

Without objection, Members and witnesses may have five legislative days to submit a written statement or extraneous materials for the record.

Mr. Jordan has an opening statement, which, without objection, will be included in the record.

[The prepared statement of Hon. Jim Jordan follows:]

"Continuing Problems in USDA's Enforcement of the
Humane Methods of Slaughter Act"
Ranking Member, Congressman Jim Jordan Opening Statement

Mr. Chairman, I would like to thank you for holding today's hearing. As you know, agriculture is a driving force of Ohio's economy, responsible for billions of dollars and thousands of jobs. I grew up in a farming community and I have seen first-hand the dynamism and hard work that people in the agricultural industry contribute to our state and to our nation. I trust them, more than bureaucrats in Washington, to tell me what is working in the industry and what needs to be fixed. I appreciate the GAO and USDA IG for bringing us their reports today. I hope that they will continue to do everything in their power to ensure the success of American agriculture, and particularly the meat industry.

I am troubled by radical animal-rights groups like HSUS that are actively working to destroy the agriculture industry in places like west central Ohio. Their continued efforts to paint farmers and others in the industry as villains are offensive and deplorable. I represent one of the most heavily agricultural districts in Ohio. I have seen how groups like HSUS distort the facts to pursue a radical agenda that is bad for Ohio and bad for the food industry.

It is my hope that this hearing will lead to a stronger dialogue with the folks on the ground who know the industry and that we empower them with the tools to fix what is broken.

Mr. KUCINICH. Good afternoon.

About 2 years ago an undercover video exposing extreme abuses of downed cattle at a slaughter plant in California shocked the Nation. The video depicted scenes of employees at the plant ramming cows with a forklift, poking at their eyes, and repeatedly applying electrical shocks to make downed cattle regain their footing and walk to the stun box. Those were apparent violations of the Humane Methods of Slaughter Act.

While the USDA acted quickly, at the same time key Department officials disclaimed the extent of the problem depicted. For example, Doctor Kenneth Peterson, Assistant Administrator for the Office of Field Operations, Food Safety and Inspection Service, which is also known by its acronym FSIS, said, "FSIS believes this to be an isolated incident."

Since that time, this subcommittee has examined the basis for USDA's espoused confidence. What we found was USDA's belief was not based on actual evidence. In fact, in November 2008 the Inspector General found that FSIS had been in the slaughter plant where those scenes of abuse were recorded and found no problems, just months before the undercover video was shot.

The IG also found that, in a number of plants similar to the one in California, severe gaps in oversight and enforcement existed. For instance, FSIS inspectors "allowed establishment employees to control the required accountability process" at 5 of 10 facilities audited. At one establishment, "the inspector simply re-signed blank pen cards and provided these to establishment personnel for later use."

At 4 of 10 establishments, inspectors did not inspect the condition of individual animals; instead, "animals moved past the inspector in rows or groups of three to four animals deep, effectively obscuring the observation of potential injuries and abnormalities of each animal."

At 2 of 10 establishments, "suspect animals were not segregated or slaughtered separately from healthy animals as required."

Then again last October undercover investigators of the Humane Society caught employees at the Bushway Packing Slaughter Plant in Vermont on tape committing extreme abuse of veal calves. We are going to show some of that video. I have to advise you that it is graphic.

[Videotape presentation.]

Mr. KUCINICH. Scenes like the ones we have just witnessed are violations of the Humane Methods of Slaughter Act. Shortly after this subcommittee's first hearing on this topic in 2008, I made a request, along with Representative Issa, that GAO conduct an investigation of USDA's oversight of the slaughter industry and update its previous report published in 2004. Today, GAO will publicly release its new findings.

What GAO has found is significant. Serious management problems at FSIS persist and compromise both the enforcement of the Humane Methods of Slaughter Act and the ability of the Department to change course. Key mechanisms of management oversight of inspection staff are missing. Key guidance to inspection staff make clear to them what constitutes a violation. That is missing. Consistency in the application of the law and assessing violations

is missing. Substantial differences exist among the reasons. Considerable disagreement exists among the enforcement staff about what kinds of abuses constitute violations and what enforcement actions need to be taken in response.

The truth of the matter is we do not know how prevalent are the abuses documented by the Humane Society. Neither does the USDA because of the significant deficiencies in the management of FSIS identified by the Government Accountability Office. But there is new leadership at the troubled agency, and they are talking about a new commitment to enforce the law.

My hope is that today's hearing will give us a clear picture of what the new administration plans to do to reform FSIS and improve the agency's track record in enforcing humane animal handling laws.

I want to say that as I watched that video I am not going to let it influence the conduct of this hearing, but I have to tell you I just have serious questions about whether there is such a thing as humane slaughter, about whether or not humane slaughter is just an oxymoron. But be that at is may. We are going to proceed with this hearing.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Opening Statement
Dennis J. Kucinich
Chairman
Domestic Policy Subcommittee
Oversight and Government Reform Committee

"Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act"

March 4, 2010

Good afternoon.

About two years ago, an undercover video exposing extreme abuses of downed cattle at a slaughter plant in California shocked the nation. The video depicted scenes of employees at the plant ramming cows with a forklift, poking at their eyes, and repeatedly applying electrical shocks, to make downed cattle regain their footing and walk to the stun box.

Those were apparent violations of the Humane Methods of Slaughter Act. While the USDA acted quickly, at the same time, key department officials disclaimed the extent of the problems depicted. For instance, Dr. Kenneth Petersen, Assistant Administrator for the Office of Field Operations, Food Safety and Inspection Service (FSIS), said, "FSIS believes this to be an isolated incident."

Since that time, this Subcommittee has examined the basis for USDA's espoused confidence. What we found was USDA's belief was not based on actual evidence. In fact in November 2008, the Inspector General found that FSIS had been in the slaughter plant where those scenes of abuse were recorded and found no problems, just months before the video was shot.

The IG also found that in a number of plants similar to the one in California, severe gaps in oversight and enforcement existed. For instance,

- FSIS inspectors "allowed establishment employees to control the required accountability process" at 5 of 10 facilities audited:
- At one establishment, "the inspector simply re-signed blank pen cards and provided these to establishment personnel for later use";
- At 4 of 10 establishments, inspectors did not inspect the condition of individual animals. Instead, "animals moved past the inspector in rows or groups of 3-4 animals deep, effectively obscuring the observation of potential injuries and abnormalities of each animal";
- At 2 of 10 establishments, "suspect animals were not segregated and slaughtered separately from healthy animals as required"

Then again last October, undercover investigators of the Humane Society caught employees at the Bushway Packing slaughter plant in Vermont on tape committing

extreme abuse of veal calves. Scenes like those depicted in the Humane Society undercover video are egregious violations of the Humane Methods of Slaughter Act.

Shortly after this Subcommittee's first hearing on this topic in 2008, I made a request, along with Representative Issa, that GAO conduct an investigation of USDA's oversight of the slaughter industry and update its previous report, published in 2004. Today, GAO will publicly release its new findings.

What GAO has found is significant: Serious management problems at FSIS persist and compromise both the enforcement of HMSA and the ability of the department to change course. Key mechanisms of management oversight of inspection staff are missing. Key guidance to inspection staff making clear to them what constitutes a violation is missing. Consistency in the application of the law and assessing violations is missing: substantial differences exist among the regions. Considerable disagreement exists among the enforcement staff about what kinds of abuses constitute violations, and what enforcement actions need to be taken in response.

The truth of the matter is, we do not know how prevalent are the abuses documented by the Humane Society, and neither does USDA, because of the significant deficiencies in the management of FSIS identified by GAO.

But there is new leadership at the troubled agency, and they are talking about a new commitment to enforce the law. My hope is that today's hearing will give us a clear picture of what the new Administration plans to do to reform FSIS and improve the agency's track record in enforcing humane animal handling laws.

Mr. KUCINICH. Mr. Cummings, do you have an opening statement?

Mr. CUMMINGS. Yes, I do. Thank you very much, Mr. Chairman. I want to thank you very much for holding this vitally important hearing to examine USDA's compliance with the humane slaughter laws.

You know, Mr. Chairman, just the idea that we have the subject matter that we do, whether a government agency, with employees paid with the money, hard-earned money of taxpayers, and then when I watch the USDA official watching that go on, it really does concern me, and it should concern all of us. You have to wonder whether we are paying people to be a part of the problem, as opposed to a part of the solution.

The American people, as they should, expect that the meat they purchase at their local grocery stores and butcher shops is safe for consumption. Therefore, it came as a shock to the American people when they learned of horrific practices by the Hallmark-Westland Meat Packing Co. in California.

On January 30, 2008, video footage of the plant released by the Humane Society of the United States revealed handling of downed cattle and raised serious concerns about tainted meat making its way into our food supply. Public outcry following the incident led to swift action by this committee and by the company, itself, including the voluntary recall of 143 million pounds of beef dating back 2 years by Hallmark-Westland.

However, the problem did not stop with that incident. Most recently on October 30, 2009, the Humane Society released another video recorded at Bushway Packing, Inc., depicting calves just days old being shocked with electric prods.

While the Federal Safety and Inspection Service has closed this veal slaughter plant in Vermont, the shocking findings at Bushway Packing raised the larger question about whether there are more meat packing companies in violation of the Humane Methods of Slaughter Act; therefore, at the request of this committee the GAO re-investigated FSIS' enforcement records, funding and staffing data, and strategic planning documents to better regulate the meat packing industry.

GAO's original investigation in 2004 found that FSIS kept incomplete inspection records which caused inconsistent inspection and enforcement actions.

Today, as we examine the new findings of the GAO report, we must uncover the reasons underlying the failures of this program. The time is long overdue for us to strengthen practices at the USDA and to oversee their processes to ensure that the American people can have absolute confidence, Mr. Chairman, in the safety of the food they purchase and they eat.

Mr. Chairman, our response today must be just as aggressive as it was back in 2004. The safety of the American people depends on our steadfast efforts to investigate the standards of the meat packing industry and to enforce any improvements that we find must be made.

I look forward to the testimony today and thank you again, Mr. Chairman.

Mr. KUCINICH. I always appreciate your participation and we are grateful for your presence here today.

We are now going to go to testimony from the witnesses. There are no more additional opening statements.

I want to introduce our first panel. Ms. Lisa Shames is the Director of Natural Resources and the Environment at the Government Accountability Office, where she oversees evaluations at the U.S. Department of Agriculture and the Food and Drug Administration. She has been in public service since 1978. She directs work assessing oversight of food imports, animal welfare, farm program payments, agricultural conservation, and other policy areas. Ms. Shames managed the designation of the Federal oversight of food safety on the Government Accountability Office's high-risk list.

Mr. Jerold Mande is Deputy Under Secretary for Food Safety at the U.S. Department of Agriculture. In that position, Mr. Mande is responsible for the Food Safety and Inspection Service, the USDA agency which protects public health through food safety and defense. Prior to being appointed Deputy Under Secretary, he was associate director for public policy at the Yale Cancer Center at Yale University School of Medicine and was also a lecturer in public health, helping train select groups of physicians for careers in public policy.

Dr. Dean Wyatt serves as Food Safety and Inspection Service's Supervisory Public Health Veterinarian for a six-plant slaughterhouse and food processing operation in Vermont, where he is responsible for supervising humane handling procedures and enforcing FDA regulations under the "in-plant performance system." The doctor has previously served as a supervisory public health veterinarian for FSIS in other parts of the country and has been in private practice as a veterinarian.

I want to thank each of the witnesses for appearing before this subcommittee today.

It is the policy of our Committee on Oversight and Government Reform to swear in all witnesses before they testify.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that each of the witnesses has answered in the affirmative.

I ask that each witness give a brief summary of your testimony. Keep the summary, if you would, under 5 minutes in duration. Your complete written statement will be in the record. I'm sure during the Q & A period we will have plenty of opportunities to learn more.

Ms. Shames, you are the first witness on the panel. I ask that you proceed. Thank you.

STATEMENTS OF LISA SHAMES, DIRECTOR, NATURAL RESOURCES AND THE ENVIRONMENT, GOVERNMENT ACCOUNTABILITY OFFICE; JEROLD MANDE, DEPUTY UNDER SECRETARY FOR FOOD SAFETY, U.S. DEPARTMENT OF AGRICULTURE; AND DEAN WYATT, FOOD SAFETY AND INSPECTION SERVICE SUPERVISORY PUBLIC HEALTH VETERINARIAN, WILLISTON, VT

STATEMENT OF LISA SHAMES

Ms. SHAMES. Thank you, Mr. Chairman and members of the subcommittee. I am pleased to be here today as part of your ongoing oversight of humane handling issues. This afternoon I will summarize the report we conducted at your request on USDA's implementation of the Humane Methods of Slaughter Act [HMSA].

As detailed in our report being released today, we made the following key findings: first, USDA's enforcement of humane handling has been inconsistent; second, USDA faces difficulties in planning for the resources necessary to enforce humane handling, and; third, USDA does not have a comprehensive strategy for its overall enforcement.

Let me first discuss USDA's inconsistent enforcement.

Inspectors are to exercise their professional discretion when deciding what enforcement action to take in response to a violation; however, our survey and analysis of records suggest that inspectors are not consistently applying this discretion. This is because inspectors have unclear guidance and inadequate training.

Let me give you some examples of the inconsistent enforcement. When witnessing a specific humane handling violation, including excessive prodding or not rendering the animal insensible to pain in a single blow, inspectors told us they would take different enforcement actions, such as submitting a noncompliance report or suspending plant operations.

Our survey suggests inconsistent enforcement across plants. For example, inspectors at large plants had more stringent views than those at very small plants.

Also, records show inconsistent enforcement across districts. For example, we found that 10 out of the 15 districts took all of the suspension actions. The other five districts took none. Yet, these five districts oversee over half of the livestock slaughtered nationwide.

Unclear guidance and inadequate training contribute to USDA's inconsistent oversight. Inspectors from over half of the plants surveyed reported that additional guidance and training are needed. In particular, when asked about seven areas of enforcement, such as animal sensibility, inspectors' responses ranged from over 40 to nearly 60 percent that they need more guidance and training. Others have called for more training, including USDA's Inspector General, major industry associations, and the Humane Society.

Positively, to help its humane handling performance, USDA has begun to consider using a numerical scoring system developed by Dr. Temple Grandin. This system seeks to reduce the subjective nature of inspections and identify areas in need of improvement. USDA's own Agricultural Marketing Service uses this system to rate the performance of a slaughter plant. This helps determine

whether the plant can provide meat to the National School Lunch Program.

USDA officials also told us that they are exploring the potential use of video surveillance. Over half of the inspectors at large plants told us that video would be useful.

Our second key finding is that USDA faces difficulties in planning for the resources to enforce humane handling. For example, in terms of staffing, USDA told us it plans to hire 24 inspectors to help its humane handling enforcement. While a positive step, we found that this hiring is being done without the benefit of an updated work force plan. The current 2007 plan does not address specific work force needs to address HMSA.

GAO reiterates a recommendation we made in 2004, that USDA periodically reassess whether its estimates accurately reflect the resources needed to enforce humane handling.

Our third key finding is that, while USDA has various planning documents for humane handling activities, they do not clearly outline goals, resources, timeframes, or metrics, nor do these plans provide a comprehensive strategy to guide humane handling enforcement. Without these key planning elements, USDA is not well positioned to demonstrate any progress in improving its enforcement of HMSA to the public or to the Congress.

GAO recommends that USDA establish criteria for when inspectors should suspend plant operations; identify some type of objective tool, such as the numerical scoring system I just described, to help evaluate plants' humane handling performance; analyze the narrative from non-compliance reports; and develop a comprehensive strategy to enforce HMSA.

In its formal response to our report, USDA did not indicate whether it agreed or disagreed with our findings or recommendations. USDA did state that it plans to use them in improving its enforcement efforts.

Mr. Chairman, this concludes my remarks. I would be happy to respond to any questions that you or other members of the subcommittee may have.

[The prepared statement of Ms. Shames follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Domestic Policy, Committee on Oversight and Government Reform, House of Representatives

For Release on Delivery
Expected at 2:00 p.m. EST
Thursday, March 4, 2010

HUMANE METHODS OF SLAUGHTER ACT

Weaknesses in USDA Enforcement

Statement of Lisa Shames, Director
Natural Resources and Environment

GAO
Accountability * Integrity * Reliability

GAO-10-487T

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the U.S. Department of Agriculture's (USDA) actions to enforce the Humane Methods of Slaughter Act of 1978 (HMSA), as amended, which prohibits the inhumane treatment of livestock in slaughter plants and generally requires that animals be rendered insensible—that is, unable to feel pain—before being slaughtered. USDA's Food Safety and Inspection Service (FSIS) is responsible for enforcing HMSA. Concerns about the humane handling and slaughter of livestock have increased in recent years, particularly after possible HMSA violations were revealed at a slaughter plant in California in 2008 and one in Vermont in 2009.

This statement summarizes our report being released today that (1) evaluates USDA's efforts to enforce HMSA, (2) identifies the extent to which FSIS tracks recent trends in FSIS inspection resources for enforcing HMSA, and (3) evaluates FSIS's efforts to develop a strategy to guide HMSA enforcement.[1] To perform this work we, among other things, conducted a survey of inspectors-in-charge—those responsible for reporting on humane handling enforcement in the plants—from a random sample of inspectors-in-charge at 257 livestock slaughter plants from May 2009 through July 2009. Our sample allowed us to make estimates about the observations and opinions of all inspectors-in-charge at U.S. slaughter plants.[2] We obtained responses from 235 inspectors-in-charge, for an overall survey response rate of 93 percent. We also examined a sample of FSIS noncompliance reports, suspension data, and district veterinary medical specialist reports in all 15 of FSIS's district offices for fiscal years 2005 through 2009.

As detailed in our report, we found the following. First, our survey of inspectors at slaughter plants and analysis of FSIS data suggest that inspectors have not taken consistent actions to enforce HMSA. In responding to our survey, different inspectors indicated they would take different enforcement actions when faced with a violation of humane

[1]GAO, *Humane Methods of Slaughter Act: Actions Are Needed to Strengthen Enforcement*, GAO-10-203 (Washington, D.C.: Feb. 19, 2010). See also GAO, *Humane Methods of Handling and Slaughter: Public Reporting on Violations Can Identify Enforcement Challenges and Enhance Transparency*, GAO-08-686T (Washington, D.C.: Apr. 17, 2008).

[2]Full sample percentage estimates from the survey have margins of error at the 95 percent confidence level of plus or minus 7 percentage points or less, unless otherwise noted.

handling requirements. In addition, our review of noncompliance reports identified incidents in which inspectors did not suspend plant operations or take regulatory actions when they appeared warranted. The lack of consistency in enforcement may be due in part to the lack of clarity in current FSIS guidance and to inadequate training. Second, FSIS cannot fully identify trends in its inspection funding and staffing for HMSA, in part because it cannot track HMSA inspection funds separately from the inspection funds spent on food safety activities. FSIS also does not have a current workforce planning strategy for allocating limited staff to inspection activities, including HMSA enforcement. Last, while FSIS has strategic, operational, and performance plans for its inspection activities, they do not clearly outline goals, needed resources, time frames, or performance metrics. Nor do these plans provide a comprehensive strategy to guide HMSA enforcement. In our report, we recommend, among other things, that FSIS take actions to strengthen its oversight of humane handling and slaughter methods at federally inspected facilities. In commenting on a draft of the report, USDA did not state whether it agreed or disagreed with our findings or recommendations, but it stated that it plans to use them in improving efforts to enforce HMSA.

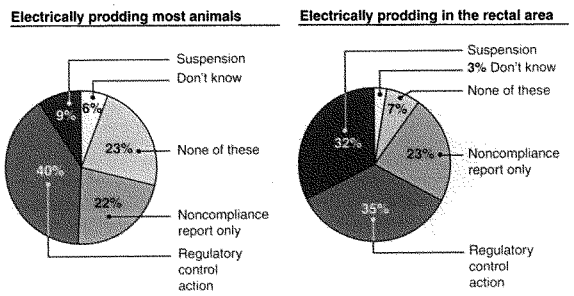
In preparing this testimony, we relied on our work supporting the accompanying report. That report contains a detailed overview of our scope and methodology. All of our work for this report was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

GAO Survey Results and FSIS Data Indicate Inconsistent FSIS Enforcement of HMSA

Our survey results indicate differences in the enforcement actions that inspectors reported they would take when faced with a humane handling violation. For example, in our survey we asked inspectors how they would respond if they observed plant employees electrically prodding more than 50 out of 100 animals—a threshold considered excessive by an industry standard and a leading industry expert, Dr. Temple Grandin. Figure 1 shows that inspectors had varying responses. According to FSIS guidance, when FSIS inspectors observe a violation of HMSA or its implementing regulations and determine that animals are being injured or treated inhumanely, they are to take two actions: (1) issue a noncompliance report, which documents the violations and actions needed to correct the deficiency and (2) issue a regulatory control action, which prohibits the

use of a particular piece of equipment or area of the facility until the equipment is made acceptable to the inspector. They also may, but are not required to, initiate an action to suspend plant operations. In addition, according to an FSIS training scenario, electrical prods are never to be used on the anus, eyes, or other sensitive parts of the animal.

Figure 1: Percentage of Inspectors Identifying Which Enforcement Action They Would Take for Electrical Prodding



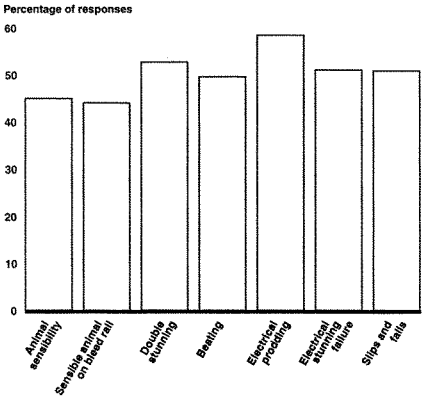
Source: GAO analysis of survey results.

Notes: This figure is based on the following survey question: "Do you believe that each of the following factors alone generally indicates that an establishment's action should result in a (1) suspension, (2) regulatory control action, (3) noncompliance report, or (4) none of these?" These factors included electrically prodding over 50 of 100 animals within acceptable voltage and electrically prodding one animal deliberately in the rectal area.

Similarly, our analysis of noncompliance reports shows inconsistency in the actions inspectors took in response to excessive beating or prodding. FSIS guidance also states that excessive beating or prodding of ambulatory or nonambulatory disabled animals is egregious abuse—and may therefore warrant suspension of plant operations. From inspectors' noncompliance reports, we identified several specific incidents in which inspectors did not either take a regulatory control action or suspend plant operations.

Incomplete guidance and inadequate training may contribute to the inconsistent enforcement of HMSA. Specifically, according to our survey results, inspectors at the plants we surveyed would like more guidance and training in seven key areas, as figure 2 shows.

Figure 2: Inspectors Identified the Need for Additional Guidance and/or Training in Seven Key Areas of Humane Handling Enforcement



Source: GAO analysis of survey results.

Note: This figure is based on survey question 12: "Would additional guidance and/or training be helpful in the following areas? (1) determining when an animal is sensible or returning to sensibility; (2) determining what, if any, action to take for a sensible animal on the rail; (3) determining what, if any, action to take for double stunning; (4) determining when the use of a driving instrument or tool becomes beating; (5) determining whether a specific incidence of electric prodding requires a suspension, regulatory control action, or noncompliance report; (6) determining whether electrical stunning of an animal fails to render and maintain insensibility; and (7) assessing situations involving slipping and falling."

Furthermore, inspectors-in-charge at more than half the plants surveyed reported that additional FSIS guidance or training is needed on whether a specific incident of electrical prodding requires an enforcement action. In addition, of the 80 inspectors who provided detailed responses to our survey, 15 noted the need for additional guidance, including clarification on what actions constitute egregious actions. Similarly, 25 of the 80 inspectors who provided written comments identified a need for additional training in several key areas.

In 2004, we recommended that FSIS establish additional clear, specific, and consistent criteria for district offices to use when considering whether to take enforcement actions because of repeat violations.[3] FSIS agreed with this recommendation and delegated to the districts the responsibility for determining how many repeat violations should result in a suspension. However, incidents such as those at the slaughter plants in California and in Vermont suggest that this delegation was not successful. To date, FSIS has not issued additional guidance.

FSIS Cannot Fully Identify Trends in Inspection Resources and Plan Resource Needs for HMSA Enforcement

FSIS cannot fully identify trends in its inspection resources—specifically, funding and staffing—for HMSA enforcement, in part because it cannot track humane handling inspection funds separately from the inspection funds spent on food safety activities. Furthermore, FSIS does not have a current workforce planning strategy to guide its efforts to allocate staff to inspection activities, including humane handling.

According to FSIS officials, funds for humane handling come primarily from two sources: (1) FSIS's general inspection account and (2) the account used to support the Humane Activities Tracking System. The general inspection account supports all FSIS inspection activities, both food safety and other activities, including humane handling enforcement. Because the same inspectors may carry out these tasks concurrently, FSIS cannot track humane handling funds separately, according to FSIS officials.

According to FSIS officials, for the most part, inspectors are to devote 80 percent of their time to food safety inspection activities and 20 percent of their time to humane handling inspection and other activities. However, our analysis of resources shows that this is not the case. We estimated that the percentage of funds dedicated to HMSA enforcement has been about 1 percent of FSIS's total annual inspection appropriation, although it rose slightly in 2008, when FSIS directed the inspectors to increase the amount of time they devoted to humane handling, following the 2008 incident in California.

For fiscal year 2010, FSIS officials told us, they planned to use $2 million of their inspection funds to enhance oversight of humane handling

[3]GAO, *Humane Methods of Slaughter Act: USDA Has Addressed Some Problems but Still Faces Enforcement Challenges*, GAO-04-247 (Washington, D.C.: Jan. 30, 2004).

enforcement by hiring 24 inspectors, including both public health veterinarians and inspectors. FSIS officials planned to strategically place these additional inspectors at locations where they are most needed to support humane handling enforcement in addition to their other food safety responsibilities.

While FSIS has increased its hiring, it has not done so in the context of an updated strategic workforce plan. Such a plan would help FSIS align its workforce with its mission and ensure that the agency has the right people in the right place performing the right work to achieve the agency's goals. In February 2009, we reported that the FSIS veterinarian workforce had decreased by nearly 10 percent since fiscal year 2003 and that the agency had not been fully staffed over the past decade.[4] We reported that, as of fiscal year 2008, FSIS had a 15 percent shortage of veterinarians. The majority of these veterinarians work in slaughter plants, and these plants ranged from no vacancy to 35 percent of their veterinarian positions vacant. The FSIS 2007 strategic workforce plan—the most recently available—identifies specific actions to help the agency address some of the gaps in recruiting and retaining these mission-critical occupations over time. However, it does not address specific workforce needs for HMSA enforcement activities.

FSIS officials stated that workforce planning occurs at the district level. According to district officials, they have discretion in deciding where to deploy additional inspectors. Therefore, they can deploy these inspectors at plants that they believe may require more HMSA oversight. However, more than one-third of the inspectors who provided written comments in our survey noted the need for additional staff or the lack of time to perform humane handling activities.

FSIS Does Not Have a Comprehensive Strategy for Enforcing HMSA

Although FSIS has strategic, operational, and performance plans for its inspection activities, these plans do not specifically address HMSA enforcement. That is, they do not clearly outline the agency's goals for enforcing HMSA, identify expected resource needs, specify time frames, or lay out performance metrics. Specifically, *FSIS Strategic Plan FY 2008 through FY 2013* provides an overview of the agency's major strategic goals and the means to achieve those goals. However, this plan does not

[4]GAO, *Veterinarian Workforce: Actions Are Needed to Ensure Sufficient Capacity for Protecting Public and Animal Health*, GAO-09-178 (Washington, D.C.: Feb. 4, 2009).

clearly articulate or list goals related to HMSA enforcement. Instead, the plan generally addresses agency goals, such as improving data collection and analysis, maintaining information technology infrastructure to support agency programs, and enhancing inspection and enforcement systems overall to protect public health. FSIS Office of Field Operations officials agreed that the plan does not specifically address humane handling, but, they explained, the operational plans and policy performance plans contain the details concerning humane handling performance. However, we did not find that these two plans provide a comprehensive strategy for HMSA enforcement.

In our report, we recommend that FSIS take actions to strengthen its oversight of humane handling and slaughter methods at federally inspected facilities and develop an integrated strategy that clearly defines goals, identifies resources needed, and establishes time frames and performance metrics specifically for enforcing HMSA. We provided USDA with a draft of our report for review and comment. USDA did not state whether it agreed or disagreed with our findings or recommendations. However, it stated that it plans to use them in improving efforts to enforce HMSA. USDA recognized the need to improve the inspectors' ability to identify trends in humane handling violations and work with academia, industry, and others to identify practices that will achieve more consistent HMSA enforcement. USDA also questioned whether the results of our survey of FSIS inspectors provide evidence of systemic inconsistencies in enforcement. We believe they do and would encourage USDA to consider the views of inspectors at the plants who are responsible for daily HMSA enforcement. USDA also provided technical comments, which we incorporated into our report, as appropriate.

Mr. Chairman this concludes my prepared remarks. I would be happy to respond to any questions that you or other Members of the Subcommittee may have.

For questions or further information regarding this statement, please contact Lisa Shames, Director, Natural Resources and Environment at (202) 512-3841 or shamesl@gao.gov. Thomas M. Cook, Assistant Director; Nanette J. Barton; Beverly A. Peterson; Benjamin N. Shouse; and Tyra J. Thompson also made key contributions to this statement. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony.

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Mr. KUCINICH. Thank you very much for your testimony.

Mr. Mande, you may proceed.

STATEMENT OF JEROLD MANDE

Mr. MANDE. Chairman Kucinich, Mr. Cummings, thank you for inviting me to appear before you today.

The Food Safety and Inspection Service, FSIS, is deeply committed to ensuring humane handling of livestock at federally-inspected slaughter establishments. We welcome today's hearing and the GAO report as steps that will help us improve on this mission.

FSIS is the public health regulatory agency within the U.S. Department of Agriculture. We enforce the Nation's food safety laws and we enforce the Humane Methods of Slaughter Act.

Slaughter is a critical stage in the life cycle of farm animals and demands the highest level of care and compassion. To achieve those levels, FSIS has a rigorous program to train our inspection personnel in verifying humane handling at slaughter establishments. All entry level inspectors receive both classroom instruction and 1 to 2 weeks of field training on humane handling.

In February 2009, in response to concerns raised by this subcommittee and as part of our commitment to improve our enforcement of humane slaughter, all FSIS personnel assigned to antemortem inspection at livestock slaughter establishments were required to complete refresher training on the agency's humane handling policies. This training included determining insensibility to pain, documenting noncompliance, and suspending inspection for egregious situations.

FSIS is planning further humane handling training this year.

In addition, each of FSIS' 15 district offices has a district veterinary medical specialist who serves as the district expert on humane handling issues and helps ensure humane slaughter practices.

Whenever a violation of the humane slaughter requirements is observed, USDA acts immediately to address it. Our inspectors are told that they must take immediate action so an animal does not continue to be harmed and that their first duty is to ensure the harm does not continue. Inspectors can place a U.S. retain rejected tag at the appropriate place to stop slaughter until the violation is addressed by the establishment and the inspector removes the tag. This is also known as a regulatory control action.

The next step is for the inspector to determine whether the violation is egregious. Egregious violations are any act or condition that is cruel to an animal and warrants an immediate suspension of inspection. A suspension effectively shuts down all or part of a plant's operation. Examples of egregious violations include excessive prodding or beating of animals, dragging conscious animals, and causing unnecessary pain and suffering to animals.

Humane handling violations are one of the few violations where inspectors are able to suspend without prior notification, a sign of how serious we believe these violations are.

FSIS also has management controls and accountability mechanisms for ensuring that its personnel are properly enforcing the Humane Methods of Slaughter Act. For example, supervisory personnel at slaughter establishments conduct performance reviews at

least twice annually in inspectors' performance, and these reviews address humane handling inspection.

As requested by you, Mr. Chairman, I would like to discuss the industry's compliance with the Humane Methods of Slaughter Act.

Only 800, or less than 20 percent, of our federally inspected establishments slaughter livestock and thus are subject to the act. In calendar year 2009, FSIS in-plant personnel spent the equivalent of 140 staff years, or 291,000 person hours, verifying humane handling activities, and conducted more than 128,000 humane handling verification procedures at livestock slaughter establishments. We found humane handling violations in less than half of 1 percent of these procedures.

In 2008, FSIS issued a total of 178 suspensions to federally inspected establishments. Ninety-seven suspensions, or more than half, were for humane handling violations.

Last year, 2009, FSIS issued a total of 164 suspensions to federally inspected facilities. Eighty-seven suspensions, or, again, more than half, were for humane handling violations.

As GAO finds in its report, both of these figures show a significant increase in humane handling enforcement since the events of Hallmark-Westland.

FSIS continually reviews industry compliance with Humane Methods of Slaughter Act and takes appropriate measures to prevent humane handling violations at establishments we regulate. For example, with the help of Congress, we are in the process of filling a newly created position at headquarters for a humane handling enforcement coordinator. This person will have line responsibility for overseeing our humane handling program.

Also, we recently added 23 additional inspectors to boost humane handling oversight and verification inspection activities. These additional inspectors were placed at establishments determined to be at higher risk of violating humane handling regulations, such as cull and dairy cattle and veal plants.

In addition, in December we added a new scoring verification tool for our district veterinarians based on the work of humane handling expert, Dr. Temple Grandin, that will help us identify problems with establishments' humane handling and slaughter systems.

In the near future FSIS intends to issue compliance guidelines to industry for use of video or other electronic monitoring recording equipment. All of these and other measures are discussed at length in my written testimony.

However, despite our best efforts, there are areas where FSIS must and will do more. With that in mind, I would like to discuss GAO's review of the Humane Methods of Slaughter Act enforcement by FSIS. While we were not given a final copy of the report to review before this hearing, we were able to review a draft. On behalf of the agency, I would like to thank GAO for its efforts to work with us during its investigation and for giving us the opportunity to provide comments on the draft report.

FSIS is committed to constantly improving upon its efforts to ensure that establishments comply with humane handling laws and regulations. Thus, the agency will consider carefully GAO's findings and recommendations as we strive to improve and evolve.

FSIS recognizes the need to improve our inspectors' ability to identify trends in humane handling violations and will work to identify practices that will achieve more consistent enforcement of the Humane Methods of Slaughter Act. That being said, FSIS does disagree with some items in the draft GAO report, and these items could result in a misleading portrayal of FSIS' enforcement of Humane Methods of Slaughter Act and are described in my written testimony and in comments that we have provided GAO.

Before I close, I would like to briefly comment on the abuse that we saw here today in the videotape of veal calves at Bushway Packing that were captured by the Humane Society last October.

Secretary Vilsack expressed well the views of all of us at FSIS when he said, "The deplorable scenes recorded in the video are unequivocally unacceptable," as he called on USDA's Inspector General to conduct a criminal investigation of the Bushway animal abuse, which remains underway. FSIS immediately suspended operations at Bushway. FSIS also initiated investigation into the alleged misconduct by agency personnel and has to date terminated one employee.

If I can make one final point, Mr. Chairman, whistleblowers play an honored role in our democracy. It takes great courage to speak out about potential mismanagement or waste by something as big and as powerful as the U.S. Government. We take these charges very seriously, even if the actions occurred under a previous administration. I promise we will investigate any charges, we will identify steps we can take to improve humane handling of livestock, and we will implement those steps.

Thank you, Mr. Chairman, for this opportunity to appear before you today. I look forward to your questions.

[The prepared statement of Mr. Mande follows:]

Domestic Policy Subcommittee
Oversight and Government Reform Committee

Statement
of
Jerold R. Mande
Deputy Under Secretary for Food Safety

Domestic Policy Subcommittee
Oversight and Government Reform Committee

Thursday, March 4, 2010
2154 Rayburn HOB
2:00 p.m.

Hearing Entitled:
"Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act."

For release only by the
The House Oversight and Government Reform
Subcommittee on Domestic Policy

Statement of
Jerold R. Mande, Deputy Under Secretary for Food Safety
United States Department of Agriculture
Before the
The House Oversight and Government Reform
Subcommittee on Domestic Policy

March 4, 2010

Chairman Kucinich, Ranking Member Jordan and members of the Subcommittee, thank you for inviting me to appear before you today at this hearing to review the state of USDA's Food Safety and Inspection Service's (FSIS) enforcement of the Humane Methods of Slaughter Act (HMSA), and a Government Accountability Office (GAO) report requested by the Subcommittee on this matter. I want to assure you that we are deeply committed to the humane handling of livestock and to meeting our obligations to enforce HMSA at federally-inspected establishments. We welcome today's hearing and the GAO report as steps that will help support the mission of ensuring the humane handling of livestock.

I would like to begin my testimony today with a brief description of the mission and an overview of FSIS, and then I will move on to discuss humane handling and FSIS' enforcement of HMSA. Finally, I will close with comments on the GAO report reviewed by FSIS.

Mission and Overview of FSIS

FSIS is the public health regulatory agency within the U.S. Department of Agriculture. It is responsible for ensuring that the Nation's commercial supply of meat, poultry, and processed egg products is safe, secure, wholesome, and accurately labeled and packaged, whether those

products are domestic or imported. We administer and enforce the Federal Meat Inspection Act, the Poultry Products Inspection Act, the Egg Products Inspection Act, and the Humane Methods of Slaughter Act, which is the topic of our discussion today.

Currently, the Agency employs over 9,500 personnel, including around 7,800 full-time in-plant and other front-line personnel protecting the public health in approximately 6,200 federally-inspected establishments nationwide.

These inspection program personnel are present for all livestock slaughter operations to inspect each animal before slaughter and each carcass after slaughter, as required by our authorizing statutes. FSIS inspection program personnel also inspect each processing establishment at least once per shift. In fiscal year (FY) 2009, FSIS personnel inspected 150 million head of livestock and 9 billion head of poultry.

FSIS' inspection activities are rooted in science and based on data. Through science-based initiatives and continual efforts to strengthen our infrastructure, FSIS works to prevent adulterated food from reaching the consumer. FSIS accomplishes this, in part, through rigorous sampling programs for foodborne pathogens such as *E. coli* O157:H7 in beef products, *Listeria monocytogenes* in ready-to-eat products, and *Salmonella* in raw meat and poultry products. Through the Hazard Analysis and Critical Control Points (HACCP) system, the Agency's responsibility also includes verifying that the establishment has effectively identified hazard points in its system and has deployed steps to prevent and mitigate risks.

FSIS frontline employees inspect and verify that establishments follow their food safety plans and enforce FSIS regulations to prevent contamination from occurring. When outbreaks occur and recalls are issued to protect public health, FSIS personnel are engaged in facilitating rapid response and recovery.

In addition to in-plant personnel in federally-inspected establishments, FSIS employs a number of other field personnel, such as laboratory technicians, veterinarians, and investigators.

FSIS Enforcement of HMSA

As I stated earlier, FSIS enforces HMSA, which provides the Agency with the authority to regulate the handling of livestock prior to slaughter, as well as the method of slaughter at establishments. We take this responsibility very seriously. I want to assure the Subcommittee that enforcing this law is a high priority for FSIS.

When Congress passed HMSA, it found that humane slaughter prevented needless suffering, resulted in safer and better working conditions for employees at slaughter establishments and provided benefits to producers and consumers through better products and improved flow of livestock and livestock products.

FSIS inspectors are in plants every day, and a key duty of these inspectors is to ensure that Congress' intent to assure that humane slaughter at every slaughter plant is carried out properly. FSIS inspectors are tasked with three essential duties: identifying problems, acting on those problems, and documenting the problems.

Documentation is a critical part of enforcement. If a problem is not documented properly, FSIS becomes less able to exercise proper enforcement. For this reason, proper documentation of humane handling violations is a basic part of FSIS inspector training. When FSIS personnel detect violations, they have the authority to take action by either suspending the establishment or issuing a noncompliance report (NR).

Each of FSIS' 15 District Offices has a District Veterinary Medical Specialist (DVMS) who serves as an expert on humane handling issues. The DVMS in each District Office

performs a formal review of each slaughter plant in the district every 12-18 months. In addition, they participate in making decisions about appropriate enforcement actions in response to humane handling violations. For example, the DVMS performs a comprehensive review of a plant 30 days after a suspension has been lifted to determine if proffered corrective actions are effective. They also perform additional follow-up reviews 60 and 90 days following the lifting of a suspension.

FSIS has a rigorous program to train inspection personnel in verifying humane handling at slaughter establishments and ensure that the three essential duties are performed properly. All inspection personnel who might be required to conduct humane handling activities receive humane handling training as part of their basic training. All entry level inspectors receive both classroom instruction and one to two weeks of field training on humane handling. In February 2009, FSIS inspection personnel assigned to livestock slaughter establishments were required to complete refresher training on the Agency's humane handling policies. This training included information on how to determine insensibility, documenting noncompliance, and suspending inspection for egregious situations. FSIS is planning further workforce training activities related to humane handling for FY 2010.

FSIS has a collection of management controls and accountability mechanisms it uses in order to ensure that its personnel are properly enforcing HMSA and its associated regulations. Supervisory personnel at slaughter establishments conduct performance reviews at least twice annually on all aspects of inspection personnel performance, including humane handling. When the DVMS performs the formal review of establishments, corrections with inspection personnel occur at that time, as needed. In addition, FSIS produces a national report on humane handling on a quarterly basis, which compares districts according to humane handling procedures

performed, noncompliance records, suspensions, and time spent on specific humane activities, as recorded in the Humane Activities Tracking System (HATS), a nationwide database that provides FSIS with an accurate and complete accounting of the time spent by FSIS inspection program personnel performing HMSA verifying activities in nine specific categories related to humane handling and slaughter. The DVMS reviews noncompliance records and suspension documentation immediately, and other data on a regular basis.

Recent Steps

There are a variety of steps that FSIS has recently taken to ensure compliance with HMSA, as well as actions we will be taking in the near future to make our enforcement of HMSA as effective as possible. FSIS continues aggressive hiring and the maximum use of recruitment and retention authorities.

Consistent with directives established in the fiscal year (FY) 2010 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, FSIS devoted approximately 140 full-time equivalent (FTE) staff years to the verification and in-plant enforcement of humane handling requirements at slaughter establishments in 2009.

In addition, FSIS recently added an additional 23 inspection positions, and assigned them to higher-risk establishments in order to boost humane handling oversight and verification inspection activities at those locations. FSIS is also working diligently to fill the newly created position of Humane Handling Enforcement Coordinator. The Coordinator is a headquarters-based position, primarily responsible for providing consistent oversight of the field level humane handling activities. In addition, this individual will play a key role in the various humane handling enforcement and verification activities that I have described in my testimony.

FSIS recently created a new scoring verification tool, called the "Humane Handling and Slaughter Verification Tool" to DVMSs; and on December 7, 2009, included it as part of FSIS Directive 6910.1, Revision 1. While this scoring tool is not used by DVMSs for purposes of regulatory action, it is designed to create an objective system that will facilitate the DVMS' determination of whether there are problems in the establishment's humane handling and slaughter system that the establishment needs to address. The tool allows DVMS to record ante mortem observations, such as the number of times livestock slip and fall while proceeding through the stunning chute area or the number of times an electric prod is used on the animals. Percentages are calculated and compared to minimum acceptable scores as suggested by Dr. Temple Grandin. FSIS conducted training on the scoring tool in August 2009.

Since the events at the Hallmark/Westland establishment in 2008, FSIS has made numerous efforts to strengthen and improve its verification and enforcement related to HMSA. One of the major measures taken since the start of the new Administration was the issuance of a final rule in March 2009 to amend federal meat inspection regulations to require a complete ban on the slaughter of cattle that become non-ambulatory disabled after initial inspection by FSIS personnel. In addition, FSIS issued a notice to its inspection personnel in 2009 that reminds and instructs Public Health Veterinarians (PHVs) and other inspection personnel to conduct humane handling activities randomly throughout their shift. The notice also directs PHVs to encourage establishments to develop and implement a systematic approach to humanely handle livestock. PHVs will regularly verify that establishments are following their plans.

FSIS will significantly strengthen its analysis of humane handling data this year. In an effort to dramatically improve our data collection and analysis, FSIS will launch the Public Health Information System (PHIS) later this year. PHIS will enhance FSIS' data infrastructure

through the integration of a variety of relevant data streams, including data collected in HATS. PHIS will allow FSIS to provide ongoing, real-time assessment, analysis and surveillance of public health, food defense, and humane handling data.

In the near future, FSIS intends to issue compliance guidelines to industry for the use of video or other electronic monitoring or recording equipment, in response to USDA's Office of the Inspector General (OIG) recommendations, and will seek public comment on the guidelines. FSIS encourages establishments to consider using such monitoring as part of an overall systematic approach to maintaining humane handling and compliance with regulatory and statutory requirements.

Industry Compliance with HMSA

As requested by the Chairman, I would like to discuss the industry's compliance with HMSA. It should be noted that only approximately 800, or less than 20 percent, of federally-inspected establishments slaughter livestock and thus are subject to HMSA. As mentioned previously, FSIS personnel have a continuous presence in these establishments, and carry out inspection of all livestock at each federally-inspected slaughter establishment. In addition to the regular ante-mortem inspection of all animals, FSIS inspection program personnel in all livestock slaughter establishments conduct routine daily verification activities in nine categories for plant compliance with humane handling laws and regulations. Examples of the categories include: truck unloading, electric prod use, and stunning effectiveness. Inspectors record the amount of time it takes to conduct these activities into HATS. FSIS projects that in FY 2010, in-plant personnel will spend the equivalent of 140 staff years, or 291,200 person-hours, verifying humane handling activities at livestock slaughter establishments. These activities are in addition

to the many hours of time FSIS spends on ante-mortem inspection, when HMSA violations can also be observed and acted on.

When humane handling violations are observed during an inspection, FSIS personnel can initiate one of two regulatory actions at their disposal (suspension, and issuing a noncompliance record), depending on the situation observed. Noncompliance records for humane handling may be issued when the violation observed is less than egregious, such as observation of broken fencing that has the potential for causing injury to penned or driven animals.

In calendar year (CY) 2009, FSIS in-plant personnel conducted 128,417 humane handling verification procedures at federally-inspected livestock slaughter establishments. Only 0.4 percent of these procedures resulted in the issuance of noncompliance records for humane handling violations.

In addition, when FSIS inspection personnel do observe egregious humane handling violations, they take immediate action to issue suspensions. A suspension effectively shuts down all or part of a plant's operations. In CY 2009, inspection personnel issued 87 suspensions for egregious humane handling violations. Of these suspensions, 71 were initial suspensions, and as a result of corrective actions taken by the establishments, did not require suspensions to be reinstated by FSIS.

2008 OIG Audit

Following the events that occurred at the Hallmark-Westland establishment in 2008, USDA's OIG conducted an audit to determine what inspection controls and/or processes broke down at Hallmark-Westland including those for humane handling, and whether the events that took place there were isolated or systemic. The OIG found that "the events that occurred at

Hallmark were not a systemic failure of the inspection processes/system as designed by FSIS." OIG did determine that FSIS' management controls demonstrate that the sufficiency and competency of its personnel resources were in need of strengthening, and made numerous recommendations.

Although OIG found that the incidents at Hallmark-Westland were not an example of a systemic problem in enforcement, the Agency has nevertheless increased its enforcement of HMSA significantly. Our response to this, I believe, is another demonstration that the Agency takes inhumane handling of livestock very seriously, and is looking for effective ways to strengthen its humane handling program.

FSIS is continuing to complete corrective actions in response to the recommendations made in OIG's audit report. OIG and FSIS are in agreement on all of the corrective actions needed in response to all of the audit recommendations, and we are working to implement these actions. Of the four recommendations related to humane handling issues, three recommendations have been closed, as a result agreed-upon corrective action. These actions include: 1) instructions and additional guidance provided to DVMSs regarding work methods they must use when conducting their humane handling reviews at establishments; 2) analysis of noncompliance rates at establishments that slaughter other market classes of adult cattle; and 3) development of the first quarterly humane handling report for CY 2008. The fourth recommendation asks FSIS to determine whether FSIS-controlled in-plant video monitoring would be beneficial in preventing and detecting animal abuses at cull cow slaughter establishments. We expect it to be closed soon, as a result of the upcoming the publication of an FSIS Directive and a guide for industry regarding video monitoring by establishments to ensure compliance with HMSA requirements.

Similar to its response to OIG's recommendations, I can assure you that FSIS will take the necessary actions to respond to those presented in GAO's most recent audit report. I want to be clear that FSIS appreciates the recommendations from GAO, which builds on the considerable work already being done by FSIS to improve our performance in verifying humane handling at slaughter establishments.

Comments on the GAO HMSA Report

In the fall of 2008, the GAO began a review of FSIS' enforcement of HMSA. Throughout the duration of the review, FSIS worked with the GAO to provide an accurate picture of the Agency's enforcement of HMSA. On behalf of the Agency, I would like to thank the GAO for its efforts to work with us during its investigation and for giving us the opportunity to provide comments on the report.

As can be seen by the above examples of FSIS' enforcement of HMSA, it is clear the Agency is committed to the proper enforcement of HMSA and is constantly improving upon its efforts to ensure that establishments comply with the law and FSIS' humane handling regulations. Thus, the Agency will consider the GAO's findings and recommendations carefully as we strive to improve and evolve. FSIS does recognize the need to improve our inspectors' ability to identify trends in humane handling violations, a weakness that is repeated throughout the report. The Agency will need to work with academia, industry, non-profit organizations, animal health experts, and our workforce to identify practices that will achieve more consistent enforcement of HMSA.

That being said, it should be mentioned that FSIS disagrees with several of the components that were contained in the draft GAO report that FSIS reviewed. We believe that

several of these points of disagreement could result in a misleading portrayal of FSIS' enforcement of HMSA. These points are contained in our complete response to the GAO report, which I have included as an addendum to my testimony.

We agree with GAO that FSIS ought to adopt a numerical scoring system for verification of compliance with humane handling requirements. In fact, as I stated earlier, such a verification tool was provided to FSIS DVMSs in December 2009.

As part of its review, the GAO conducted a survey of FSIS inspection program personnel, from which it drew many of its findings and recommendations. Through this survey, the GAO concluded that there are inconsistencies in the enforcement of HMSA, as inspection program personnel answered the survey questions on what regulatory actions they would take for the various examples of HMSA violations very differently.

While we respect GAO's effort to capture a true picture of the knowledge and understanding of humane handling rules by our frontline inspectors, it's important to say that an accurate understanding of HMSA enforcement must consider both the qualitative and quantitative standards that are applied to observations of humane handling practices. The statute and regulations are enforced through the observation of individual events of handling and slaughter practices, which can vary significantly depending on the specifics of an establishment and the situation in question. It can be very difficult to establish definitively which of the two regulatory actions at the disposal of an FSIS inspector (suspension, and issuing a noncompliance record) should be utilized, without knowing the history, context, and situation observed by FSIS inspection personnel.

It is important to note that there was consistency in the survey responses in that FSIS personnel did know that each situation required action. So while inspection program personnel

differed on the type of action they would take, they all agreed they would take action. This is a key point that should not be overlooked; FSIS field personnel know when to take action and they do take action.

FSIS has very clear guidance in place on how to implement suspensions for egregious humane handling violations, which carries authority equivalent to an FSIS directive. According to FSIS Notice 21-09, "if the observed inhumane treatment is of an egregious nature, the regulations at 9 CFR 500.3(b) apply. The Notice provides our inspectors 10 examples of egregious situations. For example, "making cuts on or skinning conscious animals, dragging conscious animals, driving animals off semi-trailers over a drop off without providing adequate unloading facilities (animals are falling to the ground), or leaving disabled livestock exposed to adverse climate conditions while awaiting disposition."

The regulations state, "FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely." Therefore, the inspector-in-charge (IIC) is to take an appropriate regulatory control action to prevent continued egregious inhumane handling and orally notify plant management of an immediate suspension action.

Bushway Packing Inc.

Before I close, I would like to briefly comment on the abuse of veal cattle at the Bushway Packing Inc., establishment captured by the Humane Society of the United States in a video released on October 30, 2009. Secretary Vilsack, in a statement issued the same day, stated that "The deplorable scenes recorded in the video… are unequivocally unacceptable," and that the "behavior of FSIS and establishment personnel witnessed in the video is inexcusable." The Agency took immediate action in response to the incident. The Secretary called on USDA's

Office of Inspector General to conduct a criminal investigation, which remains under way. FSIS suspended operations at the Bushway Packing establishment, which remains in effect today, and subsequently filed formal administrative proceedings regarding the suspension. FSIS also initiated an investigation into the alleged misconduct by Agency personnel and has, to date, terminated one employee. Again, I want to assure the Subcommittee that the Agency takes humane handling violations very seriously, and takes immediate action when violations are observed.

Conclusion

Chairman Kucinich, Ranking Member Jordan and members of the Subcommittee, I would like to reiterate that the Agency is committed to ensuring that our livestock are humanely handled, and committed to the enforcement of HMSA at federally-inspected establishments. We must always seek improved performance and we value the opportunity to discuss developments that could enhance our enforcement of the Humane Methods of Slaughter Act.

I would like to thank the GAO for its review of FSIS' enforcement of HMSA, and for giving the Agency an opportunity to comment on its report. The Agency appreciates this review, and considers the GAO's survey results, among other reviews to be essential in our continued efforts to improve HMSA verification and enforcement.

Thank you, Chairman, Ranking Member and members of the Subcommittee for your concern about this important topic and for this opportunity to appear before you today and testify. I look forward to your questions.

Mr. KUCINICH. Thank you, Mr. Mande.

Dr. Wyatt, you may proceed.

STATEMENT OF DEAN WYATT

Dr. WYATT. Good afternoon, Mr. Chairman, Mr. Ranking Member, distinguished members of the committee. Thank you for having me here today.

I am speaking on behalf of myself, and I am not speaking on behalf of the agency.

People ask me, Dean, why in the world would you risk ruining your career by going to Washington and testifying before Congress. I would tell them a favorite quote of mine Abraham Lincoln once said: to sin by silence when one must protest makes cowards of men. When we turn our back on the helpless, when we fail to speak on behalf of the voiceless, when we tolerate animal abuse and animal suffering, then the moral compass of a just and compassionate society is gone.

I do feel like Don Quixote here a little bit because I have been in the battle. I have been in the trenches. I have the dents in my armor. But the dents in my armor have not come from plant management; the dents in my armor have come from FSIS management. They should have been my shield. They should have been my protector.

I am a law enforcement officer. I am a public servant. I have dedicated my life to the enforcement of the Humane Slaughter Act and in food safety. And I like to think that I am not here only speaking on behalf of myself, but I also like to think that I am also speaking on behalf of hundreds of very committed, dedicated, courageous food inspectors and veterinarians who are frustrated, demoralized because they don't receive the support that they need from their supervisors.

If I had more time I would tell you about how I observed a pig slipping and falling—several pigs, actually—slipping and falling because they were being driven too fast, too hard on a slippery surface. District office called me. They chewed me out. They said they would not support my NR. I was going to be demoted to a non-supervisory position for 2 weeks.

I would tell you about an angry animal handler who was bludgeoning a pig over the head and nose several times with a paddle simply because it was down and could not get up. It couldn't get up. It couldn't get out the door. Myself and the other veterinarian on duty were given a letter of reprimand for trying to enforce the law.

I would tell you how the district office called me, told me to drastically reduce the amount of time I spent on humane handling enforcement because I was finding too many problems.

I called my supervisor 1 day because I had a humane handling issue and I wanted to talk to him about it, and he said that I needed to document that on an NR, which I did, draft NR. As the draft NR reached the district office, then they had a fit. They berated me on the phone for half an hour. The whole management staff of the district office, they said there was no way I could have seen what I actually did see. In the end, they told me I either had to transfer, I would be terminated. I was told to immediately leave the plant,

to never come back. I was supposed to report for duty the next day at a graveyard shift at a poultry plant in Arkansas.

I cover calf slaughter operations. I covered Bushway's. On three separate occasions I suspended inspection operations for egregious humane handling events only to have that plant reopen, operations continue.

You have to realize, these are baby calves. They are typically 1 to 7 days old, and they are trucked for long distances away, and they come injured. They are weak. They are dehydrated. They haven't been fed in who knows how long. They have been at a sale barn. They have been trucked maybe a day. Who knows how long? And so they are weak and they are down and they are injured and they can't get up.

I have seen an angry animal handler swear at these cows, pick up a downed calf. He would throw it like a football off the second tier of a trailer. I have seen them drag them by the hind leg down an unloading ramp. I have seen them drag them across holding pens.

Not only are they trucked long distances, but sometimes they are held overnight, and it always broke my heart. I would have to come to work the next day. Plant employees would be carrying in the dead bodies of these baby calves because they died of dehydration and starvation.

I had a district office official come to my plant and he told the plant manager they had to reduce the size of the stunning area because they were chasing the calves around with the stunner and it is easy to mis-stun these calves. The plant manager, the owner of Bushways, got very angry. He yelled at the district veterinary medical specialist. He was doing the review. He said no, I'm not going to do it. You can't make me do it. I won't do it. DVMS told inspection personnel to disregard that regulation. Nothing was done.

We do need an ombudsman's office where we can go that people will actually listen and care. We need whistleblower enhancement laws. We need more field inspectors. But most of all, we need the support of upper level management so we can fulfill our mission.

Thank you very much.

[The prepared statement of Dr. Wyatt follows:]

Statement
Of
Dr. Dean Wyatt
FSIS Supervisory Public Health Veterinarian
Williston, Vermont

Domestic Policy Subcommittee
Oversight and Government Reform Committee

2154 of the Rayburn House Office Building
Thursday, March 4, 2010
2:00 p.m.

"Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act."

My name is Dr. Dean Wyatt. I am a supervisory public health veterinarian for the Food Safety and Inspection Service (FSIS) of the USDA. I have served the Agency and the public for over 18 years and have received numerous cash performance awards. I am speaking today in my individual capacity, and not on behalf of USDA. I am very grateful for the opportunity to testify before the subcommittee today, and I am especially grateful to Chairman Kucinich and his staff for their support in my efforts to blow the whistle.

I graduated from the College of Veterinary Medicine at Iowa State University. I have had my own private practice. I ultimately followed in my father's footsteps and became a FSIS Public Health Veterinarian. My father died at a very young age, having contracted cryptococcosis – a highly fatal fungal disease – from a turkey slaughter plant at which he performed inspection services. Public service is in my blood.

People have asked me why I would risk ruining my career by testifying. I would respond by quoting Abraham Lincoln who said "to sin by silence, when one must protest, makes cowards of men." I am not a coward…and I will not be silent. I truly believe that the USDA inspector is the only advocate animals have in slaughter plants. When we turn our backs on the helpless, when we fail to speak on behalf of the voiceless, when we tolerate animal abuse and suffering, then the moral compass of a just and compassionate society is gone.

I must admit that I feel somewhat like Don Quixote here because I have been in the trenches, I have fought the battles, I have the dents in my armor – only the dents in my armor have not come from plant management, they have come from upper-level FSIS management.

I am a law enforcement officer. The public has entrusted me to enforce the Humane Methods of Slaughter Act and the Federal Meat Inspection Act. The law is in place and regulated

establishments must be held accountable when they break the law. When upper-level FSIS management looks the other way as food safety or humane slaughter laws are broken, or, as has been my experience, retaliates against people who are enforcing those laws, then management is just as guilty for breaking those laws as are the establishments. The laws are there. The enforcement of those laws – in my experience – has not been there and, in fact, has been willfully ignored by well-paid public officials. I cannot emphasize this fact enough – public servants like me who take our public trust very seriously and who may even endure personal trauma in order to fulfill that trust are being thwarted in our law enforcement efforts by people who have taken that same public oath to enforce the law. It seems almost unbelievable to me, but I have been ignored by my own people and have suffered physically, emotionally, and financially in the process. More importantly, animal welfare and food safety have suffered as well.

My experience at Seaboard Farms

In March 2007, I was transferred to Seaboard Farms, a large hog slaughtering and processing establishment located in Guymon, Oklahoma. I was the night shift FSIS supervisor and my job was to oversee the enforcement of food safety and humane slaughter regulations for my shift. From almost the start of my tour there, I found numerous violations of the Humane Slaughter Act by the establishment. As I continued to raise concerns about problems at the plant, Seaboard began appealing my decisions to both my immediate supervisor and to District Office officials in Springdale, Arkansas who had never met me. FSIS officials who were hundreds of miles away simply took company personnel at their word that the egregious events that I personally witnessed did not justify my actions. A high-ranking FSIS official even went so far as to write a letter to Chairman Kucinich claiming that I was "incompetent" when the Congressman's office inquired into allegations I had raised. All the events that I have listed in this testimony are very well documented and I will briefly describe them here:

Event 1:
May 23, 2007: I observed conscious pigs on the conveyor belt; some were moving and one was blinking and breathing regularly. As I stopped by the leg shackle station, a plant employee pointed at the blinking pig, indicating that he knew the pig was conscious, yet the pig was shackled and its neck was slit while it was awake. I suspended inspection operations and documented the event on a non-compliance report (NR). The plant did not appeal this NR to the FSIS district office.[1]

[1] FSIS Notice 12-05: **VI. EGREGIOUS NONCOMPLIANCE**: Noncompliances involving injury or inhumane treatment of an egregious nature warrant immediate enforcement in accordance with 9 CFR 500.2 and 500.3, including suspension of inspection. As stated in FSIS Directive 6900.2, Revision 1, if there is an egregious situation of inhumane handling or slaughter, the Inspector-in-Charge (IIC) is to immediately suspend inspection in accordance with 9 CFR 500.3(b) and orally notify plant management of the suspension. In such situations, the IIC is to immediately notify the District Office (DO) for prompt documentation of the suspension action. An egregious situation is any act that is cruel to animals or a condition that is ignored and leads to the harm of animals such as: making cuts on or skinning conscious animals)

Event 2:
August 4, 2007: I found pigs already shackled on the slaughter line that were awake and kicking rapidly. They were being stuck with a knife and I verbally ordered the plant to stop operations.[2] I went to the USDA office to obtain official USDA reject tags to place on the stunning chambers. When I returned to the area, pigs were still being processed despite my suspension order. After tagging the machinery, I wrote an NR detailing my findings, which included an admission from a stunning foreman that there were many pigs being shackled and stuck who were conscious. Workers were trying to use a captive bolt stun gun on the pigs as they moved swiftly upside down along the "bleed line" – an indication that the Seaboard workers were aware that the animals were conscious.

District Office response:
The establishment appealed my NR and its appeal was granted by the District Office. The FSIS district office claimed that I was not close enough to have seen what I saw. The district office never talked to me before granting the appeal – completely accepting the establishment's version of events. One of the FSIS supervisory inspection personnel at the plant wrote a letter to my supervisors protesting the fact that FSIS management had granted Seaboard's appeal. Even the plant's violation of my suspension order was ignored and never addressed by my supervisors.

Event 3:
February 27, 2008: I observed pigs being aggressively unloaded from a double-decker truck by a plant employee using a paddle to run the pigs as fast as he could off the truck. The unloading door was only wide enough to handle one pig at a time and at least five pigs went down at the bottom of the unloading ramp, while other pigs, still being driven aggressively off the truck, were trampling the prone animals who were vocalizing and being crushed by the weight of those animals coming off the truck.[3] I notified plant management that I was suspending inspection operations and that they were to cease all activity. The ante-mortem public health veterinarian, Dr. Deena Gregory, also specifically told plant management to suspend all operations. I instructed Dr. Gregory to reject the truck unloading area. Rejection tags identify the area at which the violation occurred and make it clear to plant personnel that operations at that point forward are to cease until the rejection tag is removed. The plant management told me that it was "normal" for pigs to pile up and that I needed to use common sense. Dr. Gregory then told me that Seaboard had continued unloading pigs throughout the entire period of the suspension, again deliberately and willfully ignoring a federal law enforcement official's order.

District Office response:
The District Office put the plant's suspension in abeyance and allowed it to resume operations, at which point I removed the rejection tags from the stunners. I notified the District Office that the plant had ignored the suspension – a serious violation – but nothing was done to Seaboard even though this is a serious infraction and violates FSIS authority and USDA regulations and policy. Instead, in a telephone call the next day, inspection personnel were chastised and blamed for the

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[2] *Id.*
[3] FSIS Notice 12-05: **Category II - Truck Unloading:** Inspection program personnel must record their verification of the establishment's humane handling procedures while unloading livestock. An example of verification procedures include observing that the proper positioning of vehicles and unloading ramps permits the unloading of animals without injury [9 CFR 313.1(b)].

bad actions of the plant. After this event, Seaboard installed huge rubber partitions at the unloading door. In addition, transport trucks arrived with the large removable panels installed on the sides of the truck despite the fact that it was unseasonably warm. These rubber partitions and truck panels prevented FSIS personnel from viewing what was happening inside the trucks and during the off-loading. I informed the District Office of Seaboard's actions and was told that there was nothing that I should do about it, even though unloading of animals is known to be a critical point for carrying out humane handling inspections.

Event 4:
March 6, 2008: At 11:40 p.m., Dr. Gregory observed an employee become frustrated and then angered by a pig that had gone down in the truck with his rear facing the unloading ramp. The Seaboard employee hit the animal hard in the face and nose 8-12 times. Dr. Gregory did not report this to me until almost two hours later, at which time I informed the plant's operations manager and stunning foreman that the plant was under suspension for the humane handling violation. I called the District Veterinary Medical Specialist (DVMS), Dr. David Ganzel, who told me that there was nothing that I should do since it had not been addressed immediately. I informed Dr. Ganzel that I was not going to take the risk of being fired because I failed to address an egregious humane handling event.

District Office response:
Dr. Ganzel spoke to Dr. Gregory as she was composing the violation documentation, and he was angry that the event had been classified as "egregious" because he considered it acceptable to hit a pig over the head and nose. Dr. Gregory and I were given a letter of reprimand (instruction) as a result of our attempts to enforce the humane handling laws.

Event 5:
March 26, 2008: I observed two pigs slip and fall on the incline ramp leading to the area just before the animals are put into the gas chamber. One of the pigs fell on his hind legs and the other pig lost his footing altogether. The plant employee driving the pigs up the ramp did not allow the fallen pigs to recover their footing, but continued to drive other animals around them. I rejected the area and immediately called Dr. Ganzel. Instead of supporting my decision, Dr. Ganzel asked me what I expected the plant to do about the slipping and falling. I stated the obvious – that, per regulations, the pigs should not be slipping and falling (proper flooring and sanitation are supposed to prevent this), and the plant employee should not continue to drive other pigs around the fallen animals.[4] I wrote an NR to document the event and asked Dr. Ganzel if it was acceptable. He approved it for submission.

District Office response:
The following day, I was again chastised by the District Manager and told that they would not support my NR. I was told to drastically cut back on the amount of time that I was spending on humane handling enforcement. I was also notified that I would be demoted to a non-supervisory position for two weeks, a move meant to break my spirit and resolve to enforce regulations.

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[4] FSIS Notice 12-05 **Category VII - Observations for Slips and Falls:** Under this category, inspection program personnel record time spent observing whether any animals are slipping and falling. The observance of animals slipping or falling necessitates inspection program personnel to verify the following: presence of flooring that provides adequate footing [9 CFR 313.1 (b)]

These were traumatic times for me, but even after these retaliatory incidents, I still felt it was my duty to identify infractions of the law and address them.

Event 6:
On April 25, 2008, Seaboard was operating under a suspension held in abeyance because of two egregious humane slaughter violations that had occurred shortly before my shift. I was observing pigs being unloaded.[5] Again, the pigs were being unloaded too fast, with pigs falling down and others being driven on top of them. I informed the plant official, and he replied "I don't think that they are being unloaded too fast," and did nothing. After a few more minutes of observing this and seeing no corrective action taken, I went to another plant employee and told him that the problem must be corrected. He was responsive and took action. I documented this sequence of events in an email and sent it to the inspector-in-charge (IIC), Dr. Evan Sumner. Dr. Sumner told me to inform the frontline supervisor, Dr. Kevin Ehlers, about the unloading problem. Dr. Ehlers told me that I needed to document the event on a non-compliance report and to call the District Veterinary Medical Specialist – Dr. David Ganzel, which I did. Dr. Ganzel also agreed that a non compliance report should be written.

District Office response:
Regardless of the fact that my immediate supervisors had approved the filing of an NR concerning the unloading incident, I was informed by Dr. Sumner the following Monday that I was to call Dr. Endersby, the District Office manager. With her on the call were the two assistant District Managers, the Frontline Supervisor, and the District Veterinary Medical Specialist. Dr. Endersby told me that there was no way I could have seen what I did indeed see during the truck unloading. She berated me for several minutes. Dr. Endersby then told me that I either had to transfer or I would be terminated. I was told that I would have to transfer to a graveyard shift at a poultry plant in Batesville, Arkansas. I was to leave the plant immediately and to never come back.

These episodes at Seaboard served to greatly undermine the authority and effectiveness of all inspection personnel, not only in that plant but throughout the district. Field inspectors could see what had happened to me simply because I was doing my job. They did not want the same thing to happen to them....Why would they risk their jobs by writing too many non-compliance reports?

It also served to embolden plant management. They knew that they could greatly push the line in the areas of humane slaughter enforcement and food safety and get away with it. After the District Office failed to support my NRs, the plant foreman snickered and laughed when I walked by. At one point, I took over to give a line inspector a break at the rail inspection station; a plant foreman came up beside me and told the meat trimmer in a loud voice so that I could hear, "This guy doesn't know anything. Don't trim what he tells you, just trim what you see."

[5] FSIS Notice 12-05 **Category II - Truck Unloading:** Under this category, inspection program personnel record their verification of the establishment's humane handling procedures while unloading livestock.

My experience at Bushway

Because of my long tenure in FSIS, I was able to avoid being forced to transfer immediately to the graveyard shift at a location selected unilaterally by the District Office. I eventually transferred to Western Vermont, believing that there would be no way that I would see the same sort of violations as at Seaboard. However, I soon encountered inhumane handling practices at Bushway Packing and other slaughter plants, and experienced the same lack of support from FSIS management in yet another District Office.

Rifle stunning is commonly used in New England. FSIS regulations require immediate unconsciousness with a single bullet.[6] Yet, I have seen cows shot multiple times in the head, thereby enduring unrelieved and needless suffering while plant management looked on until finally a properly placed bullet brought about death. After witnessing just such an event – a cow was shot once near her eye, again in her nose, and was still standing, fully conscious, and obviously suffering – I notified plant management that they were under suspension for an egregious humane slaughter violation. I called the District Office and my immediate supervisor. I was told by FSIS management to only document the event on a weekly meeting letter and not to even write an NR on the issue.

At Bushway, a calf slaughtering facility in Vermont, newborn male calves are typically brought in at one to seven days old. They are often trucked from long distances away, ten or twelve hours or more, and they often arrive injured, weak and dehydrated. As a result, calves may arrive "downed" and unable to get up.

I have suspended government inspection operations three times at Bushway for egregious humane handling events. And each time the district office allowed the plant to re-open and to continue operations. I witnessed animal handlers at Bushway grab a downed calf by a hind leg and drag him down an unloading ramp. Another calf was dragged through the holding pens. Dragging any non-ambulatory animal is against regulations. During another delivery, a handler swore at a downed calf and threw him off the second tier of the hauling trailer like a football. I wrote MOIs for all three of these inhumane handling events.[7] In the case of the calf thrown to the lower level of the truck, the district office softened and diluted my written report of what happened, changing the significant word "thrown" to "dropped."[8] The District Office even deleted the fact that the calf handler was cursing angrily at the animal that could not rise. Cursing angrily at newborn animals that are in a weakened condition is something that could and should

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[6] FSIS Notice 12-05 **Category VIII - Stunning Effectiveness:** Under this category, inspection program personnel record their verification of the establishment's procedures to appropriately and effectively administer stunning methods that produce unconsciousness in the animal before the animal is shackled, hoisted, thrown, cast, or cut (9 CFR 313.2 (f). In the case of cattle, calves, horses, mules, sheep, goats, swine and other livestock, all animals are to be rendered insensible to pain by a single blow or gun shot or an electrical, chemical, or other means that is rapid and effective. Failure to properly stun animals is a serious violation of the Humane Methods of Slaughter Act (HMSA) and represents a deficiency in training, equipment design, maintenance, or application.

[7] *Id.* at 1 (An egregious situation is any act that is cruel to animals or a condition that is ignored and leads to the harm of animals such as: dragging conscious animals).

[8] *Id.* at 1 (An egregious situation is any act that is cruel to animals or a condition that is ignored and leads to the harm of animals such as: driving animals off semi-trailers over a drop off without providing adequate unloading facilities (animals are falling to the ground).

be addressed. Often animals are mishandled because of misdirected anger and frustrations and these impulses need to be controlled in a job where humane handling is required.

On another occasion, the District DVMS came to the calf plant and noted that the stunning pen was too large and that there was a risk of mis-stunning the calves, as the person operating the large stunning device would often have to pursue moving calves while trying to make contact with their skulls. The size of the stunning floor also allowed too many calves to be stunned at one time, increasing the likelihood that the last calves to be shackled could regain consciousness. The DVMS told the plant manager that he had to reduce the size of the stunning area. The plant owner became very angry and said he would not do it. In response, the DVMS told us to disregard the size of the stunning area and to not enforce that regulation.

Calves arriving at Bushway after slaughter hours were destined to spend yet another 12-18 hours without food, when already they had been deprived of sustenance for perhaps days, since they were usually removed from their mothers immediately after birth. Sometimes calves are held overnight and it always broke my heart that employees would carry the bodies of these dead baby calves out of the pen because they died of dehydration and starvation. This should be considered inhumane handling.

Most likely through someone in my own agency, the plant manager at Bushway Packing in Grand Isle Vermont found out about my experience at Oklahoma and wanted me kicked out of his plant. In the middle of all the humane handling suspension actions at Bushway that I've mentioned above, the owner filed formal complaints against me implying that I was harassing him, when I was only doing my job. Suddenly, I was ordered by my FSIS supervisors to go to training for new Public Health Veterinarians, which took me out of the plant for three weeks. Again – an effort at retaliation for doing my job. I strenuously objected to this ridiculous order that was not only an insult but a waste of taxpayer money.

The turning point for me was when The Humane Society of the United States (HSUS), unbeknownst to me, hired an undercover investigator to look into my allegations of wrong doing at Bushway Packing. The video documentation produced by this investigation confirmed the gruesome humane handling violations that I was witnessing and documenting by way of noncompliance reports at Bushway. In fact, the video showed even more egregious events than I had been aware of and, in fact, showed footage of one of my subordinates telling plant personnel to only engage in violations when I was not present because otherwise "Doc (referring to me) would shut the plant down."

As a result of the HSUS undercover investigation, I have had conversations with high-level USDA officials who listened to my concerns and have expressed a willingness to make changes in the current system. Operations at Bushway have been suspended and USDA officials are working with law enforcement officials to investigate the misconduct seen on the video. I am glad that after a long struggle, my disclosures have finally been corroborated. However, I am the exception. Food integrity and humane handling whistleblowers should not have to rely on an undercover video investigation in order for USDA supervisors to take their disclosures seriously.

As a result of my contacting advocacy groups, I am closer to achieving my dual goals of shedding light on humane handling issues and assuring that Public Health Veterinarians and inspectors are given the necessary support they need to adequately enforce the provisions of the Humane Slaughter Act. I am sincerely grateful for the opportunity to speak before Congress as both an advocate for animals and as an advocate for PHV's and inspectors who are charged with enforcing the Humane Slaughter Act. I would like to use this opportunity to propose several recommendations that will allow FSIS personnel to better protect our food integrity and to prevent the types of egregious humane handling violations that I saw at Bushway and Seaboard from happening again.

Recommendations

Staffing:
It is essential that FSIS is adequately staffed in order to allow USDA to ensure the integrity of our food supply, including humane handling. FSIS employees in the field have a very difficult job. Their main focus in slaughter plants is on performing livestock carcass inspection procedures, and they keep receiving additional duties – more testing, more reporting, more record keeping, more record reviews, more meetings with plant management, etc. FSIS staffing is such that field employees simply do not have adequate time to ensure proper humane handling along with all their other important responsibilities. This was a big problem at Bushway Packing. The inspector spent ninety-nine percent of his time doing carcass inspections and was unable to do his humane slaughter and other duties properly. The plant management loved this. The inspector told me once, "Frank Perretta [the plant manager] loves the fact that I am on the line all the time – I don't have time to snoop around!"

Even when FSIS employees do manage to spend a small amount of time on humane slaughter enforcement, the plant management always knows when the inspector is doing humane handling inspections because the slaughter line is stopped. Plant management knows what is proper and not proper. With the exception of the Bushway plant, managers will usually refrain from violating regulations when they know the FSIS inspector is watching. This points to the need for an FSIS inspector who is devoted to humane handling inspections.

There are other problems relevant to staffing that need to be addressed. New veterinarians are hired using recruitment bonuses, which has caused some frustration with established PHVs. New veterinarians are being hired with the understanding that a substantial percentage of their student loans will be paid back; in addition, a large bonus will be paid to them over a four year period. Established veterinarians who have spent their whole lives in public service receive nothing along these lines.

Also related to salary disparity – each district office has several Enforcement Investigative Analysis Officers (EIAOs). These officers do food safety assessments in plants – basically reviewing written plant records to check for compliance with regulations – and they also help with recall actions. EIAOs have no supervisory duties and most have never been a supervisor. The only qualifications are that they have a high school diploma and thirty online credit hours in a science-related course. Sometimes, these EIAO officers are asked to write humane slaughter verification plans when they have had no humane slaughter enforcement experience. Public

Health Veterinarians have a doctorate degree and they have extensive supervisory duties, they conduct critical post-mortem examinations on often dozens of animals each day and make food safety disposition decisions. PHVs also deal with Labor-Management issues, supervise complex HACCP (Hazard Analysis and Critical Control Point) programs in slaughter plants, and perform extensive humane slaughter enforcement duties. Yet PHVs receive the same amount of pay as the EIAOs. This has been a big source of frustration in the field – experienced PHVs feel under-appreciated and under-valued.

I would also like to suggest that plant management should be required to go through accredited humane handling training.

Whistleblower Protection

FSIS personnel need to know that they will not lose their jobs or suffer retaliation if they report misconduct, abuse of power or illegal activity. Whistleblower laws need to be strengthened, and agency officials must do everything possible to support personnel who report such problems, as it is in the interests of the agency and the public to know and address these problems.

Ombudsman

There is a disconnect between upper-level FSIS management and field inspection personnel. In all my years of service, I have never seen a Washington official or a district manager or deputy district manager visit a plant in the field. Personally, although I have been to the District Office five times, I have not met the district manager or two deputy district managers. These interactions are important to build camaraderie and support.

An ombudsman's office should be established so field inspectors have a place to go where they can report problems when they are not being supported by their supervisors. They need someone who will really listen to them, care about what they are saying, and actually try to have problems rectified. Such a position would be extremely valuable not only in terms of humane slaughter enforcement, but also for public health and food safety. Bushway Packing had serious food safety issues in addition to its humane handling problems – the two often go hand-in-hand.

MOI and NR

FSIS staff are required to record and document violations of any regulation on a non-compliance report (NR). The daily tasks are displayed on the computer and if there is a non-compliance, then it is entered into the computer system (PBIS) and inspectors in other plants can access these NRs. Also, each NR has to have corrective actions documented by plant management. These are permanently put into place and the plants are held accountable for implementing and enforcing them. In addition, NRs are accessible to the public through FOIA requests.

Ironically, egregious violations are not documented through the transparent NR system. After the Westland/Hallmark episode in California, the Agency started documenting egregious humane handling events only on a Memorandum of Interview (MOI) system. These are not documented as being a non-compliance in the establishment's PBIS system; the computer shows that everything is ok when in reality it is not. These MOI's cannot be accessed by other inspectors in other plants. Moreover, with the MOIs, the plant's corrective actions are documented on a verification plan system. The verification plan corrective actions are required to be performed

during the time the suspension held in abeyance is in place but, contrary to a NR, they can be dropped once the suspension is lifted. For example, if there was a problem with truck unloading and the plant's verification plan required a plant monitor to monitor truck unloading, with the NR, that would always have to be in place; with an MOI, immediately after the suspension is lifted, they would not have to have a monitor and could go back to the same system as they had before. In other words, only the most serious violations do not lead to permanent corrective actions, and only the most serious violations are unavailable to other inspectors and kept from being readily accessible to the public.

Concern about Suspensions

Sometimes the effects of a plant suspension action by the FSIS can be just as bad or worse in terms of animal suffering as the action that caused the suspension. This is true especially in larger plants. An example would be if an employee was observed dragging a downed pig across a pen, and the plant was placed under suspension. Animals are often trucked from very far distances – sometimes several states – and the result of this suspension could be that pigs that arrive at the suspended plant would have to remain for very long periods of time in trailers without water in extreme heat or cold. My suggestion would be to allow the plant to continue to operate – only at a reduced line speed so that an FSIS inspector would be free to observe humane handling operations on the part of the plant. Stiff fines could be levied upon the plant as a deterrent against future humane handling violations.

Conclusion

Businesses are held accountable by their customers, their employees are held accountable by their bosses, Congress and the President are held accountable by their constituents and the media…yet, the supervisors in the FSIS are held accountable to no one. The FSIS is like a chain. There are many strong links but there are weak links also. When these weak links break, the whole system is affected and the public's health is at risk. This administration, many District and Washington level officials, and this committee all are committed to proper and strong humane handling enforcement. I know these officials have so many issues that they deal with on a daily basis, so many crises and so many "fires" to put out. Unfortunately, though, they did not know that there was a "fire" in the field. It took HSUS, GAP and the GAO to actually reveal the raging fire that was burning out of control in the area of humane slaughter enforcement.

I have outlined several remedies to help keep these problems from flaring up into another fire storm of humane handling and food safety violations. Ensuring transparency and permanent corrective action for egregious violations will improve the integrity of the system. Passage of the whistleblower legislation will provide conscientious employees with the legal protection they need to speak out about violations of food safety and humane handling rules. An ombudsman's office will provide employees with a safe and direct avenue to reveal these "fires" to the highest levels of USDA without having their concerns trapped under layers of bureaucratic inefficiency and industry interference. Stiff fines and slower line speeds could provide useful deterrents against inhumane treatment, while avoiding unintended consequences from plant suspensions. Most importantly, we must encourage the change in the culture of USDA that I hope is already

underway, so that FSIS treats the consumer as its client, not industry, and that FSIS employees are valued and supported for protecting the integrity of our food.

Respectfully submitted,

Dean C. Wyatt D.V.M., SPHV

Mr. KUCINICH. Mr. Mande, is there a connection, in your professional opinion, between humane handling and the safety of the food which the people consume?

Mr. MANDE. I think the humane handling statute, one of the four that we carry out, along with our other food safety statutes, plays an important part in helping us not only ensure the humane treatment of animals, but ensuring food safety for the following reason: all——

Mr. KUCINICH. I'm not asking for a bureaucratic answer. Would you eat meat where the calves were treated like that? Would you consume those products?

Mr. MANDE. I don't think calves should ever be treated like that. It is against the law.

Mr. KUCINICH. But would you consume meat that was treated that way? Is the public health put in jeopardy if FSIS does not adequately enforce the Humane Slaughter Act?

Mr. MANDE. I think when companies violate the Humane Slaughter Act it is a demonstration that they don't have control of their processes, and if they don't have control of the humane handling processes it raises into question how they can have control of their food safety processes.

Mr. KUCINICH. Would you say, Dr. Wyatt, that there are food safety elements that are directly related to inhumane handling?

Dr. WYATT. Yes, for sure.

Mr. KUCINICH. Tell me.

Dr. WYATT. I would agree with Mr. Mande. If they are not following the humane handling practices, they are probably not following their food safety program. We had some serious issues in food safety at Bushway, let alone the humane handling thing. We had some very serious food safety issues there.

Mr. KUCINICH. I just think that people who are watching this should have some understanding that it does matter how the animals are handled; that if they are not handled correctly there are health issues that become attendant; is that true?

Dr. WYATT. Very true, Mr. Chairman. Yes.

Mr. KUCINICH. Now, in the video clip we saw, Dr. Wyatt, there is a scene where an FSIS inspector is speaking to Bushway employees who are skinning a calf while it is still alive, and he says, "If Doc knew about this, he would shut you down." Dr. Wyatt, isn't it true that you are the doc they are talking about?

Dr. WYATT. Yes, Mr. Chairman. Yes.

Mr. KUCINICH. And ultimately you did find out about such abuses and your actions led to the suspension of operations at Bushway; is that correct?

Dr. WYATT. Yes.

Mr. KUCINICH. And it wasn't until the Humane Society sent an undercover investigator in to film the horrible abuses you had tried to stop that upper management at USDA ordered a criminal investigation and shut down the plant; is that correct?

Dr. WYATT. That is correct.

Mr. KUCINICH. Now, Mr. Mande, in 2008 the Assistant Administrator for the Office of Field Operations at FSIS wrote to me to respond to the questions I had posed concerning FSIS' treatment of Dr. Wyatt at his previous posting in Oklahoma. At that time, Dr.

Wyatt had chosen to become a whistleblower after his concern about slaughterhouse practices there, practices that were upheld by the previous administration. In that response, FSIS made a number of disparaging comments about Dr. Wyatt and disparaged his competency. It is very clear that the unfounded comments were intended for no other reason than to discredit him because he made the courageous decision to be a whistleblower.

When I look at that slander, I look at the smear tactics, I look at the bullying, it is very offensive.

As chairman of this investigative subcommittee, I am committed to correcting the abuse of power by a high-ranking official. I want everyone inside FSIS to understand that this is not acceptable.

Mr. Mande, Dr. Wyatt should be recognized as a principled man, an exemplar of the highest standards that FSIS should be cultivating in all of its staff and supervisors.

Now, I understand that you didn't oversee the agency when this abuse of power took place, but you do now. There is no better way for you to signal to all of the inspection staff, supervisors, and district management and to prove to Dr. Wyatt, himself, that you are committed to leading FSIS in a new direction, no better way to do that than if you would now take this opportunity to publicly commit to embrace individuals like Dr. Wyatt who, at great risk, report abuses by the industry and even government. Will you do that? What will you do? What do you think about what happened to Dr. Wyatt, how he was smeared?

Mr. MANDE. Mr. Chairman, I would be delighted to commit to making sure that when someone comes forward that witnesses violations of the law, and at great personal risk to themselves, sees abuses of power, and brings that forward at their risk to us, that we get to the bottom of those. We would not tolerate that type of behavior, and make sure that we do everything in our camp, particularly in this case, as we saw today, the need to make sure that we properly enforce the Humane Methods of Slaughter Act is just paramount. And when people come forward to help us do that, they should be embraced, and that is what I commit to do in this administration.

Mr. KUCINICH. Was he smeared, Dr. Wyatt smeared, or was that OK? I want to know. I want to know how you view this, as someone who manages the program, because you are setting the tone for other inspectors. Come on, now. Be direct. Was he smeared?

Mr. MANDE. Mr. Chairman, I met Mr. Wyatt first before this hearing for the first time.

Mr. KUCINICH. Are you familiar with the record of what was said about him by an FSIS official?

Mr. MANDE. Dr. Wyatt came in and met with some other high-level people in the agency and brought these things to our attention in terms of what he presented in his testimony, some of the actions that he had witnessed and how he had done that, and because of that, because of his status as a whistleblower on those things, we have begun an investigation. We are going to look into his charges and make sure that, if there is information that we can use to improve how we do humane slaughter, we are going to do that.

Mr. KUCINICH. Why won't you address how he was disparaged? Why won't you do that?

Mr. MANDE. Again, I don't know. I met him today, and I found his——

Mr. KUCINICH. No, this is professional. This isn't whether he's a nice guy or what. This is about his professional work.

Now, I'm not going to let you off here. Why won't you address that? That concerns me. You are sending mixed signals here, Mr. Mande.

Mr. MANDE. In this administration, under this Secretary, under this role that I have the opportunity to play here, we would not tolerate inspectors who bring forward humane handling complaints being in any way discouraged from that or mistreated for that or retaliated against for that because of bringing those charges. I find that unacceptable and we would not allow that.

Mr. KUCINICH. Mr. Cummings, you can proceed. I will come back to you.

Mr. CUMMINGS. How long have you been in the job, Mr. Mande?

Mr. MANDE. Since July.

Mr. CUMMINGS. Since July. And were you familiar with Dr. Wyatt's case at all before today?

Mr. MANDE. [No response.]

Mr. CUMMINGS. The chairman just asked you a series of questions, and I was just wondering were you familiar with the subject matter that he just talked about before today.

Mr. MANDE. Yes.

Mr. CUMMINGS. And how did you come to learn about that?

Mr. MANDE. After I saw the Humane Society videotape, I first became aware of it, and I also became more aware of it when Dr. Wyatt came and met with some other officials at the Department and brought some of his concerns to us, and became aware of his concerns and made sure that they are going to be looked into thoroughly and that we get to the bottom of it and take the correct steps.

Mr. CUMMINGS. And when was that, that he came to you all?

Mr. MANDE. It was last fall. I wasn't in that meeting so I don't know the exact date, but I would guess——

Mr. CUMMINGS. Last fall? And tell me what you have done so far in response to what you learned.

Mr. MANDE. Mr. Cummings, there are two events that need to move forward together here. The first thing we learned was that Bushway was behaving in a way that we just found completely unacceptable. Secretary Vilsack asked our Inspector General to begin a criminal investigation of them, and that criminal investigation is ongoing and Dr. Wyatt is part of it.

So initially there was a period of time——

Mr. CUMMINGS. That was referred to the Justice Department?

Mr. MANDE. It is through our Inspector General.

Mr. CUMMINGS. The Inspector General. All right.

Mr. MANDE. OK?

Mr. CUMMINGS. All right.

Mr. MANDE. At the same time then, of course, Dr. Wyatt came to us with charges about how he had been treated that we also felt needed to be investigated right away. But as part of the criminal

investigation we weren't able to begin our separate investigation until we reached a point in the criminal investigation where the IG's office enabled us to begin work on the charges that he raised. So that only happened in the last month, and so we have begun that investigation as well and we want to complete it as soon as possible.

And, as I was talking to Dr. Wyatt before that, I think his experience, the examples he has brought forward, are extremely important to us in trying to design the humane handling program that we need.

Mr. CUMMINGS. Yes. I take it that this administration, I hope, you just said a few minutes ago has a policy of dealing with things a little different than before?

Mr. MANDE. Yes, sir.

Mr. CUMMINGS. And can you tell us what the difference is, generally?

Mr. MANDE. I'm not the last administration, but I am seeing the types of things that we wouldn't stand for.

Mr. CUMMINGS. Yes.

Mr. MANDE. First of all, in humane handling, we need to do a better job.

Mr. CUMMINGS. Yes.

Mr. MANDE. I think the reports that GAO has provided us will help us do that.

Mr. CUMMINGS. Speaking of that, you know, in the GAO report it finds that the inspectors in charge want more training on whether incidents require enforcement action. And I am just wondering, is the Department responsible for the training of individuals in the various districts?

Mr. MANDE. Yes. We train everyone who comes in.

Mr. CUMMINGS. You gave some testimony that you sound like you felt rather proud of the training that is taking place now. Are you?

Mr. MANDE. I went through it, myself, and I found it enormously helpful, and I found it enabled me to understand exactly the types of things that we should be making sure don't happen. I was talking to Dr. Wyatt before. I would enormously appreciate his experience in terms of being in the field and having witnessed the training and how it ends up in terms of the individual inspectors and the work they do, and if there are ways we can improve that training I am open to that, as well.

Mr. CUMMINGS. Dr. Wyatt, did you have a comment? You look like you want to say something.

Dr. WYATT. No. I would just prefer to wait. I'm fine now.

Mr. CUMMINGS. What training do FSIS inspectors receive to ensure that they are prepared to enforce the Humane Methods of Slaughter Act? What is the training?

Mr. MANDE. Every inspector comes in and gets, as part of their initial training, classroom training in the Humane Methods of Slaughter Act, which goes over, for example, just every—there are categories from unloading an animal off the truck, as they are being moved toward slaughter, the stunning that must take place to make them insensible before slaughter. So it falls into sort of three broad areas in terms of the environment that the animal is

in, how the animal is treated in that environment, and the stunning procedure, which is so critical because to carry out the law the animal must be insensible, not able to feel pain at the time of slaughter. So they receive classroom training in all three of those areas. They receive classroom training on the enforcement actions they are to take, that whenever they witness a violation of the act they need to write a noncompliance record, and whenever they see an egregious violation, the cruel treatment of animals, for example dragging an animal, what we witnessed in that videotape, that they must in that situation suspend. They receive that.

Then they go, after they finish their classroom training, they have a week to 2-week in-field training, as well, to take those lessons learned in the classroom and learn how to apply them in the field.

And then we do refresher and updating training, as I described we did last year and we will do again this year.

Mr. CUMMINGS. One last question. You know, one of the things that is sort of shocking to the conscience, Mr. Mande, is what I said in my opening statement. When you have an inspector standing there observing certain things that he is supposed to be stopping, and he is almost a cheering squad for wrongdoing. I mean, that, to me, then that would make me wonder how deep does this go. Is there money being paid? In other words, to allow those kinds of things to happen?

I know we have an investigation going on with a lot of things, probably, but we want inspectors to be inspectors. We want people to do their jobs, and if they don't want to do their jobs then they shouldn't be there, because the problem is when they fail to do their jobs they fail the American people. I refuse to pay people to kill me. That makes no sense. Or not to do their job. Is that getting through to Secretary Vilsack and all the others?

Mr. MANDE. I share your outrage myself. And, as I said in my testimony, I think Secretary Vilsack said it for all of us at USDA and FSIS when he said that the deplorable scenes recorded in the video are unequivocally unacceptable. And as I mentioned in my testimony, as well, that is part of not only the criminal investigation we have done, that we have terminated one employee.

Mr. CUMMINGS. Thank you, Mr. Chairman.

Mr. KUCINICH. Mr. Welch?

Mr. WELCH. Thank you very much, Mr. Chairman.

Dr. Wyatt, thanks for your good work on this. I'm sorry that I got here late, but what are the specific steps going forward you think should be taken in order to try to avert this happening again?

Dr. WYATT. There are several things. I mentioned several of them, I think, in my written testimony. I think it is extremely critical that we get an ombudsman's office in place, not only for humane handling but food safety, some place where the inspectors can go that—if they have a weak supervisor that always grants appeals, you can't go above your supervisor. You are stuck. So we need that office where they have the freedom to go and somebody will listen to them, care about what they are telling them, and actually go to somebody in authority that will also take care of that problem. That is critical.

We need whistleblower law enforcement and enhancement. I think it is important. The inspectors, it depends. A lot of small, medium, and large plants have a staffing shortage, and the fact that the inspectors have a lot of work to do. They have a lot of work to do. Most of their time is spent on carcass inspection duties, so they don't have time to do the humane slaughter enforcement. And when they do have the time, as I explained in my testimony, they shut off the line, they go do their humane slaughter. Well, plant managers know where they are at. They are not going to do anything. So that is a problem.

I think we need for these chronic plants, rather than keep them in suspension and abeyance time after time after time, take the courage to suspend. Take away their grant of inspection. They shouldn't be operating. It takes courage to do that, and we do need that.

We need fines in place. I think I mentioned that subpoena specifically actions sometimes can cause more inhumane handling of animals.

Mr. WELCH. I noted your concern about suspension sometimes resulting in more harm to the animals than if you allowed it to continue under close supervision.

Mr. Mande, do you agree with that?

Mr. MANDE. Well, the point that sometimes, in order to be humane to the animals, it may make sense to allow a plant to continue in operation, of course under close supervision, rather than impose a suspension where the animals are then put in further jeopardy in very inhumane conditions.

Mr. WELCH. I do think that when it reaches a point where there is an egregious action and there is a suspension, that suspension is necessary until we can get the commitment from the company to correct that. But I also agree with you, sir, that there are situations. The animals are there, and the length of that suspension could be resulting in further harm to the animal while that suspension is ongoing.

Mr. WELCH. Dr. Wyatt, I understand the Vermont Department of Agriculture was vigilant on this and cooperative?

Dr. WYATT. Yes. They were involved in the whole closure of the plant, suspension of the plant.

Mr. WELCH. Yes. Mr. Alby was good to work with on this.

Dr. WYATT. Yes. Well, I didn't have any personal contact with him, so yes, as far as I know from what I have been told, yes.

Mr. WELCH. OK. Thank you.

Mr. Chairman, I yield back. Thank you.

Mr. KUCINICH. Ms. Shames, the Inspectors Union and consumer groups have criticized FSIS for not filling vacancies in plants and moving offline inspectors to fill gaps on the slaughter processing lines. That shift has come at the expense of humane slaughter and handling inspections. Are those criticisms substantiated?

Ms. SHAMES. We found that FSIS is working without a current work force plan to——

Mr. KUCINICH. What does that mean?

Ms. SHAMES. It means that it really at this point has not identified the work force level and skills that it needs to ensure that it is performing the humane handling activities that it should.

Mr. KUCINICH. OK. Explain the implications of that for the consuming public.

Ms. SHAMES. What this means and what we found in an earlier report is that there are districts that are short-staffed, and to FSIS——

Mr. KUCINICH. What does that mean? What happens, though?

Ms. SHAMES. It means that food safety activities, humane handling activities may not be getting the due attention that they ought to. In fact, in our survey, when we asked what the challenges were for following humane handling, an overwhelming majority of the inspectors at the large plants said that they are hard-pressed to backfill. When there are vacancies, when people are taking their leave, it means that humane handling oversight is shortchanged.

Mr. KUCINICH. OK. So you found inconsistent enforcement across the districts. You found that five districts overseeing 56 percent of all livestock slaughtered nationwide did not suspend any plants during the study period. What does that suggest about the adequacy of enforcement?

Ms. SHAMES. Well, it shows that there are inconsistencies. For example, those five that did not conduct any suspensions were in Des Moines and Chicago, and those happen to be the first- and second-highest volume slaughter districts that FSIS has.

Mr. KUCINICH. So you saw the tape. You saw the violations at Bushway. Was that just an isolated incident and it could never happen anywhere else?

Ms. SHAMES. What we know from our survey is that there are inconsistencies across the board. We see it within plants in terms of the various responses that we got, in terms of the enforcement actions that would be taken. We saw that across districts. We saw that over time.

Mr. KUCINICH. When there are inconsistencies, what happens?

Ms. SHAMES. Well, the inconsistency is deciding what action ought to be taken when an inspector witnesses a humane violation.

Mr. KUCINICH. I mean, but at some point isn't this a health issue?

Ms. SHAMES. Yes. The downer animals roll around in feces, and that can encourage or bring about E. coli. We know from the Westland-Hallmark incident that there was a recall of the beef. Over time, while there have been fewer recalls of beef, the quantities of the meat that has been recalled has actually grown. So there is a connection there.

Mr. KUCINICH. OK. Now, Mr. Mande, what does USDA inspected mean, then? You know, should the public have confidence in that if you have so many deficiencies that are being pointed out by GAO? You know, there is a stamp, USDA inspected. What does that mean?

Mr. MANDE. It means something quite important for the public. It is something they can have confidence in, and something we are enormously grateful to the Congress in providing it to us. I had the privilege before I came to FSIS to do food safety at the Food and Drug Administration. What that mark of inspection provides is it does not go on the food until our inspector can assure the food is safe. You don't have that in other food. Now, we did do——

Mr. KUCINICH. What if you don't have enough inspectors? What happens? What if you have deficiencies that GAO is pointing out? What does USDA——

Mr. MANDE. I am listening and very interested in——

Mr. KUCINICH. What does it mean.

Mr. MANDE. Sorry. I am very interested in their findings and looking into that, but, again, you know, Congress has provided us extraordinary opportunity and tools at FSIS in how we do food safety. We are required to do inspection of every animal livestock before it is slaughtered. We are required to do carcass-by-carcass inspection, every animal. We are required to be in every slaughter plant every day.

Those are great tools that Congress has provided us to do that. If we don't——

Mr. KUCINICH. Ms. Shames——

Mr. MANDE [continuing]. Have enough inspectors to do it, then the plant shuts down.

Mr. KUCINICH. Does that mean there is a public health issue here?

Mr. MANDE. No. The plant shuts down, so I hear what she is saying and——

Mr. KUCINICH. How many plants have you shut down?

Mr. MANDE. If we don't have someone who can——

Mr. KUCINICH. No, no. Name the plants that you have shut down. Just name a number of plants that you have shut down. Give me a list.

Mr. MANDE. We don't, and it is because we do have enough inspectors.

Mr. KUCINICH. Pardon?

Mr. MANDE. If we don't have adequate inspectors, if they are not there to be able to examine every animal antemortem, if they are not there to be able to do carcass-by-carcass inspection, that plant can't run, and we are very thankful to the Congress that it has provided us both that law and the resources each year to make sure that we can do that.

Mr. KUCINICH. So you are saying you don't have inspectors then they can't run, but you do have inspectors and they do run?

Mr. MANDE. Say that again, sir? Sorry.

Mr. KUCINICH. That if you don't have inspectors, the plants can't run.

Mr. MANDE. That is right.

Mr. KUCINICH. And so how many plants have been shut down?

Mr. MANDE. For that reason, none that I am aware of.

Mr. KUCINICH. OK. You are short of inspectors——

Mr. MANDE. No, I didn't say that, sir.

Mr. KUCINICH. You have enough inspectors. Then why do you have deficiencies?

Mr. MANDE. I am looking. I want to read the report carefully, and because——

Mr. KUCINICH. You haven't——

Mr. MANDE. Well, we didn't see the final, but from the draft I thought there was a lot of good information there that will help us do a better job, and, you know, the President, with the Food Safety Working Group that Secretary Vilsack, and the instruction he gave

me, when I came to the Department the reason I came back to Government again to do this work is because of their commitment to make sure that we provide safe food and humane handled animals. And so if there are lessons to be learned—but I do know, sir, that one thing that we have is, having worked at FDA and others where they have to go about food safety in a very different way, but the way we are able to do it where Congress has, in the law, required that we have inspectors in those plants continuously each day and has provided us the resources to provide the inspectors is an enormously powerful tool, and we have a commitment to the public then to make sure that we are doing an outstanding job.

Mr. KUCINICH. Ms. Shames, you have reviewed numerous noncompliance reports, other FSIS data. You have interviewed hundreds of inspectors. Based on your findings, do you think a slaughter plant owner faces a reasonable chance of suffering severe consequences for repeated abuses of animals and violations of the Humane Slaughter Act?

Ms. SHAMES. That is actually a recommendation that we made in 2004, that FSIS' guidance needs to be clearer in terms of when an enforcement action should be taken. I think the Bushway example illustrates what we mean by this. There were three successive suspensions at Bushway before more drastic action was taken. And this is what we are getting at when we are saying that the guidance needs to be clearer in terms of when an action should be taken.

Mr. KUCINICH. Let me followup with that. Do you think FSIS has in place the oversight and tracking capabilities necessary to know whether or not the kind of violations we have seen at Hallmark-Westland or at Bushway are isolated incidents?

Ms. SHAMES. Inspectors do keep track of the time that they spend on humane handling activities. They do that in 15-minute increments, and FSIS can report that. But what we are finding is—and I think this is a rich source of information that FSIS has not taken advantage of—is reading through the noncompliance reports, themselves. This is a responsibility that has been delegated down to the district level. We feel that if it were looked at from a departmental level that the anomalies, the inconsistencies that we just described could help FSIS target the resources, target the training, take those actions that would help better its performance in terms of humane handling.

Mr. KUCINICH. Thank you.

Mr. Welch.

Mr. WELCH. I yield back the balance of my time.

Mr. KUCINICH. Thank you.

I just have a few more questions here.

Dr. Wyatt, in your experience, what actions taken by your supervisors in management at FSIS have been the most counterproductive to the mission of enforcing the Humane Slaughter Act?

Dr. WYATT. The most counterproductive is they actually encourage the plant to obstruct the inspector's work.

Mr. KUCINICH. They encourage the plant to do what? Would you——

Dr. WYATT. They actually encourage, by not supporting the inspector when he takes an enforcement action, they are encouraging

the establishment for that action and further actions just to push the line in terms of egregious humane handling or any humane handling event or food safety. In my case, I was always shot down, so to speak, by my supervisors. I would walk by a plant foreman; they would laugh at me. I would go up to trim—I would give a rail inspector his break. Plant foreman would come up and tell my trimmer: This guy doesn't know anything. Don't trim what he tells you. Just trim what you see. I mean, that is an example of the most egregious action a supervisor can take, because when you don't support your inspectors you are just as guilty of breaking the law as the establishment, in my view.

Mr. KUCINICH. With what you have gone through as a whistleblower, what did that USDA inspected label come to mean to you when you looked at it after your experience? Tell us about that.

Dr. WYATT. That is a very good question. The vast majority of our inspectors are terrific. The inspector at Bushway——

Mr. KUCINICH. They want to enforce the law.

Dr. WYATT. They do. They work very hard. They work very hard under extreme difficult situations, circumstances: angry plant managers, the gamut. So they work very hard, so I am very confident in that stamp of inspection. I disagree in the comment about the staffing. When I was at Seaboard, we had to pull our offline inspection people online all the time. We were short-staffed all the time at Seaboard. So there is a staffing problem.

Mr. KUCINICH. OK. So what are the implications of short staffing? Why should the public be concerned about this?

Dr. WYATT. Because when you pull an inspector, an offline inspector online to fill an online vacancy, that offline task is not being done. Most tasks are being put into the computer, not performed.

Mr. KUCINICH. What are those tasks?

Dr. WYATT. Humane handling, sanitation, operational sanitation, check labeling, all kinds of things, HACCP, fecal contamination checks, all kinds of tasks are not being done because that inspector is filling another spot. The plant is operating, as he said. Sure, they are operating, but they are short staffed. They don't have the staff to perform all the tasks that they are supposed to be doing.

Mr. KUCINICH. So what does FSIS need to do at the upper management level to do a better job? What do they need?

Dr. WYATT. You know, in my 18 years of experience I have never seen a district manager, deputy district manager, ever visit a plant in the field. We need to have those district managers, deputy district managers, out of the office visiting the plant, talking to the inspectors. They don't even know the names of most of their inspectors. They need to be out in the field talking to people rather than sitting in the office. That is what they need to do, in my view.

Mr. KUCINICH. I want to thank the witnesses for being here now. A number of things have been said. I have been watching Mr. Mande try to get into the response here. Is there anything you want to say to respond to anything that has been said?

Mr. MANDE. No, thank you.

Mr. KUCINICH. Given the seriousness of the FSIS' role in assuring the safety of the food consumed by the American people, this

subcommittee will maintain an active role of oversight of your division.

I want to thank Ms. Shames for the report, which I think will provide some guidance.

I know you will get a chance to get into in depth, Mr. Mande. I hope you will look at it carefully.

And Dr. Wyatt, the country really owes you a debt of gratitude. You put your career on the line just to do the right thing. It is not easy for whistleblowers to take on a bureaucracy, a Federal establishment. You knew the risks, and you took the risks. Because of you, there are going to be established metrics to assure that the public's consumption of certain types of food is going to be more rigorously inspected and that there will be a little bit better assurance, a little more public confidence in the process. So it is people like you who are in a very proud tradition of individuals, good Americans who came forward and did the right thing, even when it was against their own personal interest. So this committee is quite appreciative of your actions. I think that the Department of Agriculture owes you a public apology. I want to thank you for being here.

I want to thank the witnesses. This first panel is dismissed, and we are now going to go immediately to the second panel.

Dr. WYATT. Thank you, Mr. Chairman.

Mr. KUCINICH. As they are moving toward the table, I am going to make some introductions so we can get right into this.

Mr. Stanley Painter is the chairman of the National Joint Council of Food Inspection Local Unions of the American Federation of Government Employees, AFL–CIO. Prior to this he served for 24 years as a USDA inspector, working in both poultry and red meat. He has held other positions in the Joint Council of Food Inspection Local Unions, including serving as the local president and vice president for Alabama and the Southern Council president.

Mr. Bev Eggleston is the owner and founder of Ecofriendly Foods LLC in Moneta, VA, a small slaughter operation serving family farms in Virginia and the mid-Atlantic region. Mr. Eggleston is an advocate for and a practitioner of small, ethical family farming and raising pasture-fed animals. He raises, processes, markets, and distributes grass-fed beef, pork, lamb, poultry, and eggs at farmers' markets, home buying clubs, and many restaurants in New York City, Washington, DC, and elsewhere.

Mr. Wayne Pacelle is president and chief executive officer of the Humane Society of the United States, which is the Nation's largest animal protection organization, with 11 million members and constituents. He is our final witness. He served the organization in a variety of positions since 1994, and in his time as president and CEO he has overseen several successful mergers of the Humane Society with other animal protection organizations. In the last decade, Mr. Pacelle and the Humane Society have worked for the passage of more than 500 new State laws and 25 Federal statutes to protect animals.

To the witnesses, it is the policy of our subcommittee and the Committee on Oversight and Government Reform to swear in all witnesses before they testify.

[Witnesses sworn.]

Mr. KUCINICH. Thank you very much. Let the record reflect that each of the witnesses answered in the affirmative.

Mr. Painter, you are our first witness on the panel. As I indicated on the other panel, keep your testimony under 5 minutes in length. Your entire written statement will be included in the record of this hearing. I ask that you proceed right now. Thank you.

STATEMENTS OF STANLEY PAINTER, CHAIRMAN, NATIONAL JOINT COUNCIL OF FOOD INSPECTION LOCALS, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; BEV EGGLESTON, OWNER, ECOFRIENDLY FOODS LLC; AND WAYNE PACELLE, PRESIDENT AND CEO, HUMANE SOCIETY OF THE UNITED STATES

STATEMENT OF STANLEY PAINTER

Mr. PAINTER. Yes, sir. I would like to start out by saying that I am here, although as an FSIS employee, I am here representing my union and the food inspectors.

Chairman Kucinich, Ranking Member Jordan, and members of the subcommittee, my name is Stan Painter and I am the chairman of the National Joint Council of Food Inspection Locals, which is affiliated with American Federation of Government Employees. I would like to thank you for inviting us to participate in today's important hearing on the Humane Methods of Slaughter Act.

The National Joint Council represents some 6,500 non-supervisory meat, poultry, and egg products inspectors who work for FSIS. We provide continuous inspection to some 6,300 domestic food establishments and 130 import establishments to ensure the safety and wholesomeness of products covered by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act.

Humane Methods of Slaughter Act: our responsibilities also include enforcement of the Humane Methods of Slaughter Act. As you know, the HMSA requires that livestock, before being slaughtered, are rendered insensible to pain by a single blow or gunshot or electrical, chemical, or other means that is rapid and effective. My union strongly supports enforcement of this act, and we take our responsibilities under this act very seriously.

There are problems enforcing the act. Unfortunately, these problems with enforcing the act lie in what I have determined to be three categories: FSIS does not make enforcement of the act the priority; there are just not enough FSIS inspectors to keep up with the volume of livestock going to slaughter in the enforcement of the act and all of the other food should laws and regulations; there is confusion as to what latitude FSIS inspectors have to enforce the act.

Now, with regard to the first area, that is, No. 1, FSIS does not make enforcement of the act a priority. A good example of this is the basic training of the inspectors to receive and carry out their responsibilities. This basic training just does not make the enforcement of the act a priority. I can speak from direct experience, since this past July I took a basic food safety regulatory essentials FSRE training that the agency offers to the inspectors. The instructor at

the training spent only a few minutes out of the 13 days explaining the Humane Methods of Slaughter Act.

Another example, when the Westland-Hallmark scandal broke in 2008, the agency promised Congress that FSIS inspectors would receive additional training to enforce the provisions of the act; however, all we received is a little online training module that we could access through the internet to refresh our knowledge about the responsibilities of the act, and there was no followup by the agency management to emphasize the importance in the enforcement of the act.

Second, there is just not enough inspectors to keep up with the large volume of livestock going through slaughter to enforce the act and all food safety laws and regulations. We are still experiencing serious staffing shortages in various parts of the country. I do not have access to the staffing numbers for 2009, but through a Freedom of Information Act request I have obtained the 2008 staffing numbers and have attached them with my written testimony. You will note that some FSIS regions are experiencing double digit vacancy rates, especially the Albany district. The agency has worked in recent years to close the vacancy gap, but they are experiencing problems with, one, replacing the large number of retiring FSIS inspectors, and, two, closing the chronic staffing shortages which that region has suffered for years.

No. 3, third and finally, there is confusion as to what latitude FSIS inspectors have to enforce the act. As a result of congressional concerns about the act's enforcement, the agency a few years ago began hiring district veterinary medical specialists. They are responsible for acting as a resource to inspectors on the act in each of the 15 districts. Unfortunately, we rarely see the veterinary specialists visiting the plant. They are rarely in the field. We are hamstrung by our supervisors, who are either not qualified to do their jobs, unwilling to let us do our jobs, or are not committed to making animal welfare a priority, either in FSIS-regulated facilities or in the private lives.

In closing, I want to thank you again for inviting us to participate in this important hearing. I will be happy to answer any of your questions.

[The prepared statement of Mr. Painter follows:]

Testimony
Of
Stan Painter
Chairman
National Joint Council of Food Inspection Local Unions.
American Federation of Government Employees, AFL-CIO

Domestic Policy Subcommittee
Oversight and Government Reform Committee
Thursday, March 4, 2010
2154 Rayburn HOB
2:00 p.m.

"Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act."

Chairman Kucinich, Ranking Member Jordan and Members of the Subcommittee, my name is Stan Painter and I am Chairman of the National Joint Council of Food Inspection Local Unions (NJC) which is affiliated with the American Federation of Government Employees, AFL-CIO. I have served in that capacity for over six years, and I have served as an inspector for USDA's Food Safety and Inspection Service (FSIS) for over 24 years. The NJC represents some 6500 non-supervisory meat, poultry and egg products inspectors who work for FSIS. We provide continuous inspection of some 6300 domestic food establishments and 130 import establishments to ensure the safety and wholesomeness of products covered by the Federal Meat Inspection, Poultry Products Inspection, and Egg Products Inspection Acts. In FY 2009, we oversaw the slaughter and processing of 112.5 million domestic head of livestock, 6.7 billion domestic poultry animals, and inspected

nearly 3.8 billion pounds of imported meat and poultry products. We also performed some 8.5 million verification procedures to determine whether meat and poultry processors were following their Hazard Analysis and Critical Control Points (HACCP) plans.[1]

Humane Methods of Slaughter Act

Our responsibilities also include enforcement of the Humane Methods of Slaughter Act (HMSA) of 1958 (7 U.S.C. 1901-1907) that was further amended in 1978 and 2002. I would like to thank you for inviting us to participate in the hearing that you are holding today because it is a very important issue and this proceeding is very timely. My union strongly supports the enforcement of this law. We take our responsibilities under this statute very seriously, but occasionally there are lapses. As you are undoubtedly aware, there was a recent incident at Bushway Packing -- a small slaughter facility in Vermont -- that was captured on video tape by the Humane Society of the United States. I am not going to go into detail about that situation as it is still under investigation, but we do not condone the actions depicted in the video.

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[1] United States Department of Agriculture Food Safety and Inspection Service, Quarterly Enforcement Report, July 1, 2009 through September 30, 2009, see http://originwww.fsis.usda.gov/regulations_&_policies/QER_Q4_FY2009/index.asp #records)

As you know, the HMSA requires that the employees of slaughter facilities and USDA employees not to abuse livestock during the slaughter process. Specifically, the statute states the following:

> 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. Either of the following two methods of slaughtering and handling are hereby found to be humane:
> (a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all 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; or
> (b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering. (7 U.S.C. 1902)

In addition, there are implementing regulations (9 CFR 313) and FSIS has issued a specific directive (FSIS Directive 6900.2) and a notice (FSIS Notice 21-09) to inspection personnel that further explain what the policy is. I have attached the Directive and Notice as part of my testimony for your reference.

Problems Enforcing HMSA

So, why are there problems with enforcing this Act? I think that the problems lie in three basic areas:

1) There is not a priority being made by the agency to enforce this statute

2) There is inadequate staffing to enforce all of the statutes and regulations for which we are responsible

3) There is confusion as to what latitude my members have to enforce the provisions of the HMSA.

FSIS Does Not Make Enforcement of HMSA a Priority

The basic training that inspectors receive to carry out their responsibilities does not make enforcement of the HMSA a priority. I can speak from direct experience to this point since just this past July, I took the Food Safety Regulatory Essentials training that the agency offers to all inspectors. This is the basic training that all FSIS inspectors are required to receive. The instructor spent a few minutes out of the 13 working days of training explaining the HMSA.

When the Hallmark/Westland scandal broke in 2008, the agency promised Congress that FSIS inspectors would receive additional training to enforce the provisions of the HMSA. All we received was an on-line training module that we could access on the internet to refresh our responsibilities under the Act. There was no follow-up by the agency management to emphasize the importance of enforcing the provisions of the Act.

As a direct result of the Bushway incident in Vermont, the Northeast regional president of our union requested to agency management that additional training be

made available in his region on the enforcement of HMSA because of the changing nature of slaughter processes in the industry. The agency has told our regional president that training is a management right and that the agency is under no obligation to honor the union's request.

There Are Too Few Eyes Looking At Too Many Animals Going to Slaughter

There are just not enough inspection personnel to keep up with the volume of livestock going to slaughter to enforce all of the food safety laws and regulations. We are still experiencing staffing shortages in various parts of the country. I do not have access to the staffing numbers for FY 2009, but through a Freedom of Information Act filed by the consumer group Food & Water Watch, I have attached to my testimony a chart of the FY 2008 staffing pattern. You will note that some FSIS regions are still experiencing double-digit vacancy rates – especially the Albany District that covers Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont. The agency has worked in recent years to close the vacancy gap, but they are experiencing problems with keeping up with large numbers of retiring FSIS inspectors who need to be replaced in addition to closing the chronic staffing shortages from which that region has suffered in recent years.

But even if we had 100 percent staffing, I am not sure if we would still be able to enforce all of our food safety laws the way they should be. The agency claimed that

there was a full complement of staffing at Hallmark/Westland when that situation came to light, yet the facility management was able to game the system and abused animals in order to squeeze every last penny for the bottom line. There are some slaughter facilities in this country that are processing cattle at 390 head per hour and hogs at 1106 head per hour. At that rate of production, we would need to increase the number of inspectors assigned to be able to enforce all of laws and regulations adequately.

How Much Latitude Do FSIS Inspectors Have to Enforce the HMSA?

As result of concern expressed by Congress in 2001 about the enforcement of the HMSA and armed with additional appropriations to enforce it, the agency hired District Veterinary Medical Specialists (DVMS) who are responsible for acting as a resource to inspection personnel in each of the 15 FSIS districts on the HMSA. While that was a positive step, in reality, we rarely see these district veterinary medical specialists visiting plants. They are rarely in the field.

We are also hamstrung by our supervisors who are either not qualified to do their jobs, unwilling to let us do our jobs, or who are not committed to making animal welfare a priority – either in FSIS-regulated facilities or in their private lives.

Let me give you some recent examples of each. On February 10, 2010, WSB-TV in Atlanta broke a story exposing that the agency had hired the DMVS in the Atlanta

District who was not a veterinarian. He worked for the agency for four years in that capacity before it came to light that he was a fraud. That person was responsible for the enforcement of the HMSA in the Atlanta District. That individual has since resigned his position with FSIS and he is now under criminal investigation by USDA's Office of Inspector General. I have attached a transcript of the WSB-TV story for your information.

In early 2009, one of my members in Utah informed his supervisor that cattle were being abused in a slaughter facility holding pen. When he was rebuffed, my member took pictures of the cattle with his cell-phone camera and transmitted the photographs to his wife. When the agency found out about what he had done, both he and his wife were told to destroy the pictures. My member tried to do the right thing, but he was admonished for taking action.

In 2006, an FSIS veterinarian, Lori Gabri, was found guilty of neglecting 13 horses on the horse farm she owned in West Virginia. If our own supervisors cannot practice what they preach, then what do you think they will do when it comes time to enforce the HMSA in an FSIS-regulated slaughter facility? I have attached a copy of a news article describing that incident for your information.

Summary

The NJC believes that the enforcement of the HMSA is an important part of our jobs as inspectors. We need to have a clear commitment from our management that is also important to them. The way they can show that commitment is by giving us the authority to take action when we see violations of the law; give us the training so that we can do our jobs properly; hire competent veterinarians; either lower the line speeds of high production slaughter facilities or set realistic staffing patterns so that we can adequately enforce all of the laws and regulations for which we are responsible.

I will be happy to answer any questions that you might have.

Mr. KUCINICH. Thank you.

Mr. Eggleston, you may proceed.

STATEMENT OF BEV EGGLESTON

Mr. EGGLESTON. Good afternoon, Chairman Kucinich, Ranking Member Jordan, and members of the Domestic Policy Subcommittee. I appreciate the opportunity to share with you my testimony in this hearing regarding the enforcement of the Humane Slaughter Act.

I am Bev Eggleston, founder and president of Ecofriendly Foods, located in Moneta, VA. For 7 years our company has operated a USDA-inspected, small-scale, multi-species certified humane slaughter plant serving dozens of livestock producers, and it is in this capacity that I appear before you and the committee today.

In April 2008 I appeared before this subcommittee as the only person doing what I do. The ability for my business to survive was in question, but today I am here to tell you that the business has not only survived, but it has thrived, despite many economic challenges. With the support of this subcommittee and the agriculture economies of many communities throughout the United States, we could benefit from the expansion of a safe, humane, and transparent model.

The trend in the meat packing industry is that big guys are getting bigger and the small guys are disappearing. This trend toward consolidation raises several important issues for this oversight committee and should serve as a basis for the congressional action going forward.

First, there are significant concerns in the safety of our meat supply. The largest beef, pork, and poultry processors operate at high volume and high speed to present many concerns. When hundreds of animals per hour are being processed, it is extremely challenging for inspectors to do their job and ensure the safety of our Nation's food.

Furthermore, when the meat of thousands of cows are mixed into single batches of ground beef, consumers are put at risk. The industry's only answer is to cook everything until it is well done, and not everybody will. This only puts a band-aid over the real problem.

At Ecofriendly Foods' processing facility we only use one cow to make a single batch of ground beef. By not mixing our animals, we inherently minimize the potential for spreading any bacteria and contamination. Plus, because our ground beef comes from just one cow, and if there was a batch of contaminated meat—which there never has been—it would be a small quantity and thus small exposure to consumers, and it would be also easily traceable.

The size and frequency and the public health impact of numerous product recalls and food-borne illness outbreaks trace the products from the Nation's largest packing operations, are testimonial to these problems.

Second, animal welfare. Not only does the high volume and speed of large processing plants affect Federal inspectors' ability to ensure the safety of our Nation's food, but also inhibits their ability to comply with the Humane Slaughter Act. Furthermore, we be-

lieve that there are serious animal welfare issues not being addressed in the Humane Slaughter Act.

American consumers are increasingly sensitive and insistent upon higher standards of welfare for the Nation's food animals. At Ecofriendly Foods, we respect the animals at all stages of its life, not just the antemortem stage addressed in the Humane Slaughter Act. Our animals are always treated humanely and are never subjected to any painful or stressful treatment. This attention to the welfare of our animals is reflected not just on our farms, but also on our loading, hauling, and off-loading techniques, all the way through our very thoughtful method of harvesting and slaughtering.

Without the availability of regional and local packing plants, too many animals must travel thousands of miles to be processed, and the problem endemic to the large plants are thus exacerbated.

At Ecofriendly Foods we purchase livestock from over 40 small family diversified farms. Few, if any, of them would be able to continue in their livestock business if they did not have access to our plant and the premium prices we offer.

There is a solution that not only mitigates food safety problems inherent in our high-volume industrial meat packing system, but that also addresses the humane handling challenges mentioned. This solution is to widely replicate a model of small, regional, USDA-inspected, multi-species slaughter plants. What Ecofriendly has accomplished in the southwestern part of Virginia has brought many benefits to our family farms and the communities in which they live.

Here is what I believe Congress can do to address the concerns related to the consolidation of meat packing systems. First, there should be financial assistance in the form of low-cost loans and grants for small-scale processing facilities that serve local communities.

Second, in the interest of this wise allocation of the potential funding, we believe Congress should immediately authorize a rural economic impact study.

Third, we need Congress to direct USDA to provide technical assistance to small-scale producers and processing facilities and to educate the inspectors on the unique aspects to these small-scale processing plants' needs.

Finally, the USDA has a one-size-fits-all to meat processing regulations that does not make sense. We need Congress to authorize an examination of current USDA regulations as they apply to small-scale processing facilities and to implement a new and distinct set of standards where appropriate.

Ideally, there should be several, if not dozens, of these small, local-operating slaughter facilities available to farmers in every State and region. This would sustain the current growth of small-scale livestock raising and encourage a new generation of farmers to become producing members of our agricultural sector. The economic benefits to rural America in such investment would be substantial.

Our total gross sales during the implementation of our model thus far is $3.1 million; $1.5 million has gone straight into the

pockets of our producers. This directly stimulates their economies and jobs.

In summary, Ecofriendly Foods' growth of 326 percent since 2006 strengthens my belief that the impacts and replication of such successful small-scale meat processing facilities across our country could be huge. Impacts could include the decrease of the cost of our Nation's health care system and the carbon footprint, as well as increase our homeland security, our environmental protection, our rural economic stimulus, and humane treatment of animals. Growing American concerns of these issues are clear indicators that consumers desire to know what is on the end of their fork.

I am fully prepared to discuss further my experience in these topics, and I kindly thank you for your time and attention.

[The prepared statement of Mr. Eggleston follows:]

Testimony
of
Mr. Bev Eggleston

Domestic Policy Subcommittee
Oversight and Government Reform Committee
Thursday, March 4, 2010
3:00 P.M.
"Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act"

Good Afternoon, Chairman Kucinich, Ranking Member Jordan, and Members of the Domestic Policy Subcommittee. I appreciate the opportunity to share with you my testimony in this hearing regarding the enforcement of the Humane Slaughter Act.

I am Bev Eggleston, founder and president of EcoFriendly Foods, located in Moneta, VA. For the last 7 years, our company has operated a USDA-inspected, small-scale, multi-species, certified humane, slaughter plant serving dozens of livestock producers, and it is in this capacity that I appear before this subcommittee today.

In April 2008 I appeared before this subcommittee as the only person doing what I do. The ability for my business to survive was in question, but today I am here to tell you that the business has not only survived, it has thrived despite many economic challenges. With the support of this subcommittee, the agricultural economies of many communities throughout the United States could benefit from the expansion of this safe, humane, and transparent model.

The trend in the meat-packing industry is that the big guys are getting bigger, and the small guys are disappearing. This trend towards consolidation raises several important issues for this oversight committee, and should serve as the basis for congressional action going forward.

First, there are significant concerns for the safety of our meat supply. The largest beef, pork, and poultry processors operate at a high volume and high speed that presents many concerns. When hundreds of animals per hour are being processed, it is extremely challenging for inspectors to do their job of ensuring the safety of our nation's food.

Furthermore, when the meat from thousands of cows is mixed into a single batch of ground beef, consumers are put at risk. The industry's only answer is to cook everything until it's well done. Not everyone will, and this merely puts a band-aid over the real problem.

At the EcoFriendly Foods processing facility, we only use one cow to make a single batch of ground beef. By not mixing our animals, we're inherently minimizing the potential for spreading any bacterial contamination. Plus, because our ground beef comes from just ONE cow, if there was a batch of contaminated meat (which there never has been), it would be a small quantity and thus a small exposure to consumers, and it would also be easily traceable.

The size, frequency and public health impact of the numerous product recalls and food-borne illness outbreaks traced to products from the nation's largest packing operations are testimony to these problems.

Second, Animal Welfare: Not only does the high volume and speed of large processing plants affect federal inspectors' ability to ensure the safety of our nation's food, but it also inhibits their ability to comply with the Humane Slaughter Act. Furthermore, we believe there are serious animal welfare issues not being addressed by this Humane Slaughter Act. American consumers are increasingly sensitive to and insistent upon higher standards of welfare for the nation's food animals. At EcoFriendly Foods, we respect the animal at ALL stages of its life - not just the ante-mortem stage addressed by the Humane Slaughter Act. Our animals are always treated humanely and are never subjected to any painful or stressful treatment. This attention to the welfare of our animals is reflected not just on our farms, but also in our loading, hauling, and offloading techniques, all the way through to our thoughtful method of slaughter. Also, as a slaughter facility serving only regional producers, our animals aren't subjected to long hauling distances, which are highly stressful and physically debilitating.

There is a solution that not only mitigates the food-safety problems inherent in our high-volume, industrialized meatpacking system, but that also address the humane handling challenges mentioned. This solution is to widely replicate the model of small, regional USDA-inspected, multi-species slaughter plants. Furthermore, the benefits of what EcoFriendly Foods has accomplished in southwestern VA extends beyond food-safety and animal welfare concerns; this model has also brought innumerable benefits to our family of farms and the communities in which they live. We purchase livestock from over forty small, diversified farmers; few—if any—of them would be able to continue in the livestock business if they did not have access to our plant and the premium prices we offer.

Here is what I believe Congress can do to address the concerns related to our consolidated meatpacking system:

- First, there should be financial assistance in the form of low-cost loans and grants for small-scale processing facilities that service local communities.
- Second, in the interest of the wise allocation of this potential funding, we believe Congress should immediately authorize a rural economic impact study.
- Third, we need Congress to direct the USDA to provide technical assistance to small-scale producers and to educate their inspectors on the unique aspects of smaller-scale processing plants.
- Finally, the USDA's one-size fits all approach to meat processing regulations does not make sense. We need Congress to authorize an examination of the current USDA regulations as they apply to small-scale processing facilities and to implement a new and distinct set of standards where appropriate.

Ideally, there should be several, if not dozens, of small, locally operated slaughter facilities available to farmers in every state and region. This would sustain the current growth in small-scale livestock raising and encourage a new generation of farmers to become producing members of our agricultural sector.

The economic benefits to rural America, of such an investment, would be substantial. Our total gross sales during the implementation of our model (thus far) are $3.1 million; $1.5 million has gone straight into the pockets of our producers. This directly stimulates rural economies and jobs.

In summary, EcoFriendly Foods' growth of 326% since 2006 strengthens my belief that the impacts of replicating such successful small-scale meat processing facilities across our country could be huge. Impacts could include a decrease in the costs of our nation's health care system and carbon footprint, as well as increases in homeland security, environmental protection, rural economic stimulus, and humane

treatment of animals. Growing American concerns of these issues are clear indicators of the consumer's desire to know "what's on the end of their fork."

I am fully prepared to discuss further my experience on any of these topics.

I kindly thank you for your time and attention.

Thank you very much.

Sincerely,

Beverly P. Eggleston, IV

Mr. KUCINICH. Thank you, Mr. Eggleston.

Mr. Pacelle, you may proceed with your testimony.

STATEMENT OF WAYNE PACELLE

Mr. PACELLE. Mr. Chairman, thank you very much for inviting me to testify. I want to thank you for your commitment to animal welfare. I want to thank you also for continuing on with the examination of this important issue, this being the second hearing that you as chairman have instructed proceed.

I will tell you that this is a very distressing issue for me personally. We have been really trying to work on this issue at the Humane Society of the United States from a variety of perspectives. We want to see USDA and FSIS succeed, and we have been working hard in Congress to see that the Agriculture Appropriations Committee and, of course, the entire Congress provide sufficient funding for enforcement.

We have been distressed at the job that has been done through the years, and I do want to thank all of the witnesses here today for their testimony. I have learned a lot from it. And I do want to thank in particular Dr. Wyatt for stepping up, and I concur with your view that he acted courageously in stepping up and highlighting problems that, unfortunately, from our vantage point appear to be chronic. These are not just bad apples; they are systemic problems.

I will tell you, Mr. Chairman, that we are not a law enforcement agency. We are lucky to have so many millions of Americans support us. But we work on all animal issues and we can't investigate every problem of animal cruelty and all of the harmful human/animal interactions in this country, but we have looked a few times at slaughter plants and we have looked at intermediate transport points for animals like stockyards and auctions and, Mr. Chairman, every time we have looked we have found problems, not just the Hallmark-Westland plant where the abuses were egregious and where FSIS had a full complement of inspectors present, but also at Bushway. And in between we looked at five auctions and stockyards in four different States. At every turn we found problems. We found mishandling of animals. We found downer animals being tormented. We found widespread use of electric shock, misuse of heavy machinery such as fork lifts. So many different problems that we have come to see. We desperately want to see progress in these areas.

We worked with Senator Byrd and other Members of Congress to push for the district veterinary medical specialists to be hired, and we saw that this was an opportunity to layer over the inspectors and to really put more attention on this problem. But we have seen in too many cases it has been more bureaucracy and that their attention has been diverted to other matters, not to humane handling issues, but to some of their other important responsibilities.

But we believe that humane handling should be core to what the agency does. It shouldn't be an adjunct. It shouldn't be an occasional attention grabber. It should be part of the daily responsibility.

We are very distressed in the past about high-level officials suppressing proper enforcement, because that is essentially what Dr. Wyatt testified about today is that his inspections—he's the thin blue line, if you will, at the plants, and when he tried to enforce the law that information was suppressed and he was penalized.

I will tell you, Mr. Chairman, that I have had the pleasure of speaking with a number of senior USDA officials in this new administration. I am encouraged by Secretary Vilsack's commitment to these issues. I was pleased to hear about Mr. Mande's comments, and we look forward to working with them. I want to thank them for immediately shutting down the plant once we provided the investigative footage.

But now we have an opportunity for real reform, and just shutting down the plant is insufficient. We have a moment now to really address these issues in a fundamental way.

I am pleased to hear about the humane handling enforcement coordinator that Mr. Mande mentioned. That is important.

I want to associate the Humane Society with Dr. Wyatt's comment about the importance of an ombudsman to provide inspectors with an avenue to take their concerns and grievances and to help ensure that they are able to carry out their responsibilities for both food safety and humane enforcement.

Mr. Chairman, I really do believe that we need a mobile review team. Humane Society undercover investigators served that function by going undercover and getting behind the scenes and figuring out what's going on and documenting. USDA and FSIS should have its own mobile investigations unit. They should be transparent at times, but even undercover, as necessary, to sniff out problems that exist.

Of course, inspectors who aren't doing their jobs should be fired. They should not be allowed to continue in this important role, because we are not just talking about billions of animals, we are talking about hundreds of millions of American consumers. What is greater, in terms of the animal welfare suffering quotients and the human suffering quotient, than our food supply? It is a staggering responsibility, and there should be a zero tolerance policy for failures in terms of the performance of the inspectors and the agency.

Mr. Chairman, I am going to wrap up, but I just want to mention a few things briefly in terms of other policy reforms, not just enforcement but policy reforms.

One is there is still a loophole in the Federal downer law. These calves are legally held in some ways for these purposes, so there is a loophole that allows downer calves to be set aside and reevaluated for——

Mr. KUCINICH. What do you mean by downer?

Mr. PACELLE. Downer animals are non-ambulatory livestock. They are animals who are unable to stand and to walk, and in March the Obama administration closed the loophole on the downer issues and some of that came to light through our Hallmark-Westland investigation. But there is still a problem in enforcement, because these young male calves that are literally born just a few days before are sent to these plants, and if they are under a certain size they can be set aside and reevaluated for possible slaughter.

We think that is a problem. We have petitioned the USDA. We want the USDA to close that additional loophole.

We also want to end the transport of baby calves to slaughter. As Dr. Wyatt said, these animals are just coming from the womb. They are not getting fed. They are babies. They are weak. And they are in long-distance transport, and then they are being occasionally, as we saw, mishandled at these facilities.

I think, Mr. Chairman, finally, the biggest problem is that 95 percent of all animals slaughtered for food in the United States are not covered by the Humane Methods of Slaughter Act. All poultry are entirely excluded. Nine billion animals raised for food in the United States are not covered under the Humane Methods of Slaughter Act because they have been carved out. It is time for the Congress to close that loophole. We do believe that the Agriculture Secretary can designate poultry an amenable species and include them under the protections, but the Congress can act, as well. Those are critical reforms.

We thank you for the opportunity of testifying here today and thank you for your commitment to this issue.

[The prepared statement of Mr. Pacelle follows:]

Statement
Of
Wayne Pacelle
President and CEO – The Humane Society of the United States

Domestic Policy Subcommittee
Oversight and Government Reform Committee
Thursday, March 4, 2009
2154 Rayburn HOB
2:00 p.m.

"Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act"

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify about enforcement of the Humane Methods of Slaughter Act. The Humane Society of the United States (HSUS) is the nation's largest animal protection organization with 11 million supporters nationwide, and I serve as president and CEO of the organization. Our organization worked hard to get this law enacted more than 50 years ago, and we have continued to press for reforms and agency resources to improve enforcement over the subsequent decades.

We deeply appreciate Chairman Kucinich's leadership in calling this hearing and requesting the GAO's study and report, which we look forward to reading. This is a follow-up to a hearing the Chairman held in 2008 at which I also had the privilege to testify. That hearing came after an undercover investigation our organization conducted at the Hallmark/Westland Meat Packing Company in Chino, Calif. revealed horrendous abuse of downed cows too sick and injured even to stand and walk. The Hallmark footage showed workers ramming cows with the blades of a forklift, jabbing them in the eyes, applying painful electrical shocks often in sensitive areas, dragging them with chains pulled by heavy machinery, and torturing them with a high-pressure water hose to simulate drowning as they attempted to force these animals to walk to slaughter. The USDA shut down that plant – which we discovered after our investigation had been the second largest ground beef supplier to the National School Lunch Program and had been honored by the agency as "supplier of the year" in 2004-2005 – and the largest beef recall in U.S. history resulted.

Subsequently, in April and May of 2008, we conducted additional undercover investigations at several livestock auctions in Texas, Pennsylvania, New Mexico, and Maryland. At each of these facilities, we found egregious humane handling violations of downer cows. Incidents included a downer forced to crawl on her front knees by workers who repeatedly shocked her, a blind cow being shocked and struck, another downer being dragged by a tractor attached to a chain around her severely hyper-extended leg, calves kicked repeatedly in the head, and downers left to languish and die after being abandoned.

Bushway Packing Investigation

Then in August and September of 2009, we conducted an undercover investigation at Bushway Packing, Inc. of Grand Isle, Vermont, a plant that specialized in "bob veal" – that is, the slaughter of baby calves, typically less than a week old. We undertook this investigation acting on concerns that had been flagged to us by Dr. Dean Wyatt, who had been in private contact with our organization since the Hallmark case became public. Dr. Wyatt was not aware of our undercover investigation at Bushway while it was going on – he did not learn about it until we brought it to the attention of USDA officials.

Approximately 15% of the 700,000 veal calves slaughtered in the U.S. annually are sold for bob veal. These newborns are taken from their mothers and, only hours or days old, may be deprived of any nourishment during the long transit to the slaughter plant. Current federal law allows them to be transported for up to 28 hours without food, water, or even enough space to lie down. Consequently, once they reach the slaughter plant, they are often too weak, exhausted, and malnourished to stand.

Our investigator, who worked as a floor cleaner at the plant, gathered hidden-camera evidence showing many cruelties. Video footage revealed workers repeatedly shocking calves with electric prods and kicking them in an attempt to force them to stand. Some calves were shocked more than 30 times, and, in at least one case, water was splashed on a calf to intensify the effect of the electric current. The slaughter plant's co-owner, who later claimed in press reports that he had no knowledge of cruel treatment at his facility, was captured on film shocking downed calves with electric prods, and saying to one, "There ain't nothing wrong with you, sh*t box." The infant animal, covered in his own diarrhea, then staggered and fell hard into the side of the trailer. At another point, the co-owner joked that one of the staggering calves "looks like you on a Friday night," referring to the USDA inspector, who laughed at the co-owner's joke.

The investigator videotaped calves crowded together and improperly stunned as a group, rather than restrained individually to allow accurate placement of the stun gun. Federal law requires that animals be rendered insensible to pain before being bled out and dismembered, but the footage shows movements and breathing not characteristic of post-mortem reflexes. In one case, a shackled calf whose head had been half-way removed vocalized at a point when he should have been unconscious, leading animal science experts Dr. Temple Grandin and Kurt Vogel, who reviewed the footage, to comment that the calf was "definitely sensible." In another case, a worker is seen having to move away from a calf who kicked after having one of his feet cut off. The Grandin/Vogel review also concluded that "electric prods were commonly used in an abusive manner to force nonambulatory calves to rise. This is unacceptable and should not continue. It is unacceptable to allow workers to kick calves to make them rise as was observed....This is a definite act of abuse."

Perhaps most troubling, the hidden camera revealed a USDA inspector failing to act when confronted with clear evidence of serious violations. In one scene, a worker attempted to skin a calf who was still alive, directly in front of this inspector. The government official told the worker that if another USDA inspector (referring to Dr. Wyatt, who shared duties at the plant) saw this, the plant would be shut down, but he allowed the abuse to continue. Further, he told the HSUS investigator

on video not to tell him if a live calf was in the pile of dead animals because, "I'm not supposed to know. I could shut them down for that."

Pattern of Abuse and Denial of a Broader Problem

So, as with the case at Hallmark and the various livestock auctions, our undercover investigation at Bushway uncovered terrible abuse. And again, as has been the case each time the HSUS and other organizations have called attention to investigative findings of inhumane treatment in the slaughter process, the general response by those in the animal agriculture business was to suggest that the events at Bushway were an aberration – a case of a "bad apple" obviously not conforming to industry's high standards of animal welfare.

The logic of this escapes me. Every time we've done an undercover investigation at a slaughter plant or a livestock auction, we've found horrendous mistreatment. Without having conducted investigations at the thousands of slaughter plants in the U.S., we can't know how frequently this sort of abuse occurs. But for those in industry to say that it simply doesn't occur elsewhere implies that they are vigilantly watching for it. That would mean they were watching at Hallmark and Bushway and the other sites where undercover investigations found abuse, and they didn't stop it. Or they weren't watching at those particular sites, but we are supposed to believe that they do watch vigilantly everywhere else.

It would be refreshing if, instead of rushing to label these as mere bad apples, industry leaders took revelations of abuse as a wake-up call – a challenge to address systemic concerns and bring about meaningful changes that would improve the treatment of animals and meet consumer concerns. Not only is humane handling at slaughter plants important for animal welfare, it also plays a significant role in ensuring food safety. For our part, we at the HSUS would like nothing more than to undertake investigations in the future and find that animals are being treated humanely and that there are no egregious abuses to report.

A New Opportunity for Reform

We believe there is a real moment now – an opportunity to make significant reforms to strengthen oversight of slaughter processes. We've been heartened by the new Administration's willingness to take humane concerns seriously. Within his first 50 days in office, President Obama personally announced that the USDA would close the downer cattle loophole and ban slaughter of all downed cattle. The USDA's final rule published on March 18, 2009 made clear that the decision to close the loophole was strongly motivated by humane handling concerns that were highlighted by the Hallmark investigation. This was a reform we had been seeking for many years, with increased urgency as "mad cow disease" concerns emerged in the U.S. and then as the Hallmark/Westland case demonstrated how allowing some downers to be slaughtered creates a financial incentive for workers to use unimaginably cruel tactics to try to get downed animals on their feet for slaughter.

When we brought the Bushway video footage to Agriculture Secretary Vilsack's attention, he took decisive action, immediately suspending operations at the plant and initiating an agency

investigation. We've also appreciated the opportunity to meet with his staff and other USDA officials to discuss a range of reforms that could strengthen protections for animals and agency oversight of humane handling rules.

While we are heartened by the direction that top agency officials seem headed, we know that much work remains to be done. It's like turning a battleship around. It will take significant effort to overcome the habits built up over so many years, in which inspectors have been made to feel that they shouldn't rock the boat and that their clients essentially are the companies they inspect, not the public or the animals entrusted to their care. The culture throughout FSIS must shift to acknowledge that humane treatment is a core, ongoing responsibility, not just something to address when an undercover investigation shines a spotlight on the issue.

As Dr. Wyatt has testified, some of the most serious problems have involved high-level supervisors putting pressure on inspectors below them to not rigorously enforce humane standards – discouraging them from reporting violations, rewriting and watering down their reports, second-guessing their first-hand observations, insisting that actions comport with humane standards even when they run contrary to the guidelines of Dr. Grandin (whose expertise is well-respected by industry), and reprimanding and punishing them for taking enforcement actions. Even some District Veterinary Medical Specialists – the very positions funded by Congress to focus on ensuring compliance with the Humane Methods of Slaughter Act – have engaged in this undermining of inspectors, as Dr. Wyatt explained. For the humane slaughter law to be properly enforced, it is imperative that personnel at all levels – and certainly those in the supervisory ranks – take this mission seriously. It is simply outrageous that some DVMSs have themselves been corrupting the system.

Specific Changes Proposed

1) Staffing and Resources

We were encouraged to learn that the USDA is creating a new position in its Washington headquarters, a **Humane Handling Enforcement Coordinator** who will oversee the work of the DVMSs. That could provide accountability, greater consistency, and enhanced enforcement efforts across regions if the person hired truly embraces the goals of the Humane Methods of Slaughter Act and is knowledgeable on issues such as specific indicators of animal suffering and distress, and problematic slaughter plant designs and practices.

In addition, we urge the establishment of an **ombudsman** to provide inspectors with an avenue to take their concerns and grievances, and help ensure that they are able to carry out their responsibilities – both food safety and humane slaughter – without undue interference. Ideally, this ombudsman would be independent from FSIS, reporting directly to the Under Secretary for Food Safety, or alternatively could perhaps be in the Office of Program Evaluation, Enforcement & Review (OPEER) that helps ensure the effectiveness of FSIS.

We also recommend that a **mobile review team** be hired to conduct unscheduled audits and undercover surveillance focused on assessing compliance with humane handling rules of live animals as they arrive and are offloaded and handled in pens, chutes, and stunning areas. Knowing that a member of this team might make a surprise visit at any time, and might even be engaged in undercover work, could help keep plant personnel and inspectors on their toes. Audits and reports produced by this team should be accessible to other inspectors and the public, and the team should be allowed to devote its primary attention to evaluating treatment of live animals.

The agency should **fire any inspectors who flout their obligations to report clear animal abuse**. As we understand it, the inspector caught on video at Bushway was indeed fired, but that was only possible because he was still on probationary status as a new hire with less than one year on the job.

Ultimately, we believe that an inspector should be stationed at all times at each stunning area and another inspector (or more, depending on the facility's size) should be present at all times and able to observe live animals as they arrive, and are moved from trucks and through pens and chutes to the stunning area. Recognizing the current budget constraints, though, we feel the new positions described above would help in the short term to improve the effectiveness of FSIS staff across-the-board with respect to humane handling enforcement.

We are also encouraged about the FSIS's planned transition to a **more integrated computer system** which, as we understand it, will accommodate both Non Compliance Reports (NR) and Memoranda of Interview (MOI) in one comprehensive profile for each slaughter plant, so that egregious humane handling violations will be readily apparent to inspectors and the public. Under the current system, the egregious cases fall outside the computerized data tracking system to which inspectors have access.

2) Policy Reforms

The Bushway case highlighted two reforms urgently needed specifically for veal calves: First, the USDA must **close the downer calf loophole**, which allows downer calves to be set aside and reevaluated for possible slaughter. That loophole perpetuates the economic incentives for workers to mistreat calves in cruel attempts to get them on their feet so they can be approved for slaughter. While the Obama Administration did close the downer cattle loophole in March 2009, a move we applauded, it has not yet addressed an exemption for veal calves that remains from a July 2007 regulation under the Bush Administration. 9 C.F.R. § 309.13(b).

Second, the USDA should also **end the transport of baby calves to slaughter**, similar to existing regulations in the European Union. Calves less than 10 days old should not be considered fit for transport, since they are ill-equipped to handle the trauma of transport to slaughter plants. Those who survive the trip arrive weak, malnourished and often unable to stand, leading to increased rates of disease and death and leaving them more vulnerable to abuse. We note that bob veal calves generally sell for just $10-20 each, according to figures provided by FSIS Administrator Al Almanza.

In addition, the USDA should **stop excluding chickens, turkeys, and other poultry** – who constitute approximately 95% of all farm animals slaughtered for food in the U.S. (9 billion birds per year) – from the modest protections of the Humane Methods of Slaughter Act. Chickens and turkeys at slaughter plants are typically collected manually by workers at an intense pace (up to 180 birds a minute) and shackled upside down by their legs on a fast-moving mechanized line. Still conscious, they are dragged through an electrified water tank designed to immobilize them, passed through a neck-slicer, and dropped into scalding water to loosen their feathers. Due to the speed of the assembly line and their own desperate motions, millions of birds – according to USDA statistics – evade both the immobilization tank and the neck-slicer and literally drown in tanks of scalding water. The agency should require and help guide an industry transition to Controlled Atmosphere Killing methods that, when done using a proper mix of gases, can provide a more humane end and also yield higher productivity (e.g., fewer broken bones) and fewer worker injuries from repetitive stress.

The USDA should also **require that when gas is used to stun pigs, more humane gas mixtures be utilized**. Use of CO_2 alone – as is the current practice – is highly aversive and causes unacceptable suffering, as pigs suffocate rather than first losing consciousness.

Over the past year, we have shared with the USDA and GAO a more detailed set of policy and oversight recommendations, which I am attaching as an addendum to this testimony. We look forward to further discussions, as we seek to work together to strengthen enforcement of the Humane Methods of Slaughter Act.

Thank you again for the opportunity to testify here today on this crucial issue.

ADDENDUM: Humane Slaughter – Needed Reforms

1. ***Oversight Reforms***

USDA should immediately develop a significantly improved oversight system to ensure that USDA inspectors are observing live animals when they first arrive at slaughter facilities and as they are offloaded and handled in pens and chutes, and that the inspectors are acting to avert violations of the Humane Methods of Slaughter Act and regulations pursuant to that law, as well as regulations regarding nonambulatory animals. To meet these goals, the following combination of reforms should be implemented:

A. More inspectors are needed to directly observe live animals. In particular, we recommend that one inspector be stationed at all times at the stunning area and another inspector (or more, depending on the facility's size) be present and able to observe at all times live animals as they arrive, are offloaded, held in pens, and moved through chutes;

B. All inspectors must be trained and directed to monitor the treatment of live animals to ensure that they are handled humanely. Inspectors must understand that their oversight responsibilities begin at the moment animals arrive at slaughter premises, including when the animals are on trucks at slaughter facilities. Inspectors should also be trained to consider the animals and the public, rather than the slaughter facilities, as their "clients." Inspectors must receive adequate in-person, on-the-ground training so they can properly assess and score the conditions and treatment of animals, as well as receive regular subsequent in-person, on-the-ground training to refresh and hone their skills;

C. Inspectors must be encouraged to report violations, rather than being discouraged from and even reprimanded for doing so by their superiors; superiors must support inspectors in their observations, rather than second-guessing and rewriting and/or watering down their reports;

D. An ombudsman office should be created to provide inspectors with an avenue to take their concerns and grievances, and help ensure that they are able to carry out their responsibilities – both food safety and humane slaughter – without undue interference;

E. Egregious humane handling violations must be noted through Noncompliance Reports (as they had been until agency changes* were instituted following the Hallmark case), so that documentation of these serious violations will become part of the computerized data base, accessible through the PBIS system to other inspectors, USDA's Office of Food Safety, the media, the public, Congress, and others evaluating HMSA compliance and analyzing trends, and will require permanent corrective action (*following the Hallmark case, FSIS instructed inspectors to report egregious humane handling violations only via faxed Memoranda of Interview that are not readily reviewable and involve just temporary corrective action no longer required after a suspension is lifted);

F. Permanent corrective actions must be required by the agency. Under the current system, plants placed under "suspension in abeyance" have their suspension lifted and are not required to continue corrective action after a set period of 60 or 90 days;

G. Inspections and DVMS visits must be unannounced and not on a predictable schedule (except for 3C below);

H. In-person inspections could be supplemented with video surveillance to allow for agency oversight of all animal handling, from the time each animal arrives at the slaughter premises through the time of death. But it is critical to note that while video surveillance could be an important supplemental

tool, it does not negate the need for greater real-time in-person inspector observation. Video footage should be preserved for forensic purposes so that it is possible to go back and look at particular scenes to determine if violations occurred;

I. Inspectors should be rotated to ensure that they do not develop inappropriate relationships with plant personnel that could jeopardize their objectivity;

J. Whistleblower reforms (as envisioned in pending Whistleblower Protection Act bills – H.R. 1507/S. 372) must be enacted to enable inspectors to report abuses without fear of retribution;

K. Undercover investigations at slaughter facilities should be conducted by USDA personnel – under the OIG or otherwise – to provide a significant deterrent against violations and expand on the capacity of private nonprofit organizations to carry out such investigations;

L. "Objective scoring" standards, if used to enhance enforcement, should not trump an inspector's expertise in witnessing inhumane treatment, and such standards must be overseen with real-time inspector observation to be useful (just having standards on paper that no one oversees will not be helpful).

2. ***Recognition That Poultry Must Have Protection Under Humane Methods of Slaughter Act***

USDA should stop excluding chickens, turkeys, and other poultry – who constitute approximately 95% of all land animals slaughtered for food in the U.S. (9 billion birds per year) – from this basic law that is supposed to protect animals from cruel and abusive treatment in their final moments. USDA should require and help guide industry transition to Controlled Atmosphere Killing methods that, when done using a proper mix of gases, can provide a more humane end and also yield higher productivity (e.g., fewer broken bones) and less worker injuries.

3. ***Actions Regarding Calves***

A. Close loophole that allows slaughter of downer calves (as noted in 4A below);

B. End transport of live baby calves to slaughter plants (prior to 10 days of age, as in EU regulations);

4. ***Actions Regarding Downed Animals***

A. Extension of the downer cattle ban to auctions, markets, stockyards, and livestock haulers, and to other species, as well as to calves;

B. Prohibition of specific egregious practices on any disabled or injured animal, such as forcefully striking the animal with an object, dragging the animal, ramming or otherwise attempting to get the animal to stand using heavy machinery, or using electric shock, water pressure, or other extreme methods;

C. A requirement for immediate and humane euthanasia – by personnel trained to use either a captive bolt gun (followed by exsanguination), firearm (using appropriate caliber), or euthanasia solution – of all nonambulatory animals at auctions, markets, stockyards, and slaughter facilities, and on livestock trucks, regardless of the reason(s) the animal is nonambulatory. An inspector meeting each truck when it arrives on the premises should order the immediate humane euthanasia and condemnation of any animal who is nonambulatory;

D. A requirement that nonambulatory animals be first rendered unconscious if they must be moved prior to euthanasia, and the use of suitable equipment for such movement by trained personnel;

E. A requirement of confirmation of clinical death prior to disposal of the carcass. Confirmation of death should include all three of the following, each absent for more than 5 minutes:

- Lack of heartbeat (determined with stethoscope, not pulse)
- Lack of respiration
- Lack of corneal reflex (touching surface of eyeball)

(Visible rigor mortis can also serve to confirm death, when observed over a longer period, but the three indicators above should have already been checked);

5. ***Requirement That More Humane Gas Mixtures Be Used to Stun Pigs***

Use of CO_2 alone is highly aversive and causes unacceptable suffering, as pigs suffocate rather than first losing consciousness.

Mr. KUCINICH. Thank you very much, Mr. Pacelle.

Mr. Painter, in your testimony you said that in 2009 you oversaw the slaughter or we oversaw the slaughter and processing of 112 million domestic head of livestock and 6.7 billion domestic poultry animals. Are there enough inspectors to be able to ensure that the food which the American people are consuming is adequately inspected, and so fit for consumption, so they can have confidence that what they eat they are going to be safe?

Mr. PAINTER. No, sir. Not only is there not enough inspectors, there is not the ability to do the job.

We actually have a provision in our contract, our national contract. Article 5, section 15, states that it is conflicting orders. We actually had to put that provision in the contract because we were getting so many different orders in the field. You know, you are to follow the last instructions given. So it changes from day to day.

Mr. KUCINICH. In your prepared testimony, you said that enforcement of the Humane Slaughter Act is not a priority of the agency to enforce. What are the implications of that, in your mind as someone who has worked as an inspector? What happens if the Humane Slaughter act is not enforced?

Mr. PAINTER. You know, from what we are seeing in the field, it is just not a big issue. And it was said earlier——

Mr. KUCINICH. It is not what?

Mr. PAINTER. It is not a big issue. I mean, it is a routine thing. Let's go out. Let's do antemortem and let's run back in the plant. That is——

Mr. KUCINICH. You are saying that management hasn't made it a big deal?

Mr. PAINTER. Management has not made it——

Mr. KUCINICH. Do you think it is a serious thing?

Mr. PAINTER. I do. I do.

Mr. KUCINICH. Why?

Mr. PAINTER. A number of things have brought out. Other than the cruelty to the animals, it certainly has a food safety aspect, as well, which has been brought out before, you know. Our concerns are——

Mr. KUCINICH. If you knew for sure that beef or poultry that was presented to you for consumption was not properly inspected and the Humane Slaughter Act was not enforced, would you have any misgivings about consuming such beef or poultry?

Mr. PAINTER. Certainly.

Mr. KUCINICH. Why?

Mr. PAINTER. Well, No. 1, there is an ethical portion that I think that we are missing as agency employees. We should have a high ethical standard. I am not saying that the inspectors don't have a high ethical standard; they do. But we get so much going on from our management. And let me give an example of what is going on.

Mr. KUCINICH. What about the second thing? Tell me about the health issues.

Mr. PAINTER. Well, you know, as mentioned earlier, you have downer animals that are laying in their own feces, and in the process you can get E. coli contamination from animals that have been lying in their own feces. An animal that——

Mr. KUCINICH. Mr. Mande, who was up here earlier—is Mr. Mande still here? He seemed to imply that this is just an isolated case. Even the way the Department handled it, they condemned it quickly, as they should. Is it an isolated case as far as you are concerned?

Mr. PAINTER. I will take a quote from a former Governor of Alabama: it is not the first time it happened; it is just the first time they got caught. So I have no reason to believe it is an isolated case because, as mentioned earlier, part of the time it is a staffing issue. Mr. Mande mentioned that the slaughter lines, according to the Meat Inspection Act, they are supposed to be manned. You are supposed to have bird-by-bird and carcass-by-carcass inspection. But when you meet that, part of the time you don't meet the guidelines for other provisions.

Mr. KUCINICH. I noted with interest the figures that you produced for this committee about the in-plant inspection vacancy rate; in other words, how many inspectors you are short, right?

Mr. PAINTER. Yes, sir.

Mr. KUCINICH. Am I correct in saying that Des Moines and Chicago are two of the largest processing areas?

Mr. PAINTER. They are.

Mr. KUCINICH. And what percentage of the livestock that is being processed goes through those areas?

Mr. PAINTER. I am going to estimate probably about a half that go through the Nation.

Mr. KUCINICH. So if you have in Des Moines from February 2008 to September 2008, if you have consistent double digit deficiencies, what does that mean?

Mr. PAINTER. That means the slaughter line is going to be staffed and the offline duties are going to go by the wayside, such as the antemortem and humane slaughter.

Mr. KUCINICH. And if you have in Chicago, which is the other major packing and slaughter and processing, double digit in-plant inspection vacancy rates from April 2008 through September 2008, that means the same thing, I take it, right?

Mr. PAINTER. Yes, sir.

Mr. KUCINICH. And what about in Albany? Albany, for some reason, is very high, 17.6 percent. It started in February 2008 to 16.3 percent September 2008. What do they process in Albany? Do you remember offhand?

Mr. PAINTER. Mainly Albany is processing areas. You have, of course, the Albany district covers the plant in Vermont that has been a focus of this meeting, but——

Mr. KUCINICH. So would you say there could be a connection between then the adverse impact on the animals with respect to enforcement of the Humane Slaughter Act on one hand, questions of food safety on another, connected directly to not having enough inspectors?

Mr. PAINTER. Yes, sir.

Mr. KUCINICH. OK. Now, Mr. Pacelle, you have testified that everywhere you have sent your inspectors they found animal abuses and legal violations. So you would dispute then the implication that when we saw quick action against, let's say, Bushway, that was just an isolated incident?

Mr. PACELLE. Well, I think, Mr. Chairman, not only if you are seven for seven—if you have seven investigations at facilities, stockyards or slaughter plants, and you find problems in every one, it doesn't really take a person with a lot of insight to come to the conclusion that there is probably a systemic problem.

I think compounding that, at Hallmark, going back to that investigation of 2008 in Chino, CA, USDA had named Hallmark the supplier of the year as recently as 2005, and they had just touched—there were a couple of citations for——

Mr. KUCINICH. Weren't they supplying beef for the school lunch program?

Mr. PACELLE. Yes. They were the No. 2 supplier to the National School Lunch Program.

Mr. KUCINICH. And isn't that why a recall was established once it was revealed what the poor sanitation practices that existed?

Mr. PACELLE. I think the concern was that these were downer calves. This was a cull calf slaughter plant. These were spent dairy cows. Many of them were incapable of walking. And the data from Europe where people have died as a consequence of Mad Cow Disease showed that non-ambulatory cattle are 48 times more likely to have Mad Cow Disease, or BSE, than ambulatory cattle.

And then Mr. Painter mentioned the issue of fecal contamination. These animals are on the ground and they are wallowing in manure, and that can contaminate the machinery.

Mr. KUCINICH. You send all these inspectors out. I mean, were your inspectors acting on tips? Were they just lucky to find this, or do you think that the size of the problem of poor enforcement of animal handling laws is a much bigger problem than we might really want to face?

Mr. PACELLE. Let me just say that at Hallmark-Westland there were five workers for FSIS, and that plant got consistently high ratings, and I believe there were 17 third-party audits that the company had paid for and always got the highest ratings. We had one guy who was an animal handler, so he was helping to offload the animals and then he would move them toward the slaughter area, and he was there for 6 weeks and documented case after case of terrible abuses.

I think, Mr. Chairman, that the issue is that—I mean, there are a couple of problems. Historically speaking, USDA has been too close to the meat industry. They have been a promoter of the industry. They haven't been a regulator. It has just become too incestuous, and this is what we are hoping that Secretary Vilsack continues in his efforts to really have a proper regulatory function.

I also want to mention that we have problems with the law, itself. The tool that the inspectors have is to shut down the plant. Under the Federal law, there are no criminal penalties for serious abuses. That is why we had to go to the local authorities, to the district attorney. And then we also think there should be fines. I mean, these companies are treating these animals like meat machines.

Mr. KUCINICH. Right. And I would say that our subcommittee looks forward to working with you in drafting legislation that can make for more effective enforcement.

I just want to ask a question that I keep hammering away at here. The connection between non-compliance of humane animal handling laws and food safety, comment on that, please.

Mr. PACELLE. Well, I think the issue of downers, you know, was debated for 20 years in this Congress, and the meat industry fought it every step of the way. We warned that a downer cow was going to be found with Mad Cow Disease, and that is exactly what happened in 2003 at a slaughter plant in Washington State. What resulted was not only a food safety crisis, but more than 50 nations closed their markets to U.S.-produced beef, and that had a multi-billion-dollar impact. There was a study done that said it was a $12 billion impact. So the industry was penny wise and pound foolish. They are trying to extract every dime from the most hapless and suffering animals by pushing them ahead into the process to kill them, and they are potentially sacrificing—I mean, they are certainly sacrificing the well-being of those animals, but also the public. I quoted that information. We know E. coli, Mad Cow Disease, other problems are associated with the mistreatment and mishandling of animals.

Mr. KUCINICH. I think it is really important that message gets out to the public, because if they think this is just a matter of people who have sympathy for animals that somebody is going to eat anyway, and so who cares, there is a direct connection between the enforcement of animal handling laws and food safety. If people understand that, they should take an interest in how those animals are treated.

Mr. PACELLE. And it is more than just at the slaughter plants. We are dosing animals on factory farms with antibiotics for non-therapeutic reasons. They are in over-crowded environments. Because the farms are so crowded, they know the animals are going to get sick, so they try to dose them with antibiotics which leads to antibiotic resistant bacteria. These are the same classes of antibiotics that we use when children are sick or adults are sick.

Mr. KUCINICH. I think you have made another appearance as the confined animal feeding operations, a serious issue for public safety, as well as the humane treatment of the animals.

Mr. PACELLE. And those are the animals coming to the slaughter houses.

Mr. KUCINICH. Let me do this. We are going to wrap this up in a minute, but I have just a few questions of Mr. Eggleston.

As you note in your testimony, the slaughterhouse industry is getting more and more concentrated into larger and larger companies. Is there a connection between the way we regulate the industry and increasing concentration of it? And are bigger companies more adept in thriving under the specific regulations we have?

Mr. EGGLESTON. Yes, sir, Mr. Chairman. I think that in general the scale in which the industry has built itself stands directly in the way, as my testimony stated, for inspectors to do their job. I just think there is too many animals, too high a pace for them to actually get their eyes wrapped around each animal to make sure that animal is conducive for harvest or slaughter.

The consolidation of the industry is why I felt like we had to do something different. If I felt like the industry was sound and appropriate in their oversight as well as their production, I wouldn't

have had to go out and prove an almost unimaginable task of starting a small alternative parallel food system. So from farm to plate we are in control of every single step. That is a model that I think brings an alternative to the huge consolidation. That consolidation is a threat to every American consumer because of the inability to make sure that every single animal is fit.

Much like we have heard today in these testimonies, it is an incredibly uncomfortable environment to be put in a position as an inspector to have to oversee the wholesome and humane status that comes with that legend.

Mr. KUCINICH. Finally, what do your consumers tell you about the pre-slaughter handling of the animals they are consuming, and does it matter to them?

Mr. EGGLESTON. It definitely does matter. I know my customers on an individual basis. I speak to hundreds of them every week. We have been doing this for a decade. We also took some video clips of our customers to let them express to you—I will make that available to your committee.

Mr. KUCINICH. We would appreciate that. And I want to thank the witnesses and just make some closing remarks here.

I want to go back to the previous panel and tell Dr. Wyatt how much we appreciate the fact that your courage resulted in us being able to bring this forward.

I want to let Mr. Painter know that we know there are a lot of good people working for the USDA, and this subcommittee just wants to make sure that those people who really want to do their job can do it and aren't taking the wrong cues from upper-line management, just so you know. We appreciate the work that you are doing.

Mr. Eggleston, you are testimony that there are producers who are doing the right thing and they want to do the right thing. They want to set high standards.

And Mr. Pacelle, the public owes you and the Humane Society a debt of gratitude for taking the risks and sending inspectors undercover to be able to show what is really happening so we break this myth of everything is just fine and no one has to worry about the food they consume. It is OK because it has that stamp on there. You have really performed a public service, and as chairman of this subcommittee I really appreciate it.

We are going to maintain an ongoing interest in this issue, so as you get information, the Humane Society does any investigations, you can come forward and we will look at it. And the same thing, Mr. Painter. If you get information, if there are whistleblowers, people trying to do the right thing, they are getting hammered, if that still happens—and it may not under the new administration—you can bring that forward to this subcommittee.

I just want to make a final personal comment, and that is, as chairman of this subcommittee, I have conducted this hearing in a way that has been impartial, but, you know, I don't eat meat. I don't eat chicken. I don't eat fish. Now, I don't feel that I have a right to tell people what to eat, but I don't do that. The Humane Slaughter Act, Mr. Pacelle, I think is an oxymoron, a contradiction in terms. However, one thing I will guarantee you, that for those Americans who do consume those food products and who rely on

the Government to make sure that those products are safe, this subcommittee will relentlessly pursue the food safety issues, and the industry can count on that.

This is the Domestic Policy Subcommittee. I am Congressman Dennis Kucinich, Chairman of the subcommittee.

Today's hearing has been "Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act."

I want to thank all the witnesses in both panels. I want to thank those in attendance and those who are watching.

This committee stands adjourned.

[Whereupon, at 5:39 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

EcoFriendly Foods

MANAGEMENT

BEV EGGLESTON President/Founder
JANELLE EGGLESTON CFO/Business Manager
DONNA SANTONE General Manager
BRUCE SAUNDERS Value-Added Products
COLIN BOGGESS Community Relations
HERBERT COSBY Plant Manager
MATTHEW MARKEE Business Advisor
DR. TOM SCOTT Business Advisor
DAN MURPHY Strategic Integrator

KEY DATA

SALES GROWTH: 381% (2006-2009)
SALES 2009: $925,000
TOTAL PARTNER-PRODUCERS: 39
PAYMENTS TO FARMERS: More than $1 million paid since 2006

NOTABLE CUSTOMERS

Gramercy Tavern, NYC
2008 James Beard Award winner
Momofuko Group, NYC
DAVID CHANG, Owner/Chef
2008 James Beard Award winner
Johnny's Half Shell/Taqueria, DC
ANN CASHION, Owner/Chef
2004 James Beard Award Winner
Think Food Group, DC
JOSE ANDRES, Owner/Chef
2003 James Beard Award Winner

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» To learn more about EFF's programs and products or to arrange a tour of our facilities, visit www.ecofriendly.com

The Food Revolution has begun

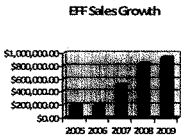
Across the nation, Americans are not only asking, "What's on the end of my fork?" but also, "How do we solve the problems associated with industrial farming?" The aptly named "Clean Food Revolution" is a quest to create a better food production system by building the infrastructure needed to support sustainable agricultural ventures and by opening viable market channels for the foods such systems produce.

OUR MISSION

To meet that challenge, EcoFriendly Foods was founded in 2001 as a distributor for local family farmers and a purveyor of the high quality meats and poultry. As we grew, we developed a new farm-to-table operational model, including ownership of a USDA-inspected, Certified Humane-approved meat processing facility. We believe we have created an innovative system that addresses both the economic and ecological challenges inherent in alternative agriculture. So far, the results are promising (see table below).

OUR CURRENT POSITION

From 2006 to 2009, our revenues have grown 381%. Sales for 2009 are up by 12% coming in at $925,000 which, during an economic recession, proves the continued consumer demand and viability of the business. Our company and our partners have been featured in *The New York Times, New York Post, The Washington Post* and the *Wall Street Journal, Saveur, Gourmet and Food and Wine* magazines. A conservative estimate of 84% growth over the next year would put EcoFriendly Foods' sales at a projected $1.7 million, along with other potential profit centers—such as branded product lines and specialty butcher shops—that could generate significant additional income.



Now, we are focused on taking our model to other regions of the country where we believe "eco-friendly" food production can benefit local farmers, help keep agricultural land in production and support rural economic viability.

> 'The people who produce real things [will be on top]. You're going to see stockbrokers driving taxis. The smart ones will learn to drive tractors, because they'll be working for the farmers.'
> —JIM ROGERS, *BusinessWeek*, March 9, 2009

OUR TEAM

- BEV EGGLESTON, President and Co-Founder, heads up Sales, Marketing & Operations
- JANELLE EGGLESTON, Co-founder and CFO, oversees Finance and Administration
- DONNA SANTONE, General Manager, oversees daily plant and office operations
- COLIN BOGGESS, Community Relations, directs Social Marketing & Networking
- BRUCE SAUNDERS, Value Added Products Coordinator, a specialist in food preparation
- MATTHEW MARKEE, Business Advisor, a specialist in business planning for entrepreneurial companies, including the renewable energy company Intrinergy
- DAN MURPHY, Strategic Integrator, a specialist in marketing tactics & communications

OUR GOALS AND CHALLENGES

In 2009, we only raised $233,000 in capital funds, less than ½ of our targeted funding needs. Our current goals include the planning and development of proposed strategic partnerships and bringing the company into expanded production, both of which require additional capital for implementation. We are also working on establishing a non-profit foundation for work which focuses on consumer and producer education. Our long term goals are to meet our current Business Plan-projected annual sales of $3,900,000 by 2014 and to move forward with the EFF Business Model replication.

Consumer Preferences for Farm Animal Welfare: Results of a Nationwide Telephone Survey

Oklahoma State University
Department of Agricultural Economics
August 2007

Executive Summary
Because public policy and industry standards are being shaped by public perceptions about animal welfare, more information is needed to identify exactly what people want in terms of farm animal welfare. A nationwide telephone survey was conducted from June to July 2007 with a representative sample of U.S. households. (see http://asp.okstate.edu/baileynorwood/AW2/InitialReporttoAFB.pdf for full study).

Primary findings

1. Almost everyone eats meat. Vegans and vegetarians only comprised 0.96% and 2.64% of the population, respectively.
2. The importance of farm animal welfare ranked low compared to other social issues. People indicated that human poverty, the U.S. health care system, and food safety were roughly 5 times more important to them than farm animal welfare. The financial well-being of farmers was rated as more important than food prices and the well-being of farm animals.
3. People believe the opportunity for animals to exhibit natural behaviors and exercise outdoors is more important than protection from other animals, shelter at a comfortable temperature, and comfortable bedding.
4. Although 81% of respondents believe animals and humans have the same ability to feel pain, most respondents believed human suffering should take precedence over animal suffering. Nevertheless, 62% believed farm animal welfare should be addressed even in the presence of human suffering.
5. Survey responses reveal that people are willing to allow up to 11,500 farm animals to suffer if the suffering of one human could be eliminated.
6. People recognize the link between improvements in farm animal welfare and higher meat prices. Many Americans are willing to pay for improved animal well-being. Almost 70% agreed that farmers should be compensated if forced to adopted more stringent animal welfare standards.
7. Most people believe that their purchases impact the lives of farm animals, and two-thirds of consumers believe that food companies will provide humanely raised meat if consumers want it.
8. Although people expressed confidence that food markets can respond to animal welfare concerns, they also indicated that the government should take an active role in promoting farm animal well-being.
9. Informing people of a benefit of gestation crates increased the percentage of people finding the crates humane by 27 percentage points.
10. People believe animals have better lives on "small" farms than "large" farms and better lives on "small" farms than "corporate" farms. Sixty-four percent of respondents felt that farmers and food companies put their own profits ahead of treating farm animals humanely.
11. Over three-quarters of respondents believe animals raised under higher welfare standards produce safer and better tasting meat.
12. An equal percentage of people thought animal welfare decisions should be based on expert opinions as the percentage of people who thought animal welfare decisions should be based on public opinion.
13. About 40% of the respondents believed ethical and moral considerations should be primarily used to determine how to treat farm animals, but about 45% believed scientific measures of animal well-being should be primarily used to determine how to treat farm animals.

14. There is a marked difference between what people say they believe about farm animal welfare and what they think the average American believes.

Whereas 95% of people said it was important to them how farm animals are cared for, only 52% thought the average American had the same concern. Likewise, whereas 76% of respondents said animal welfare was more important than low meat prices to them, only 24% thought the average American felt the same.

Such findings point to the fact that people respond to survey questions in a manner that creates a favorable impression of themselves, rather than their true preferences. Thus, in typical survey questions, people likely overstate their true concern for farm animal welfare.

Summary and Conclusions

The emotional and contentious topic of farm animal welfare has heard arguments from animal rights and livestock industry groups, but very little from American consumers. A nationwide telephone survey of U.S. consumers was undertaken to measure consumer preferences for farm animal welfare. As the respondent profile matches closely with the demographic profile of the U.S. in terms of gender, age, ethnicity, income, and region, the responses provide an accurate picture of nationwide animal welfare attitudes, beliefs, and preferences.

Consisting of 48 total questions, the survey provides an abundance of interesting results, and groups on both sides of the farm animal welfare will undoubtedly find some results consistent with their platform and some that are not. Hopefully, the results will help both industry and animal rights groups understand the views of the general public, and will encourage a better consensus on how farm animals should be raised.

A few key points emerge from the survey. The vast majority of Americans are consumers of meat and dairy products. They rate farm animal welfare low relative to other social issues like food safety and poverty. The financial well-being of U.S. farmers is given greater priority than the well-being of farm animals. Thus, government regulation to improve animal welfare will not be desirable from society's viewpoint unless it has a minor impact on farms. Still, people do care about farm animal well-being. Consumers believe efforts should be made to reduce animal suffering, even in the presence of human suffering. People can make calculated tradeoffs between the welfare of people and farm animals, where the suffering of one person is equivalent to the suffering of 11,500 farm animals.

Respondents understand that enhanced animal care will lead to higher meat prices, and many are willing to pay these higher prices. Consumers appear confident that if they desire food products with greater animal care, food companies will provide and advertise such products. While this confidence in markets would seem to imply government regulation is unnecessary, a majority of people still prefer some government involvement in farm animal welfare.

Livestock industries should pay close attention to the result that 75% of respondents said they would vote for laws requiring more humane treatment of farm animals. Given the recent successes of animal rights groups at the voting booth, future successes seem likely. Respondents associate humane farms as those that provide animals with access to outdoors and generally view cages as inhumane. However, it should be noted that cages are more tolerated when they are used to protect animals from hurting one another. Animal care and food safety are not unrelated. Farms with greater standards of care are thought to produce safer and better tasting meat. Finally, there is a significant difference in what people say they believe about farm animal welfare and what they think the average American believes. This could be interpreted to mean that people inflate their concern for farm animals in surveys to create a favorable impression of themselves. Future studies measuring consumers' willingness-to-pay higher meat prices in exchange for enhanced farm animal welfare should enact measures to correct for this bias.

In the coming years, many laws regarding farm animal treatment may be proposed at local, state, and federal governments. Legislation that is passed could have a profound effect on animals, meat and dairy consumers, and those who make their living in the livestock and meat production industries. As well-funded interest groups will no doubt have their say in the desirability of proposed legislation, it is important

that policymakers also consider the views of the average American consumer—the views expressed in this survey. ×

Fake Veterinarian Caught By Channel 2

Posted: 6:49 pm EST February 10, 2010
Updated: 9:53 am EST February 11, 2010

ATLANTA -- At first glance, Tim Holt looks like the average college student on the campus of Athens Tech. He's studying anatomy and microbiology. But those intro level courses do look strange for someone who already claims to be a veterinarian.

David Cantrell is a close friend of Holt's. He says he knows his friend isn't a vet, and started asking questions about Holt's job.

"I picked up on a few lies, not made to cover up anything, but they were just kind of compulsive lies."

For the last four years, Holt worked as a veterinarian for the U.S. Department of Agriculture. Your tax dollars paid for him to supervise dozens of employees, and inspect food processing plants around Georgia to make sure the animals were healthy and the food supply safe.

"He's never been to vet schools, he's read book and gone to some seminars and listened," Cantrell said. "I don't know that you would feel safe if I were inspecting your food supply, and I'm just as qualified as he is."

Ken Berkholtz recruits veterinarians for companies around the country. He got Tim Holt's first resume for a job back in 2004. We asked him how many items on that resume were untrue. "The majority. Out of maybe 10 items, he probably lied on 8 of them."

The company hired Tim, but fired him after three months saying his skills didn't back his credentials. His resume claims a D.V.M. and a Ph.D. from Auburn University. He had even named himself Georgia Veterinarian of the Year.

"They confronted him and he didn't deny anything, so they just terminated him," Berkholtz said.

Then in 2009, Tim sent Ken his most recent resume. Ken remembered the name and checked the files.

"He changed his resume considerably. (He) no longer had gotten his degree from Auburn. It was Missouri now."

Someone named Tim Holt did graduate from the University of Missouri Veterinarian School, but that was before this Tim Holt was born.

We confronted Holt on the campus of Athens Tech. He wouldn't answer any of our repeated questions.

David Cantrell also found a University of Georgia letterhead, addressed to Dr. Timothy Holt, Class of 2002. The fax number listed to verify his education, rings in Tim's home office in Athens.

Cantrell called the USDA several times, but says no one wanted to hear the truth. So he called Channel 2. We shared his records with a criminal investigator. Now the federal agency won't show us Holt's job application, saying it would jeopardize their investigation.

"Once is a wake up call, oh my gosh I shouldn't do this," Cantrell said. "Twice is just brazen. Then to continue doing it? There's no question he's going to do it again."

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS DIRECTIVE	6900.2 Revision 1	11/25/03

Humane Handling and Slaughter of Livestock

PART I - GENERAL

I. **PURPOSE**

This directive informs inspection program personnel of the requirements, verification activities, and enforcement actions for ensuring that the handling and slaughter of livestock, including the slaughter of livestock by religious ritual methods, is humane. This directive explains how inspection program personnel should approach these activities.

II. **CANCELLATION**

FSIS Directive 6900.2, dated 10/7/03

III. **REASON FOR REISSUANCE**

FSIS is reissuing this directive to provide additional clarification to the instructions in Part V, Ritual Slaughter of Livestock.

IV. **REFERENCES**

9 CFR parts 313 and 500, the Humane Methods of Slaughter Act - 7 U.S.C. 1901, 1902, and 1906, and FSIS Directive 6900.1 – Humane Handling of Disabled Livestock.

V. **BACKGROUND**

a. The Humane Methods of Slaughter Act of 1978 (HMSA) (Section 1901, 1902 and 1906, Attachment 1) states that the slaughtering and handling of livestock are to be carried out only by humane methods. In that Act, Congress determined (among other things) that the use of humane methods of handling and slaughtering livestock prevents needless suffering of animals and results in safer and better working conditions for employees in slaughter establishments.

b. Once a vehicle carrying livestock enters an official slaughter establishment's premises, the vehicle is considered to be a part of that establishment's premises. The animals within that vehicle are to be handled in accordance with 313.2.

PART II -- VERIFICATION OF THE LIVESTOCK PENS, DRIVEWAYS, and RAMPS

A. What are the regulations related to livestock pens, driveways and ramps?

Section 313.1 states:

(a) Livestock pens, driveways and ramps shall be maintained in good repair. They shall be free from sharp or protruding objects which may, in the opinion of the inspector, cause injury or pain to the animals. Loose boards, splintered or broken planking and unnecessary openings where the head, feet, or legs of an animal may be injured shall be repaired.

(b) Floors of livestock pens, ramps, and driveways shall be constructed and maintained so as to provide good footing for livestock. Slip resistant or waffled floor surfaces, cleated ramps and the use of sand, as appropriate, during winter months are examples of acceptable construction and maintenance.

(d) Livestock pens and driveways shall be so arranged that sharp corners and direction reversal of driven animals are minimized.

NOTE: Verification of compliance with 9 CFR 313.1(c) is addressed in FSIS Directive 6900.1, Humane Handling of Disabled Livestock.

B. How do inspection program personnel verify compliance with this regulation?

When verifying compliance with 9 CFR 313.1(a), (b), and (d), inspection program personnel should determine whether the pens, driveways, and ramps are designed and maintained to prevent injury or pain to the animals. To do this, inspection program personnel need to seek answers to questions such as:

1. Are pens free of loose boards or openings, so that the head, feet or legs of an animal will not be injured?
2. Are the floors of pens, ramps, and driveways constructed so that an animal is not likely to fall (e.g., cleated, waffled, use of sand)?
3. Are driveways arranged so that sharp turns or sudden reversals of direction are minimized, so that they are not likely to cause injury to the animals?

These questions are examples and are not an all-inclusive list.

C. What actions do inspection program personnel take if there is a noncompliance with 9 CFR 313.1?

If inspection program personnel observe a noncompliance with 9 CFR 313.1, they are to determine whether the situation does or will immediately lead to animal injury or inhumane treatment. If the noncompliance is such that it will not immediately lead to injury (e.g., a few loose boards), inspection program personnel are to take action as set out in Part VI A. If the noncompliance is such that an animal has been injured (e.g., an animal's leg falls in between boards), inspection program personnel are to take action as set out in Part VI B.

PART III – VERIFICATION OF HUMANE HANDLING OF LIVESTOCK

A. What is the regulation related to handling of livestock?

Section 313.2 states:

(a) Driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Livestock shall not be forced to move faster than a normal walking speed.

(b) Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which, in the opinion of the inspector, is excessive, is prohibited. Electrical prods attached to AC house current shall be reduced by a transformer to the lowest effective voltage not to exceed 50 volts AC.

(c) Pipes, sharp or pointed objects, and other items which, in the opinion of the inspector, would cause injury or unnecessary pain to the animal shall not be used to drive livestock.

(d) Disabled livestock and other animals unable to move. (Also refer to FSIS Directive 6900.1, Humane Handling of Disabled Livestock).

(1) Disabled animals and other animals unable to move shall be separated from normal ambulatory animals and placed in the covered pen provided for in section 313.1(c).

(2) The dragging of disabled animals and other animals unable to move, while conscious, is prohibited. Stunned animals may, however, be dragged.

(3) Disabled animals and other animals unable to move may be moved, while conscious, on equipment suitable for such purposes; e.g., stone boats.

(e) Animals shall have access to water in all holding pens and, if held longer than 24 hours, access to feed. There shall be sufficient room in the holding pen for animals held overnight to lie down.

(f) Stunning methods approved in section313.30 shall be effectively applied to animals prior to their being shackled, hoisted, thrown, cast or cut.

B. How do inspection program personnel verify compliance with these regulations?

When verifying compliance with 9 CFR 313.2, inspection program personnel should determine whether the handling of livestock is being done with a minimum of excitement and discomfort to the animals. Inspection program personnel will verify the moving of livestock, the availability of water and the handling of disabled livestock in the establishment. To do this, inspection program personnel need to seek answers to questions such as:

1. Are animals driven from the unloading ramps to the holding pens with a minimum of excitement and not at a running pace?
2. Are electric prods and other implements used as little as possible to move animals within the establishment?

3. Are animals driven by using an object that would not cause unnecessary pain (e.g., not using a sharp object or pipe)?
4. Are disabled animals separated from ambulatory animals and placed in a covered pen?
5. Do the animals have access to water?
6. Is there sufficient room in the holding pens for animals that are held over night?

The above questions are examples and are not an all-inclusive list.

NOTE: Verification of compliance with 9 CFR 313.2(d) that deals specifically with disabled livestock, is also addressed in FSIS Directive 6900.1, Humane Handling of Disabled Livestock.

C. What actions do inspection program personnel take if there is a noncompliance with 9 CFR 313.2?

If inspection program personnel observe a noncompliance with 9 CFR 313.2, they are to determine whether the situation does or will immediately lead to animal injury or inhumane treatment. If the noncompliance can be immediately remedied (e.g., providing water to penned animals), inspection program personnel are to take the action as set out in Part VI A 1 and 2. If an immediate remedy is not forthcoming (e.g., the establishment fails to provide water immediately after being notified that animals do not have water available), inspection program personnel are to take the action as set out in Part VI A 3. If the noncompliance is resulting in the injury or inhumane treatment of animals (e.g., the dragging of disabled animals), inspection program personnel are to take action as set out in Part VI B.

PART IV – STUNNING METHODS

Appropriate stunning methods are required for an establishment to be in compliance with the HMSA. When stunning is done correctly, animals feel no pain, are rendered instantly unconscious, and remain unconscious until slaughtered. There are four methods of stunning approved for livestock. A summary of these approved stunning methods appear below (refer to 9 CFR sections 313.5, 313.15, 313.16 and 313.30).

A. **What are the general regulatory requirements related to approved stunning methods?**

Chemical; carbon dioxide

Regulatory requirements for the use of carbon dioxide as a humane method of slaughter are specified in section 313.5 and include, among other things, the following:

1) Carbon dioxide gas may be used to slaughter and handle sheep, calves and swine.

2) The carbon dioxide gas shall be administered in a chamber so as to produce surgical anesthesia (a state where an animal feels no painful sensation) before the animal is shackled, hoisted, thrown, cast, or cut. Animals shall be exposed to the carbon dioxide gas in a way that will accomplish the anesthesia quickly and calmly.

3) Gas concentrations and exposure times shall be graphically recorded throughout each day's operation.

4) It is necessary that the operator be skilled, attentive, and aware of his or her responsibility.

Mechanical; captive bolt

Regulatory requirements for the use of captive bolt stunners as a humane method of slaughter are specified in section 313.15 and include, among other things, the following:

1) Captive bolt stunners may be used to slaughter and handle sheep, swine, goats, calves, cattle, horses, mules, and other equines.

2) The captive bolt stunners shall be applied to livestock so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut.

3) The stunning operation is an exacting procedure and requires a well-trained and experienced operator who must use the correct detonating charge with regard to kind, breed, size, age, and sex of the animal to produce the desired results.

4) Stunning instruments must be maintained in good repair.

Mechanical; gunshot

Regulatory requirements for the use of gunshot as a humane method of slaughter are specified in section 313.16 and include, among other things, the following:

1) Shooting by firearms may be used to slaughter and handle cattle, calves, sheep, swine, goats, horses, mules, and other equines.

2) A single shot delivery of a bullet or projectile into the animal is to produce immediate unconsciousness in the animal before it is shackled, hoisted, thrown, cast or cut.

3) Firearms must be maintained in good repair.

4) The shooting operation is an exacting procedure and requires a well-trained and experienced operator who must be able to accurately direct the projectile to produce immediate unconsciousness.

5) The operator must use the correct caliber firearm, powder charge and type of ammunition to produce instant unconsciousness in the animal.

Electrical; stunning or slaughtering with electric current

Regulatory requirements for the use of electric current as a humane method of slaughter are specified in section 313.30 and include, among other things, the following:

1) Electric current may be used to slaughter and handle swine, sheep, calves, cattle, and goats.

2) The animal shall be exposed to the electric current in a way that will accomplish surgical anesthesia (a state where an animal feels no painful sensation) quickly and effectively before they are shackled, hoisted, thrown, cast, or cut.

3) It is necessary that the operator of electric current application equipment be skilled, attentive, and aware of his or her responsibility.

4) Suitable timing, voltage and current control devices shall be used to ensure that each animal receives the necessary electrical charge to produce immediate unconsciousness.

B. How do inspection program personnel verify compliance with these regulations?

When verifying compliance with 9 CFR 313.5, 313.15, 313.16, and 313.30, inspection program personnel should assess the stunning method used for its effectiveness in rendering animals immediately unconscious and verify that animals are being properly stunned at the knocking box before hoisting. To do this, inspection program personnel need to seek answers to questions such as:

1. During stunning operations, is the establishment consistently rendering animals unconscious with a single application of the stunning methodology?
2. Is stunning equipment in good repair?
3. Are carbon dioxide gas concentrations graphically recorded throughout each day's stunning operation so that the correct amount of gas is used to adequately anesthetize an animal?
    1. Is the captive bolt stunner accurately placed so that after it is applied the animal is immediately unconscious?
    2. Is the correct caliber firearm being used to produce quick and complete unconsciousness in an animal?
    3. Is the proper voltage of electric current being used so that the animal is quickly rendered unconscious?

NOTE: The above questions are examples and are not an all-inclusive list.

C. What actions do inspection program personnel take if there is a noncompliance with 9 CFR 313.5, 313.15, 313.16, or 313.30?

If inspection program personnel observe a noncompliance with 9 CFR 313.5, 313.15, 313.16, or 313.30, they are to determine whether the situation does or will immediately lead to animal injury or inhumane treatment. If the noncompliance is such that animals will not be injured or treated inhumanely (e.g., the gas concentration was not graphically recorded, but the establishment showed that the proper concentration was administered), inspection program personnel are to take an action as set out in Part VI A. If the noncompliance is resulting in the injury or inhumane treatment of animals (e.g., an animal is not properly rendered unconscious) inspection program personnel are to take action as set out in Part VI B.

PART V -- RITUAL SLAUGHTER OF LIVESTOCK

A. General Requirement

Section 1902 (b) of the Humane Methods of Slaughter Act of 1978 provides that "slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering" is humane. Section 1906 of the Act further provides that, "Nothing in this chapter shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this chapter, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this chapter. For the purposes of this section the term 'ritual slaughter' means slaughter in accordance with section 1902(b) of this title."

B. What are the responsibilities of inspection program personnel in establishments where there is ritual slaughter?

1. In an establishment that performs ritual slaughter, inspection program personnel are to request the plant manager to inform them about what type of ritual slaughter (e.g., Kosher, Halal) will be performed, when it will be performed, and who will perform the ritual slaughter.
2. Inspection program personnel are to verify that the humane handling of animals prior to preparation of the animal for ritual slaughter is consistent with parts II and III of this directive, with the exception of the discussion of stunning (9 CFR 313.2(f)) in part III of this directive. Examples of verification activities may include confirming the availability of water, checking the condition of pens and ramps, and verifying that there is no excessive use of electric prods.
3. Inspection program personnel are to verify that after the ritual slaughter cut and any additional cut to facilitate bleeding, no dressing procedure (e.g., head skinning, leg removal, ear removal, horn removal, opening hide patterns), is performed until the animal is insensible.

C. What actions do inspection program personnel take if they have concerns with humane handling prior to the handling and preparation of the animals for ritual slaughter or concerns with dressing procedures performed after ritual slaughter prior to the animal becoming insensible?

1. Inspection program personnel are not to interfere in any manner with the preparation of the animal for ritual slaughter, including the positioning of the animal, or the ritual slaughter cut and any additional cut to facilitate bleeding.
2. If inspection program personnel have concerns while verifying part V. paragraph B., they are to call the DO through supervisory channels.

PART VI – ENFORCEMENT AND DOCUMENTATION

A. What do inspection program personnel do when they have determined that a noncompliance with the humane slaughter and handling requirements has occurred that is not immediately causing injury or inhumane treatment of animals?

1. Inspection program personnel are to document the noncompliance on an FSIS Form 5400-4, Noncompliance Record (NR), under the Inspection System Procedure (ISP) code 04C02 using the "Protocol" trend indicator. Inspection program personnel are to specify the regulation or statutory provision that pertains to the incident, provide a concise description of the noncompliance and provide any other evidence that supports the determination that a noncompliance has occurred.
2. Inspection program personnel are to verify that the establishment takes the necessary immediate and further preventive actions.
3. If an establishment fails to adequately respond to an NR or fails to take its immediate and further preventive actions, inspection program personnel are to take a control action (i.e., apply a U.S. Reject Tag) as set out in 9 CFR 500.2 (a)(4), *inhumane handling or slaughter of livestock*. The control action will remain in place until the establishment implements the appropriate immediate and further preventive actions that ensure compliance with the appropriate section of 9 CFR part 313.

B. What do inspection program personnel do when they have determined that a noncompliance with the humane slaughter and handling requirements has occurred and animals are being injured or treated inhumanely?

1. Inspection program personnel are to document the noncompliance on an NR, under the ISP code 04C02 using the "Protocol" trend indicator. Inspection program personnel are to specify the regulation or statutory provision that pertains to the incident, provide a concise description of the noncompliance and provide any other evidence that supports the determination that a noncompliance has occurred.
2. Inspection program personnel are to take a control action (i.e., apply a tag) as set out in 9 CFR 500.2 (a)(4), *inhumane handling or slaughter of livestock*. The control action will remain in place until the establishment implements the appropriate immediate and further preventive actions that ensure compliance with the appropriate section of 9 CFR part 313.

C. **How do inspection program personnel determine whether there is a trend of a noncompliance with the humane slaughter and handling requirements?**

To determine whether a noncompliance trend exists, inspection program personnel will need to decide whether they can link NRs. Inspection program personnel should only link NRs when the noncompliances are from the same cause.

To make a determination as to whether a trend exists, inspection program personnel are to seek answer to the following questions:

1. How much time has lapsed since the previous NR was written?
2. Was this noncompliance from the same cause as the previous NR?
3. Were the establishment's further planned actions implemented?
4. Were the establishment's further planned actions effective in reducing the frequency of these noncompliances?
5. Is the establishment implementing additional planned actions that reduce the possibility of recurrence?

Inspection program personnel should be discussing any linkages with plant management during the weekly meetings. Inspection program personnel should also include in Block 10 of the NR that these discussions were held. Inspection program personnel should also include a statement in Block 10 of the NR stating that continued failure to meet regulatory requirements can lead to the enforcement actions described in 9 CFR 500.3(b).

Inspection program personnel should continue to link NRs together that derive from the same or a related cause until he or she determines that an enforcement action is necessary to bring the establishment into compliance with the regulations.

When inspection program personnel determine that an enforcement action (i.e., suspension as described in 9 CFR 500.3(b)) is necessary, they should contact the District Office (DO) and provide support for this determination.

The DO will determine whether inspection should be suspended as set out in 9 CFR 500.3(b). As provided in 9 CFR 500.3(b), FSIS may impose a suspension without providing the establishment prior notification if the establishment is handling or slaughtering animals inhumanely.

D. **When may the Inspector-in-Charge (IIC) immediately suspend inspection because the establishment is handling or slaughtering animal inhumanely?**

If there is an egregious situation of inhumane handling or slaughter, the IIC may immediately suspend inspection in accordance with 9 CFR 500.3(b) of the regulations. The IIC verbally notifies plant management of the suspension. In such situations, the IIC is to immediately notify the DO for prompt documentation of the suspension action.

PART VII – INFORMATION FOR THE DISTRICT VETERINARY MEDICAL SPECIALISTS (DVMS)

What do inspection program personnel provide to the DO to document noncompliance findings with the humane handling and slaughter requirements?

When noncompliances occur, inspection program personnel are to send copies of the NRs to the DVMS (or to the Deputy District Manager if there is no DVMS in a District). These NRs should be kept on file in the DO. When necessary, the DVMS or the Deputy District Managers will follow-up on issues of concern and will correlate resolutions.

/s/ Philip S. Derfler

Assistant Administrator
Office of Policy and Program Development

DISTRIBUTION: Inspection Offices; T/A Inspectors; Plant Mgt; T/A Plant Mgt; TRA; ABB; TSC; Import Offices

OPI: OPPD

Humane Methods of Slaughter Act of 1978. (7 U.S.C. 1901 et seq.)

Sec. 1901. - Findings and declaration of policy
The Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.
Sec. 1902. - Humane methods
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. Either of the following two methods of slaughtering and handling are hereby found to be humane:
(a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all 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; or
(b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.
Section 1906 – Exemption of ritual slaughter
Nothing in this chapter (Humane Methods of Slaughter Act of 1978 – Title 7 of the U.S. Code, Chapter 48) shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Not withstanding any other provision of this chapter, in order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this chapter. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 1902(b) of this title.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS NOTICE	21-09	4/1/09

HUMANE HANDLING ACTIVITIES AND DOCUMENTATION IN LIVESTOCK SLAUGHTER ESTABLISHMENTS

PURPOSE

This notice reissues FSIS Notice 16-08. This notice provides instructions for Public Health Veterinarians (PHVs) and other inspection program personnel to conduct humane handling activities randomly throughout their tour of duty. Also, PHVs are to encourage establishments to develop and implement a systematic approach for the humane handling of animals (See the following link:

http://www.fsis.usda.gov/Frame/FrameRedirect.asp?main=http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/04-013N.htm)

CONDUCTING AND FOR DOCUMENTING HUMANE HANDLING ACTIVITIES

PHVs and In-plant Inspection Program Personnel

PHVs and other inspection program personnel are to vary from day-to-day the time during their tour of duty that they perform their activities to verify that animals are treated humanely. While performing Inspection System Procedure (ISP) code 04C02 during each slaughter shift they are to make observations under the Humane-handling Activities Tracking System (HATS) under Category IV, Handling During each occurrence of Ante Mortem Inspection. In addition, they are to verify one or more other HATS categories through each slaughter shift and ensure that all categories are verified routinely. Inspection program personnel are to focus on complete and quality verifications of each category.

To prioritize which HATS categories to verify, PHVs or other inspection program personnel are to consider the documentation of the previous activity, historical observations, and direction from the District Veterinary Medical Specialist (DVMS). In addition, inspection program personnel may decide to repeat some activities if a significant amount of time has elapsed from the time of ante mortem inspection and the slaughtering of the animals. Generally, inspection personnel should not pass for

slaughter more animals then can be slaughtered in approximately four hours.

When Front-line Supervisors or DVMSs visit the establishment, they are to ensure that PHVs or other inspection program personnel are employing correct decision-making, correctly verifying HATS activities, correctly documenting their activities, and varying from day-to-day the times during their tour of duty that they verify that animals are handled and treated humanely.

Multi-IPPS Assignments

PHVs that conduct ante mortem and postmortem inspection disposition activities as part of a multi-IPPS assignment are to conduct one or more HATS procedures whenever they have cause to visit an establishment. Any non-compliance finding is to be addressed immediately. The PHVs should enter the results of compliant HATS procedures, using ISP code 04C02, while at the establishment, but they are to do so no later than the next time they log onto the Performance Based Inspection System (PBIS).

NONCOMPLIANCE

When inspection program personnel observe animals being injured or treated inhumanely, they are to take immediate enforcement action. As stated in FSIS Directive 6900.2, Revision 1, if animals are being treated inhumanely or injured, inspection program personnel are to take a regulatory control action (i.e., apply a retain/reject tag) as set out in 9 CFR 500.2 (a)(4), *Inhumane handling or slaughter of livestock*.

However, if the observed inhumane treatment is of an egregious nature, the regulations at 9 CFR 500.3(b) apply. The regulations state, "FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely." Therefore, the IIC is to take an appropriate regulatory control action to prevent continued egregious inhumane handling and orally notify plant management of an immediate suspension action. Next, the IIC is to immediately notify the District Office (DO) and the DVMS for prompt documentation of the suspension action. The IIC is also to document the facts that serve as the basis of the suspension action on a memorandum of interview (MOI) (see Attachment 1) and promptly provide that information electronically to the DO and the DVMS for their use in documenting the Notice of Suspension. The DO and the DMVS will make an official assessment of the facts supporting the suspension, take any final action with respect to it, and notify the Executive Associate for Regulatory Operations designated for the District.

An egregious situation is any act that is cruel to animals or a condition that is ignored and leads to the harm of animals such as:

1. making cuts on or skinning conscious animals,

2. excessive beating or prodding of ambulatory or nonambulatory disabled animals,

3. dragging conscious animals,

4. driving animals off semi-trailers over a drop off without providing adequate unloading facilities (animals are falling to the ground),

5. running equipment over animals,

6. stunning of animals and then allowing them to regain consciousness,

7. multiple attempts, especially in the absence of immediate corrective measures, to stun an animal verses a single blow or shot,

8. dismembering live animals, such as removing feet from live animals,

9. leaving disabled livestock exposed to adverse climate conditions while awaiting disposition, or

10. otherwise causing intentional unnecessary pain and suffering to animals, including situations on trucks.

HATS CATEGORIES

The electronic animal disposition reporting system (eADRS) database provides valuable information concerning animal diseases and welfare in the U.S. HATS is one component of the eADRS. The HATS component provides FSIS with data on the time FSIS PHV or other inspection program personnel spend verifying, as set out in FSIS Directive 6900.2, Revision 1, that specific humane handling and slaughter requirements are met. So that FSIS will have accurate and complete data, the HATS component is designed to record the time inspection program personnel spend on humane handling related activities and to separate that time into nine specific categories (see attachment 2). To the maximum extent possible, multiple inspection program personnel are routinely to conduct HATS related activities.

Category I - Adequate Measures for Inclement Weather: Under this category, inspection program personnel record their verification of how the establishment adapts its facilities and handling practices to inclement weather to ensure the humane handling of animals. When the weather conditions warrant concern (e.g., extreme cold, heat, humidity, heavy rains, or high winds), inspection program personnel are to assess what effect these conditions have on the establishment's humane handling of animals (9 CFR 313).

Specific examples of the effects inclement weather can have on humane handling are:

- animal could fall or injure themselves because of snow, ice, mud, etc. [9 CFR 313.1(b)]

- water that is frozen and, therefore, inaccessible. [9 CFR 313.2(e)]

Category II - Truck Unloading: Under this category, inspection program personnel record their verification of the establishment's humane handling procedures while unloading livestock.

Specific examples of verification procedures include observing that:

- the state of repair of vehicles, ramps, and driveways permit the unloading of animals without injury [9 CFR 313.1(a)]

- the proper positioning of vehicles and unloading ramps permits the unloading of animals without injury [9 CFR 313.1(b)]

- animals are unloaded and driven to pens with a minimum of excitement and prod use [9 CFR 313.2(a) and (b)]

- disabled animals are handled in strict accordance with 9 CFR 313.2 (d).

Category III - Water and Feed Availability: Under this category, inspection program personnel record their verification of the establishment's compliance with 9 CFR 313.2(e), which requires that water be available at all times, and that animals held longer than 24 hours have access to feed. The verification of feed availability may be more time consuming in large operations, or when animals are continually being moved and held.

Category IV - Handling During Ante mortem Inspection: Under this category, while inspection program personnel are conducting ante mortem inspection, they are to record the time spent verifying the establishment's facilities and procedures for humanely handling animals during ante mortem inspection.

Specific examples of verification procedures include:

- Examining livestock pens, floors, driveways, etc. to be sure they are maintained in good repair (9 CFR 313.1).

- determining that animals are being moved calmly and with a minimum of excitement during ante mortem inspection [9 CFR 313.2(a)]

- assessing the frequency of prod use during ante mortem inspection [9 CFR 313.2(b)]

Category V - Handling of Suspect and Disabled: Under this category, inspection program personnel record their verification of the measures that an establishment takes to ensure that "U.S. Suspect" and disabled livestock (9 CFR 313.2 (d)) are handled humanely. The weakened state of these animals renders them less resistant to even

"normal" weather conditions, and therefore, covered pens are required for these animals (9 CFR 313.1(c)). In establishments that present higher numbers of disabled livestock, inspection program personnel would typically spend more time verifying the humane handling of these animals than they would in an establishment that presents few disabled livestock.

Category VI - Electric Prod/Alternative Object Use: Under this category, inspection program personnel record their verification of the establishment's procedures for humanely and effectively moving livestock without excessive prodding or the use of sharp objects **after** ante mortem inspection has occurred (9 CFR 313.2). This procedure includes direct observation at multiple locations involving animal movement. For example, the movement of animals between pens, in alleyways, and in areas up to the knock box or stunning area.

NOTE: The reasons for excessive implement use may include poorly trained employees, animals balking due to distractions, or some other issue. It is expected that establishments train their employees adequately in the proper use of these implements, ensure that only objects designed for the intended purpose are being used, and maintain facilities in a manner that prevents excessive prodding.

Category VII - Observations for Slips and Falls: Under this category, inspection program personnel record time spent observing whether any animals are slipping and falling. The observance of animals slipping or falling necessitates inspection program personnel to verify the following:

- presence of flooring that provides adequate footing [9 CFR 313.1 (b)]

- the proper driving of animals, performed with a minimum of excitement and discomfort [9 CFR 313.2 (a)]

- that livestock are not forced to move faster than a normal walking speed

Category VIII - Stunning Effectiveness: Under this category, inspection program personnel record their verification of the establishment's procedures to appropriately and effectively administer stunning methods that produce unconsciousness in the animal before the animal is shackled, hoisted, thrown, cast, or cut (9 CFR 313.2 (f)). In the case of cattle, calves, horses, mules, sheep, goats, swine and other livestock, animals are to be rendered insensible to pain by a single blow or gun shot or an electrical, chemical, or other means that is rapid and effective. Additionally, the stunning area is to be designed and constructed so to limit the free movements of animals to allow the stunning blow to have a high degree of accuracy. For those animals that are ritually slaughtered, stunning effectiveness will not be evaluated, unless stunning methods (9 CFR 313), as an accepted part of that religious slaughter protocol, are inhumanely applied prior to the ritual slaughter cut. Additionally, ante mortem condemned animals are to be stunned appropriately (9 CFR 313).

Under this category, inspection program personnel are to record time spent in verifying the stunning method at the moment of application. Failure to properly stun animals is a

serious violation of the Humane Methods of Slaughter Act (HMSA) and represents a deficiency in training, equipment design, maintenance, or application. An establishment's humane handling procedures should address all of these elements to ensure that the intent of the HMSA is met. The following regulations address the various stunning methods:

- 9 CFR 313.5: chemical; carbon dioxide
- 9 CFR 313.15: mechanical; captive bolt
- 9 CFR 313.16: mechanical; gunshot
- 9 CFR 313.30: electrical; stunning or slaughtering with electric current

The verification instructions for these regulations are set out in FSIS Directive 6900.2, Revision 1. Some specific examples of verification activities include:

- observing the stunning operations, to verify that the establishment consistently renders animals unconscious with a single application of the stunning methodology;

- checking that stunning equipment is in good repair;

- reviewing the records for the carbon dioxide gas concentrations;

- observing that animals are properly restrained so that stunning is accurate.

Category IX - Check for Conscious Animals on the Rail: Under this category, inspection program personnel (usually a Public Health Veterinarian) record their verification that the establishment ensures that animals do not regain consciousness throughout shackling, sticking, and bleeding (Section 1902 of the HMSA, as well as the regulations mentioned in Category VIII). This category focuses specifically on the time after stunning and throughout the process of shackling, hoisting, sticking and bleeding of the animal.

The intent of this category is for inspection program personnel to verify that animals are not being processed until rendered insensible and that there is no return to consciousness during this time. In addition, inspection program personnel are to verify that the establishment takes immediate corrective action if an establishment employee observes an animal showing signs of regaining consciousness.

In the case of ritual slaughter, inspection program personnel are to verify that after the ritual slaughter cut and any additional cut to facilitate bleeding (which is typically performed by the religious authority), no dressing procedure is performed until the animal is insensible to pain (unconscious). FSIS personnel are to evaluate the animal to determine whether the animal is conscious after it has received the ritual slaughter cut and has been released from the applicable ritual method of handling. At this time, the animal is to be insensible to pain (unconscious), and no additional processing steps may take place until the animal is insensible.

DOCUMENTATION

When inspection program personnel perform their HATS activities for a shift and have recorded the time in HATS, and do not find noncompliances, they are to enter in PBIS the ISP code 04C02 (see attachment 3) as an unscheduled performed activity using an "A."

When inspection program personnel perform their HATS activities for a shift and find a noncompliance but that is not considered to be egregious, as set out in FSIS Directive 6900.2, Revision 1, they are to document the humane handling noncompliance on an NR under the 04C02 procedure. Inspection program personnel are to mark "protocol" as the trend indicator. Inspection program personnel are to indicate at the top of Block 10 of the NR which category of activity under HATS was being performed when they found the noncompliance. If the noncompliance is covered by a second HATS category as well, then inspection program personnel should note both categories on the NR. If two categories are covered, inspection program personnel should list the category where the noncompliance occurred first. For example, if animals are found to be without access to water during ante mortem inspection, in Block 10 of the NR inspection program personnel reference HATS III – **Water and Feed Availability** and then HATS Category IV – **Handling During Ante mortem** at the top of Block 10 and then continue with a thorough description of the noncompliance.

For situations where there are egregious humane handling noncompliances, as addressed under the Noncompliance section of this notice, the IIC is to:

1. immediately take any necessary regulatory control action to prevent continued egregious inhumane handling;

2. orally notify plant management of an immediate suspension action as provided under 9 CFR 500.3(b)

3. immediately notify the District Office (DO) and DVMS for prompt documentation of the suspension action, and

4. document the facts that serve as the basis of the suspension action on a MOI and promptly forward that information to the DO and DVMS.

TREND DETERMINATIONS

As set out in FSIS Directive 6900.2, Revision 1, Part VI C., inspection program personnel will need to decide whether NRs are to be linked to document that a noncompliance trend exists. The use of the HATS categories should prove useful in identifying similar NRs. However, as stated in FSIS Directive 6900.2, Revision 1, inspection program personnel should only link NRs when the noncompliances are from the same or related cause. Therefore, NRs listing the same HATS category **do not automatically** link together. Also, it is possible to have noncompliance in different HATS categories with the same or related cause (e.g., lack of employee training). Inspection program personnel, using the noncompliance description and the establishment's corrective actions, are to determine whether the noncompliances arise from the same cause. Support that there is a trend of inhumane handling is needed for

noncompliances that do not immediately affect an animal's safety or that do not involve an egregious inhumane act.

ANALYSIS OF THE DATA

The FSIS Office of Food Defense and Emergency Response will analyze the data from inhumane handling NRs. The analysis will include the category of activity under HATS that was indicated by the inspector in Block 10 of the NR. The analysis will also report on inhumane handling NRs that are linked by the inspection program personnel to indicate a noncompliance trend. OFDER will provide the analysis to OFO for appropriate action.

Refer questions regarding this notice to the Policy Development Division through askFSIS at http://askfsis.custhelp.com or by telephone at 1-800-233-3935.

Assistant Administrator
Office of Policy and Program Development

Attachment 1

FSIS NOTICE

"SAMPLE" - MEMORANDUM OF INTERVIEW REGARDING A SUSPENSION TAKEN FOR AN EGREGIOUS SITUATION OF INHUMANE HANDLING OR SLAUGHTER

Memorandum of Interview

February 15, 2008

Today, February 15, 2008, at approximately 3:15pm, I verbally notified Mr. Bob Jones, Plant Manager, of my decision to suspend inspection at Establishment XXX.
I advised Mr. Jenkins that I was also contacting the District Office about the suspension action and that the District Office would be following up with written suspension letter to the plant. I based my decision to suspend inspection at the plant on the following:

At approximately 2:35pm today, after examining hogs in suspect pen #2, I observed a hog that had already been stunned lying on the floor next to the south end of the shackle table. Upon closer observation, I saw that the hog was breathing rhythmically and had an intact palpebral reflex. The hog was also attempting to sit up but was unable to do so. Two plant employees, Ms. Sally Johnson, and Mr. Tim Pratt were standing at the suspect pen laughing as the hog was repeatedly attempting to sit up but unable to do. There was also one hog in the squeeze retainer that was about to be stunned and one hog that had been recently stunned hanging on the bleed chain in preparation for further processing.

I instructed plant employees to immediately re-stun the hog that was repeatedly attempting to sit up and I observed the proper re-stunning of this animal. I also instructed plant employees to properly stun the one hog that was in the squeeze retainer and I observed the proper stunning of this animal. I then advised plant employees that further processing of these two hogs and the one hog hanging on the bleed chain could continue, but that I was implementing a regulatory control action to prevent the slaughter of animals until the inhumane stunning issues could be addressed. I then tagged the gate that allowed hogs to enter to the squeeze retainer thereby stopping the slaughter process. I then left the stunning area and located the Plant Foreman, Mr. Ronald Tucker to alert him of this situation. I advised Mr. Tucker that the regulatory control action to stop further stunning would remain in place. I also advised him that due to seriousness of this matter, an immediate suspension was being taken and that I was alerting the District Office of the suspension.

/s/ Inspector-in-Charge, Jim James

<u>NOTE</u>: This sample MOI is intended to convey the minimum information to be included to support an immediate suspension for inhumane handling or slaughter. It is recognized that on a "case by case" basis and through discussions held with the District Office/DVMS, that a MOI may contain more detail to describe the facts and the basis for taking the suspension action.

Attachment 2

HATS TIME DOCUMENTATION

PHVs and non-PHVs enter the hours devoted to verifying humane handling activities for each of the HATS categories. The data must be entered in one-quarter hour increments, that is, .25, .5, .75, 1.0, 1.25, 1.5, etc. For any given category, the maximum time that can be entered is 10 hours per person, per shift, per day. The maximum would only be reached at large establishments.

For very small establishments that slaughter only a few animals per day there are special procedures. Because the minimum amount of time that can be recorded for any given activity is .25 hours, and assuming, for example, that humane handling activities require only a total of .25 hours per day at a very small plant, inspection personnel should record the .25 hours in a single category and then vary the category each day. In this manner, all humane handling activities will be properly reflected over the course of several days.

NOTE: When writing an NR for a noncompliance in a HATS category that was not the selected category for observations, the HATS time should be recorded for both the observations in the category that was being performed and for the category in which the noncompliance occurred. Example: While observing animals during ante mortem inspection, you identified that there was no accessible water in a livestock pen. You would document the time in the HATS system for the humane handling time during ante mortem inspection (Category IV) as well as the time it took to take care of the noncompliance for "no water" under Category III; you should have a minimum of .25 hours in each category.

Attachment 3

Procedure Code	Example Products	9 CFR References	FSIS Issuance References	Inspection Personnel Responsibilities
04C02 Humane Handling and Slaughter (Livestock)	The establishment meets the criteria set forth in the regulations to ensure the humane handling and slaughter of livestock. The establishment takes action when either the establishment or FSIS determines that the establishment has not met the regulatory requirements.	Parts 313 500.1, 500.2, 500.3	Directive 6900.1, Revision 1, "Humane Handling of Disabled Livestock" Directive 6900.2, Revision 1, "Humane Handling and Slaughter of Livestock" FR Notice (September 9, 2004) systematic approach	Verify compliance with the following categories: • adequate measures for inclement weather • truck unloading • water and feed availability • handling during ante-mortem inspection • handling of suspect and disabled animals • electric prod/alternative object use • observations for slips and falls • stunning effectiveness • check for conscious animals on the rail

Monthly Employment and Vacancy Data
February - September, FY 2008

Inplant Inspection Employment (Chart 1)

District	Month							
	Feb '08	Mar '08	Apr '08	May '08	Jun '08	Jul '08	Aug '08	Sept '08
Alameda	410	415	412	412	417	418	420	421
Denver	415	417	421	424	430	436	434	436
Minneapolis	295	297	296	297	304	301	298	300
Des Moines	589	592	597	595	594	600	599	602
Lawrence	515	512	502	508	501	499	507	509
Springdale	686	688	685	687	687	690	684	684
Dallas	502	503	511	507	511	507	507	509
Madison	233	238	238	237	236	236	235	239
Chicago	388	387	389	390	391	392	392	388
Philadelphia	370	376	378	375	378	380	377	377
Albany	220	218	217	220	221	223	220	226
Beltsville	397	396	403	406	406	412	417	420
Raleigh	689	689	690	691	687	685	683	678
Atlanta	753	756	759	752	745	750	752	754
Jackson	835	841	843	847	847	845	840	833
Total	7297	7325	7341	7348	7355	7374	7365	7376

Inplant Inspection Vacancy Rate (Chart 2)

District	Month							
	Feb '08	Mar '08	Apr '08	May '08	Jun '08	Jul '08	Aug '08	Sept '08
Alameda	10.68%	9.78%	9.05%	9.05%	7.74%	7.93%	7.49%	7.27%
Denver	15.65%	15.07%	13.37%	12.94%	11.89%	9.92%	10.14%	8.21%
Minneapolis	10.06%	9.73%	9.48%	8.33%	6.17%	7.10%	6.29%	5.66%
Des Moines	10.35%	10.44%	10.63%	10.93%	11.08%	10.18%	10.06%	11.47%
Lawrence	7.37%	3.58%	5.82%	5.40%	6.88%	7.25%	5.76%	5.74%
Springdale	11.37%	12.13%	10.92%	10.55%	9.61%	8.97%	9.04%	6.30%
Dallas	13.89%	13.57%	13.24%	12.74%	11.74%	12.28%	11.83%	11.48%
Madison	6.43%	4.80%	4.80%	4.44%	4.84%	4.84%	5.62%	4.02%
Chicago	9.35%	9.79%	10.37%	10.34%	10.53%	10.09%	10.30%	11.62%
Philadelphia	8.19%	6.47%	4.06%	4.34%	3.82%	3.31%	4.07%	4.31%
Albany	17.60%	18.66%	19.63%	18.22%	18.15%	17.41%	18.52%	16.30%
Beltsville	9.36%	9.59%	8.20%	7.09%	7.31%	6.15%	5.44%	6.04%
Raleigh	9.10%	9.10%	7.75%	7.74%	7.41%	7.68%	6.95%	7.25%
Atlanta	10.14%	9.79%	8.55%	9.40%	10.24%	9.64%	9.29%	8.27%
Jackson	6.07%	5.29%	5.92%	5.89%	3.86%	4.84%	7.49%	3.59%
Total	10.12%	9.66%	9.21%	9.04%	8.61%	8.40%	8.48%	7.66%

Data does not include T/A positions
Note: Employment derived from NFC Bi-weekly reports, Excludes OTP

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