

***Statement
Of
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***Domestic Policy Subcommittee
Oversight and Government Reform Committee
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2154 Rayburn HOB
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***“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 CO₂ 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;
- death 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 CO₂ alone is highly aversive and causes unacceptable suffering, as pigs suffocate rather than first losing consciousness.