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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

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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

¹GAO, *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).

²Full 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.

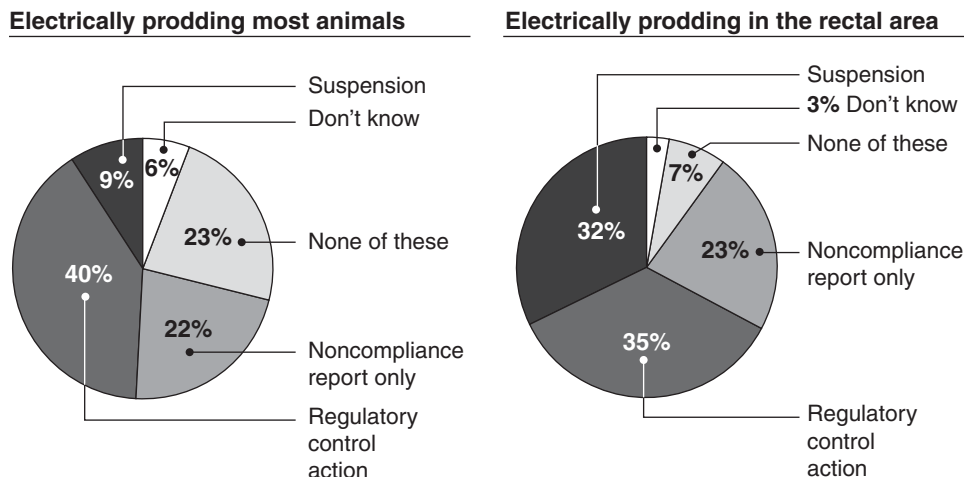
In preparing this testimony, we relied on our work supporting the accompanying report. That report contains a detailed overview of our scope and methodology. All of our work for this report was performed in accordance with generally accepted government auditing standards. Those standards require that 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



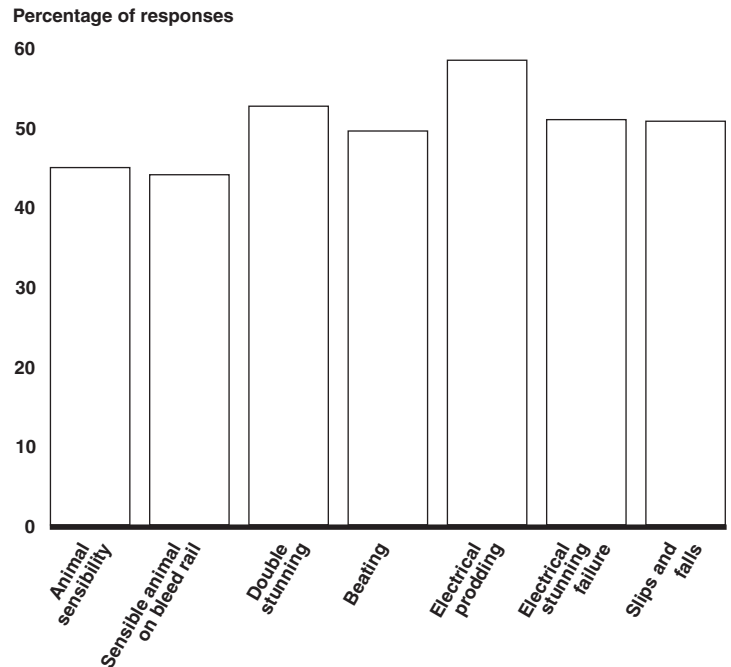
Source: GAO analysis of survey results.

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

³GAO, *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

⁴GAO, *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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