



United States
Department of
Agriculture

Food Safety and
Inspection Service

Washington, DC 20250-
3700

Kathy Hessler
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MAR 13 2013

Dear Ms. Hessler:

The Food Safety and Inspection Service (FSIS) has completed its review of the petition submitted on behalf of Farm Sanctuary requesting the Agency to amend its ante-mortem inspection regulations to require non-ambulatory disabled (NAD) pigs, sheep, goats, and other amenable livestock species to be condemned. The petition states that such action is needed to ensure that all livestock are humanely handled in connection with slaughter as required by the Humane Methods of Slaughter Act (HSMA) and to prevent the slaughter of diseased livestock for human food. After carefully considering the issues raised in the petition and comments submitted in response to a *Federal Register* notice (76 FR 6572; February 7, 2011) announcing the receipt of, and requesting comments on, the petition, FSIS has concluded that its existing regulations are effective in ensuring that pigs, sheep, goats, and other livestock are handled humanely at slaughter and that diseased livestock do not enter the human food supply. Thus, for the reasons discussed below, the Agency is denying the petition.

The petition asserts that because FSIS allows NAD livestock other than cattle to be slaughtered for human food, establishments have a financial incentive to force these animals through the slaughter process, which encourages inhumane treatment. To support this claim, the petition references FSIS Non-Compliance Records (NRs) issued from 2002 to 2005 documenting inhumane handling. One incident involved non-ambulatory sheep and the other twelve incidents involved non-ambulatory pigs. The petition does not provide any information on the handling of other NAD livestock. The petition asserts that these NRs demonstrate that the current regulations provide an incentive for establishments to use inhumane methods to force NAD livestock to rise to ensure that as many animals as possible make it to slaughter.

FSIS has reviewed the NRs referenced in the petition, as well as more recent NRs issued for inhumane handling of NAD livestock, and disagrees with the petition's broad conclusion that NAD livestock are routinely mistreated in slaughter facilities. In FSIS's experience, inhumane handling incidents are rare and do not accurately depict behavior throughout the industry. As noted above, the incidents of inhumane handling of NAD livestock identified in the petition occurred during the three-year period from 2002-2005. FSIS has made significant changes to its inspection program in the eight to eleven years since these NRs were issued. FSIS has put more emphasis on animal handling inspection and has provided clarification and training on humane

handling verification and enforcement activities to inspectors (see FSIS's Livestock Slaughter Inspection Training available at http://www.fsis.usda.gov/PDF/LSIT_HumaneHandling.pdf). In addition, the Agency has improved the transparency of its humane handling verification and enforcement activities by publishing them in FSIS's Humane Handling Quarterly Report. From Fiscal Year (FY) 2011 to FY 2012, the number of humane handling procedures performed by FSIS inspectors increased from 126,522 to 157,477.¹ While the number of non-compliance records increased from 512 to 624, the overall non-compliance rate remained unchanged at .4 percent. Thus, FSIS's data, including both data in the petition and recent NRs, do not support the conclusion that NAD livestock are routinely handled inhumanely in slaughter facilities. Therefore, there is no basis for the requested prohibition.

In addition, the petition states that prohibiting the slaughter of all NAD livestock will encourage livestock producers and transporters to improve their handling practices. To support this argument, the petition cites a study conducted by the Prairie Swine Center, Inc., which, as noted by the petition, found that improved handling of pigs during transport can significantly reduce the rate of "downed" pigs arriving at slaughter establishments. FSIS has reviewed the study cited in the petition and, in addition to the results noted by the petitioner, found that the study also concluded that factors other than aggressive handling may also affect the metabolic response associated with "downer" pigs. The study found downer rates of 2, 15, and 34 percent for pigs handled gently, aggressively but not prodded, and aggressively including electric prodding, respectively. The pigs treated with gentle handling became non-ambulatory because of a temporary metabolic condition, which is completely reversible after the animals are cooled and rested.

FSIS disagrees with the petition's conclusion that pigs, sheep, goats, and other livestock are vulnerable to inhumane handling because of the way they are processed and transported. FSIS has found that these animals become non-ambulatory for different reasons than mature cattle and veal calves do. FSIS banned the slaughter of cattle that became non-ambulatory after ante-mortem inspection, in part because dairy producers had an incentive to hold dairy cattle until they were exceptionally old or weak before sending them to slaughter (see 74 FR 11463; March 18, 2009). This practice allowed producers to extract as much milk as possible in the hope that the cattle would pass ante-mortem inspection before going down. Sending such weakened cattle to slaughter increased the chances that they would go down and then be subjected to inhumane conditions. FSIS has also determined that there is an incentive for establishments to inhumanely force NAD veal calves to rise and for veal calf producers to send weakened calves to slaughter. Information submitted by the Humane Society of the United States to FSIS, has shown that veal production practices customary in the United States – namely deprivation of colostrum and solid feed – increase the chances that veal calves will become so debilitated that further handling necessary for slaughter would be inhumane. Therefore, FSIS has granted a petition to initiate rulemaking to require NAD veal calves to be condemned and humanely euthanized.

¹ FSIS's Humane Handling Quarterly Report for the 12-Month Period Ending June 30, 2012.

The petition does not provide any information to show that pigs, sheep, goats, and other livestock are routinely handled aggressively or that they are too weak to walk when they are sent to slaughter. In fact, the petition does not provide any information on the processing and transport of NAD livestock other than pigs. Because healthy pigs may go down at slaughter because of a temporary metabolic condition, which is unrelated to on-farm practices, prohibiting the slaughter of non-ambulatory pigs is unlikely to improve practices prior to slaughter or affect humane handling at slaughter.

The petition also asserts that action is needed to prevent diseased animals from entering the human food supply. The petition argues that livestock species may become "downed" as a result of illnesses which may be transmittable to humans.

FSIS disagrees that all NAD livestock present public health risks. FSIS has several safeguards in place to prevent diseased animals from entering the human food supply. FSIS requires ante-mortem inspections of live animals and post-mortem inspections of all livestock carcasses. If an animal goes down or shows signs of illness after undergoing and passing ante-mortem inspection, the animal is identified as "U.S. Suspect" and is segregated until the animal has received additional inspection by a FSIS veterinarian. FSIS's veterinarians are trained to recognize animal diseases that require condemnation, such as swine brucellosis and scrapie during ante-mortem and post-mortem inspection. Only if, after rigorous post-mortem inspection, the meat and meat food products from such animals are found to be not adulterated, may such products be used for human food (9 CFR 311.1). Therefore, FSIS does not believe it is necessary to condemn all NAD livestock because FSIS inspection already ensures that diseased animals do not enter the human food supply.

Finally, the petition asserts that industry opposition to a prohibition on the slaughter of all NAD livestock is likely unwarranted. The petition argues that rulemaking to extend the prohibition on NAD cattle to all NAD livestock would not be economically significant. The petition also argues that the motivation for rulemaking should not be cost or efficiency, but to ensure that injured animals are not forced to slaughter through inhumane methods.

Comments submitted in response to the petition lead FSIS to believe that requiring all NAD livestock to be condemned could have a significant economic effect on pork producers and processors, particularly on small and very small establishments. FSIS received many comments from members of industry that cited a survey of 23 commercial field trials conducted from 2003 to 2007 and involving more than 6,660,000 pigs. The comments stated that these studies reported an average of 0.44 percent of NAD pigs across trials. The comments stated that 18 of the 23 studies involving nearly 5 million pigs further classified NAD pigs as injured or fatigued. According to the comments, the results showed that the overall average for fatigued pigs at slaughter was 0.37 percent and the average for injured pigs was 0.05 percent. The comments used this national incidence rate together with 2009 pig slaughter statistics to estimate the annual number of NAD swine at slaughter to be 500,000. The comments stated that a majority of these pigs would become ambulatory when rested. As noted above, we believe that banning the slaughter of all NAD livestock is unlikely to significantly improve humane handling at slaughter or production practices prior to slaughter. However, after considering the comments received in response to the petition, we believe that such an action could potentially result in the needless

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condemnation of a significant number of animals and the elimination of a large amount of unadulterated pork per year from the market.

For these reasons, FSIS is denying the petition requesting the Agency to amend its ante-mortem inspection regulations to require NAD pigs, sheep, goats, and other amenable livestock species be condemned. FSIS has concluded that its regulations comply with the HSMA, and properly ensure the humane handling of all livestock at slaughter.

In accordance with FSIS regulations, the petition was posted on the FSIS website in March 2010, and the Agency intends to post this response as well.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alfred V. Almanza". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Alfred V. Almanza
Administrator
Food Safety Inspection Service