

## MEMORANDUM

TO: Daniel Engeljohn  
FROM: [REDACTED]  
DATE: January 23, 2015  
RE: Liability for non-employee humane handling violations

### Questions Presented

I. Codified law contained within Title 9 of the Code of Federal Regulations and within the Humane Methods of Slaughter Act of 1978 clearly state the grounds for which livestock intended for slaughter must be handled. Neither of the aforementioned sources, nor any other source of codified law, ever created a limited scope of liability for the negligent or intentional bad acts of third-party, non-employees. Yet, the current "policy" of the United States Department of Agriculture Food Safety Inspection Service's Directive 6900.2, Revision 2 (issued August 15, 2011), impliedly takes what has been well-established by codified law and creates its own interpretation of who can be held liable for the negligent or intentional bad acts of anyone on the premises of a slaughter facility. Under the current "policy," the Food Safety Inspection Service places the burden of enforcing humane handling regulations and the liability for any violation of those regulations on the slaughter establishment when any third-party, non-employee acts tortiously in connection with the humane handling of livestock. Can the Food Safety Inspection Service impose a duty of vicarious liability onto an establishment where there exists no employment or agency relationship between the establishment and tortious conduct of a non-employee?

II. The Food Safety Inspection Service believes the enforcement of humane handling regulations would be best administered by the establishment because the establishment is at constant risk of being suspended for a humane handling violation, under the current implied interpretation of

Chapter II in Directive 6900.2, Revision 2. There is a major flaw, however, in that line of thinking. Even if and when slaughter establishments have the ability to constantly monitor the unloading of livestock, there is absolutely no way any establishment official can control the negligent or intentional bad acts of an ignorant, scofflaw, livestock truck driver who decides to ignore any and all instructions by the establishment to act in accordance with the law. Can there be a simple solution to this problem?

### **Brief Answers**

I. No. There is no legal basis for the Food Safety Inspection Service to rely on to impose such a duty. It is wholly incorrect to imply merely because a truck is on the premises of a slaughter facility it becomes part of the facility for purposes of liability. There exists no vicarious liability for the third-party, non-employee truck driver whose sole purpose is to deliver livestock to the establishment under an agreement with the seller of the livestock. The Food Safety Inspection Service itself is acting negligently in attempting to suspend the operations of any establishment who cannot control the acts of a truck driver who chooses to violate the law.

II. Yes. There is a simple solution to enforcement actions. The United States Department of Agriculture can act through separate agencies within it, not just the Food Safety Inspection Service, to enforce humane handling laws, issue fines, and suspend the operations of anyone charged with the duty of handling livestock for slaughter purposes.

### Statement of Facts

There is no denying the fact that the United States Department of Agriculture has made the humane handling of livestock an issue that takes precedence over nearly all other slaughter-related regulations within the last ten years. Seemingly, whenever an act of egregious conduct is recorded by hidden camera and subsequently posted to the internet, the Food Safety Inspection Service goes to great lengths to issue directives and notices that purport to emphasize greater scrutiny upon slaughter facilities so the general public knows enforcement of humane handling regulations are front and center.

However, in making the scrutiny of the humane handling of livestock more intense, the Food Safety Inspection Service has overreached its authority by placing an unconstitutional burden upon slaughter establishments. On August 15, 2011, the Food Safety Inspection Service issued Directive 6900.2, Revision 2, titled: Humane Handling and Slaughter of Livestock. Under Chapter II, Section 1 (Livestock on Transportation Vehicles), the directive states: "Once a vehicle carrying livestock enters, or is in line to enter, an official slaughter establishment's premises, the vehicle is considered to be a part of that establishment's premises." The statement itself, under the plain meaning of the words contained within it, does not establish words related to the issue of liability. Yet, after numerous conversations with various personnel within the Food Safety Inspection Service, all personnel are of the same opinion: the sentence *implies* that being on the premises of the facility makes that third party an employee of the establishment for reasons of control over that person.

The Food Safety Inspection Service fails to realize that there is no legal way for any slaughter establishment to exercise dominion and control over anyone who does not have an express agreement to be controlled as an employee or agent of the slaughter establishment.

There is no possible way to control someone who knows they cannot be controlled. And, this issue has, in fact, surfaced many times at many small to medium slaughter facilities within the Chicago District alone. It continues to resurface as well. All too often, a livestock truck driver acts with complete disregard for humane handling standards, and the only defense given is ignorance of the law. Given this continuing scenario, every operator of a slaughter establishment knows there is no feasible way, under the current "policy" of the Food Safety Inspection Service, to effectuate enforcement of the law absent the issuance of a badge and gun to the establishment officials in charge of maintaining control over the unloading of livestock.

Additionally, if the Food Safety and Inspection Service's answer to enforcement of this implied and unconstitutional burden upon slaughter establishments is for the establishment to refuse the load, the Service ought to better understand how exactly that remedy is completely unreasonable and not feasible. Often times, small to medium plants only receive one or two full tractor-trailer loads of livestock on any given day. To simply refuse a load because of a tortious truck driver, to prove a point on behalf of the government, is beyond unconscionable. Refusal of a load for such a reason would harm law-abiding establishments for actions the establishments cannot themselves legally control.

Fortunately, there is a simple solution to the problem that not only benefits the slaughter establishments, but enhances enforcement activities of the government as well.

## Applicable Statutes

### The Humane Methods of Slaughter Act of 1978

“For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958. (72 Stat. 862; 7 U.S.C. 1901-1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.”.

### Discussion

I. Codified law contained within Title 9 of the Code of Federal Regulations and within the Humane Methods of Slaughter Act of 1978 clearly state the grounds for which livestock intended for slaughter must be handled. Neither of the aforementioned sources, nor any other source of codified law, ever created a limited scope of liability for the negligent or intentional bad acts of third-party, non-employees. Yet, the current “policy” of the United States Department of Agriculture Food Safety Inspection Service’s Directive 6900.2, Revision 2 (issued August 15, 2011), impliedly takes what has been well-established by codified law and creates its own interpretation of who can be held liable for the negligent or intentional bad acts of anyone on the premises of a slaughter facility. Under the current “policy,” the Food Safety Inspection Service places the burden of enforcing humane handling regulations and the liability for any violation of those regulations on the slaughter establishment when any third-party, non-employee acts tortiously in connection with the humane handling of livestock. Can the Food Safety Inspection Service impose a duty of vicarious liability onto an establishment where there exists no employment or agency relationship between the establishment and tortious conduct of a non-employee?

It is undisputed that the Food Safety Inspection Service (FSIS) has jurisdiction only over the inspection of the actual slaughter establishment facility itself. The FSIS, therefore, has no ability to fine or suspend the actions of any transportation service charged with the duty of handling livestock intended for slaughter.

It is also undisputed that the FSIS can suspend the actions of a slaughter establishment for the negligence or intentional acts of harm caused by its employees acting on behalf of the establishment, in connection with the slaughter or handling of livestock.

At issue, however, is the ability of the FSIS to suspend the actions of a slaughter establishment for the negligent or intentional acts of a third-party, non-employee. To hold the establishment responsible and liable for the acts of a party who is neither an agent nor an employee of the establishment improperly imposes vicarious liability onto the establishment where no such liability can legally apply.

The Food Safety Inspection Service, through Directive 6900.2, Revision 2, is attempting to make slaughter establishments liable for non-employees under the doctrine of respondeat superior. The doctrine of respondeat superior, simply put, applies when an employer is responsible for an employee's torts, including intentional torts, so long as the employee was acting within the scope of his or her employment at the time. To properly establish that an employee's conduct was within the scope of employment: (1) the conduct must have occurred substantially within the time and space limits authorized by the employment; (2) the employee must have been motivated, in some way, by a purpose to serve the employer; and (3) the act must have been the kind that the employee was hired to perform.

Under this doctrine, in no instance is any non-employee livestock truck driver considered an agent of the slaughter facility. Most notably, the driver must first be an employee of the establishment for vicarious liability to apply. A livestock truck driver who is not employed by the slaughter establishment can only be considered an agent or employee of the company which hired the driver to haul the livestock, the seller of the livestock. And, in the case of most small to

medium sized slaughter facilities, livestock is always delivered by a third-party, non-employee carrier hired by the seller of the livestock.

There exists an argument that even if the livestock truck driver could be considered an independent contractor, vicarious liability may attach for the slaughter establishment if the driver can be considered an agent of the slaughter establishment due to engaging in an ultrahazardous or inherently dangerous activity. However, the transportation of livestock of livestock is not considered an ultrahazardous or inherently dangerous activity. The issue has been well-settled by a number courts, most recently in a decision rendered on April 14, 2014 by the Court of Appeals of Texas in the case of *Bontke v. Cargill Meat Solutions, Inc.*, No. 07-12-00328-CV (Tex. App. Apr. 14, 2014).

In *Bontke v. Cargill Meat Solutions, Inc.*, the Court of Appeals of Texas upheld the lower court's decision in the case, stating that "as a matter of law the handling of commercial livestock is not inherently dangerous." For an activity to be considered ultrahazardous or inherently dangerous, it must be akin to, as an example, transporting and working with explosive materials or transporting radioactive waste. More simply, an inherently dangerous activity must pose a very dangerous risk to any and all persons nearby and the person responsible for the activity cannot delegate the duty to accomplish that task to anyone else. Livestock transportation does not remotely come close to that standard, and as such, is a delegable duty. And because that duty is delegable to an independent contractor livestock truck driver, there is no extension of liability to the slaughter establishment whatsoever.

Only at the nation's largest slaughter facilities, where the livestock trucking operations are owned and operated by the establishment itself, can the establishment maintain control over those who handle the livestock when being delivered to the facility. In those such instances, the

establishment can and should be held responsible for the tortious acts of its drivers. However, that is the only instance where the current “policy” under Directive 6900.2, Revision 2, is applicable.

The vast majority of slaughter facilities in this country do not operate their own transportation divisions. Nearly all slaughter facilities rely upon the seller of livestock to arrange and pay for the shipment of the livestock under a destination contract when the purchase of livestock is made. Under the terms of a destination contract, as is the usual course of dealing in the meat packing industry, the livestock is shipped free on board to the buyer’s place of business. When a destination contract controls the terms of delivery, the seller, not the buyer, is responsible for the livestock until it is tendered by the third party carrier to the holding facility of the slaughter establishment.

Therefore, under no reasonable theory of law can the slaughter establishment be held liable and subject to suspension of slaughter activities for the negligence or intentional bad acts of a non-employee. The current “policy,” as applied, fails to be legally enforceable.

II. The Food Safety Inspection Service believes the enforcement of humane handling regulations would be best administered by the establishment because the establishment is at constant risk of being suspended for a humane handling violation, under the current implied interpretation of Chapter II in Directive 6900.2, Revision 2. There is a major flaw, however, in that line of thinking. Even if and when slaughter establishments have the ability to constantly monitor the unloading of livestock, there is absolutely no way any establishment official can control the negligent or intentional bad acts of an ignorant, scofflaw, livestock truck driver who decides to ignore any and all instructions by the establishment to act in accordance with the law. Can there be a simple solution to this problem?

All too often, a non-employee livestock truck driver decides to unload a truck in a negligent manner, usually because of some claim of being in a hurry to be someplace else. When confronted by slaughter establishment personnel and instructed to act in compliance with the humane handling regulations contained in Title 9 of the Code of Federal Regulations, the

driver either pleads ignorance, but then conforms to the law, or pleads ignorance and becomes irate for someone telling him how to act.

In either instance, there is clear evidence that the vast majority of American livestock truck drivers (especially ones with little to no experience hauling livestock) have not made themselves aware of how to humanely handle livestock. In addition, the confrontations also lead to violence when drivers decide to vent their frustrations physically at slaughter establishment personnel. This poses a very large problem to slaughter establishments, and FSIS has done nothing to address the issue.

The fact of the matter is that no non-employee livestock truck driver has any duty to adhere to what the slaughter establishment commands them to do, and most of them know it. Even when slaughter establishments communicate clearly to the sellers of livestock that any person hired to haul the livestock must act in a humane manner, there is never any guarantee that the livestock truck driver will act accordingly.

There are two distinct solutions, however, to maintaining better control over the acts of third-party non-employees.

The first solution, spurred by interaction with Canadian livestock truck drivers, is to include within the Code of Federal Regulations, not via a directive or notice, a much more detailed list of who exactly can be held liable for the humane handling of livestock. It has been noted through observance of the care exhibited by drivers hauling livestock from Canada that the drivers themselves have something to lose if they choose not to handle livestock humanely. Canadian drivers know they can be held liable for negligent or intentional bad acts under the rules of humane handling promulgated by the Canadian Food Inspection Agency. Under the Canadian version of humane handling rules, Canada provides an extremely detailed list of all

who can be held responsible for the humane transportation of livestock, which includes livestock truck drivers. And because Canadian drivers know they are just as liable for any tortious act as the slaughter establishment, they choose to act responsibly without having to be told. The system works wonderfully.

The second solution, which would require very little or no legislative action at all, would be to effectuate better communication between the Food Safety Inspection Service, which claims it cannot regulate truck drivers, and the Animal Plant Health Inspection Service (APHIS). APHIS does have the authority to regulate matters stemming from the sale of livestock. And, a mere phone call from an observant FSIS employee to an APHIS employee would facilitate the imposition of fines, or the suspension of activities, upon any livestock seller or transporter who violates humane handling regulations. This can all be done without hiring any new personnel or causing any budgetary complications for the government.

### **Conclusion**

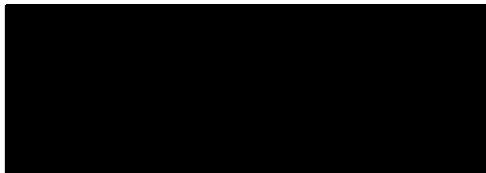
The current form of the Humane Method of Slaughter Act specifies that inspectors are to examine and inspect "the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act." The most important part of that statement revolves around the words: "...handled in connection with slaughter in the slaughtering establishment."

It is extremely important to note that the Act only specifies slaughter activities "in the slaughtering establishment," not outside of it. Nowhere does the Act grant the authority to impose a duty on the slaughter establishment to become responsible for livestock it has yet to receive. The implications and duties imposed by FSIS Directive 6900.2, Revision 2, are inherently erroneous and the current line of thinking must be changed.

A change to specifically include livestock transporters, through any reasonable remedy, as parties who can be held liable for the humane handling of livestock would be welcomed by all in the industry and it would still promote an even more proactive role by the government onto the general public.

It is my sincere hope that a change can be easily accommodated and put into action in the immediate future.

Sincerely,



General Counsel



**SUPPLEMENTAL INFORMATION**

**Canadian Humane Handling Regulations**

transportation; the time spent waiting to unload, unloading, handling in lairage, preparation for and/or restraint for stunning, stunning, shackling, and bleeding.

### **Audit of objective welfare performance standards**

The program must ensure compliance with the objective performance standards in this chapter and with regulatory requirements. The program must be monitored by the company with regular performance-based audits (refer to Annex C). Individuals monitoring and performing audit and verification tasks must be knowledgeable in animal welfare, but not directly involved in performing the task(s) being assessed).

Welfare audits must be carried out on a representative sample of animals. For small plants with low line speeds the operator will establish an audit frequency in consultation with the Veterinarian in Charge (VIC) and Area programs specialists

The frequency of self-audits in plants will take into account:

- the outcome of previous checks; and
- other factors that may affect the efficiency of the stunning process (e.g.: an increased frequency of monitoring should be conducted when training new staff, when there have been equipment failures, when new equipment is installed).

### **Animal Welfare Program Records**

The operator shall retain records of monitoring and regular audits, including corrective actions taken to address any deviations identified, follow-up and preventative measures, for three years.

Program modifications must be made as required. The animal welfare written program will be reviewed yearly.

### **12.2.2.3 Animal Welfare Corrective Action Plans**

Slaughter plant operators will develop and implement effective corrective action plans if a non-compliance with the requirements of their written program, regulatory requirements, and/or the requirements of this chapter were to occur. Corrective action plans will include preventative measures where applicable.

### **12.2.2.4 Use of Video or Other Electronic Monitoring or Recording Equipment**

- Canadian Food Inspection Agency (CFIA) inspectors are required to conduct hands on, on-site inspection to verify that operators are meeting regulatory requirements for humane handling and slaughter.
- The use of video technology can be a tool to supplement an establishment's systematic, animal welfare program, but not a substitute for live monitoring. Video technology cannot replace hands on inspection activities or good commercial practices.
- Cameras are useful but not a requirement to ensure that animals are handled humanely at slaughter.
- The CFIA encourages federal establishment to use appropriate video or electronic monitoring, however video surveillance alone does not assure effective evaluation and monitoring of the sensibility of animals, Assessing sensibility requires observation of the animals head, face and position from several visual perspectives over time: including pre-stun handling, the time in the stun box, and the acts of stunning, sticking, shackling and hoisting as well as bleed out.

Points to consider:

- The electronic monitoring system must be designed, maintained, cleaned and operated to permit a continuous view of animals from unloading, as they are handled in lairage as well as humane stunning, sticking and bleed out.

- Video records may substitute for paper records to meet program requirements (if so: similar storage time requirements apply, and when deviations are identified during routine monitoring video records should be reviewed for similar patterns).

### **12.2.3 Canadian Food Inspection Agency Roles and Responsibilities**

The CFIA has the authority under the *Safe Food for Canadians Act* to ensure compliance with the *Meat Inspection Regulations* in federal slaughter establishments

#### **12.2.3.1 The Role of the Inspector**

The role of the CFIA Inspector is to verify the compliance of regulated parties to the animal welfare requirements in the *Safe Food for Canadians Act*, *Meat Inspection Regulations*, *Health of Animals Act* and *Regulations*, and associated policies and procedures.

Compliance is normally achieved through a cooperative approach between the regulated parties and the CFIA.

In the slaughter establishment, this approach normally involves regulated parties identifying and correcting instances of non-compliance by developing and implementing corrective action plans. On an ongoing basis, the inspection staff will observe the receiving; handling, stunning and slaughter of animals verify industry compliance with humane handling regulation and policy.

The inspector will not tolerate inhumane handling of food animals (whether due to malfunction of equipment, or operator carelessness or incompetence). If the operator fails to take effective corrective action, compliance action - including an immediate halt to stunning and slaughter operations - will be taken by the CFIA until management of the operation has taken effective corrective action. For non-cooperation or flagrant violation of provisions of the MIR, legal action may be initiated.

In all cases of non-compliance, the inspector will gather information for possible enforcement action. The action taken by the CFIA will depend on the situation, what actions the operator takes to correct the problem, and the extent and severity of the problem. Noncompliant situations will be discussed with the Veterinarian in Charge and the Regional Veterinary Officer.

Non-compliance with the *Health of Animals Regulations*, Part XII (Transportation of Animals) - such as overcrowding, careless exposure to inclement weather, or any circumstance that has resulted in unnecessary suffering of food animals - will be reported as per Health of Animals (H of A) Compliance Verification System (CVS) task 1101 or 1102, using an Inspector's Non-compliance Report. The situation should be discussed with the Regional Veterinary Officer (RVO) and a copy of the investigation report should be sent to the Inspection Manager, Operations. Enforcement and Investigation Services (EIS) will be involved.

#### **12.2.3.2 Compliance Verification and Enforcement**

CFIA staff will perform verification of transporters and the Establishment's compliance with Humane Transport (Animal Health CVS task 1101 or 1102. As defined in the Humane Transport Manual of Procedures).

CFIA staff will perform verification of compliance with the *Meat Inspection Regulations* using CVS section 5 tasks (animal health and welfare at slaughter) defined in the MOP **Chapter 18 Compliance Verification System**.

Staff will verify compliance with the *Regulations* and Program policies through on-site observation of the handling and slaughter of animals, at ante mortem inspection and through record review. CFIA inspectors will verify that the operator is implementing corrective actions when appropriate.

#### **12.2.3.3 Actions to be Taken in the Event of Non-Compliance with Welfare Program**

If a CFIA Inspector identifies a failure by Industry to implement an effective written animal welfare program the action taken depends on impact on compliance with the *Regulations*:

**2) If the failure has no immediate impact on compliance with the MIR:** they will discuss their findings with the operator and/or record their observations by rating the relevant CVS task "Item Requiring Correction."

**3) If the failure results in failure to meet specific regulatory requirements:** the relevant CVS task will be rated "unacceptable" and the inspector will issue a Corrective Action Request.

CFIA staff will record, report, and track animal welfare deviations, as per the CVS and/or Humane Transport CVS Task protocol.

Cases of **non-compliance** with *Meat Inspection Regulations* require the inspector to rate the relevant CVS task "Unacceptable" and issue a Corrective Action Request (**CAR**, CFIA/ACIA 5472), which identifies the non-compliance and requires the operator to correct the problem within an acceptable time frame.

Cases of *non-compliance with Health of Animals Regulations (HAR)* CVS task 1101 and/or 1102 will be rated "Unacceptable" and the objective findings will be documented on an Inspector's Non-compliance Report (CFIA/ACIA 5393). In cases where the establishment operator's actions cause or contribute to the non-compliance with *H of A Humane Transport Regulations* **both** a Humane Transport INCR and a Corrective Action Request should be issued.

In cases of non-cooperation or flagrant violation of provisions of the MIR (including willful abuse of animals in a slaughter establishment), legal action may be initiated. An Inspector's Non-compliance report CFIA/ACIA 5393 is to be issued in addition to the Corrective Action Request.

(Refer to MOP **Chapter 14 Enforcement** to review the enforcement policy.)

## **Part B: Red Meat Species**

### **12.3 Transportation and Animal Welfare Responsibilities of Regulated Parties**

#### **12.4 Red Meat Facility Design and Equipment**

#### **12.5 Care and Handling of Red Meat Animals**

#### **12.6 Euthanasia In Lairage**

#### **12.7 Stunning, Bleeding, and Shackling of Red Meat Species**

#### **12.8 Unacceptable Acts In Red Meat Slaughter**

#### **12.9 Priorities During Unscheduled Stoppages in Production**

## **12.3 Transportation and Animal Welfare Responsibilities of Regulated Parties**

The welfare of animals during transport and receiving is the joint responsibility of all regulated parties involved. Legally speaking many persons are involved in the transport of animals. Documentation of which person (or company) is in care and control of the animals at any given time is a requirement for a complete welfare at slaughter program

All parties must be aware of their responsibilities and cooperate to ensure compliance.

The persons and companies responsible for the loading of food animals and their subsequent transportation and delivery to a slaughterhouse are responsible for the welfare of the animals from the time of loading until the time of unloading at the slaughterhouse.

Refer to XII of the *Health of Animals Regulations (HAR)* and H of A CVS task 1101 and 1102 for enforcement and verification of Humane transport.

### **12.3.1 Guidance for the Transport Related Responsibilities of Parties Involved in the Transport of Animals to Slaughter**

#### **Producer's Responsibilities:**

- Communicate with the Processor and transporter.
- Inform the transporter and processor of special concerns or possible food safety or animal welfare issues.
- Document the time that care and control of animals is transferred to transporters.
- Ensure that barn conditions and facilities facilitate safe humane loading with minimal stress.
- Ensure that compromised animals are not loaded, when transportation will cause further injury, stress, and/or suffering.

#### **Trucker or Transporter's Responsibilities: (See HAR, Part XII):**

- Provide training on humane transport of animals to employees who handle and/or transport animals.
- Document the training of each employee.

#### **Training should include:**

- How to identify animal welfare problems.
- Who to notify if problems or unexpected events occur. Problems are reported, documented, and investigated.
- corrective action to take
- How to identify animals that are unfit for transport and ensure that they are not loaded.
- How to identify compromised animals.
- How to handle animals that were compromised during transport
- Document humane transport training (e.g., Certified Livestock Transport or similar training).
- Develop **SOPs including:**
  - Methods to mitigate suffering and distress for animals transported long distances.
  - Methods to ensure that stop times do not compromise welfare.
- Considerations that are required for handling and transport of cull or compromised animals.
- Information for heat-stressed animals (e.g., wet bedding to prevent overheating).

#### **Develop Contingency Plans** for predictable situations, including, but not limited to:

- Vehicle accidents, illness of drivers, change in weather, extreme humidity, breakdown, etc.
- Arrangements for euthanasia if required

These plans should be available to the processor, if requested.

#### **Equipment:**

- Transport vehicle design and maintenance are suitable for the animals and weather conditions and the length of journey
- Maintenance, repair, and sanitation of vehicle is suitable for transport of animals
- Parking for unloading must be without a gap

#### **Communication and Documentation:**

- Drivers should document:
  - what they know of barn or yard conditions and loading procedures;
  - weather and road conditions from loading to delivery; and
  - transport time including:
    - start time of loading;
    - driving time, including breaks and rest stops; and
    - time of delivery.

### **Transfer of Care and Control:**

- Document time of transfer of care and control to the processor, only after the processor has examined the load

### **Establishment Operator or Processor's Responsibilities (see HAR and MIR)**

#### **Communication:**

- Communicate expectations to Producers and Transporters (for loading, transportation, and unloading, if applicable).
- Define humane transport and welfare standards for the "supplier" (animal transporter), similar to any incoming product.
- Collect letters of guarantee, documenting the parties understanding of their responsibilities under applicable legislation.
- Provide written guidelines for transporters and receivers regarding unloading and handling, including expectations regarding non-ambulatory animals (down on truck).
- Provide transporters with:
  - fitness-to-transport criteria;
  - recommendations to minimize stress during loading (e.g., load early in the day to avoid exposure to summer heat);
  - updates if plans change; and
  - emergency contact numbers.
- Schedule delivery to minimize animal stress.

Implement a written Animal Welfare Program so that:

- problems are reported, documented, and investigated;
- corrective action is taken in instances of non-compliance;
- preventative measures are developed as part of the response to identified problems; and
- normal operating parameters of the slaughter process are well documented so that it is easy to identify problems.

#### **Employee Training**

- Provide humane handling training to all employees who work with live animals.
- Document the training of each employee.

Train employees to recognize:

- signs of normal behaviour and indicators of stress, suffering, and illness in each species;
- who to notify if animal welfare problems or unexpected events occur;
- what to do with animals that have been compromised during transport;
- handling procedures for unloading, including special provisions for compromised animals
- emergency contact numbers;
- when to notify the CFIA regarding transport issues;
- how and when to notify CFIA veterinarians (e.g., if there are dead on arrival [DOA] or an animal welfare problem); and
- contingency plans for predictable events (e.g., storms, vehicle accident, breakdown of equipment, unexpected delivery of animals that have been in traffic accidents).

#### **Equipment**

- Design and maintain the facility and equipment to promote efficient flow of animals and to minimize injury or undue stress to animals.
- Design and equipment must have the capacity to humanely, effectively and consistently unload, handle, inspect and house all species that are slaughtered.
- Design, maintain and operate the facility and equipment in a manner that meets MIR, HAR and OHS requirements.

**Monitor Animal welfare indicators** detected on post mortem (e.g., frostbite, bruising, whip marks [evidence of abuse], fractures, etc.)

### **Transfer of Care and Control**

Trained Establishment employee will examine each load and supervise unloading by:

- documenting the condition of the load and time of transfer of care and control from transporters; and
- recording the name of the transport owner and the driver, along with the vehicle identification for each load

## **12.4 Red Meat Facility Design and Equipment**

The operator of the establishment is responsible for the design, operation, and maintenance of suitable lairage and slaughter facilities.

- These must be designed to facilitate humane unloading, handling, housing, stunning, and bleeding of all the species and categories of animals processed.
- These must be maintained to minimize distress and injury (consider: signs of distress and injury may include: animals vocalizing, eyes bulging in panic, backing up, refusal to move, piling, struggle or panic, missing hair, bruising patterns).

Design requirements for cattle, bison, horses, hogs, cervids and small ruminants are unique for each species. Plant operators who wish to change or add additional species or categories of animals must submit written plans to the Veterinarian in Charge (VIC). Required facility modifications and written program changes (including training) must be made prior to slaughtering additional species or categories of animals.

Facilities and equipment that can reasonably be expected to meet the requirements must be in place prior to commencing slaughter of a particular species.

Where design deficiencies impact animal welfare in existing plants, the plant operator must implement an action plan to effectively address the problem within a time frame that is set in consultation with the CFIA VIC.

Slaughter establishments must have sufficient capacity in livestock pens (or holding areas) to ensure that animals can be unloaded in a timely fashion and are not exposed to the elements (including lack of ventilation on a stationary transport vehicle).

Livestock holding capacity can normally accommodate half number of animals slaughtered in a normal shift, alternately, the operator must write and implement an effective contingency plan which ensures that animal welfare is protected in the event that slaughter is delayed, slowed or stopped.

When writing contingency plans consider/address:

- suitable alternate locations where animals can be unloaded, slaughtered or temporarily housed (including consideration of distance, weather conditions, total transport time, suitability/availability of transport vehicles and biosecurity)
- timely unloading of imported animals where temporary housing in other locations is not an option (those animals designated for immediate slaughter transported in sealed vehicles)

### **12.4.1 Unloading Facility Design**

Unloading ramps and/or docks must be designed and maintained to minimize slipping, distress, and injury. They must be sturdy, well maintained, drained, have secure footing (i.e. non-slippery, scored, or slats) and have sides that are sufficiently high to prevent escape or injury.

The unloading facilities must permit the inspection of animals.