



CRS Report for Congress

USDA Meat Inspection and the Humane Methods of Slaughter Act

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Summary

Revelations in early 2008 that cattle were mistreated at a California slaughter plant have raised questions about enforcement of the federal Humane Methods of Slaughter Act (7 U.S.C. §§ 1901 *et seq.*), which is intended to ensure that animals are handled humanely when being killed for food. Evidence emerged that the plant had permitted nonambulatory or so-called “downer” cattle to be slaughtered for human food, also potentially jeopardizing public health. Following these revelations, the U.S. Department of Agriculture (USDA) effectively halted plant operations, announced the largest meat recall ever, alerted school food authorities to hold and destroy any unconsumed products from the plant, and launched an investigation into the matter. The 110th Congress also has stepped in, with hearings planned and proposals to change current policies possible.

Background

On February 17, 2008, USDA announced that Westland/Hallmark Meat Co. of Chino, California, was voluntarily recalling 143.4 million pounds of fresh and frozen beef products dating to February 1, 2006. At least 50 million pounds were distributed to the school lunch and several other federal nutrition programs. This, the largest U.S. meat or poultry recall ever, came after USDA’s Food Safety and Inspection Service (FSIS) found evidence that this facility had a practice of occasionally allowing the slaughter of cattle that had become nonambulatory after they had been inspected, but before they were slaughtered for human food. FSIS regulations explicitly prohibit nonambulatory (“downer”) cattle in human food, because they are more likely to have bovine spongiform encephalopathy (BSE, or “mad cow disease”).

The recall was so-called Class II, indicating a remote possibility that consumption of the products could cause adverse health effects. Most large recalls are Class I, with a reasonable probability that the product could cause serious health consequences or death. Officials asserted that findings of BSE are extremely rare in the United States and cited the effectiveness of other BSE safeguards — including a ban on feeding most cattle parts back to cattle, and the removal of potentially infectious material from all older animals. They stated that most of the recalled beef likely had been consumed, and that schools and

other nutrition outlets had been instructed to hold and eventually destroy all remaining products. Nonetheless, the recall was necessary, because failure to follow the agency regulations deemed the animals unfit for human food.¹

The agency had suspended inspection at the California plant on February 4, 2008, three days after it voluntarily ceased operations, pending an investigation of inhumane practices there. These practices came to light after animal welfare advocates secretly videotaped what they described as employees inhumanely handling downer cattle before slaughter. USDA inspectors reportedly had failed to detect that these animals became nonambulatory after they received antemortem inspection — causing some to question the use or effectiveness of recent increased appropriations from Congress for more aggressive enforcement of the federal Humane Methods of Slaughter Act.

Inspection Basics

Federal law requires FSIS inspectors to be present at all times meat and poultry slaughter plants are operating. Among other requirements, an inspector must observe every live animal just before slaughter, both at rest and in motion, to detect signs of any disease or health problems that might render the animal unfit for human food. Plants must notify FSIS inspectors when animals first arrive, and the “antemortem” inspection is to be conducted on the day of their slaughter. Although inspectors are not stationed in the antemortem areas for the entire day, they are to return randomly after initial inspection to verify proper handling of the animals. This contrasts with “postmortem” inspection, where inspectors are stationed constantly along the processing lines inside the slaughter plants to examine each carcass and monitor other processing activities.²

The Humane Methods of Slaughter Act

FSIS is responsible for enforcing the Humane Methods of Slaughter Act (HMSA; 7 U.S.C. §§ 1901 *et seq.*), which governs the humane handling and slaughter of livestock. Its key provision (§1902) states:

No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane. Either of the following two methods of slaughtering and handling are hereby found to be humane:

¹ For more information and updates on the Westland/Hallmark situation, see USDA’s technical briefing transcript, “Questions and Answers,” and other materials, first posted on February 17, 2008, at [<http://www.usda.gov/wps/portal/usdahome>]. For background on recalls, see CRS Report RL34313, *The USDA’s Authority to Recall Meat and Poultry Products*, by Cynthia Brouger and Geoffrey S. Becker.

² The regulations on antemortem inspection are at 9 C.F.R. 307.2(a), 309, 310, 311, 321.1(b)(1)(iv), and part 500. FSIS Directive 6100.1, *Antemortem Livestock Inspection*, contains more detailed inspector instructions, including how to deal with nonambulatory disabled animals (see below). For general information on FSIS programs, see CRS Report RL32922, *Meat and Poultry Inspection: Background and Selected Issues*, by Geoffrey S. Becker; and also “Slaughter Inspection 101,” at [http://www.fsis.usda.gov/fact_sheets/Slaughter_Inspection_101/index.asp].

(a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

Chickens, turkeys, and other poultry are not covered by the act. In the 102nd through 104th Congresses, legislative proposals were introduced to include poultry, but no action was taken on these bills.

The first humane slaughter law, passed in 1958 (P.L. 85-765), covered only plants that wanted to sell meat to the federal government. It was expanded in 1978 (by P.L. 95-445, which amended the Federal Meat Inspection Act at 21 U.S.C. §§ 603 and 610) to cover all federally inspected establishments that slaughter livestock; the 1978 law also added the phrase “and handling in connection with such slaughtering.”

To implement the act, FSIS has issued regulations (at 9 C.F.R. parts 313 and 500), and a directive (6900.2) for inspection personnel covering the proper maintenance of pens and rampways; how to handle livestock during unloading and movement to the stunning area, including the use of electric prods and other instruments; and the methods of stunning the animals. For each, the directive spells out how personnel are to verify compliance and specifically what to do if there is noncompliance.

There are approximately 6,200 federally inspected meat and poultry slaughtering and processing establishments. More than 900 of them slaughter livestock and all are subject to the HMSA, according to USDA.³ FSIS in 2007 conducted more than 167,000 “humane handling verification activities” at these plants; it also suspended inspection (effectively stopping production) 12 times in 2007 “for egregious handling violations” witnessed by inspectors. FSIS issued a total of nearly 700 “noncompliance records” for “less than egregious” violations, such as not having drinking water in holding pens.⁴

Nonambulatory Disabled Cattle

Until early 2004, FSIS required that inspectors consider all seriously crippled livestock (cattle and other species) and those commonly known as “downers” to automatically be identified as “U.S. Suspects” — i.e., possibly having a disease or condition that would require their condemnation. FSIS required that an agency veterinarian examine them both before and after slaughter, and that they be slaughtered

³ Of the 900 establishments, 636 slaughtered 33.1 million cattle in 2006. National Agricultural Statistics Service (NASS), *Livestock Slaughter 2006 Summary*, March 2007. Additionally, nearly 700,000 calves were slaughtered in more than 200 plants (cattle and calf slaughter can be within the same plants). The 2007 summary is expected to be available early in 2008 at [<http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1096>].

⁴ USDA, *Questions and Answers Hallmark/Westland Meat Packing Co.*, February 17, 2007.

separately, before being cleared for food. After a cow imported from Canada was found to have BSE in late 2003, FSIS issued a number of rules aimed at keeping BSE-infected beef from entering the food supply, including a prohibition on the slaughter of any nonambulatory cattle, regardless of the reason or of when they became disabled.

More specifically, an interim final rule on January 12, 2004 (69 *Federal Register* p. 1873), simply stated, “non-ambulatory disabled cattle shall be condemned and disposed of” in accordance with other FSIS regulations, including that they be humanely euthanized. The interim rule also for the first time explicitly defined nonambulatory disabled livestock to be those “that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column, or metabolic condition.” FSIS based this rule change on findings in Europe, where BSE was far more prevalent, that nonambulatory cattle were much more likely to harbor the BSE agent than ambulatory cattle, and that “typical clinical signs associated with BSE cannot always be observed in non-ambulatory cattle infected with BSE because the signs of BSE often cannot be differentiated from the typical clinical signs of the many other diseases and conditions affecting non-ambulatory cattle” (69 *Federal Register* p. 1870).

On July 13, 2007, FSIS modified its rule to say that “FSIS inspection personnel will determine the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection on a case-by-case basis” (72 *Federal Register* p. 38729). In the preamble to the rule, the agency said a notice to its personnel — issued after the January 2004 interim rule — already was directing FSIS veterinarians to permit such animals to be slaughtered, so long as the veterinarian could verify that the animal had suffered an acute injury (e.g., a broken leg).⁵ However, the agency also reaffirmed its earlier findings that BSE clinical signs cannot always be observed in a nonambulatory animal even though BSE was much more prevalent in such animals. Thus, its general ban on their use in food — with this noteworthy exception — would be continued in the final rule.

Critical Views

OIG Report on Antemortem Inspection. USDA’s enforcement both of the ban on nonambulatory cattle and of the humane slaughter law has been at issue. A January 2006 audit report by USDA’s Office of Inspector General (OIG) was highly critical of a number of FSIS antemortem inspection procedures. These included what OIG said was the inconsistent application of procedures for the slaughter of nonambulatory cattle: for example, at 2 of 12 slaughter plants OIG visited, 20 of the 29 nonambulatory animals slaughtered were downers “with no documentation of any acute injury.”⁶ It also took note of the FSIS directive (above) that provided for an exception to this interim rule, which was not reflected in the final rule until July 2007.⁷

⁵ Notice 5-04, *Interim Guidance for NonAmbulatory Disabled Cattle and Age Determination*.

⁶ USDA, OIG, *Animal and Plant Health Inspection Service - Bovine Spongiform Encephalopathy (BSE) Surveillance Program — Phase II and Food Safety and Inspection Service — Controls Over BSE Sampling, Specified Risk Materials, and Advanced Meat Recovery Products — Phase III*, report no. 50601-10-KC, at [<http://www.usda.gov/oig/webdocs/50601-10-KC.pdf>].

⁷ At one plant, OIG said it “observed use of a forklift and a rail above the pens to transport nonambulatory cattle to the slaughter area.”

OIG also reported that, from 1995 until July 2005, when the policy was discontinued, FSIS inspectors in some plants were examining only 5%-10% of live cattle both at rest and in motion; the remainder were observed only at rest. The 33 plants subject to this alternative procedure were to be those with good compliance records that were killing primarily younger domestic animals, not likely to be at risk for BSE. However, due to inadequate enforcement and documentation, some older cattle at these plants did not receive full inspection before slaughter, according to OIG.

GAO Report on HMSA Enforcement. A January 2004 report by the Government Accountability Office (GAO) had concluded that incomplete and inconsistent inspection records had made it difficult to determine the extent of humane handling and slaughter violations; that FSIS took inconsistent enforcement actions to address noncompliance; and that it lacked data on numbers of inspectors and time devoted to HMSA enforcement. Subsequently, the House Appropriations Committee began to ask FSIS at its annual budget hearings for updates on how it was addressing the GAO findings.⁸ (As noted below, Congress already has appropriated at least \$10 million for incorporating a “Humane Animal Tracking System” into its field computer systems.)

Inspectors Union Criticism. Following the release of the undercover video showing inhumane treatment, the meat inspectors’ union and a consumer advocacy organization sent a letter to the Secretary of Agriculture. It charged that inspectors at Hallmark were specifically instructed not to visit cattle pens before slaughter, but rather to leave the FSIS veterinarian in charge to check the animals for humane handling, and “[h]e was absent most of the time.” The letter later cited staff shortages as one reason: “In slaughter plants with shortages or vacancies, off-line inspector(s) and even the FSIS veterinarian can be pulled to the line to perform the essential post-mortem inspection activities. When they are so deployed, plant employees know there is no chance that a government official will be able to visit the pens to do any checks, until the slaughter line is stopped.”⁹

The letter also charged, among other things, that FSIS veterinary positions created specifically to monitor humane practices “are not always filled” and that such veterinarians are often “redirected to perform other tasks not even remotely associated with humane handling issues.”

In Congress

In early 2008, a number of committees announced they would convene hearings on matters related to the Westland/Hallmark situation. It remains to be seen whether recent developments will fuel interest in new or pending bills affecting humane treatment and/or

⁸ See *Humane Methods of Slaughter Act: USDA Has Addressed Some Problems but Still Faces Enforcement Challenges* (GAO-04-247). For FSIS’s responses, see House Appropriations Committee, *Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations for 2005* (Part 7, p. 223); for 2006 (Part 3, p. 167); and for 2007 (Part 1, p. 196).

⁹ Stan Painter, President, National Joint Council of Food Inspection Locals, and Wenonah Hauter, Executive Director, Food and Water Watch, February 12, 2008, letter to Secretary of Agriculture Ed Schaefer.

inspection. For example, in 2005, a floor amendment by Senator Akaka to prohibit (by statute, not just by regulation) the use of nonambulatory livestock for human food was included in the Senate-passed version of the USDA 2006 appropriation (enacted as P.L. 109-97). The Akaka amendment would have applied not only to cattle but also to any sheep, swine, goats, horses, mules, or other equines unable to stand or walk unassisted at inspection. The House version lacked such a ban, and conferees removed the Senate language prior to final passage. The proposal has re-emerged in the 110th Congress as S. 394 and H.R. 661. The bills also would require that all nonambulatory livestock be humanely euthanized rather than slaughtered.¹⁰

Past Congresses had attempted to address humane oversight in a number of past, mainly appropriations, acts. After a number of major news stories reported continuing abuses at slaughterhouses in 2000, Congress, in the 2001 Supplemental Appropriations Act (P.L. 107-20), directed USDA to spend not less than \$1 million to enforce the act. USDA in turn allocated \$1.25 million to hire 17 newly established District Veterinary Medical Specialists exclusively to oversee enforcement. Lawmakers next included, in the 2002 farm law (P.L. 107-171, § 10305), a resolution urging USDA to fully enforce the act and to report the number of violations to Congress annually.

USDA's FY2003 appropriation (in P.L. 108-7) included an increase of \$5 million for FSIS to, as a Senate report stated, hire "50 additional inspection personnel to work solely on HMSA enforcement through full-time ante-mortem inspection, particularly unloading, handling, stunning and killing of animals at slaughter plants." The Senate Appropriations Committee noted it was:

extremely concerned that although the HMSA requires that livestock be rendered unconscious before they are slaughtered, FSIS does not have adequate inspection personnel dedicated to checking for or reporting violations of the HMSA. The Committee recognizes that all inspectors are instructed to stop the production line as soon as an HMSA violation is observed. However, the Committee does not believe this is the most effective and efficient tool to prevent these violations.¹¹

Subsequent appropriations continued and then increased designated funding for HMSA enforcement, which now is at 63 positions and \$5 million annually. Appropriators also have provided a total of at least \$10 million over several years since FY2005 to incorporate FSIS's "Humane Animal Tracking System" into its field computer systems.

¹⁰ Also in the 110th Congress, pending H.R. 1726 would require the federal government to purchase products derived from animals only if they were raised according to humane standards (had adequate shelter with sufficient space to walk and move around, had adequate food and water with no starvation or force-feeding, and had adequate veterinary care).

¹¹ S.Rept. 107-223.