



United States Department of Agriculture

Food Safety and
Inspection Service

1400 Independence
Avenue, SW.
Washington, D.C.
20250

Ms. Dena M. Jones
Farm Animal Program Manager
Animal Welfare Institute
900 Pennsylvania Avenue, SE
Washington, DC 20003

NOV 25 2019

Dear Ms. Jones:

The Food Safety and Inspection Service (FSIS) has completed its review of the Animal Welfare Institute (AWI) and Farm Sanctuary's December 17, 2013, petition requesting that FSIS use its authority under the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) to initiate rulemaking for the humane handling of poultry. Specifically, the petition requests that FSIS promulgate poultry handling regulations that identify and prohibit practices that may lead to adulteration, as well as require that all poultry establishments comply with such requirements. This letter also responds to AWI's May 26, 2016, petition requesting that FSIS revise its regulations and directives to prevent incidents of avoidable suffering and death other than by slaughter at poultry slaughter establishments.

We have decided to deny your petitions because the PPIA does not give FSIS the specific authority to prescribe requirements for the humane handling of live birds at slaughter. FSIS currently acts within its authority under the PPIA to address the handling of poultry at official poultry establishments to prevent product adulteration. FSIS regulations require poultry to be slaughtered in accordance with good commercial practices (GCP), which means that poultry should be treated humanely. FSIS inspection activities verify and enforce adherence to GCP at official poultry establishments. Through this existing framework, FSIS addresses the poultry handling concerns that you raise in the petitions.

On March 14, 2018, FSIS issued a response to a separate petition related to the humane handling of poultry. On November 15, 2017, petitioner Mercy for Animals (MFA) requested, in part, that FSIS issue policy addressing the enforcement of humane slaughter provisions at official poultry establishments.¹ Our response addressed the Agency's scope of authority under the PPIA to regulate the handling of live poultry in connection with slaughter.² As FSIS

¹ Petition for Formal Rulemaking #17-06 from Mercy for Animals, Nov. 15, 2017 (<https://www.fsis.usda.gov/wps/wcm/connect/260fe135-c980-47f3-b023-4092651b48f4/17-06-Petition-Mercy-for-Animals.pdf?MOD=AJPERES>)

² Response to Petition for Formal Rulemaking #17-06 from Mercy for Animals, March 14, 2018 (<https://www.fsis.usda.gov/wps/wcm/connect/fe3ee914-9dba-4332-b6d4-c4a238375c45/17-06-FSIS-Response-Letter-03142018.pdf?MOD=AJPERES>)

Ms. Dena M. Jones

Page 2

previously has determined, there is no specific federal humane handling and slaughter statute for poultry (See *Federal Register*, Treatment of Live Poultry Before Slaughter (70 FR 56624; Sept. 28, 2005)). Thus, FSIS looks to its existing authorities under the PPIA to address the handling of poultry.

Under the PPIA, a poultry product is adulterated if, among other circumstances, it is in whole, or in part, the product of any poultry which has died otherwise than by slaughter (21 U.S.C. 453(g)(5)). Accordingly, the FSIS regulations at 9 CFR 381.90 require carcasses of poultry showing evidence of having died from causes other than slaughter to be condemned. The regulations also require poultry to be slaughtered in accordance with GCP, in a manner that results in thorough bleeding of the poultry carcass, and ensures that breathing has stopped before scalding, so that the poultry do not drown (9 CFR 381.65(b)). In the 2005 *Federal Register* notice concerning the treatment of live poultry before slaughter, FSIS reminded poultry establishments that, under these statutory and regulatory requirements, live poultry must be handled in a manner that is consistent with GCP, which means they should be treated humanely (70 FR 56624). The notice also described poultry handling practices that are consistent with GCP and provided a voluntary "systematic approach" model for poultry establishments to use to ensure that poultry is handled and slaughtered in a manner that is consistent with GCP (70 FR 56625).

As you note in the petitions, FSIS provides instructions to inspection program personnel to verify that establishments meet GCP poultry handling and slaughter requirements; the instructions include enforcement actions inspection program personnel are to take when establishments do not meet these requirements. Directives *6100.3, Ante-Mortem and Post-Mortem Poultry Inspection*,³ and *6910.1, District Veterinary Medical Specialist: Work Methods*,⁴ direct inspection program personnel and District Veterinary Medical Specialists on procedures for performing GCP verification activities. Directive *6110.1, Verification of Poultry Good Commercial Practices*, instructs inspection program personnel on documenting noncompliance with regulations on poultry handling and slaughter GCP.⁵ It directs inspectors to document a GCP noncompliance when the establishment lost control of its process during the event and there was an ongoing pattern of poultry dying otherwise than by slaughter (Section IV.A.). It also states that a noncompliance is appropriate when poultry were not properly bled out resulting in the production of adulterated product under the PPIA and FSIS regulations (Section IV.A.; see 21 U.S.C. 453(g)(5) and 9 CFR 381.1(b)(v)). Through such instructions to the field, FSIS acts within its scope of authority under the PPIA on an ongoing basis to enforce

³ Available at: https://www.fsis.usda.gov/wps/wcm/connect/724ad094-823a-4e06-83f4-47ecbbefad53/PHIS_6100.3.pdf?MOD=AJPERES.

⁴ Available at: <https://www.fsis.usda.gov/wps/wcm/connect/fefdbb5b-e7d4-49a6-88e0-85890dff6cbe/6910.1Rev1.pdf?MOD=AJPERES>.

⁵ Available at: <https://www.fsis.usda.gov/wps/wcm/connect/39d791f2-6bc2-4bb4-bdfc-72504da30f76/6110.1.pdf?MOD=AJPERES>.

Ms. Dena M. Jones

Page 3

poultry establishments' adherence to GCP, which includes the handling of live poultry at slaughter.

Existing FSIS regulations address the handling of poultry by requiring official poultry establishments to adhere to GCP. Related Agency inspection activities enforce GCP requirements. This existing system enables the Agency to identify and prohibit practices that may cause poultry adulteration, as you request in the petitions. As additional rulemaking is not necessary to carry out the Agency's authority under the PPIA to regulate poultry GCP, we are denying your petitions.

Consistent with FSIS regulations on petitions, we have made your petitions available to the public. We also have made public several letters and comments submitted in support of your petitions. We will publish this letter as well. If you have any additional questions, you may contact Mary Porretta, Petitions Manager, Issuances Staff, at (202) 720-5627.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terri Nintemann".

Terri Nintemann
Assistant Administrator
Office of Policy and Program Development