



# Animal Welfare Institute

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May 26, 2016

Alfred Almanza  
Deputy Under Secretary for Food Safety  
Food Safety and Inspection Service  
US Department of Agriculture  
1400 Independence Avenue, SW  
Washington, DC 20250-3700

Re: Abandonment of birds at poultry establishments

Dear Mr. Almanza:

I wish to bring to your attention an issue of great concern regarding the treatment of birds at poultry slaughter establishments in the United States. Through the review of enforcement records obtained under the Freedom of Information Act, the Animal Welfare Institute (AWI) has discovered that large numbers of birds are suffering and dying as a result of being abandoned for extended periods of time—often during extreme weather conditions—in the holding areas of slaughter plants.

For example, in June 2015, Establishment P1480 (Tip Top Poultry) rejected the advice of inspection personnel not to leave 6 trucks of birds over the weekend, in extreme heat conditions and without food or water. Two months later, the same establishment left 3½ trucks of birds over the weekend, again in extreme heat conditions without food or water, and despite being cautioned by inspection personnel not to abandon the birds. In another case, in February 2014, Establishment P17766 (Southern Hens) subjected thousands of birds to sub-freezing temperatures while being held at the plant for up to 4 days. In January 2014, Establishment P689 (Simmons Custom Processing) held birds at the plant for 2 days during sub-freezing temperatures, resulting in at least 7,300 dead-on-arrival birds. In yet another incident, in November 2013, Establishment P9965 (PA Farm Products) held about 870 turkeys on a truck without food or water for at least 50 hours. All of these incidents (the relevant records are enclosed) appear to have resulted in a large number of birds dying other than by slaughter.

The Food Safety and Inspection Service (FSIS) must take action to prevent the occurrence of similar incidents in the future. FSIS can accomplish this by revising its regulations and directives. FSIS inspectors currently do not have the regulatory authority to order plants not to hold birds beyond a reasonable period. Inspection personnel also currently lack the regulatory authority to cite slaughter establishments for instances where birds have been abandoned and suffering and/or death resulted. Under current regulation and policy, the only recourse of FSIS inspectors is to advise plants not to abandon birds and to issue a Memorandum of Interview (MOI) in the event that a plant fails to take this advice and deaths other than by slaughter occur.

In preparing Noncompliance Records (NRs) and MOIs for inhumane handling of birds, inspection personnel typically cite one of two regulations—9 CFR 381.65(b) and 9 CFR 381.90—neither of which are relevant to this type of incident. Regulation 9 CFR 381.65(b) addresses birds drowning in the scald tank and does not refer to any other aspect of live bird handling. Regulation 9 CFR 381.90 requires that “carcasses of poultry showing evidence of having died from causes other than slaughter” be condemned, but it does not prohibit behavior that has the potential to result in death from causes other than slaughter.

FSIS must revise its regulations to prohibit behavior with the potential to cause birds to die other than by slaughter, which according to the Poultry Products Inspection Act (PPIA) is a form of adulteration. The PPIA gives the FSIS the integral task of preventing the sale of adulterated poultry products, and expressly states that the agency has authority to write rules and regulations to prevent adulteration.<sup>1</sup> Such a regulation would allow inspection personnel to take action to prevent or respond to acts of intentional animal neglect or cruelty, be it abandoning birds or physically abusing birds, as these acts increase adulteration.

FSIS should also revise its directive on ante-mortem poultry inspection (6100.3) to include actions that inspection personnel may take in situations of suspected animal neglect or cruelty. In these cases, FSIS has a responsibility to contact appropriate state officials to inform them that the agency believes animal neglect or cruelty may have occurred, and the situation should be investigated for potential prosecution under the state anti-cruelty law.

It is evident from enforcement records that FSIS inspection personnel desire to protect birds from avoidable suffering, which is commendable. However, the records also clearly demonstrate that issuance of a MOI after the fact does little to deter similar behavior in the future. FSIS has placed its inspectors in a position of being forced to witness intentionally-inflicted animal suffering, with no power to prevent it, because the agency has failed to provide its personnel with the tools needed to respond to these situations.

AWI strongly urges you to instruct the Office of Field Operations and Office of Policy and Program Development to collaborate in revising FSIS regulations and directives to prevent incidents of avoidable suffering and death other than by slaughter at poultry slaughter establishments.

Sincerely,



Dena Jones  
Director, Farm Animal Program

Enclosures

cc: Mr. William Smith, Assistant Administrator, Office of Field Operations  
Dr. Dan Engeljohn, Assistant Administrator, Office of Policy and Program Development

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<sup>1</sup> 21 U.S.C. § 452; See 21 U.S.C. §463(b) (stating that “the Secretary shall promulgate such other rules and regulations as are necessary to carry out the provisions of this chapter.”).

**Table: Noncompliance GCP Reports from PBIS and PHIS July to December 2015  
Response to FOIA 2016-00084 Amended**

EstNbr	EstName	Date	Task	Description
P1480	Tip Top Poultry, Inc.	08/01/2015	04C05	<p>On 08/01/2015 at approximately 1600 hours at Tip Top Poultry (P-1480), (b) (6) informed me (b) (6) that the 2nd shift had approximately (b) (6), (b) (4) birds to slaughter and did not think they would be able to slaughter all of the birds. I performed a good commercial practice that day check at approximately 1715hours. I observed the misters that were turned on the birds that were in the sheds. The majority of birds that I observed were alive, moving around and making noises. There are approximately 6-7 hens in a crate that is 2ft and 9 ½ inches (length) by 1ft and 10" (width). Most of the hens that were slaughtered 08/01/15 were of a bigger size approximately 10-11lbs. The roosters are approximately 6 roosters in the same size crate as stated earlier and the ones that were slaughtered 08/01/15 range from 10- 15lbs. &amp;nbsp;At approximately 2145hours I observed a total of 8 ½ trucks that were left to be slaughtered.&amp;nbsp; At approximately 0110 hours I proceeded outside to check to see if any birds were left because the 10 hours for inspection is 1:30 and it takes approximately 7 minutes for the birds to come from the outside to the evisceration rehang table. I talked with (b) (6) and asked him did they have any birds left over that they would not be able to slaughter. (b) (6) said they had approximately 3 ½ (approximately 3300 birds) trucks that they were leaving over the weekend (08/13/2015- 08/03/2015) and the misters would be left on over the weekend. I mentioned to (b) (6) that I could not okay that because an NR (JBA3615062727) was issued 06/20/2015 for birds being left over the weekend. (b) (6) responded by saying that " I'm not going to throw away those birds and I am doing my boss told me to do". I said to him I will have to call the FLS or district to figure out how to proceed.&amp;nbsp; I called and informed my (b) (6) of the situation. We both agreed that I would check the status of the birds the next day 08/02/15. I went to the sheds that night to count the number of trucks that would be left over for the weekend and the status of the birds at that time. I counted 4 trucks. Three of the trucks were filled to the capacity with cages and birds in them and one truck was about 1/3 of the way filled cages with birds in it. It was difficult to observe the birds in the cages thoroughly because it was at night and the birds were asleep. I informed (b) (6) that I will check the status of the birds the next day.&amp;nbsp; I reminded plant management (b) (6) that food and water should be provided. (b) (6) called (plant manager) Greg Puckett and said that Mr. Puckett would call me and set up a time to meet him at the plant.[newline]I arrived at Tip Top Poultry 08/02/15 at approximately 1545 hours and met Greg Puckett and (b) (6) at the live shed.&amp;nbsp; I observed there were four trucks and that the misters were on. I observed the 3 hen trucks. I observed one cage at the very top on one of the three hen trucks where the hens were not alive. The hens that I observed in the other trucks were still alive but distressed. I observed the truck that was 1/3 of the way filled with roosters in the cage and observed the roosters dead in the 24 cages that I could see clearly stacked 8 cages up and 3 across approximately (b) (4) birds or more that were not moving in those cages that I observed in the outer cages. The temperatures that day and at that time were ranging for (b) (4). I asked Greg Puckett if the birds had received any food or water being here since late Friday night or early Saturday morning. Mr. Puckett responded that the birds had received no food and the misters were turned on". &amp;nbsp;I mentioned that this is not the first time the plant has left the birds over the weekend and that it has been mentioned verbally and documented in the MOI's that 0130 hours is the 10 hour inspection limit. I mentioned to Greg Puckett that I have informed my (b) (6) of birds being left over for the weekend from 08/01/2015-08/03/2105.&amp;nbsp; [newline]&amp;nbsp; It was mentioned in the joint meeting 07/01/2015 (1st and 2nd shift) that Greg Puckett said that in the future</p>



Table: Noncompliance Reports in Response to FOIA 2015-00263

EstNbr	EstName	NR#	Date	Task	Regs	Description
P1480	Tip Top Poultry, Inc.	JBA36 15062 727N	06/27/2015	04C05	381.6 5(b)	<p>On 06/20/15 at approximately 2200 (b) (6) observed 5 trucks at Tip Top Poultry that contained coops with birds in them. (b) (6) asked (b) (6) to radio (b) (6) so that she could discuss how the plant would be able to slaughter the 6 trucks and meet the (b) (4) time limit (0130). (b) (6) asked (b) (6) what was the plant planning to do if all the birds are not slaughtered by 0127 hours". (b) (6) responded by saying he was informed by his superior to leave the birds over the weekend. (b) (6) said to (b) (6) that "she had never heard of the plant leaving birds on the yard over the weekend". (b) (6) said to (b) (6) that he would have to discuss this with (b) (6). (b) (6) said that he understood it to be that birds could not be left over the weekend especially without food and water (b) (6) called (b) (6) concerning this matter. &amp;nbsp;There were approximately (b) (4) birds that could not be slaughtered because the (b) (4) for inspection (0130) would not be met. The birds were held in the coops outside in the stalls from 0130hours (06/20/2015) until 0615hours 06/22/2015.&amp;nbsp;The weather conditions were approximately 96F-100F both Saturday and Sunday.&amp;nbsp;[newline](b) (6) Tip Top Poultry's&amp;nbsp; reviewed the&amp;nbsp; a Good commercial Practice program that TipTop Poultry has on file in the QA office which is based on the National Chicken Council Animal Welfare Guidelines for Broilers and the Animal Welfare Approved Welfare Standards for Chicken, Turkey, and duck which was Animal Welfare approved January 28, 2010. It states (b) (4)</p> <p>The plant has knowledge of the number of birds they can kill during the hours of operation on each shift. It has been discussed and documented in an MOI dated 05/22/2015 that the maximum line time for inspection is (b) (4) which is 0130 at Tip Top Poultry P-1480. Being there was no mechanical breakdown or some other event that dictated that the birds could not be processed the plant knowingly scheduled more birds than they could slaughter by the (b) (4) time limit. The leaving of the birds over the weekend in the extreme heat conditions and inability to provide food and water could have been avoided. There were some dead birds that were observed by U.S.D.A. that may have died by other means than slaughter while on the official premises due to a failure to implement and follow good commercial practices (loss of process control. This is a failure to meet the requirements of 381.65(b). Continued failure to meet the requirements of 381.65(b) will result in further regulatory action.</p>

**Table: MOI for foia 2014-171 from Jan 01, 14 through Feb 28, 2014**

Est Nbr	Est Name	MOI_Date	Task_Code	Task_Name	MOI_Number	Status	MOI_Type	MOI_Agenda
P17766	Southern Hens, Inc	02/01/2014	04C05	Poultry Good Commercial Practices	SSN0209023201G	Finalized	MOI	<p>01/30/2014 (b) (6) (b) (6) Southern Hens, Inc. 329 Moselle-Seminary Rd. Moselle, MS 39459 (b) (6) Birds arriving at P17766 on January 28, 2014 were subjected to sub-freezing temperatures while being transported and while being held over at the plant until slaughter for up to 4 days in some cases. Operations were suspended by the (b) (6) (b) (6) for Tuesday, January 28, 2014 due to the inclement weather. On Wednesday, January 29, 2014, (b) (6) (b) (6) and I surveyed the birds on the trailers at live haul, the back dock, and at the covered area on the back lot. Estimates of DOAs were made at approximately 5 percent and possibly higher. (b) (7)(C) was advised of the potentially excessive number of DOAs due to the sub-freezing temperatures. Birds carried over and slaughtered on 01/29/14 had a minimal number of DOAs with (b) (4) recorded out of (b) (4) birds slaughtered or an average of 0.6%. Birds carried over and slaughtered on 01/30/14 had (b) (4) DOAs recorded out of (b) (4) birds slaughtered with an overall rate of 5.6%. Birds carried over and slaughtered on 01/31/14 had (b) (4) DOAs recorded out of (b) (4) birds slaughtered with a DOA rate of 23%. Birds slaughtered on 01/30/14 and 01/31/14 had an average DOA rate above 5% which is deemed excessive. Allowing an excessive number of birds to freeze while being transported or held at the plant under sub-freezing temperatures is not acceptable and is less than Good Commercial Practices in Poultry. (b) (6) and I met at approximately 0630 hours on Wednesday January 29, 2014 for the purpose of inspecting the birds which had been held over since Tuesday, January 28, 2014. I personally inspected (b) (6) trailers of birds which had been held over since January 28, 2014 as part of the PHIS Good Commercial Practices in Poultry verification task. Based on visual inspection of the trailers, the DOA count was estimated to be excessive or above 5%. Establishment DOA count over the next 3 days documented DOA counts of 5.2% confirming an excessive number of DOAs for Tuesday January 28, 2014 production. Respectfully (b) (7)(C) P17766 Moselle, MS 39459 cc: (b) (7)(C)</p>

**Table: MOI for foia 2014-171 from Jan 01, 14 through Feb 28, 2014**

Est Nbr	Est Name	MOI_Date	Task_Code	Task_Name	MOI_Number	Status	MOI_Type	MOI_Agenda
P689	Simmons Custom Processing, Inc.	01/13/2014	04C05	Poultry Good Commercial Practices	JEF5410015913G	Open	MOI	<p>On 1-8-2014, Wednesday, I observed management unloading a trailer of light birds from lot 4 which had traveled from (b) (4). Frozen DOA carcasses were being manually removed or pried from the wire cages (batteries) with a pry bar and were being deposited on the concrete floor of the receiving shed. A Kitty Hawk type front end unloader was used with a plastic tank, open on one end to allow for piling up or scooping of DOA's. I observed the DOA pile from this one trailer (one of four carry-over trailers present on the lot) to be 2' high by 30' long and 3-4' wide. Live birds left in the batteries were rolled to the light hanging area for later slaughter. The batteries that I observed for a 20-30 minute time span had very few live birds remaining when pushed to the light hanging area (normally would hold approximately 150 birds). This trailer, as well as two others, had arrived at the facility on Sunday 1-5-14 for slaughter on 1-6-14. The low temperature was 6 degrees F on day of catch and transport. Slaughter/kill for Monday 1-6-14 was canceled by plant management due to snow and icy conditions with the low at minus 4 and high of 14. Both trailers of light birds were left sitting in the live holding shed during this inclement weather plant shutdown. Both carry-over trailers from Sunday delivery had too numerous to count DOA's that were frozen and stuck to the wire cage batteries when observed Tuesday morning during Ante mortem. Tuesday's kill (Monday catch) had four more trailers arriving from the same farm in Neosho, Mo (as well as other farms). The temperature was 0 degrees. Carcasses as well broken eggs were frozen to the wire batteries. During operations on Tuesday, I observed employees using a pry bar to force open frozen battery cage doors to remove DOA's. One trailer from Sunday's arrival (7722) was only partially completed during Tuesday slaughter operations (b) (4) and had 2583 DOAs. On Wednesday, start of shift there were 4 trailers (most trailers have (b) (4) batteries per trailer- (b) (4) batteries) and a partial (b) (4) that was completed later in the AM with 2079 DOA. On Ante Mortem, I observed batteries randomly on the periphery of the trailer by lifting drop down boards, there were very few birds alive in observable batteries and no audible sound from live birds that usually occurs when looking at trailers. Trailer drop down boards were in place to provide protection from the weather but were also frozen to the trailer framework. Wednesday's slaughter operation started with heavy fowl from lots 1 and 2 (b) (4) before slaughtering lights that were fresh caught from another farm and not as severely affected by the weather before returning to slaughter the carryover from the previous day, starting after break. The first trailer unloaded was described above. The other three trailers were unloaded in a similar fashion with birds piled on the ground or put into the plastic tank for dumping into the offal trailer. During this operation, there were enough DOA's to fill 1 offal trailer and part of another. Each light bird weighs approximately 3-4 pounds. Live birds removed from batteries on carryover trailers were sent into evisceration or humanely</p>

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Est Nbr	Est Name	MOI_Date	Task_Code	Task_Name	MOI_Number	Status	MOI_Type	MOI_Agenda
								slaughtered and sent to offal. One evisceration line ran 2 hours on these carryover killing approximately (b)(6) head. Total count of live humanely slaughtered after shift was almost (b)(6). Total count of 4 trailers of lot 4 carryover on proposed kill sheet was approximately (b)(4). DOA count provided by management, after being notified by PHV of MOI for poor GCP practice, states 7298 DOAs from the four carry over trailers. This count is not in agreement to the conditions observed by FSIS in the live holding shed, Ante Mortem Inspection, and visual observations of the filled offal trailer. The conditions observed as well as the methods in which the establishment utilized to remove the frozen carcasses (piling them in piles and then utilizing the front end unloader to "scoop" the birds up would have not allowed for a true DOA head count. Review of plant animal welfare records and program for the above dates does not address issues of cold weather.
M716 2	Preferred Beef Group	01/22/2014	07C0 1	Meeting with Establishment Management	OFF351701 3222G	Finalized	MOI	Not responsive

**Table1: MOIs for FOIA 1572**

District	Est Nbr	Est Name	DATE	Task Code	Status	MOI Agenda
60	P9965	PA Farm Products LLC	11/08/2013	04C05	Finalized	At approximately 1015 hours, I (B)(6), went outside to perform antemortem and the Good Commercial Practices verification task and observed a load of turkeys in the unloading bay. This bay is not covered. The truck carrying the coops of turkeys did not have a roof and the sides were open exposing the birds to the elements. At the time of the verification task, it was raining and there was no visible attempt to provide shelter for the birds. I immediately notified (B)(6) of the issue. He began immediate corrective actions.
60	P9965	PA Farm Products LLC	11/12/2013	04C05	Finalized	At approximately 0700, when I arrived at the establishment I performed the Good Commercial Practices verification task. I walked to the area where the two trucks containing the coops of turkeys and the coops of chickens were being held. This area is uncovered and there is a solid wall only on one side of the trucks. This wall, however does not extend out the length of the truck leaving about one quarter of the turkey truck completely exposed. The animals had been held over from yesterday so had been kept at that location throughout the night. Neither truck had protective side coverings up to protect the animals from the wind and the truck containing the turkey also did not have a roof covering. This concern had been brought up on 11/8/2013 with MOI QRD27071102086 when a similar incident occurred due to lack of shelter. Mr. Doug Benne, was verbally informed of the concerns.
60	P9965	PA Farm Products LLC	11/13/2013	04C05	Finalized	At approximately 0830 hours on November 13th 2013, I arrived at PA Farms, there was a truck with about 870 turkeys in the truck bay. This truck was at the establishment when IPP arrived at 0630 hours on Monday November 11th. Thus, the birds have been held in the coops on the truck without food or water for at least 50 hours, 2 plus days. Additionally, the truck is parked in an uncovered bay and the truck itself extends pass the building exposing about a quarter of the truck to the elements on both sides. The truck has been covered with tarps to assist in protecting them from the elements due to an MOI written about this issue. However, due to the wind and lack of securing the tarps properly, there are sections where the animals are exposed to the wind. (B)(6) and Mr. Doug Benne, Plant Manager, were verbally notified of the concerns.

**Table1: MOIs for GCP Task 04C05 FOIA 1578**

District	Est Nbr	Est Name	DATE	Task Code	Status	MOI Agenda
90	P758	Tyson Foods, Inc	12/23/2014	04C05	Finalized	<p>On Monday, December 22, 2014 at approximately 1500 hours, I became aware of less than Good Commercial Practices when (B)(6) requested that I provide her with a Poultry Condemnation Information sheet for the (b)(4) (B)(6) carry over birds from the December 19, 2014 kill. I asked (B)(6) was she sure that these birds were carried over from Friday's kill. She advised me that there were 304 birds that were carried over and that she was instructed to obtain the Poultry Condemnation Information sheet. I advised her that I would check with plant management on the situation and get back with her. I immediately contacted (B)(6) and met with him and (B)(6) in his office to discuss the issue. I asked (B)(6) if he was aware that there were 304 birds that were held over the weekend and slaughtered on Monday. I also asked (B)(6) if these birds were supplied with food and water over the weekend. He advised that he was not aware of this situation. After further investigation it was confirmed that the 304 birds were in fact slaughtered. The data from the Poultry Condemnation Information sheet has been placed in PHIS and the Poultry Condemnation Certificate (FSIS FORM 9061-2 (2/96)) has been printed and placed in the file. I informed (B)(6) that this holding over of birds for more than 48 hours without food and water was not acceptable. Furthermore, I informed them that a GCP MOI documenting our meeting and the discussion of the observed deficiency would be forthcoming. FSIS Docket No. 04-037N, Treatment of Live Poultry before Slaughter, states that under the Poultry Products Inspection Act (PPIA) and Agency regulations, live poultry must be handled in a manner that is consistent with good commercial practices. In order to ensure that poultry is handled and slaughtered in a manner that is consistent with good commercial practices, poultry should be treated in such a manner as to minimize excitement, discomfort, and accidental injury throughout processing. A copy of this Memorandum of Interview will be forwarded to appropriate personnel in the Jackson District Office. Thank you (B)(6)</p>