



May 15, 2017

Roberta Wagner Assistant Administrator Office of Policy and Program Development Food Safety Inspection Services, USDA 350-E Jamie L. Whitten Building 1400 Jefferson Dr. SW Washington, DC 20024

Re: Clarification of FSIS policy regarding non-ambulatory disabled cattle offered for slaughter

Dear Ms. Wagner:

We write to ask for your clarification of FSIS's current policy on the offering of non-ambulatory disabled (NAD) cattle for slaughter. The following scenarios, described by the Office of Inspector General and Erika Voogd, food safety consultant, explain our concern:

First, in its 2006 audit report on APHIS and FSIS BSE Surveillance and Sampling¹, OIG noted that "slaughter facilities do not always accept all cattle arriving for slaughter because of their business requirements. We found that, in one State visited, slaughter facilities pre-screened and rejected cattle (sick/down/dead/others not meeting business standards) before presentation for slaughter in areas immediately adjacent or contiguous to the official slaughter establishment. These animals were not inspected and/or observed by either FSIS or APHIS officials located at the slaughter facilities." (pp. 22–23).

Second, in the same report, OIG noted that two slaughter facilities reviewed had plant personnel prescreen cattle arriving at the plant on transport trucks, and that they rejected NAD animals. This "prescreening" was not conducted under supervision of FSIS inspectors. The plant rejected NAD and dying/sick animals, and refused to offload them. "Plant personnel said that the driver was responsible for ensuring that nonambulatory animals were humanely euthanized and disposing of the carcasses of the dead animals." (p. 24).

Third, in December 2016, Ms. Voogd authored an article posted on Meatinglace, in which she described a scenario at a small cattle processing plant where a breeding cow was delivered on a trailer but was overheated, lame in one leg, and was unable to rise to be unloaded. The owner hauled her back to the farm. (A copy of this article is attached. See case #4.)

We appreciate that the final rule "Requirements for the Disposition of Non-Ambulatory Veal Calves" (81 Fed. Reg. 46570) amended 9 CFR § 309.3(e) to require all condemned cattle to be promptly disposed of in accordance with 9 CFR § 309.13, and that it clarified that ante-mortem inspections can be conducted elsewhere on the premises other than in pens. Further, we appreciate that FSIS Notice 66-16 regarding this rule clarifies that inspectors can conduct ante-mortem inspection on trucks that have arrived at the slaughter establishment.

¹ Available at https://www.usda.gov/oig/webdocs/50601-10-KC.pdf.

The question that remains is this: does anything in FSIS policy or regulation prevent a transporter from arriving at a slaughter establishment with NAD cattle, and then driving away or diverting those downed cattle to another location without any FSIS inspection or condemnation of the downed animal?

This question includes whether the cattle in question are owned by the establishment (as in, vertically integrated production) or not (as in the scenario recounted by Ms. Voogd, above, where the farmer-owner delivered the NAD cow to the slaughterhouse, then hauled her back when she could not rise for unloading).

At the heart of the question is the issue of when an animal has been "offered" or "presented" for slaughter—is it when: 1) an animal arrives at an immediately adjacent or contiguous area to the slaughter establishment for the purpose of pre-screening, 2) the vehicle transporting the animal enters the premises of a slaughter establishment, 3) an attempt is made to unload the animal from the vehicle, or 4) the animal has been successfully unloaded from the vehicle? It is the position of our organizations that, at a minimum, any attempt to unload an animal (scenario #3) clearly indicates the intent to offer the animal for slaughter.

In addition to being a humane handling concern, as OIG noted in its BSE report, failure to account for, test, and euthanize NAD cattle seriously limits the BSE Surveillance and Sampling program, and thus diversion of NAD cattle from slaughter establishments also presents a public health concern.

When a consultant to Mercy For Animals submitted this question to AskFSIS on December 13, 2016, your office ultimately responded, "we are still reviewing this issue to determine if cattle are being inhumanely handled." (A copy of the dialogue is attached). Given the serious animal handling and health and safety risks implicated by this issue, we hope that FSIS has now completed its review. Please provide an update on your review and a clarification of FSIS's policy with respect to diversion or removal by transporters of NAD or dying/sick cattle.

Thank you for your attention to this matter, we look forward to hearing from you.

Sincerely,

Dena Jones

Director, Farm Animal Program Animal Welfare Institute 900 Pennsylvania Ave., SE Washington, DC 20003 dena@awionline.org

Sena Jula

Stefanie Wilson Staff Attorney Mercy For Animals 8033 Sunset Blvd., STE 864 Los Angeles, CA 90046 stefaniew@mercyforanimals.org

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cc: Patty Bennett, FSIS Humane Handling Enforcement Coordinator (Patty.Bennett@fsis.usda.gov)

Attachments: 1. Guest blog, Erika Voogd, Best Practices to Prepare Cattle for Slaughter, Meatingplace (Dec. 19, 2016); 2. AskFSIS Communication, question submitted by Elizabeth Hallinan (2016).



meatingplace

BEST PRACTICES

Best practices to prepare cattle for slaughter



By Guest Contributor on 12/19/2016

Recently I visited a small slaughter plant that gave me the ideal cross section of beef to discuss in this article. So many small meat processors have talked about "those crazy Angus." Now before the entire beef industry boycotts this article based on that statement, read the next line.

This particular day I was able to prove that there are many factors that affect the disposition of the animal and ultimate

outcome of the meat. All of the beef that will be discussed were black, primarily Angus or Angus cross, but you will note a great degree of difference in sex, age, weight, temperament and carcass outcome.

No. 1

The first beef unloaded was likely a feedlot steer, tiny compared to the other steers processed that day, weighing only 950 pounds. The origin was probably an auction where this steer terminated because it was too small for "the big processing plants." (The trailer unloaded one animal and promptly departed with two larger steers remaining, destined for another establishment).

This small steer was extremely skittish, trotting off the trailer and ramming his hind end on the rear gate while being weighed on the scale. It then proceeded to gallop down the alley into an individual stall, skidding on the dry cement floor and crashing into the front and rear pen gates as the plant employee approached. When moved toward the stun box, the steer balked for 10 minutes, refusing to enter the stun box and had to be returned to the holding stall to calm down. It also slipped in the lead up chute, nearly losing balance and falling, because of rapid, panicked movements. It's not clear why this beef was so fearful.

It may be genetic, due to selective breeding for performance traits with little emphasis on disposition. But more likely the nervous responses were caused by lack of acclimation to humans or from several bad experiences earlier during loading or handling at the market or feedlot.

Needless to say, the carcass was not ideal. Bruising was noted on the flanks, round and brisket. I question whether the producer, terminal market or hauler is aware of the net yield loss associated with this poorly handled animal. The small meat plant owner often makes the "lone steer" purchase for internal sales, as the price is lower versus typical beef. But what is the net loss versus a well handled animal?

No. 2

The next beef unloaded was from a small local producer who brought his grandson along for the transport journey. This steer was destined for "custom kill," with the meat being consumed by the family.

The steer was extremely docile coming off the truck, obviously trusting the farmer and the plant employees who weighed him on the scale. His weight was 1,050, a bit heavier and taller in frame versus the previous steer. The farmer told me his grandson spent time with the cattle and they were used to people. This Angus steer ambled calmly to scale and the holding stall without a care. When moved to the stun box, he stood waiting for nearly 30 minutes while the plant noisily operated the split saw, brisket saw and cleaned equipment in a nearby wash sink.

Waiting a half hour in the stun box is not recommended, but the plant chose the ideal candidate. When reviewing the carcass after hide removal, both sides were free of bruises. This producer would receive an excellent yield with no trim loss. Good eating for the family.

No. 3

The third beef animal observed was the meat plant owner's bull, which weighed in at 1,500 pounds. I'm still not sure why he was brought for slaughter, because he looked like the perfect Black Angus breeding bull. Healthy, calm and with excellent confirmation.

When unloaded, he easily moved onto the scale and subsequently into the holding stall. When moved to the knock box, he hesitated, thinking he could not fit, but with a small amount of back scratching and encouragement from the producer, he walked into the stun box. This carcass was one of the leanest I have seen – and both sides were in excellent condition; no bruising or damage.

After watching this magnificent animal, I wondered why he was not kept for breeding. In my mind, he would be an ideal sire.

No. 4

The fourth beef observed was a larger black Angus breeding cow. She had recently calved and had lost the calf after three days. The owner said she was having difficulty walking on one hind leg prior to calving and did not appear to improve after. He loaded her that very warm morning, but the trailer had a flat after loading, which delayed delivery.

The temperature mid-day was 104°F and the cow was overheated and unable to rise when it arrived at the plant. Unload and harvest were postponed until the overall animal condition could be improved. He hauled her back to the farm.

Four different experiences

As a city gal who studied animal science, I can't claim to know all the ins and outs of cattle production. But what I can say is that I see many cattle on their last day and how each is raised and "prepared" for the final journey does make a difference.

Some of my favorite "beef people" are those who spend time every day with the cattle. Livestock that trust people are easier to handle at load out, unload and harvest.

Understanding the principles of low stress handling and training employees to utilize these practices can help to assure that cattle are ready for the final day. There needs to be a time when no plant complains about receiving "crazy cattle." What is the benefit to carefully raising an animal for 18 months only to watch the net carcass weight be reduced due to a bin of trimmed out bruises? The time spent on-farm preparing cattle for the final day can assure an easy experience for the animal and the plant.

Choosing a processing plant where facilities are designed to provide a non-slip floor, easy access to pens and boxes and few distractions can help to assure a positive experience for your livestock. If the plant manages humane slaughter with a Robust Systematic Approach, employees are familiar with the low stress handling methods that can be used to provide the producer, plant or consumer with a high quality product with optimized value.

I don't consciously believe that any beef operation, transporter or market manages with a goal of producing hard to handle livestock. But sometimes the results are not ideal. We live in a world where resources are available at the touch of a button. If you are reading this article, you have the guidance necessary to prepare cattle in the best possible manner for handling at the plant. Go for it.

-- Erika L. Voogd is president of Voogd Consulting, Inc. in West Chicago, Ill.

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Excellent

Hi Ms. Voogt, I just finished reading your article in the New Mexico Stockman Magazine and I wanted to write and tell you how much I appreciated the piece. I have seen so many cowboys who think the way to manage cattle is purely through fear. All my cattle (I have a cow calf operation on about 23 sections) know me well, I very rarely have to raise my voice, and they are very comfortable around me. Once in a while I do have a wild one...mostly because it stayed out in the far sections of the ranch and had little contact with me. A few days in a pen being fed and they quickly become docile. Good work getting the word out!

SATURDAY, JANUARY 14, 2017 | MATTHEW BACA

REPLY





Fwd: FSIS Notice 66-16 [Incident: 161213-000064]

Elizabeth Hallinan lizhallinan@gmail.com>
To: stefaniew@mercyforanimals.org

Thu, Mar 9, 2017 at 11:09 AM

Sent from my iPad

Begin forwarded message:

From: "FSIS Policy Development Staff" <pdd@custhelp.com>

Date: December 15, 2016 at 11:35:54 AM PST

To: lizhallinan@gmail.com

Subject: FSIS Notice 66-16 [Incident: 161213-000064]
Reply-To: "FSIS Policy Development Staff" <pdd@custhelp.com>



Recently you requested personal assistance from our on-line support center. Below is a summary of your request and our response.

If this issue is not resolved to your satisfaction, you may reopen it within the next 14 days.

Thank you for allowing us to be of service to you.

To update this question by email, please reply to this message or to access your question from our support site, click here.

Subject

FSIS Notice 66-16

Response By Email (KS@askFSIS) (12/15/2016 02:35 PM)

Elizabeth,

Thank-you for your response.

At this time, we are still reviewing this issue to determine if cattle are being inhumanely handled.

Hope this is helpful.

Customer By CSS Email (Elizabeth Hallinan) (12/14/2016 02:46 PM)

Hello,

Thank you for your thorough answer to my question. Just a quick follow up clarification:

You mention "establishment owned cattle."

Is it possible for cattle (non ambulatory or otherwise) to be brought onto the establishment but not be "owned" by the establishment, and therefore not be inspected by the PHV or IPP? In other words, if the cattle are not owned by the establishment, or rejected by the establishment, could they then be taken off property without inspection?

Thank you so much.

On Dec 14, 2016, at 2:18 PM, FSIS Policy Development Staff <pdd@custhelp.com> wrote:

Response By Email (KS@askFSIS) (12/14/2016 02:18 PM)

Elizabeth,

Thank-you for your inquiry.

First, the notice (FSIS Notice 66-16) is specifically about non-ambulatory disabled veal calves (but has applicability to all cattle); it is **not** about all livestock species.

Second, it removes the provision in the regulations that allowed establishments to set aside veal calves that were in a recumbent position but could not rise and walk as they were cold or tired; this treatment was to allow them to rest and warm-up.

Third, it removes the provision in the regulations about performing ante-mortem inspection in the holding pens; though most ante-mortem inspection will still occur in holding pens. Now, in-plant inspection personnel may perform ante-mortem inspection anywhere on the establishment's official premises if need be.

Fourth, it requires all non-ambulatory disabled cattle to be US Condemned and humanely euthanized. This can only occur after a public health veterinarian has examined the bovine and determined that it is non-ambulatory disabled. However, there is no requirement to condemn cattle that are recumbent.....animals lie down all the time on trucks, in pens, in alleyways, in fields, etc.

Finally, there is nothing that prevents a "transporter" from bringing recumbent cattle onto the official premises with the possibility that some of these recumbent cattle could be non-ambulatory disabled. If establishment owned cattle, on transport vehicles, are determined to be non-ambulatory disabled then the Agency is making the determination that these specific animals are presented for ante-mortem inspection and a disposition would be made by the PHV (as described in the fourth bullet above).

Hope this is helpful.

Auto-Response By (Administrator) (12/13/2016 01:39 PM)

Your message has been received by the Policy Development Staff (PDS) and will be assigned to a staff specialist for response.

Our goal is to provide an accurate response as quickly as possible—in most instances, this will be within two working days. Some questions, however, require extensive research and will take longer to answer. If you would like to know the status of your question, you can telephone PDS for additional discussion at 1-800-233-3935 between the hours of 6:00 a.m. and 4:30 p.m. CT, Monday through Friday. Please refer to the incident reference number below when calling for clarification.

The reference number for your question is 161213-000064 You may update your incident here.

Thank vou.

Policy Development Staff

Customer By CSS Web (Elizabeth Hallinan) (12/13/2016 01:39 PM)

This question is in reference to FSIS Notice 66-16, published on 9/12/16.

Can a transporter bring non-ambulatory cattle onto the grounds of official establishment, but not present those cattle for slaughter? If so, would those sick or injured cattle on the truck require euthanasia according to Notice 66-16?

The final rule published on July 18, 2016 stated that the rule change "also prevents establishments and transporters from diverting non-ambulatory disabled animals to other

establishments." Yet, nothing in the Notice suggests that a transporter couldn't bring a sick or injured cow or veal calf onto the establishment property, not offer that animal for slaughter, and then drive off the property with that sick animal to be diverted to another establishment.

Any clarification on how the new rule ensures that non ambulatory disabled animals are not diverted from inspection would be appreciated. Thank you.