

***Testimony
Of
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***Domestic Policy Subcommittee
Oversight and Government Reform Committee
Thursday, March 4, 2010
2154 Rayburn HOB
2:00 p.m.***

***“Continuing Problems in USDA’s Enforcement of the Humane Methods
of Slaughter Act.”***

Chairman Kucinich, Ranking Member Jordan and Members of the Subcommittee, my name is Stan Painter and I am Chairman of the National Joint Council of Food Inspection Local Unions (NJC) which is affiliated with the American Federation of Government Employees, AFL-CIO. I have served in that capacity for over six years, and I have served as an inspector for USDA’s Food Safety and Inspection Service (FSIS) for over 24 years. The NJC represents some 6500 non-supervisory meat, poultry and egg products inspectors who work for FSIS. We provide continuous inspection of some 6300 domestic food establishments and 130 import establishments to ensure the safety and wholesomeness of products covered by the Federal Meat Inspection, Poultry Products Inspection, and Egg Products Inspection Acts. In FY 2009, we oversaw the slaughter and processing of 112.5 million domestic head of livestock, 6.7 billion domestic poultry animals, and inspected

nearly 3.8 billion pounds of imported meat and poultry products. We also performed some 8.5 million verification procedures to determine whether meat and poultry processors were following their Hazard Analysis and Critical Control Points (HACCP) plans.¹

Humane Methods of Slaughter Act

Our responsibilities also include enforcement of the Humane Methods of Slaughter Act (HMSA) of 1958 (7 U.S.C. 1901-1907) that was further amended in 1978 and 2002. I would like to thank you for inviting us to participate in the hearing that you are holding today because it is a very important issue and this proceeding is very timely. My union strongly supports the enforcement of this law. We take our responsibilities under this statute very seriously, but occasionally there are lapses. As you are undoubtedly aware, there was a recent incident at Bushway Packing -- a small slaughter facility in Vermont -- that was captured on video tape by the Humane Society of the United States. I am not going to go into detail about that situation as it is still under investigation, but we do not condone the actions depicted in the video.

¹ United States Department of Agriculture Food Safety and Inspection Service, Quarterly Enforcement Report, July 1, 2009 through September 30, 2009, see http://originwww.fsis.usda.gov/regulations_&_policies/QER_Q4_FY2009/index.asp#records)

As you know, the HMSA requires that the employees of slaughter facilities and USDA employees not to abuse livestock during the slaughter process. Specifically, the statute states the following:

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:

(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. (7 U.S.C. 1902)

In addition, there are implementing regulations (9 CFR 313) and FSIS has issued a specific directive (FSIS Directive 6900.2) and a notice (FSIS Notice 21-09) to inspection personnel that further explain what the policy is. I have attached the Directive and Notice as part of my testimony for your reference.

Problems Enforcing HMSA

So, why are there problems with enforcing this Act? I think that the problems lie in three basic areas:

- 1) There is not a priority being made by the agency to enforce this statute

- 2) There is inadequate staffing to enforce all of the statutes and regulations for which we are responsible
- 3) There is confusion as to what latitude my members have to enforce the provisions of the HMSA.

FSIS Does Not Make Enforcement of HMSA a Priority

The basic training that inspectors receive to carry out their responsibilities does not make enforcement of the HMSA a priority. I can speak from direct experience to this point since just this past July, I took the Food Safety Regulatory Essentials training that the agency offers to all inspectors. This is the basic training that all FSIS inspectors are required to receive. The instructor spent a few minutes out of the 13 working days of training explaining the HMSA.

When the Hallmark/Westland scandal broke in 2008, the agency promised Congress that FSIS inspectors would receive additional training to enforce the provisions of the HMSA. All we received was an on-line training module that we could access on the internet to refresh our responsibilities under the Act. There was no follow-up by the agency management to emphasize the importance of enforcing the provisions of the Act.

As a direct result of the Bushway incident in Vermont, the Northeast regional president of our union requested to agency management that additional training be

made available in his region on the enforcement of HMSA because of the changing nature of slaughter processes in the industry. The agency has told our regional president that training is a management right and that the agency is under no obligation to honor the union's request.

There Are Too Few Eyes Looking At Too Many Animals Going to Slaughter

There are just not enough inspection personnel to keep up with the volume of livestock going to slaughter to enforce all of the food safety laws and regulations. We are still experiencing staffing shortages in various parts of the country. I do not have access to the staffing numbers for FY 2009, but through a Freedom of Information Act filed by the consumer group Food & Water Watch, I have attached to my testimony a chart of the FY 2008 staffing pattern. You will note that some FSIS regions are still experiencing double-digit vacancy rates – especially the Albany District that covers Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont. The agency has worked in recent years to close the vacancy gap, but they are experiencing problems with keeping up with large numbers of retiring FSIS inspectors who need to be replaced in addition to closing the chronic staffing shortages from which that region has suffered in recent years.

But even if we had 100 percent staffing, I am not sure if we would still be able to enforce all of our food safety laws the way they should be. The agency claimed that

there was a full complement of staffing at Hallmark/Westland when that situation came to light, yet the facility management was able to game the system and abused animals in order to squeeze every last penny for the bottom line. There are some slaughter facilities in this country that are processing cattle at 390 head per hour and hogs at 1106 head per hour. At that rate of production, we would need to increase the number of inspectors assigned to be able to enforce all of laws and regulations adequately.

How Much Latitude Do FSIS Inspectors Have to Enforce the HMSA?

As result of concern expressed by Congress in 2001 about the enforcement of the HMSA and armed with additional appropriations to enforce it, the agency hired District Veterinary Medical Specialists (DVMS) who are responsible for acting as a resource to inspection personnel in each of the 15 FSIS districts on the HMSA. While that was a positive step, in reality, we rarely see these district veterinary medical specialists visiting plants. They are rarely in the field.

We are also hamstrung by our supervisors who are either not qualified to do their jobs, unwilling to let us do our jobs, or who are not committed to making animal welfare a priority – either in FSIS-regulated facilities or in their private lives.

Let me give you some recent examples of each. On February 10, 2010, WSB-TV in Atlanta broke a story exposing that the agency had hired the DMVS in the Atlanta

District who was not a veterinarian. He worked for the agency for four years in that capacity before it came to light that he was a fraud. That person was responsible for the enforcement of the HMSA in the Atlanta District. That individual has since resigned his position with FSIS and he is now under criminal investigation by USDA's Office of Inspector General. I have attached a transcript of the WSB-TV story for your information.

In early 2009, one of my members in Utah informed his supervisor that cattle were being abused in a slaughter facility holding pen. When he was rebuffed, my member took pictures of the cattle with his cell-phone camera and transmitted the photographs to his wife. When the agency found out about what he had done, both he and his wife were told to destroy the pictures. My member tried to do the right thing, but he was admonished for taking action.

In 2006, an FSIS veterinarian, Lori Gabri, was found guilty of neglecting 13 horses on the horse farm she owned in West Virginia. If our own supervisors cannot practice what they preach, then what do you think they will do when it comes time to enforce the HMSA in an FSIS-regulated slaughter facility? I have attached a copy of a news article describing that incident for your information.

Summary

The NJC believes that the enforcement of the HMSA is an important part of our jobs as inspectors. We need to have a clear commitment from our management that is also important to them. The way they can show that commitment is by giving us the authority to take action when we see violations of the law; give us the training so that we can do our jobs properly; hire competent veterinarians; either lower the line speeds of high production slaughter facilities or set realistic staffing patterns so that we can adequately enforce all of the laws and regulations for which we are responsible.

I will be happy to answer any questions that you might have.