

# **PUBLIC COMMENTS ON USDA'S DOWNED ANIMAL BAN:**

**Major Retailers and the Vast Majority  
of Americans Support No-Downer Policy;  
Some Industry Groups Reverse  
Their Support for the Ban.**

**THE HUMANE SOCIETY  
OF THE UNITED STATES,**

June 24, 2004

**“I have been a farmer and rancher most of my life, and I can assure you that I have seen it as it is. You could not pay me enough money to eat the animals that I see my neighbors shipping to the ‘downer plant.’ My sick or injured animals have always been humanely destroyed and the carcasses buried or burned.”**

- Of approximately 22,000 public comments sent to the USDA that expressed a clear opinion on the USDA downer ban, more than 99 percent strongly support the ban.
- These pro-ban comments are overwhelmingly from individuals expressing their personal, often passionately worded, views.
- Groups representing animal welfare, sustainable agriculture, and consumer and food safety concerns, along with organizations representing families that have been victimized by the human variant of mad cow disease and other food-borne illnesses, also strongly support the downer ban.
- Major retailers McDonald’s and Wendy’s urge the USDA not to weaken the downer restrictions.
- Industry comments are divided. Some agricultural organizations and individual ranchers express support for the ban in its current form. But some major livestock organizations and meat processors, along with state agriculture departments, urge changes to weaken the no-downer ban. Many of these groups had expressed support for the USDA’s ban on the use of downed cattle for human consumption in the immediate aftermath of the finding of the BSE-positive cow in Washington State.



THE HSUS/JUNGER

## Background

On December 30, 2003, Agriculture Secretary Ann Veneman announced a series of policy reforms, chief among them a ban on the processing of non-ambulatory or “downer” cattle—animals too sick or injured to stand or walk—for the human food supply. This action, long requested by animal welfare groups, came in the wake of the discovery of the first U.S. case of a cow suffering from bovine spongiform encephalopathy (BSE), commonly referred to as mad cow disease. A veterinarian with the U.S. Department of Agriculture (USDA) had identified what he described as a “downed animal” and a portion of the animal’s brain was sent to a laboratory for testing. More than two weeks later, on December 23, the USDA announced that there was a presumptive positive result for BSE.

This disease is of particular concern because it is believed to be transmissible to humans. Eating meat contaminated with the abnormal proteins (prions) that cause BSE is the most likely cause of new variant Creutzfeldt-Jakob disease (vCJD) in humans. This fatal degenerative brain disease with no known cure can cause memory loss, depression, spasms, incapacitation, and an inability to communicate, as well as premature death. Nearly 150 people are known to have died from vCJD to date, mostly in the United Kingdom. One person in the United States has died from this disease to date; she resided in the United Kingdom during the major outbreak of BSE there.

The USDA justified its no-downer policy primarily as a food safety issue. According to data from Europe, downed cattle have a significantly higher incidence of BSE than other cattle. For instance, the USDA cited one study showing that the chances of finding BSE in downers are 49 to 58 times higher than in cattle reported to veterinary authorities as BSE-suspect. (Downers are also at higher risk for other transmissible diseases, such as *E. coli* and *Salmonella* infections, according to peer-reviewed scientific studies, though the USDA did not cite that point.) By condemning all non-ambulatory disabled cattle, the USDA reduces the danger of cattle with an elevated risk of infectivity entering the human food supply.



THE HSUS

***The Downed Animal Protection Act would make the USDA’s downed cattle ban permanent law—and extend it to other species, such as pigs and sheep.***

For some years, the USDA has banned meat from downed animals for use in the National School Lunch Program. A number of states, including California, Colorado, Indiana, Oregon, and Washington, also have restrictions on the marketing of downers for food.

The USDA ban helps provide reassurance to consumers in the United States and in foreign countries of the safety of our beef supply. After the discovery of the BSE-infected cow, more than 40 nations banned the import of U.S. beef—including Japan and Mexico, the two top importers. As of May 20, 2004, 58 countries still have some kind of import restrictions. Exports had represented about 10 percent of the total market for U.S. beef.

The Humane Society of the United States (HSUS) had long advocated a no-downer policy. In fact, The HSUS and Farm Sanctuary, a New York-based farm animal welfare group, had pushed bipartisan legislation in Congress to achieve that policy goal. The Downed Animal Protection Act, S. 1298 and H.R. 2519, are bills still awaiting action in the 108th Congress. This legislation would prohibit USDA inspectors at slaughter facilities from approving meat from non-ambulatory livestock for human consumption and would require the humane euthanasia of these animals. In effect, the legislation would make the administrative ban a matter of permanent law and would extend it to cover other species besides cows, such as pigs and sheep.

In the 107th Congress, both the House and Senate

approved nearly identical versions of the Downed Animal Protection Act as amendments to the Farm Security Act (the farm bill). But farm bill conferees struck these provisions in April 2002 and substituted language calling for a USDA study of the downed animal problem. Had the language passed by the House and Senate remained intact, the BSE-infected cow would never have been processed into human food in December 2003. Likewise, Congress missed another opportunity to enact the downer legislation as an amendment to the fiscal year 2004 Agriculture Appropriations Act. The Senate approved this unanimously in November 2003, but the House fell short by 3 votes in July 2003 and conferees left the provision out of the final legislation negotiated just a few weeks before the U.S. mad cow case came to light in December.

On January 12, 2004, the USDA opened the issue up for public debate by posting an interim ruling in the *Federal Register*. This rule, entitled "Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle," requires that all non-ambulatory disabled cattle presented for slaughter be condemned and therefore not put into the human food supply.

The rule defines "non-ambulatory disabled livestock" as "livestock 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 conditions." The rule explains further that the USDA "is excluding all non-ambulatory disabled cattle from the human food supply, regardless of the reason for their non-ambulatory status or the time at which they became non-ambulatory. Thus, if an animal becomes non-ambulatory in route to the establishment due to an acute injury, it must be humanely removed from the truck, humanely euthanized, and the carcass properly disposed of. Likewise, cattle that become non-ambulatory on the establishment premises, such as an animal that breaks its leg as it is unloaded from the truck, are also required to be humanely moved, humanely euthanized, and the carcass properly disposed of."

Comments on the interim final rule (Docket No. 03-025IF) were solicited by April 10, and the notice was subsequently revised to allow comments to be submitted to the USDA's Food Safety and Inspection Service (FSIS) until May 7.

On April 1, 2004, Representatives Dennis Rehberg (R-MT) and Collin Peterson (D-MN) introduced a bill,



THE HSUS/JOHN J. DOMMERS



FARM SANCTUARY

***Animals too sick or injured to walk are routinely kicked, dragged with chains, shocked with electric prods, and pushed by bulldozers at auctions and slaughter facilities.***

H.R. 4121, the Consumer and Producer Protection Act, to weaken the downer ban. This legislation would allow the slaughtering of downed cows for human food if they cannot stand or walk due to "fatigue, stress, obdurator nerve paralysis, obesity, or one or more broken or fractured appendages, severed tendons or ligaments, or dislocated joints." In his press release on the bill's introduction, Rep. Rehberg touts his efforts to get the USDA to adopt these exemptions in the agency's final rule.

Investigations by The HSUS and other animal protection organizations have revealed that animals too sick or injured to stand or walk are routinely kicked, dragged with chains, shocked with electric prods, and pushed by bulldozers in efforts to move them at auction and slaughter facilities, compounding the pain they already suffer as a result of the injury or illness that made them unable to walk. A national study by industry expert Temple Grandin, Ph.D., found that at some plants the most common handling problem associated with downers was dragging them while they were conscious. Anyone who has broken a bone knows the need for handling with the utmost care to minimize pain. To be dragged by chains, and perhaps even pulled by the very limb that is broken, is abhorrently cruel. Downed animals may also be left for hours or days without food, water, or veterinary care as they await slaughter, because they require special processing.

## Assessment of Public Comments

Since the promulgation of the interim final rule, the USDA has received approximately 22,000 comments. Of these, the USDA indicates that there are 21,948 comments in favor of the ban and around 150 against, with a few neither clearly for nor against (addressing other measures discussed in the final interim rule). An initial batch of 5,216 has been made available for public perusal—including those from industry groups—and The HSUS has conducted an analysis of these comments. The vast majority (5,061) not only favor the ban and want it to be made permanent, but also want it extended to other livestock besides cattle. Only 139 are opposed to the ban in its current form. The remaining 16 do not take a clear position on this issue. We group the comments addressing the downer ban into the following four categories: industry organizations and agricultural departments, major retailers, concerned citizens, and nonprofit organizations.

### ***Industry Organizations and Agricultural Departments***

The comments against the ban in its current form are mainly from certain state agricultural departments and agricultural trade associations representing segments of industry such as meat processors and dairies. Their comments are not monolithic, but many of them call on the USDA to allow physically disabled animals to be processed—tracking the approach embodied in H.R. 4121. They typically argue that animals unable to walk due to injury, rather than illness, pose no threat to the food supply. For example, the Kansas Department of Agriculture urges that the USDA “consider a distinction between livestock that are non-ambulatory due to recent injury and those that are non-ambulatory for other reasons such as systemic disease. Research shows that cattle that are non-ambulatory for unknown reasons are at greater risk of being afflicted with BSE, and they may warrant antemortem condemnation. However, this science should not be applied arbitrarily to animals suffering from acute injury.” The agricultural departments of Arizona, North Dakota, Oklahoma, West Virginia, and Wisconsin offer similar arguments.

But USDA inspectors at slaughter facilities would have a very difficult time determining the reason an animal became non-ambulatory. The cows in Canada and the United States identified so far with BSE were officially diagnosed as being non-ambulatory due to a

broken leg (Canada in 1993), pneumonia (Canada in May 2003) and calving injuries (United States in December 2003); none were culled out of concern that they appeared to be BSE-suspect. According to the USDA’s *Federal Register* notice, “downer cattle infected with BSE often cannot be found by looking for the typical clinical signs associated with BSE, because the signs of BSE often cannot be differentiated from the signs of the many other diseases and conditions affecting downer cattle.”

A veterinarian who submitted comments supporting the ban and opposing industry efforts to weaken it explains this point well. She urges the USDA “to continue to prohibit for human food any bovine which cannot walk to the ‘knock box’ regardless of reason.... Neurological, metabolic or other diseases which affect coordination and other aspects of gait often predispose an animal to injuries such as broken limbs or soft tissue damage. If the animal is then down because of a broken leg, or torn ligament, the injury may be the prominent or sole presenting sign. Without a complete diagnostic work up and history of disease progression the true underlying cause of the non-ambulatory condition may be impossible to ascertain.”

It is significant that some major industry voices take a much less extreme stance in their comments than those who seek resumed sales to the general public of meat from “safe” downed cattle. For example, the National Cattlemen’s Beef Association,



***Distinguishing between BSE-infected downed animals and those rendered non-ambulatory by calving injuries, broken limbs, pneumonia, and other conditions is very difficult.***

**"It's an absurd practice. Foolishness caused by maybe a certain amount of greed."**

A dairy farmer in Washington State who used to sell downers for human consumption. (*The New York Times*, January 5, 2004)

a lead trade association of cattle farmers and ranchers, indicates that it has a policy to support "a ban of non-ambulatory disabled cattle from the *commercial* food supply." The association seeks an exemption for personal consumption only of cattle with injuries

that occurred during loading or transportation.

R-CALF USA, the Ranchers-Cattlemen Legal Action Fund-United Stockgrowers of America, which represents more than 10,000 cattle producers nationwide and 59 affiliated state and local cattlemen's associations, seeks no exemption whatsoever, indicating: "Regarding that portion of Docket No. 03-025IF that pertains to Requirements for the Disposition of Non-Ambulatory Disabled Cattle, R-CALF USA supports the Interim Final Rule."

Initially, the ban on non-ambulatory cattle received a high level of support from the industry, while the media spotlight was focused on the mad cow issue. In addition to large groups such as the National Cattlemen's Beef Association (as reported in the *Houston Chronicle*, December 31, 2003) and National Farmers Union (*Lexington Herald-Leader*, December 31, 2003), many local organizations publicly announced their support for the ban. For example, a spokesman for the Indiana Meat Packers and Processors Association said, "I wish it would have been done earlier. If there is any doubt about beef, I don't think it should be put in the food system" (AP, *Indianapolis Star*, January 16, 2004). A Montana rancher agreed, "I think it's a good thing that was put in place and it should have been done a long time ago," and many Montana ranchers indicated that they "want the ban expanded to keep downer meat out of the animal-feed chain as well" (*Great Falls Tribune*, January 23, 2004). The president of the Oregon Cattlemen's Association said, "We don't want downer cows. We know that's not good for the industry. I would never allow a cow of mine to get in that position. It's the responsibility of every other person in the beef business and dairy business to follow these practices" (*The Oregonian*, December 24, 2003). The director of the Iowa Beef Center noted that most major packing plants stopped accepting downers years ago (*Sioux City Journal*, January 11, 2004). An official with the California Cattlemen's Association

explained that "[f]ew [producers], if any, haul downer animals to slaughter. It's simply not a practice that our industry conducts" (*San Francisco Chronicle*, December 31, 2003). An Iowan farmer stated, "I've never taken a downer cow to the meatpacking plant, and it's not because of BSE or government regulations. Most producers wouldn't take anything to the plant that they wouldn't eat themselves" (*Des Moines Register*, December 31, 2003). And a cattle expert at Colorado State University noted, "Downer animals should be humanely euthanized at the farm because it is the right thing to do" (*Philadelphia Inquirer*, December 31, 2003). A dairy farmer in Washington State who used to sell downers for human consumption said, "It's an absurd practice. Foolishness caused by maybe a certain amount of greed" (*The New York Times*, January 5, 2004). One cattleman, explaining his view that processing questionable animals was not worth it, explained: "The cattle feeding industry supplies plenty of cattle that can walk" (*Feedstuffs*, January 19, 2004). A January 2004 poll conducted by *BEEF Cow-Calf Weekly* found that 80 percent of respondents agreed with the downer ban (*Industry News*, January 6, 2004). And the vice-president of the National Cattlemen's Beef Association explained, "This downer animal rule...will send a message to producers that they need to back up and practice good husbandry." Noting that about one of 700 slaughtered cattle are downed animals, he said, "It's a very minute part of our process."



THE HSUS

**Initially, the ban on processing downed cattle for human consumption received a high level of support from both national trade associations and local groups in the industry.**

But now, as media attention has shifted, some trade associations and others are hoping to weaken the ban. As expressed in their comments, opponents' arguments center on economics. The Illinois Farm Bureau states that banning cattle who had broken limbs during transport would be a "huge economic burden on the producer." The Pennsylvania Association of Meat Processors claims that the finding of BSE does not warrant the USDA's actions and that its regulations "will have an enormous impact on consumers and business alike," and that the "directive should be rescinded, as there is no risk to consumers."

The USDA, in its *Preliminary Analysis of Interim Final Rules and an Interpretive Rule to Prevent the BSE Agent from Entering the U.S. Food Supply*, stated that "the indirect effects of the cattle marketing system of the ban on the use of non-ambulatory disabled cattle are not expected to be significant from a national perspective. These animals are reported to comprise a very small share of the annual cattle slaughter, about 0.4 percent to 0.8 percent." In its interim final rule, the USDA anticipated the prohibition on non-ambulatory disabled cattle to cost \$35.6 million to \$71.3 million, based on an estimate that around 150,000 to 200,000 non-ambulatory cattle were presented for slaughter annually before the ban.

Even this fairly small predicted economic impact is probably on the high side. As Farm Sanctuary points out in its comments, the USDA's estimate "overstates the cost of prohibiting the slaughter of non-ambulatory animals by inflating the number of non-ambulatory animals, the value of non-ambulatory animals, and the average loss per animal." A study by the California Department of Food and Agriculture determined that the net average value of a downed animal sent to slaughter was just \$28.70. Most producers try to keep their livestock from getting sick or injured, and euthanize any that do become downers while they are still on the farm. The USDA's ban on the use of any downer cattle in human food creates an additional incentive for producers and transporters to engage in responsible husbandry and management practices in order to prevent cattle from becoming non-ambulatory in the first place. Dr. Grandin—advisor to the American Meat Institute and others in the meat industry—long ago explained in *Meat & Poultry Magazine*, "Ninety percent of all downers are preventable." As the USDA ban encourages greater care of livestock and further reduces the number of downer cattle to levels approaching zero, loss in revenue should become truly negligible.



***The economic impact of banning downed cattle from the human food supply would be negligible, in part because the ban would encourage better care of livestock—reducing the number of downers.***

This slight burden on producers must be compared to the potential impact the industry would face if meat from crippled cows once again ends up on dinner plates and people become sick. Even if the number of non-ambulatory cattle remains as high as 200,000 and the economic effect of prohibiting their slaughter is \$71.3 million, that constitutes a tiny fraction of the total \$44.1 billion value of the 35 million cattle in this country. The industry is expecting a \$5.9 billion loss as a result of the first BSE case detected in the United States (testimony of Keith J. Collins, Ph.D., chief economist, USDA, to House Agriculture Appropriations Subcommittee, February 25, 2004). The industry has far more to lose if high-risk downers are once again processed at slaughter plants. Most Americans had no idea that animals too sick or injured to walk were being allowed into the human food supply. The USDA prevented a major upset in the domestic market for beef by providing assurances that this disturbing practice would no longer occur, at the very moment that the practice came to light.

This view was captured in an editorial published in the *Missoulian*, one of the major dailies in Rep. Rehberg's state, lambasting H.R. 4121 shortly after its introduction. Entitled "Downer Beef Isn't What We Want for Dinner," the editorial sharply criticized Rep. Rehberg's effort to narrow the definition of what constitutes a downer subject to the ban: "It's a big mistake.... Moving quickly to calm public fears about the safety of beef, the U.S. Department of Agriculture in January banned all crippled cattle from the human food supply, saying research shows so-called 'downer' animals are far more likely to be

diseased—with mad cow or other maladies—than outwardly healthy animals. The ban met with wide public approval. All concern about mad cow aside, many consumers were unpleasantly surprised to learn that the beef industry had been serving up helpings of sick animals in the first place.... [B]eef producers might be well advised to shore up confidence in the quality of the 35 million outwardly healthy animals slaughtered in this country each year, rather than argue over the palatability of the estimated 150,000 obviously ailing downers the USDA proposes to ban” (*Missoulian*, April 5, 2004, submitted to the USDA as part of the public comments).

Another concern expressed in comments submitted by some industry groups is that there will be less testing for BSE if non-ambulatory animals are not presented for slaughter. The Southwest Meat Association states that “by automatically condemning all non-ambulatory cattle, FSIS is reducing the likelihood that livestock producers will present these animals to federal veterinarians for evaluation. As the Department’s stated goal is to test as many ‘targeted’ cattle as possible, failure by producers to bring those animals to inspected establishments will undermine that effort.”

But it never made sense to rest hope on slaughterhouse testing of downers, when the overwhelming majority of downers (approximately 90 percent) were not being tested at all and were simply passed through en route to consumers. Rather than subjecting consumers to the risks of eating this meat, the USDA has wisely decided to increase surveillance for BSE at rendering plants and on farms. According to the USDA, perhaps one million cattle die on the farm every year, with most sent to rendering plants. Secretary Veneman testified to Congress on January 21, 2004, that this population of “dead stock”—which is five times the number of downers who were being presented at slaughterhouses prior to the ban—may pose an even greater BSE risk than downers. So it is critically important to conduct surveillance at rendering plants and farms to detect BSE that may occur in all of these high-risk animals.

As an interesting example of conflicting views, the California Department of Food and Agriculture in its comments asks the USDA to weaken the downer ban: “We also recommend that FSIS establish

a protocol for acutely injured cattle arriving at a slaughter plant, permitting the carcass to enter the human food chain if tested negative for BSE.” Besides the fact that this recommended approach would miss other dangerous pathogens prevalent in downer animals, it runs contrary to comments submitted by the California Farm Bureau Federation and the California Cattlemen’s Association in favor of the ban and the fact that California has had legislation in place for the last 10 years that prohibits state-inspected slaughterhouses (those not overseen by the USDA) from accepting non-ambulatory cattle. The California Farm Bureau states in its comments that it supports the USDA ban because “[a]side from the food safety considerations of potentially consuming an unhealthful product in commerce,

shipment of non-ambulatory animals for slaughter has welfare ramifications adding undue stress to an animal in physical distress.” The California Cattlemen’s Association voices general support for the ban, although it requests that an exception be made “for on-farm and custom slaughter of non-ambulatory cattle not suffering from disease for personal consumption only.”

Some of the comments seem to represent a 180 degree about-face from earlier statements. The National Milk Producers Federation (NMPF) was initially quoted as saying that “the effect of the new rules on farmers will be ‘fairly minor’” (*The Oregonian*, December 31, 2003), but in comments submitted on May 7, 2004, the NMPF claims that “the new requirement to condemn all non-ambulatory disabled cattle presented for slaughter may have a severe economic impact on producers while not providing any real protection to consumers.” Furthermore, in a press release immediately after Secretary Veneman announced the ban, the NMPF stated: “Concerning the USDA’s announcement that ‘downer,’ or non-ambulatory cattle, will no longer be allowed for human consumption, NMPF also supports this decision by the government. NMPF discourages

**“I’ve never taken a downer cow to the meatpacking plant, and it’s not because of BSE or government regulations. Most producers wouldn’t take anything to the plant that they wouldn’t eat themselves”**

An Iowan farmer stated, (*Des Moines Register*, December 31, 2003)

the marketing or commercial sale of all non-ambulatory 'downer' animals at the production level, *regardless of the cause or disease status of the animal*. This position is consistent with current dairy producer practice today. Most auction markets and slaughter plants often do not, and have not, accepted non-ambulatory animals for a number of years" (NMPF press release, December 31, 2003, emphasis added). By contrast, in its comments to the USDA, the NMPF requests that "a protocol be approved that would permit a dairy producer to humanely market animals that become non-ambulatory, provided the injury is physical and the animal is not found to be diseased on ante-mortem inspection" (i.e., observation of animal while still alive).

The American Meat Institute (AMI), a national trade association that represents 70 percent of U.S. meat packers and processors, was also initially quick to commend the USDA for its vigilance and recognized that the standards were meant "to protect our cattle herd and to reinforce consumer confidence in beef safety" (AMI press release, December 31, 2003). However, now that public attention is not as intense, the group advocates a long list of changes, including a weakening of the non-ambulatory cattle ban: "AMI supports the condemnation of the cattle that exhibit clinical signs consistent with CNS [central nervous system] disorders, including BSE.... However, AMI does not support a broad definition of non-ambulatory disabled status." (As noted before, the USDA and other experts recognize that signs of BSE are often not distinguishable or apparent to inspectors.)

Given that a number of industry groups support the renewed processing of downers, this suggests that downed animals continue to be a major problem for some in the industry. One writer states that livestock slipping on ice "happens a lot here in Wisconsin," and the Wisconsin Department of Agriculture estimates that "approximately 3,000 young, otherwise healthy, freshly injured cattle are slaughtered or processed at our state-inspected establishments each year." A Pennsylvania dairy operation writes that a Pennsylvania processing plant "was designed especially for Non-Ambulatory cattle slaughter;" and the American Association of Meat Processors states, "In Pennsylvania alone, more than 25,000 non-ambulatory injured animals went to slaughter." These writers comment extensively about problems such as slipping on ice, birthing difficulties, falling off loading trucks, and transport accidents. But as noted earlier, better handling and management can prevent animals from going down in an estimated 90 percent of cases. Rather than recognizing their



***Rather than taking steps to prevent cattle injuries during transport, many trade groups now press for weakening the downed cattle ban—ignoring the associated inhumane practices and risks for consumers.***

responsibility to take steps to prevent injuries, these groups choose to press for renewed sales of meat from crippled cattle, with all the associated public health risks and inhumane effects.

### ***Major Retailers***

Two of the largest chain restaurants, McDonald's® and Wendy's®, also join the debate by submitting comments in support of the ban on non-ambulatory disabled cattle in the human food supply. Both companies, along with Burger King®, have policies prohibiting the purchase of meat from downers. They urge the USDA not to alter the non-ambulatory definition and to continue to prohibit from human food any animal which cannot walk into the slaughter facility. Wendy's letter states, "Determining the underlying cause of an animal's illness once it is non-ambulatory is often extremely difficult if not impossible. The total inability to rise often prohibits the display of other clinical signs such as incoordination, gait abnormalities, weakness, tremor, etc." McDonald's concurs, stating: "In many instances, determining the reason that an animal is down is often extremely difficult if not impossible without a full diagnostic workup with numerous tests. In addition, certain diseases (metabolic, viral, etc.) may predispose an animal to become weak or uncoordinated, resulting in an injury such as a broken leg. BSE is one such disease. In these cases, the injury is a result not a cause. Clinical observation often results in only diagnosing the obvious injury."

## Concerned Citizens

The vast majority of the comments received are from the general public. They advocate that the USDA interim final rule be strengthened to include not only cattle, but also pigs, sheep, and other livestock. They also commonly express shock and dismay at the idea that the USDA had knowingly allowed the slaughter of non-ambulatory cattle for human consumption. According to the USDA's website: "FSIS has received 21,948 comments as of May 20, 2004, both by mail and electronically that expressed one or more of the following opinions:

1. Support of FSIS' prohibition on slaughter of non-ambulatory disabled cattle for human food and
2. Support for making the prohibition permanent
3. Expanding the prohibition on slaughter of non-ambulatory disabled animals to other species
4. Humanely euthanized non-ambulatory disabled cattle and
5. Extending the ban of the use of non-ambulatory disabled animals in animal feed or pet food."

This outpouring of public concern is not surprising considering that a Zogby poll in September 2003 (even before the media attention generated by the first reported case of BSE in this country) revealed that 77 percent of Americans opposed the use of downed animals for human food and 81 percent were concerned that sending downed animals to slaughterhouses could put human consumers at risk.

Comments come from a wide variety of people, from schoolchildren to real estate agents, doctors, and veterinarians. Several individual ranchers write strongly in favor of the ban. For example, one states that "not only is it disgusting to think of ingesting the product [downers], but it is profane to promote and prolong the suffering of a sick animal, just for a few dollars." Another feels that these downed animals are

"clearly in severe pain" and that "[m]oney should not be the driving force to where compassion is lost." Yet another states, "I have been a farmer and rancher most of my life, and I can assure you that I have seen it as it is. You could not pay me enough money to eat the animals that I see my neighbors shipping to the 'downer plant.' My sick or injured animals have always been humanely destroyed and the carcasses buried or burned." Another says, "I am writing as a daughter of a rancher and as a family member from a long line of ranchers. I urge you to make the ban on using downed animals for human or animal consumption permanent.... The good care of our cattle from birth to slaughter is a top priority for us. I believe that any caring and responsible rancher would feel that same way."

Most commenters express deep concern for the welfare of downed animals. One writer notes having seen the maltreatment of downed cows first-hand: "These cows are literally disgusting with many illnesses and can NOT walk. They drag them with a chain. They pick them up with tractors and 'dump' them in the trailer." Another says, "For God's sake, please *maintain* your current ban on the slaughter of downed animals. As a physician and a human being, I can't conceive how the USDA can even be *thinking* of bowing to the agribusiness pressure. The *only* change you should be considering is *extending* the ban to other animals, such as pigs, sheep, goats, and horses.... Believe me, your forthcoming decision will be remembered by all decent citizens when November and its general election rolls around."

Many also express concern about meat safety. One woman feels that it is "crucial that downed animals not be sent to slaughter. And that would require that ALL farm animals, not just beef cattle, which are diseased or disabled, be eliminated from human diets.... For you to err on the side of the meat industry's public relations could have very serious implications for the health of the American public."



THE HSUS/SAKACH

***The general public—and several major restaurant chains—overwhelmingly supports banning downed cattle from the human food supply, and most citizens also support extending the ban to cover other species and to include the animal food supply.***

## ***Public Interest Organizations***

The HSUS and other animal protection groups submitted comments strongly supporting the ban on non-ambulatory disabled cattle. In our comments (copy attached), we state that “[t]he mistreatment of these animals is one of the ugliest aspects of modern agriculture; fortunately, the agency’s action of December 30th dramatically improved public policy related to this long-festering problem.”

The HSUS also submitted a joint letter to the USDA docket (copy attached), along with 18 other national organizations, collectively representing more than 13 million supporters: the Consumer Federation of America, Consumers Union, Public Citizen, Center for Science in the Public Interest, Creutzfeldt-Jakob Disease Foundation, CJD Voice, Safe Tables Our Priority (STOP), Center for Food Safety, Food Animal Concerns Trust, Organic Consumers Association, Institute for Agriculture and Trade Policy, Farm Sanctuary, Friends of the Earth, Government Accountability Project, American Humane, The Fund for Animals, Society for Animal Protective Legislation, and American Society for the Prevention of Cruelty to Animals (ASPCA). All of these groups together voice strong support for the ban and opposition to H.R. 4121 and similar efforts to “eviscerate the common sense rule announced on December 30, 2003 by Agriculture Secretary Ann Veneman banning all non-ambulatory cattle from the human food supply.” They note, “It’s nearly impossible for inspectors to tell why an animal has become a downer. A system that requires USDA inspectors to determine the reason—and to distinguish between sick and injured downers—would be reckless in the extreme. Illness and injury are often interrelated. For example, an animal’s gait may be affected, causing it to fall and break a leg, before it exhibits clear symptoms of neurological disease or other sickness. Similarly, illness may produce fatigue and stress before other clinical signs become obvious.” These organizations urge the USDA to oppose any “attempts to weaken the USDA downer ban—for the sake of consumers, animal welfare, and the long-term interests of producers.”

*Promoting  
the protection  
of all animals*

**THE HUMANE SOCIETY  
OF THE UNITED STATES.**  
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