

May 7, 2004

FSIS Docket Clerk, Docket #03-0251F
Room 102, Cotton Annex
300 12th and C Street, SW.
Washington, DC 20250-3700

Re: Docket # 03-0251F, "Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle"

On behalf of The Humane Society of the United States and the more than 8 million supporters of our organization nationwide, we commend the U.S. Department of Agriculture (USDA) for banning all non-ambulatory cattle from the human food supply and undertaking other measures discussed in this interim final rule. We strongly support these changes and urge the USDA to resist any pressure to weaken these vital and very reasonable reforms. We also urge the USDA to extend the ban to include other species of downed animals and institute further changes that would help to protect animal welfare and the safety of our food supply. These changes include increased testing for bovine spongiform encephalopathy (BSE), an animal tracking system, country of origin labeling, and mandatory recalls.

Non-ambulatory animals suffer intensely and it is difficult, if not impossible, to transport them humanely. They should not be hauled to slaughterhouses in the first place. If they go down in transport, they should be immediately euthanized, rather than dragged with chains, prodded with electric shocks, or pushed by bulldozer in an effort to move them to slaughter. Downed animals have been known to be left for days without food, water, or veterinary care as they await slaughter. From a humane perspective, subjecting animals to such treatment is indefensible. The 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.

It is essential that the USDA not weaken the ban to allow some downed cows to be used for human food, as has been proposed by Representative Dennis Rehberg and others. He has introduced legislation, and has boasted of his efforts to persuade USDA, to exempt from the downer ban cows who can't 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."

Such an approach would be terribly inhumane – being hauled to slaughter will cause suffering regardless of the cause of the animal's debilitating condition. Moreover, the USDA's ban on use of any downer cattle in human food creates an 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. As Temple 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." 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. Prior to the ban, the USDA estimated that less than 1% of all cows processed annually were non-ambulatory. The comprehensive ban will help further reduce the number of downer cattle to levels approaching zero.

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The course proposed by Representative Rehberg would also be terribly reckless in terms of food safety and consumer confidence, since USDA inspectors would have great difficulty correctly diagnosing why animals are downed. Requiring inspectors to make these subjective judgments would inevitably lead to some diseased animals entering the human food supply. The Rehberg legislation would essentially return us to a pre-December 30th inspections program – requiring non-scientific judgments to be made by USDA veterinarians and other personnel at slaughterhouses. It would be impossible for them to determine whether a physical injury is derivative of a neurological disorder or other illness. It is well established that illness and injury are often interrelated. For example, an animal's gait may be affected, causing the creature to fall and break a leg, before he or she exhibits clear symptoms of neurological disease or other sickness. Similarly, illness may produce fatigue and stress before other clinical signs become obvious. All of the BSE-positive animals found in North America had physical injuries or ailments other than BSE, for which they were culled.

What's more, animals unable to stand or walk are not only at a higher risk of suffering from BSE but also have been shown to have a higher prevalence of E. coli, Salmonella, and other dangerous pathogens that can transmit disease to consumers.

Prohibiting all downer cattle from use in human food – regardless of why they have become non-ambulatory (whether from illness, injury, or a combination) – is a sound and common-sense approach to dealing with this high-risk population. Most Americans had no idea that animals too sick or injured to stand and walk were being allowed into the food supply. When that fact came to light in December 2003, Secretary Veneman promptly provided assurances that this disturbing practice would no longer occur, thereby preventing a major upset in the domestic market for beef. Going back on this commitment would certainly shake consumer confidence.

The USDA's ban imposes only a slight burden on producers, particularly compared to the potential impact industry would face if meat from crippled cows once again ends up on dinner plates and people become sick. Prior to the ban, downers were commonly condemned and, if not, were worth very little. A study by the California Department of Food and Agriculture determined that the net value of a downed animal sent to slaughter was just \$28.70. With the number of downers shrinking as the ban encourages greater care of livestock, loss in revenue should become truly negligible.

Most farmers and ranchers understand that Americans don't want meat from downed animals. That is, no doubt, why so many individuals and industry groups such as the National Cattlemen's Beef Association and National Farmers Union announced their support for the downer ban following Secretary Veneman's December 30th decision. A spokesman for the Indiana Meat Packers and Processors Association told the press, "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." 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." Many Montana ranchers indicated they "want the ban expanded to keep downer meat out of the animal-feed chain as well." 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." A representative of the National Milk Producers Federation said the effect of the new rules on farmers will be "fairly minor," and the director of the Iowa Beef Center noted that most major packing plants stopped accepting downers years ago. An official with the California Cattlemen's Association explained that "Few [producers], if any, haul downer animals to slaughter.

It's simply not a practice that our industry conducts." 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." 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." 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 Milk & Dairy Beef Quality Assurance Program in its guidelines states that "Nonambulatory animals (animals that are unable to stand and/or walk unassisted) are often in extreme discomfort, are an economic liability, and should not be moved to market." And a January 2004 poll conducted by BEEF Cow-Calf Weekly found that 80% of respondents agreed with the USDA's downer ban. While some industry trade association representatives may be working now behind-the-scenes to weaken the ban, we suggest that their rank and file memberships will be ill-served if these lobbyists are successful.

In addition to sustaining the ban on all downer cattle in human food, we urge the USDA to extend this ban to cover other livestock. Downed pigs, sheep, and other mammals are also at heightened risk of transmitting disease to those who eat their meat, and the animal welfare concerns are the same regardless of species. Indicating how feasible such an expansion of the ban should be, as far back as October 19, 1998, Food Chemical News reported that "The National Pork Producers Council's position on swine handling is that 'any swine that are unable to walk or are ill and will not recover should be humanely euthanized on the farm and not transported to market channels'." More recently, the on-line Pork Alert, published by Pork Magazine, reported on January 27, 2004 that "The U.S. pork industry has a standing policy that does not allow sick or injured animals to enter the food supply."

In addition, in order to assure confidence both here and abroad in the safety of American beef, more extensive testing is needed. We recommend testing all cattle from 20 months of age for BSE, given the discovery in Japan of two animals that tested BSE-positive at 23 months and 21 months respectively. These were healthy looking animals that were only found because of Japan's 100% testing policy. Testing in Switzerland on the brains of apparently healthy cattle showed that one in about every 1000 to 2000 animals was infected with BSE. These factors point to the need to test more frequently for BSE, and not just obviously sick or hurt animals.

We support the USDA's goal of expeditiously implementing a viable national animal identification system. We believe such a system should apply to all farm animal species, should track each individual animal from birth, and should address both foreign and indigenous animal diseases. We recommend non-invasive biometric tracking systems that are easy to use and tamper-resistant. Such systems will be especially useful in emergency situations, such as disease outbreaks.

We also believe that country of origin labeling would be invaluable in tracking individuals or herds implicated in disease transmission. Through customer education campaigns, consumers can develop faith in products labeled "Made in USA" as signifying high-quality items. Consumers are interested in where their food comes from and how the animals were raised. Their renewed confidence would help keep American farmers in business.

In the event of an emergency, though, the USDA must have full authority to recall contaminated meat and disclose the names of companies that handle recalled items. Relying on voluntary recalls initiated by companies is inadequate.

In conclusion, we thank the USDA for adopting a strong prohibition on the use of any downed cattle in human food, urge the agency to sustain this ban without any weakening, and hope the ban can be expanded to include other species. We also support the other measures contained in the final interim rule and hope the USDA will move forward on increased testing, national animal identification, country of origin labeling, and effective recalls. The agency's decisive action on December 30th was well-received by industry, humane organizations, and the rest of the public. This set of regulatory reforms considerably mitigated the effect of the finding of the first BSE-positive cow in the United States. Retreat from any of these well-considered and scientifically justified positions would shake confidence in the agency, and ultimately damage the industry. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Pacelle". The signature is written in a cursive, flowing style.

Wayne Pacelle
Chief Executive Officer-Designate
The Humane Society of the United States