



**THE HUMANE SOCIETY**  
OF THE UNITED STATES

## **Downers, Human Health Hazards, and USDA Policy**

An undercover investigation by The Humane Society of the United States at a cattle slaughter plant has documented that animals too sick or injured to stand or walk – called “downers” by industry – were routinely rammed with forklifts, dragged with chains, jabbed in the eyes, shocked with electric prods in sensitive areas, and even subjected to a high-pressure water hose to simulate drowning in efforts to force them up for slaughter.

The HSUS investigation into practices at the Hallmark/Westland meat packing company in Chino, Calif. further revealed that taxpayers subsidized the cruel conduct – Westland was found to be the #2 supplier of beef to the National School Lunch Program and other USDA commodity distribution programs, and the company had been named USDA “supplier of the year” for the 2004-2005 academic year. Not only was USDA apparently turning a blind eye to routine violations, the agency was actually rewarding this conduct with lucrative federal government contracts affecting schoolchildren in 47 states and D.C. that received Westland beef.

### **Health Risks Related to Downed Cattle**

In addition to the cruel treatment of these animals, downed cattle are more likely to be infected with BSE (bovine spongiform encephalopathy or “mad cow disease”) – at least 13 of the 16 identified BSE cases in North America to date have reportedly been downer cattle. According to FDA: “Experience has shown that nonambulatory disabled cattle...are the population at greatest risk for harboring BSE.” The FDA cites European data showing a 49 to 58 times higher chance of finding BSE in downers than in cattle reported to veterinary authorities as BSE-suspect under passive surveillance.

According to USDA, “Surveillance for BSE in Europe has also shown that the typical clinical signs associated with BSE cannot always be observed in non-ambulatory cattle infected with BSE because the signs of BSE often cannot be differentiated from the typical clinical signs of the many other diseases and conditions affecting non-ambulatory cattle.” Inspectors can’t reliably determine the reason or reasons an animal became downed.

Downers may also be at higher risk of transmitting foodborne pathogens such as *E. coli* O157:H7 and *Salmonella*, which kill hundreds of Americans every year, as these non-ambulatory animals often lie in bacteria-laden waste and may have higher levels of intestinal pathogens due to stress. Children and the elderly are more likely to fall victim to severe illness requiring treatment and hospitalization as a result of both of these pathogens.

### **Stated USDA Policy**

Since 2000, USDA procurement specifications for beef used in the National School Lunch Program specifically prohibit the use of meat from downed animals.

On December 30, 2003, USDA announced: “Effective immediately, the USDA will ban all downer cattle from the human food chain.” This announcement came one week after public disclosure of the first U.S. case of BSE—a dairy cow in Washington State who was identified by a USDA veterinarian as downed due to calving injuries and later tested positive for BSE.

USDA broadcast its no-downer policy as a key protective firewall against BSE. Before that time, most Americans had no idea that meat from animals too sick or injured to walk on their own could end up on their dinner plates. The agency’s high-profile announcement helped ease public panic in the United States over the first domestic BSE case and maintain consumer confidence both in the safety of the food supply and in the basic humane treatment of animals at slaughter plants. The announcements were also widely publicized to provide assurances to America’s trading partners, dozens of which had closed their markets to U.S.-produced beef after the BSE finding.

## Unacceptable Loophole and Lax Enforcement

In 2006, USDA's Office of Inspector General (OIG) chastised the agency for its inconsistent application of policies and regulations related to downed animals. The OIG found that 29 downer cattle were slaughtered for human food at two out of the 12 slaughter plants checked during a 10-month period. If this were a representative sample it would suggest that more than 100 slaughter plants may have been processing downed cattle across the country. The OIG audit noted the lack of documentation on the animals' fitness for consumption and the use of a forklift to move downed animals to the slaughter area.

For years, USDA has publicly boasted about its comprehensive no-downer policy but circumvented it behind-the-scenes with a loophole that permits slaughter of some cattle unable to walk. With duplicity it is hard to overstate, the agency has failed to follow its official interim policy published on January 12, 2004, which specified that *all* downer cattle would be excluded 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 [*sic*] 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."

The same day that the regulations were published, however, the USDA quietly issued Notice 5-04, instructing inspecting veterinarians how to carry out the regulations. In contrast to both the public claims by USDA and the interim rule itself, the agency instructed inspectors to allow downed cattle to be slaughtered for human consumption if they initially appeared otherwise healthy but went down within the slaughter plant itself due to an acute injury.

In July 2007, USDA finally made permanent its so-called "ban" on slaughtering downer cattle. But instead of closing the loophole identified by the OIG, the agency codified it, acknowledging that some downer cattle have been, and will continue to be, processed for human food. USDA's final rule specifies that "FSIS [USDA Food Safety and Inspection Service] inspection personnel will determine the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection on a case-by-case basis." In other words, cattle who are able to walk when initially inspected by USDA but then keel over and cannot stand up again can nevertheless be slaughtered, and the meat can be sold.

This loophole is reckless from a public health perspective and promotes the inhumane handling of downed cattle. A food safety system that relies on inspectors evaluating downers on a case-by-case basis is unworkable. Determining why an animal is down is challenging if not impossible for inspectors because injury and illness are often interrelated—e.g., a broken leg may simply be the observable result of the weakness, abnormal gait, or disorientation associated with an underlying disease. At least three of the documented cases of BSE in North America were identified as downers due to injury, not illness, showing how difficult it is for inspectors to reliably sort out which non-ambulatory animals are "safe." And even if "only" a broken leg is involved, dragging an animal with a fracture is just as cruel, if not more so. Moreover, there's really no reason for an animal to become non-ambulatory while moving through a slaughter plant absent illness or mishandling.

Allowing even a small number of downers into the food supply is pennywise and pound-foolish. For the limited economic gain of processing a few extra animals for human consumption, the industry is risking multimillion-dollar recalls and the closing of export markets. A bright line policy on not allowing downers to enter the food supply would not only help to prevent egregious cruelty to these disabled animals at slaughter plants, but in fact would protect the short-term and long-term economic interest of the meat industry. That's no doubt why key industry groups – the American Meat Institute, National Meat Association, and National Milk Producers Federation – are now calling for a total ban on processing any downer cattle.

The problems engendered by the USDA's loophole are exacerbated by its lax enforcement. As documented in our investigation, USDA inspectors may only conduct cursory observations, coming to check on animals just once or twice a day and disregarding their condition for the remaining hours. USDA inspectors are required to monitor and verify humane handling in connection with slaughter, including offloading, holding and driving animals in pens and chutes. However, a USDA inspector was rarely present during offloading, was only observed by our investigator in the pens during pre-determined times of 6:30 a.m. and 12:30 p.m., and was never seen by the chutes.

## Solutions

- 1) **Close Loophole** – A highly visible and vigorously enforced total no-downer rule is the right policy. For the animals, removing current incentives that encourage workers to try every cruel tactic imaginable to move downers to the kill box would alleviate suffering. If crippled animals cannot be sold for food, slaughter plants have no reason to prolong their misery to try to get them through the slaughter process. Closing the loophole would also help create an incentive for all involved in the production chain to minimize hazards that can cause animals to become downed in the first place. And consumers will be better protected from BSE and other health risks with a truly comprehensive downer ban that doesn't depend on inspectors making virtually impossible snap judgments about the "safety" of particular downers, or on plant workers – who are under enormous pressure by company superiors to move the maximum number of animals quickly to slaughter – summoning a USDA inspector back to reevaluate animals who become downed after initial inspection.
  
- 2) **Strengthen Oversight** – USDA's inspection system must be reworked and agency resources redirected for meaningful compliance. More inspectors observing live animals are needed, and all inspectors should be trained and directed to monitor the treatment of live animals to ensure that they are handled humanely. Inspectors must understand that their oversight responsibilities begin at the moment animals arrive at slaughter premises, including when the animals are on trucks at slaughter facilities. An inspector should meet each truck when it arrives on the premises and should order the immediate humane euthanasia and condemnation of any cattle who are non-ambulatory. Egregious conduct such as forcefully striking an animal with an object, dragging an animal, ramming or otherwise attempting to move an animal with heavy machinery, or using electric shock, water pressure, or other extreme methods, should be explicitly prohibited. Inspections should be unannounced and not on a predictable schedule. They should include undetectable inspections through video surveillance accessible for viewing by independent third parties, to provide supplemental oversight. Slaughter plants should be required to install and ensure ongoing operation of video cameras that allow for viewing of all animal handling, from the time each animal arrives at the slaughter premises through the time of death. Video footage should be preserved for forensic purposes so that it is possible to go back and look at particular scenes to determine if violations occurred. It would be prudent to rotate inspectors to ensure that they do not become too close with plant personnel. It would also be worthwhile for some USDA personnel – perhaps under the OIG – to conduct undercover investigations at slaughter plants on an ongoing basis to provide a significant deterrent against violations and expand on the capacity of private nonprofit organizations to carry out such investigations.
  
- 3) **Establish More Meaningful Penalties** – Current federal law does not provide for criminal penalties, even in cases of repeat or egregious offenses, for violations of humane handling standards. With current civil penalties, suspension of plant operations is often limited to just a few hours, and the public never hears about the problems at the plant or the temporary shut-down. Strong civil and criminal penalties are needed to deter misconduct.
  
- 4) **Ensure Humane Federal Procurement** – The Farm Animal Stewardship Purchasing Act (H.R. 1726) would set basic animal welfare standards for producers who sell food to the National School Lunch Program and other federal programs, including requiring veterinary treatment or humane euthanasia for downed animals and adequate shelter, food, and water for farm animals during the bulk of their lives before they reach slaughter plants. The bill applies only to producers who voluntarily choose to do business with the federal government – it does not mandate industry-wide compliance, but would have the federal government leading by example, ensuring that tax dollars are not used to purchase products raised with egregiously inhumane practices. Based on publicly-available data, we estimate that this may involve approximately 1% of total meat, eggs, and dairy products sold in the U.S.
  
- 5) **Explicitly Require Humane Slaughter of Poultry** – USDA has interpreted the Humane Methods of Slaughter Act to exclude poultry, although birds (chickens, turkeys, ducks, geese) constitute more than 95% of farm animals killed for food in this country. So the vast majority of animals slaughtered for food – 9 billion birds a year or 1 million every hour – are being denied legal protection from cruel treatment at slaughter. That means there are simply no USDA standards to provide them even the most basic requirement for a humane end. This is a glaring problem that must be addressed, and it must be done in a way that does not embrace as "humane" the electric stun bath technology still typically used in U.S. poultry slaughter plants, when Controlled Atmosphere Stunning alternatives used elsewhere hold great promise for reducing animal suffering and worker injuries, while improving slaughter plant productivity.