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THE BAN ON HARVESTING AND/OR PROCESSING OF NON-AMBULATORY CATTLE

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To: AAMP MEMBERS AND MEAT PROCESSORS

Subject: BAN ON HARVESTING AND/OR PROCESSING OF NON-AMBULATORY CATTLE

We have recently received abundant number of phone calls from AAMP members as well as livestock producers and auction barn operators concerning Agriculture Secretary Ann M. Veneman's announcement of additional protection measures to guard against BSE. More specifically, individuals are concerned with the rule that banned the slaughter and/or processing of "downer" cattle. The term "downer" was later replaced with the term "non-ambulatory disabled." This modification was made because there is currently no regulatory definition of "downer" and the Agency believes that the term "non-ambulatory disabled" more accurately describes the cattle that it believes should be prohibited for human food.

Background

Following the definition set forth in FSIS Directive 6900.1 (Humane Handling of Disabled Livestock), non ambulatory disabled livestock include livestock that cannot rise from a recumbent position (downer) or that cannot walk, including but not limited to, those with broken appendages, severed tendons or ligament, nerve paralysis, fractured vertebral column or metabolic conditions. Thus, this definition includes livestock that are non-ambulatory due to acute injury in route to the slaughter facility, such as a broken leg, as well as livestock that are non-ambulatory due to an underlying pathological condition.

According to Docket No. 03-0251F (*Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle*), FSIS 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 establishment premises, such as it is unloaded from the truck, are also required to be humanely removed from the truck, humanely euthanized, and the carcass properly disposed of.

Clarification

1. What authority does USDA/FSIS have to make these new policies?

Under the Federal Meat Inspection Act of 1906, FSIS under the direction of USDA has the authority to make this policy if it declares that meat products may contain an adulterating substance that render it injurious to health or be unsound, unhealthful, unwholesome, or unfit for human food.

2. When do the new BSE rules go into effect?

The ban on non-ambulatory cattle was immediately effective as of Agriculture Secretary Ann M. Veneman's announcement on December 30, 2003. All other BSE rules went into effect on January 12, 2004 upon publication in the U.S. Federal Register.

3. Who do these new BSE rules apply to?

The new BSE rules apply to **every** meat processor! This includes federal inspected establishments, state inspected establishments, as well as custom exempt establishments. No establishments are exempted from the new BSE rules.

Non-ambulatory disabled cattle are considered unfit for use as human food. This determination is derived from Title 1, Section 1(m)(3) of the Federal Meat Inspection Act. Specifically,

The term "adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances: if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food.

Consequently, custom exempt establishments are not exempt from the new BSE rules.

4. How does the ban on harvesting non-ambulatory cattle effect meat processors?

According to the new USDA/FSIS rule, cattle that will not rise from a recumbent position and cannot walk **cannot be harvested** to enter the human food chain! If an animal with a broken appendage that will not rise from a recumbent position and/or cannot walk is brought to meat processors, the meat processors must, by law, not harvest that animal for human food. The meat processor has no choice in this matter and must comply with the FSIS regulations established for the meat industry.

5. Can an animal be assisted to stand and walk?

Halters and/or other supporting devices **cannot be used** to assist the animal to a standing position and lead to walk. Although halters cannot be used to assist/encourage the animal to get up and walk, the processor can use noise (i.e. clapping your hands together, etc.) or electrical prods to encourage the animal to get up and walk as long as it is not excessive and performed humanely. This issue will be at the discretion of the USDA Inspector In Charge. If the animal will not rise and walk, then it will be condemned.

6. What happens if a non-ambulatory animal arrives at a harvesting establishment?

If non-ambulatory animals arrive at the harvesting establishment, the producer can take the animal back if ante mortem inspection has not occurred. If ante mortem inspection has occurred and the animal is deemed non-ambulatory, it must be humanely removed from the truck, humanely euthanized, and the carcass properly disposed of.

7. What if an animal becomes non-ambulatory after ante mortem inspection?

According to FSIS 5-04 (*Interim Guidance For Non-Ambulatory Disabled Cattle and Age Determination*), if an otherwise normal healthy animal that has passed ante-mortem inspection and is on its way to the knock box and suffers an acute injury (e.g., if the animal falls or if an animal has a leg that gets trapped and broken), the VMO should verify that the animal suffered such an acute injury and allow the animal to proceed to slaughter and post-mortem inspection. FSIS would expect such situations to be extremely rare because cattle, when handled and moved under proper humane handling conditions, should not be injured while being moved in

the pens. For cattle that become non-ambulatory disabled after ante-mortem inspection, if the VMO cannot determine that a specific, acute injury occurred that caused the animal to become non-ambulatory disabled, the animal is to be condemned and cannot enter the slaughter establishment.

8. Are “farm-dressed” carcasses still legal to process in custom exempt establishments?

“Farm-dressed” carcasses are still legal to custom process. According to the FSIS Technical Center (Omaha, NE), delivered carcasses or parts of carcasses are still allowed for processing at custom exempt establishments. These carcasses and/or parts cannot come from non-ambulatory disabled cattle. Non-ambulatory disabled cattle are considered adulterated and are not for edible product. Obviously, FSIS expects the producers and processors to “do the right thing” and follow the non-ambulatory rule.

9. What is currently being done to address the ban on non-ambulatory cattle?

Currently, there is no segregation from non-ambulatory animals with localized injuries (e.g. broken appendages, severed tendons, etc.) and non-ambulatory animals that are truly sick or diseased. USDA has always banned the use of cattle that are sick, have nervous system problems or diseases. AAMP supports the ban on the use of these animals and believes these animals should not enter the human food chain. However, AAMP does not support the ban on animals with localized injuries (i.e. broken appendages, severed tendons, birthing injuries from calving, etc.). AAMP is currently petitioning USDA to revise its policy on the harvesting of non-ambulatory cattle.

10. What can the meat processor and livestock producer do to address the ban on non-ambulatory cattle?

AAMP is strongly encouraging its members and all meat processors to submit comments to USDA. Furthermore, individuals who question this new rule or have comments concerning this issue should voice opinions to their Congressman and Senators. We also encourage meat processors to discuss this issue with the livestock producers that supply the cattle for their establishment. Encourage the livestock producers to contact USDA, Congress, as well as their state and national livestock associations. As this is an interim final rule, there will be a 90-day period to make comments which may result in changes after the interim period. Comments can be submitted to:

FSIS Docket Clerk, Docket #03-025IF
Room 102 Cotton Annex
300 12th & C Streets SW
Washington, DC 20250-3700

In conclusion, the ban on harvesting non-ambulatory cattle is a United States Department of Agriculture interim final rule. Meat processors that do not comply with these new BSE rules will be found to be not in compliance and be subject to regulatory action from FSIS.