



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003

September 13, 2021

Dr. Philip Bronstein
Assistant Administrator
Office of Field Operations
USDA-Food Safety and Inspection Service
1400 Independence Avenue, SW
Washington, DC 20250

RE: Mistreatment of birds at federally inspected slaughter plants

Dear Dr. Bronstein:

I am writing on behalf of the Animal Welfare Institute (AWI) to notify your office of two cases of mistreatment of birds at slaughter that we have referred to local officials for possible prosecution under the state's animal cruelty statute (see attached).

In the first instance, 2,552 chickens (representing 43 percent of the shipment) died from exposure to high temperatures without heat abatement in June 2021 at Butterfield Foods in Butterfield, Minnesota (P215). FSIS in-plant personnel reported two similar incidents at the plant within the past year, one in August 2020 where 9,500 birds died from exposure to extreme heat, and one in February 2020 where 9,000 hens froze to death in trailers due to exposure to extreme cold. In the second situation, FSIS personnel at the Jennie-O plant in Melrose, Minnesota (P544), reported five incidents of neglect in April, May, and June 2021 where hundreds of turkeys suffered and perished due to extreme weather.

Unfortunately, this is not the first time AWI has contacted FSIS regarding birds suffering and dying due to abandonment and/or neglect during transport and holding at federally inspected plants. In May 2016, AWI informed FSIS that it had observed a trend of large numbers of birds being abandoned for extended periods in the unloading or holding area of plants, citing six incidents documented by FSIS personnel in enforcement records (Memorandums of Interview and Noncompliance Records) between 2013 and 2015. In response, FSIS took no action, other than identifying AWI's letter as a rulemaking petition.

In August 2018, AWI sent a second letter expressing concern that instances of death other than by slaughter were continuing, this time citing more than 50 documented incidents occurring between 2016 and early 2018. FSIS responded that it was reviewing the situation, but the agency again took no action. In November 2019, FSIS denied AWI's "rulemaking petition" without specifically addressing the problem of bird mistreatment and abandonment described in AWI's two letters.

As you are probably aware, two FSIS directives mention the issuance of Letters of Concern and/or notification of state officials in response to instances of bird mistreatment. The District Veterinary Medical Specialist (DVMS) Work Methods directive (6910.1, rev. 1), published in December 2009, notes that the DVMS "may notify appropriate State officials of findings that could be in violation of State and local animal welfare codes" (p. 20). In addition, the Verification of Poultry Good Commercial Practices directive (6110.1), issued in July 2018, explains: "In specific situations, after DVMS review of a

mistreatment MOI, there may be a need for additional notification of the appropriate State officials. If so, the DVMS is to: 1. Collaborate with the in-plant inspection team and District Case Specialist to prepare a Letter of Concern (LOC) and a cover letter..." (p. 5-6).

AWI has routinely submitted Freedom of Information Act requests for all humane handling Letters of Concern for the past several years. According to the responses received, since 2015, FSIS has prepared only three Letters of Concern regarding the mistreatment of birds at slaughter. Of the more than 50 incidents cited in the two AWI letters mentioned above, only one resulted in a Letter of Concern, according to FSIS FOIA responses.

Not only are very few Letters of Concern issued, but the letters that have been created are missing two especially relevant details: 1) FSIS takes the position that it has no statutory authority over bird treatment (unless it results in a loss of process control), and consequently FSIS has taken no action in response to the incident(s),* and 2) the incident described may represent a violation of the state's animal cruelty statute. (* Note: AWI disputes this position, as FSIS has a duty to prevent adulterated poultry products under the Poultry Products Inspection Act.) Without the inclusion of this essential information, it seems very unlikely local or state officials will act. In fact, AWI is not aware of any situation where state officials have acted based on an FSIS Letter of Concern.

Given that incidents of mistreatment involving very large numbers of birds continue to occur at an alarming frequency, we encourage you to direct in-plant and DVMS staff to prepare Letters of Concern in situations where multiple birds are willfully mistreated or neglected. These Letters should make clear that FSIS believes it has no authority to act (other than documenting the incident) to penalize the behavior and/or prevent similar occurrences in the future.

Thank you in advance for your attention to this issue of great concern to AWI and our supporters. I would be happy to provide you with additional information or answer any questions you may have. You can reach me via telephone at 202-446-2146 or by electronic mail at dena@awionline.org.

Sincerely,

A handwritten signature in black ink that reads "Dena Jones". The signature is written in a cursive, flowing style.

Dena Jones
Director, Farm Animal Program

Enclosures