



CUSTOM-EXEMPT SLAUGHTER:

A License to Neglect and Abuse Farm Animals

During the past decade, several attempts have been made in Congress and state legislatures to expand the scope of a little-known form of killing animals for food known as “custom” or “custom-exempt” slaughter. These bills attempt to expand the number of slaughter establishments in the United States that are exempt from inspection for the killing of animals and/or the processing of carcasses. Passage of such legislation would in effect allow the retail sale of uninspected meat, with potential negative impacts on both food safety and animal welfare. To better understand the ramifications of expanding custom-exempt slaughter, the Animal Welfare Institute (AWI) initiated a review of the practice and its impact on the treatment of animals at slaughter.

How Custom-Exempt Slaughter Operates

The “exempt” in custom-exempt signifies that these operations are excused from continuous inspection, unlike operations subject to state or federal inspection, where government officials are on the premises whenever slaughter

is being conducted. Custom-exempt plants serve hunters who want to process wild animal carcasses; they also slaughter cattle, pigs, sheep, and goats for anyone who wants meat for themselves, their household, or nonpaying guests. Because the meat is intended for personal use only, packages of custom slaughtered and/or processed beef, pork, lamb, or goat meat must be labeled “NOT FOR SALE,” and the meat cannot be sold, traded, or given away, such as to a food bank. The rationale behind the minimal oversight of custom slaughter is that consumers of the meat are generally aware of its origins, and the food safety risk to the broader public is low since the meat is not being distributed for sale.

The Risks of Uninspected Meat

The purpose of meat inspection is to reduce the risk of foodborne illness. The Centers for Disease Control and Prevention (CDC) estimates that, each year in the United States, foodborne diseases kill 3,000 people, hospitalize 128,000, and sicken 48 million. In plants subject to routine meat

inspection, state or federal agricultural officials must be present whenever slaughter is taking place to ensure that Sanitation Standard Operating Procedures are being followed.

This does not occur in custom-exempt plants. With custom-exempt slaughter, inspectors need not be present. In fact, inspection typically occurs only once or twice a year in the form of a “custom-exempt review.” While custom-exempt slaughterhouses are expected to comply with federal food safety regulations, inspectors are not routinely on the premises to ensure that they do so. Consequently, should the scope of custom-exempt slaughter be expanded and an outbreak of foodborne illness occur, the impact could be much greater.

How the USDA Oversees Humane Slaughter at Custom-Exempt Plants

In 2009, the US Department of Agriculture’s Food Safety and Inspection Service (FSIS) revised its Custom Exempt Review Process Directive (8160.1) to clarify that the Humane Methods of Slaughter Act (HMSA) applies at these facilities. The directive instructed FSIS personnel to assess several factors, including any egregious acts or repeated noncompliance with

humane slaughter, to determine whether the custom-exempt facility being reviewed is handling livestock in a humane manner. However, it has been unclear to what degree—if at all—this policy change protects farm animals killed under custom-exempt slaughter.

Further, in September 2020, the FSIS again revised the custom-exempt directive to distinguish regulatory requirements from voluntary recommendations for humane slaughter. The only humane slaughter requirements identified are that (1) the animals must be effectively stunned to render them insensible to pain, (2) appropriate methods must be used when ritual slaughter is involved, and (3) conscious animals must not be dragged. Conversely, such actions as providing water and feed, maintaining the facility in good repair, handling animals without excitement and discomfort, and segregating disabled animals are identified merely as recommendations. In characterizing these animal welfare practices as “not strictly required,” the FSIS is suggesting that its own regulations (specifically those related to the Humane Methods of Slaughter Act) are voluntary and not legally binding in custom-exempt establishments. A minor 2022 revision of the directive did not modify the characterization of these practices as recommendations or substantively change the facility review process.

AWI’s Survey

In 2020, AWI initiated research to determine whether applying the HMSA to custom-exempt slaughter has provided adequate protection to the animals killed at these establishments. We submitted Freedom of Information Act (FOIA) requests related to the USDA’s oversight of the custom-exempt process. This included requesting (1) all custom-exempt review forms for calendar year 2019, (2) a list of federal custom-exempt establishments in 2019 and 2020, and (3) a list of plants losing eligibility for custom-exempt status in 2019 and 2020. We also reviewed FSIS inspection records (Noncompliance Records and Memorandums of Interview (MOI)) issued 2018–2020 to federally inspected slaughter plants that also perform custom-exempt slaughter. Finally, we submitted questions related to the custom-exempt review process to the FSIS through its “AskFSIS” web-based application, and we reviewed AskFSIS queries submitted by others, including FSIS inspection personnel and custom-exempt slaughter establishments, during 2018 and 2019.



The Findings

Reviews of custom plants are not being conducted –

The FSIS custom-exempt directive states that inspection personnel are to conduct reviews at custom-exempt establishments “generally at a frequency of once per year.” In response to our FOIA request, the FSIS provided us with 144 review forms for 2019. However, only 27 of those forms were from federal custom-exempt establishments—fewer than 10 percent of the 285 federal custom-exempt establishments in operation that year. The remainder of the reviews were conducted by federal inspectors at state-level plants in states that do not operate a meat inspection program. It is unclear why so few federal custom-exempt plants were reviewed.

AWI asked the FSIS FOIA office about the low number of review documents received in response to our request and submitted an AskFSIS query regarding the low number of custom-exempt reviews apparently conducted. We were notified that the FSIS Office of Field Operations and the FOIA office were attempting to determine if AWI had received a complete set of records; however, no additional records were ever provided.

Inspectors may not be observing the handling and slaughter of birds at custom plants – Of the 144 establishment reviews provided to AWI, 24 indicated that the plant slaughtered birds. However, only one of those reviews included observations related to the treatment of birds. While the Humane Methods of Slaughter Act regulations do not cover the slaughter of birds, the USDA oversees the process through its verification of poultry slaughter “good commercial practices” (GCP). The 2020 revision of the FSIS custom-exempt directive and the 2022 update specifically require that poultry custom-exempt slaughter operators comply with GCP: “If birds hung on the slaughter line die prior to slaughter due to mishandling or are killed in a manner that does not comply with the good commercial practices regulation (9 CFR 381.65(b)), the custom slaughter operation would not meet the requirements of the PPIA [Poultry Products Inspection Act].”

Inspectors are not observing slaughter at custom livestock plants – Of the custom-exempt slaughter plants reviewed in 2019, FSIS inspectors documented observing the actual killing of animals at only 45 (less than a third) of them. Moreover, a significant number of reviews indicated the inspector was aware that slaughter would not even be conducted on the day of the visit. This is particularly disturbing considering that rendering animals insensible to pain through stunning, along with not dragging disabled animals while conscious, are the only humane slaughter practices actually *required* at custom-exempt plants, according to the FSIS 2020 directive and the 2022 update. (As stated above, all other animal welfare practices, such as providing food and water and using a minimum amount of force to move animals, are identified as voluntary.)



Given that the FSIS appears to be doing reviews infrequently—and when they do conduct a review, slaughter is often not observed—many years may pass before inhumane slaughter practices at a custom-exempt plant are uncovered. This situation was partially addressed by a change in the 2022 update that instructs inspection personnel to schedule “the annual PHIS Custom Exempt task on a day when the establishment will be conducting custom exempt slaughter or processing” (emphasis added). Unfortunately, the revised language continues to allow custom-exempt reviews to be conducted when no animals are being slaughtered.

Very few humane violations are recorded during custom-exempt reviews – Of the 144 custom-exempt reviews for the year 2019 provided to AWI, only six cited any animal welfare concerns. Nine violations of HMSA regulations were recorded, including four instances of failure to provide water access, three safety hazards, one uncovered holding pen, and one overcrowded holding pen.

While it is possible that custom-exempt plants have few animal welfare violations, this seems very unlikely. It is more likely that violations go unreported. The FSIS Humane Handling and Slaughter of Livestock Directive (6900.2, rev. 3) specifically instructs inspection personnel at federally inspected plants who observe inhumane handling or slaughter of a custom-exempt animal to document the incident on an MOI, and enforcement records for federally inspected plants do, in fact, mention HMSA violations affecting custom-exempt animals. (See examples on pages 6–8.) In the custom-exempt directive, however, there is no such instruction.

Federal plants use custom status to dodge violations –

According to FSIS records, some plants that perform both federally inspected and custom-exempt slaughter are claiming that all animals on the premises are intended for custom slaughter until just before they are killed. Because inspectors lack the authority to take regulatory control actions (such as halting slaughter or rejecting a piece of equipment or area of the plant) in response to a violation involving a custom



animal, these plants may be avoiding legal consequences for inhumanely handling animals during unloading or while they are kept in holding pens, a period that sometimes lasts weeks.

In response to an AskFSIS query from AWI, the FSIS indicated that an animal's inspection status "should be determined prior to presenting the animal for FSIS antemortem inspection in order to maintain clear separation between custom and inspected operations." However, it is evident from FSIS inspection reports that federally inspected and custom-exempt animals are sometimes mixed together in holding pens and other areas of an establishment, providing an opportunity for loss of FSIS inspection control.

Plants suspended from federal slaughter are allowed to operate as custom – Because enforcement actions are not taken at custom-exempt plants, these establishments may continue to hold and slaughter animals even if federal inspection has been suspended or withdrawn. For example, the FSIS took legal action in 2019 to permanently withdraw federal inspection from Harmon Brothers Meat in Warsaw, Kentucky, after the plant was suspended from performing federal slaughter on four different dates following egregious humane slaughter violations. In addition, according to 2016–2018 records, Harmon Brothers Meat was cited for more humane slaughter violations (34) than any other livestock slaughter plant classified as "very small." Despite this atrocious record, the plant was allowed to continue killing animals for custom-exempt slaughter.

In another example, Brooksville Meat Fabrication, a federally inspected and custom-exempt operation in Brooksville, Kentucky, was cited at least 10 times for serious violations of humane handling and slaughter regulations during a six-month

period in 2013. In November 2013, the FSIS's Enforcement and Litigation Division prepared a complaint to indefinitely suspend and permanently withdraw the grant of federal inspection, finding that the establishment was "unfit to engage in a business requiring Federal inspection under the FMIA [Federal Meat Inspection Act]." In March 2014, a USDA administrative law judge signed the withdrawal order. Brooksville Meat Fabrication continued to kill animals, however, as a custom-exempt slaughterhouse. Allowing an establishment deemed incompetent to slaughter animals under *constant* supervision to continue slaughtering animals under *no* supervision defies all logic and common sense.

AWI staff are not the only ones baffled by the FSIS's policy of allowing suspended federal plants to continue to conduct custom-exempt slaughter. At least five individuals submitted questions to AskFSIS related to this issue in 2019. One senior FSIS veterinary officer seeking guidance from FSIS's policy office noted: "For state plants in NC [North Carolina] that receive a NOS [Notice of Suspension], their Custom Exempt status for slaughter is also suspended, because their state animal welfare regulations apply to all animals. In these cases, establishments cannot run either inspected or custom animals while under Suspension." The veterinary specialist also explained that the discrepancy creates confusion for inspection program personnel and asked why the federal inspection program does not follow the same policy as the state of North Carolina. "It seems logical that if an establishment has failed to follow the humane handling regulatory requirements on the federal side, they should be made to demonstrate their ability to correct that failure before being allowed to operate on either side of inspection."

To confirm that the FSIS is not taking any action to curtail the ability of plants with a history of egregious inhumane handling to perform custom-exempt slaughter, AWI requested all Notices of Ineligibility (NOIs) issued to custom-exempt plants during 2019 and 2020. The FSIS did not provide any NOIs, indicating that no custom-exempt plants lost their eligibility to operate during this period.

Animal neglect and abuse is occurring at custom plants –

The records AWI reviewed suggest that animals destined for custom-exempt slaughter are being beaten, held in deplorable conditions, and deprived of food and water for extended periods. In some cases, the animals are dying as a result. (See examples on pages 6–8.) Current FSIS policy allows for this mistreatment, in part, because *not* beating and *not* starving animals are considered mere recommendations. FSIS policy considers the provision of food, water, and a safe environment as voluntary, even though animals at custom-exempt establishments may be held on the premises for an extended period, often several days or even weeks. Moreover, AWI has seen no evidence that FSIS personnel refer these instances of animal neglect or abuse, which are likely violations of state animal cruelty laws, to appropriate state authorities.

Conclusion and Recommendations

Expanding custom-exempt slaughter in the United States poses a serious risk to both food safety and animal welfare. AWI is unfortunately accustomed to witnessing and uncovering many forms of animal abuse, and the treatment of custom-slaughtered farm animals surely ranks among the worst. All evidence we reviewed points to animals at custom-exempt establishments being at high risk for inhumane treatment. Custom-exempt plants are not regularly reviewed, and in many cases when they are reviewed, slaughter itself is not observed. Very few HMSA violations are documented in custom-exempt reviews, despite the fact that federal inspection records indicate that serious noncompliances are occurring. Plants suspended from federally inspected slaughter are still allowed to perform custom-exempt slaughter. Eligibility to conduct custom-exempt slaughter is rarely if ever removed.

From the information AWI obtained from the USDA, we have concluded that the FSIS's purported application of the federal humane slaughter law to custom-exempt slaughter has had little or no positive effect on the welfare of animals subject to custom-exempt slaughter. The evidence presented in this report suggests that the FSIS does not apply the HMSA to custom-exempt slaughter in any meaningful way.

Changes are desperately needed to the government's approach to this type of slaughter. If these changes are not made, the USDA should rescind its 2009 proclamation that the Humane Method of Slaughter Act applies at custom-exempt establishments to avoid misleading the public regarding its supervision of this form of slaughter.

AWI offers the following recommendations for the FSIS's oversight of custom-exempt slaughter:

- The FSIS custom-exempt directive should make clear that custom-exempt reviews are to be scheduled for a date and time when *slaughter* (not *slaughter or processing*) is being performed so that FSIS inspection personnel may observe antemortem handling, stunning, and slaughter of animals.
- Practices required under HMSA regulations for federal inspection but identified as mere "voluntary welfare practices" under the custom-exempt directive should be required for custom-exempt slaughter as well.
- The custom-exempt directive should instruct inspectors conducting custom-exempt reviews in federally inspected establishments to document any observed HMSA or PPIA good commercial practice violations in a Memorandum of Interview.
- To close the loophole that custom-exempt slaughter offers to operations that are also federally inspected, the USDA should clarify that an animal must be declared for federal inspection at arrival on the premises of the establishment (instead of at antemortem inspection).
- Inspectors who observe neglect or abuse of custom-exempt animals while performing federal inspection or a custom-exempt review should contact the appropriate local or state authorities to notify them that the state's animal cruelty law may have been violated.
- The custom-exempt directive should be revised to require the suspension of eligibility to perform custom-exempt slaughter for any establishment under suspension of federal inspection for violation of humane handling and/or food safety regulations. In addition, any establishment that loses its grant of federal inspection should also lose its eligibility to perform custom-exempt slaughter.





Examples of Inhumane Incidents at Custom-Exempt Slaughter Plants

Below are examples of USDA inspector memorandums illustrating that custom-exempt animals are afforded a lower level of care—and less legal protection—than animals designated for federally inspected slaughter.

LACK OF WATER AND/OR FOOD

No water was available to a hog in a holding pen who had been identified as for custom-exempt slaughter. The inspector noted: “This was a custom hog so an NR [Noncompliance Record] was not issued.”

—Central KY Custom Meats, Inc. (M27257), Liberty, KY, 5/7/2018

A large hog and a mature sheep lacked access to water as the water trough in the pen was empty. “The issuance of this MOI [Memorandum of Interview] is based upon the fact that the animals observed above were declared for custom exempt slaughter; otherwise, this observation would have been documented in a Noncompliance Record.”

—Loretto Butcher Shop (M40246), Loretto, KY, 8/7/2018

A holding pen containing approximately 20 pigs varying in size from roughly 20 pounds to over 500 pounds were found to be without water. The floor was nearly entirely covered with approximately one inch of soupy, liquid manure. According to the inspector’s note, if all animals were to lie down simultaneously, some would have to lie in the liquid. “The above animals had not been declared for Federal Inspection at the time of these observations. The owner of the establishment considers all animals in the holding pens to be custom exempt until such time as they may be declared for federal inspection.”

—Faulkner Meats (M44779), Taylorsville, KY, 11/21/2018

A holding pen with lambs too numerous to count was observed without adequate water; the water trough contained 3 inches of dark brown, manure-contaminated liquid. Two dead lambs were found with their bodies decomposing, and a strong ammonia smell emanated from the pen. A dead goat and a dead pig were found in other pens. The inspector noted that the outside temperature was 90 degrees, with no functioning fans in the pens, and that the Livestock Heat Index was estimated to be in the “danger” to “emergency” category. The inspector also observed that the situation involved custom-exempt animals. —Spencer County Butcher Block (M44779), Taylorsville, KY, 7/7/2020

During a custom-exempt slaughter inspection, the following non-compliances were observed: 1. One uncovered pen of nine large bovines contained no feed or water. 2. One covered pen of eight large bovines contained no feed or water. 3. One covered pen of ten large bovines contained no feed or water.

—Hamzah Slaughter House (M10805), Williamsport, MD, 8/5/2020

Two custom hogs were being held in a pen with no access to water. “All Federal animals had water access.”

—Moonlight Meat Processing Inc. (M33845), Williamsburg, KY, 8/10/2020

UNSANITARY OR CROWDED CONDITIONS IN PENS

A pen containing approximately 34 sheep, lambs, and goats was found to be without a source of water. A pen of mature sheep held overnight had insufficient room for all animals to lie down. Another holding pen was covered in a soupy, manure-inedible hay mixture. “As the animals observed had not been presented for Federal Inspection, the above cited [custom-exempt] Directive justifies the issuance of this MOI [Memorandum of interview] in place of a Noncompliance Record.”

—Harmon Brothers Meat (M7356), Warsaw, KY, 5/30/2018

A pen holding three calves was found to have an approximately 3-inch floor covering of liquid manure and no access to water. A pen holding a large boar (roughly 500 lbs.) was found to have a liquid manure floor covering and no access to water. And a pen holding numerous lambs was found to be overcrowded—there was insufficient room for the lambs to lie down. “The animals in question had not been presented for federal inspection.”

—Faulkner Meats (M44779), Taylorsville, KY, 6/8/2018

A holding pen with goats and lambs contained a dead goat and water of questionable drinking quality; the water was brown with fecal material present. Another dead goat was observed outside a storage room. An adjacent holding pen with goats and lambs was densely populated; most of the floor was covered in liquid feces, and the water was of even more questionable drinking quality. The inspector noted that the establishment was suspended

from federal slaughter due to an egregious violation but was still allowed to perform custom-exempt slaughter.

—Harmon Brothers Meat (M7356), Warsaw, KY, 4/26/2019

A large boar was observed without access to water in a holding pen. Another pen of lambs and sheep was observed with feces covering the floor. Bedding was minimal and mostly wet. Urine was also observed in one area of the pen, and the fur of most of the animals was contaminated with fecal matter. One lamb was observed in a moribund state. One small automatic waterer was functional but insufficient for the volume of animals (too numerous to count) in the pen.

—Faulkner Meats (M44779), Taylorsville, KY, 5/22/2019

The hog pen was found to have approximately 75% of the floor covered in roughly one inch of liquid feces. The water containers were likewise coated in feces and contained a small volume of some type of black liquid (feces?); the bedding covering the remaining 25% of the floor was wet. Multiple sheep pens were found with roughly 2-3 inches of packed manure and no visibly clean bedding. “The animals in question had not been declared for federally inspected slaughter. The establishment considers all animals in the holding pens to be custom exempt until declared for federal inspection.”

—Spencer County Butcher Block (M44779), Taylorsville, KY, 11/27/2019

SAFETY HAZARDS

Hogs designated for custom slaughter were observed in a holding pen that had a broken metal divider with exposed bolts and sharp edges, presenting a risk of injury to the pigs. A worker refused the inspector’s suggestion to move the animals to another pen. The inspector explained: “I did not take regulatory control action due to the fact the current animals in the holding pen were custom exempt. In the future, if federally inspected animals were in a pen with broken railing it would be a violation.”

—Mountain Meat Packing Inc (M4979), Fruita, CO, 6/24/2020

INADEQUATE CARE OF SICK AND DISABLED ANIMALS

A holding pen of pigs who had been in the barn since the previous week had a soupy manure-covered floor, a small quantity of questionable quality drinking water, and one pig who appeared to have an orbital wound from the loss of an eye. A holding pen of sheep who had been in the barn for a week or more had several disabled animals among the normal population. Some were observed crippled to the point of being barely able to rise and walk. The inspector noted, “The animals observed today had not been declared for federal inspection.”

—Harmon Brothers Meat (M7356), Warsaw, KY, 7/10/2018

A pen of five beef calves was found without access to water.

Above a pen of beef calves, a foam insulation panel was hanging precariously. A pen containing sheep and goats too numerous to count held overnight had questionable room to lie down. A pen of sheep and goats was found to have one dead goat. A pen holding hogs was found to have approximately 50% of the flooring covered in 1-2 inches of soupy manure; approximately 25% covered in wet bedding; and approximately 25% in borderline-acceptable bedding. The plastic drums being used as feed troughs contained some type of “slop” as a food source. “Two hogs were observed ambulatory disabled amongst the normal population; one possibly having a hip injury, the other a swollen rear distal extremity with an open wound and walking three-legged lame.”

—Spencer County Butcher Block (M44779), Taylorsville, KY, 12/11/2019

EXCESSIVE FORCE USED TO MOVE ANIMALS

A Jersey cow was observed to fall when one of her front limbs fell into a gap while exiting a truck. A second, sight-impaired steer proceeded to walk over top of the downed Jersey, then down the chute. The Jersey managed to get up and proceed down the chute. The sight-impaired steer reversed direction, came up the chute and fell into the gap, becoming entrapped between the chute and the truck. The trapped animal began vocalizing and thrashing about. After some time, plant workers placed a rope about the neck of the entrapped steer and attempted to drag the conscious animal out of the gap and back onto the unloading ramp. In the process of trying to free the steer, the unloading ramp collapsed, and the animal fell approximately three feet to the ground.

—Faulkner Meats (M44779), Taylorsville, KY, 9/13/2018



Inspector noted that slaughter plant was given multiple copies of the USDA directive for custom-exempt operations. While reviewing animal handling procedures, the inspector observed plant employees attempting to move a group of eight large bovines up an alley, make a 90-degree left turn, then up a sloped concrete loading ramp. A worker “chose to utilize a combination of yelling, beating on the tin roof above the animals and repeated electrical prod usage to the bovines to continue forward.”

—Hamzah Slaughter House (M10805), Williamsport, MD, 8/3/2020

An establishment employee was observed striking a steer in the face with a broom and kicking the animal in the rear to force him to turn around. An inspector inquired if the animal was declared for federal inspection or custom-exempt slaughter. Establishment personnel stated custom-exempt slaughter. The same worker previously observed striking and kicking the steer was seen with a water hose running at full stream, first spraying the animal’s hindquarters and then his face.

—Faulkner Meats (M44779), Taylorsville, KY, 9/20/2019

LACK OF STUNNING OR INEFFECTIVE STUNNING

A goat was diagnosed to be in a moribund state. The senior veterinary medical officer declared that the goat needed to be euthanized based upon his condition. Inspection personnel informed the establishment of the situation. Plant workers killed the goat by cutting his throat, allowing the animal to expire by exsanguination. Cutting of the throat is not considered an acceptable method of euthanasia in a federally inspected facility. However, “the owner of the establishment considers all animals held in the barn to be custom exempt, thus the basis for this MOI.” [Note: If an animal under federal inspection is mistreated in this way, the USDA immediately suspends operations at the plant.]

—Faulkner Meats (M44779), Taylorsville, KY, 10/24/2018

An inspector observed a large hog being shot five times with a firearm before the animal was rendered unconscious for slaughter. After each unsuccessful attempt, the worker left the stunning area to retrieve another cartridge from a nearby vehicle. The worker commented to the inspector: “It’s custom, guy. No need to worry about it!”

—Sanchez Slaughterhouse (M12455), Kapaa Kauai, HI, 2/24/2020



Please see other AWI reports for additional information about the treatment of farm animals at slaughter in the United States and how this treatment is monitored by the federal and state departments of agriculture. These reports include the following:

Legal Protections for Farm Animals at Slaughter

Humane Slaughter Update: Federal and State Oversight of the Welfare of Farm Animals at Slaughter

The Welfare of Birds at Slaughter in the United States: The Need for Government Regulation

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