

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 6, 2006, in Room 423-S of the Capitol.

All members were present except:

Representative John Faber- excused
Representative Joann Freeborn- excused
Representative Doug Gatewood- excused
Representative Steve Lukert - excused
Representative Virgil Peck- excused
Representative Larry Powell- excused
Representative Joshua Svaty- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes Office
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Constantine Cotsoradis, Assistant Secretary, Kansas Department of Agriculture
Martin Luther, Luther's Smokehouse, Inc.

Others attending:

See attached list.

Minutes of the January 30 and February 1 meetings were distributed. Members were asked to notify the committee secretary of any corrections or additions prior to 5:00 p.m. Wednesday, February 8, or the minutes will be considered approved as presented.

Constantine Cotsoradis, Assistant Secretary, Kansas Department of Agriculture, provided an overview of the Kansas Meat and Poultry Inspection Program, one of the agency's food safety programs. They inspect and regulate primarily small meat processing facilities—both fully inspected plants that process meat sold at meat counters, restaurants or grocery stores and custom plants that process animals for the owner's own consumption. He noted that all processing facilities in the United States must be under either federal or state inspection. Currently there are 79 fully inspected plants and 28 custom-exempt plants under state inspection in Kansas. He explained that because of economic changes, federal requirement changes, and because consistent inspection is paramount, this program must always be ready to adapt, stressing that food safety is the agency's goal.

In response to concerns expressed in a letter to legislators in January by a member of the Kansas Meat Processors Association, who does not operate a state-inspected plant, Mr. Cotsoradis reported that the department has met with elected officials and members of the meat processing industry. It was determined that better communication was needed between the agency and industry, exemplified by seven of the industry's areas for desired changes in food safety regulation. He reported that the agency recently formalized their risk-based approach to inspecting custom-exempt plants to ensure uniform and consistent inspection frequency throughout the state. They are attempting to achieve consensus on policies for non-ambulatory animals, the condition of carcasses, vacuum packing meat products, understandability of rules and regulations, and the use of local veterinarians. The agency is amending their regulations to raise the dollar amount a retail store can sell to hotels, restaurants, and institutions to the federal level. He is hopeful that better communication will improve relations with the industry, further improve the agency's service to the industry, while continuing to ensure food safety for the public. (Attachment 1)

Mr. Cotsoradis and Dr. Evan Sumner, Kansas Meat and Poultry Inspection Program Manager, answered committee questions. The Chairman reported that the owner of Smoky Hill Meat Processing in Victoria, who had previously expressed concerns with the state meat inspection program, had called him to say that he believed better communication and recent efforts by the agency to address industry concerns were showing improvement in service. He supports a state meat inspection program.

CONTINUATION SHEET

MINUTES OF THE House Agriculture Committee at 3:30 p.m. on February 6, 2006, in Room 423-S of the Capitol.

Martin Luther, a member of the Kansas Meat Processors Association and owner of Luther's Smokehouse, Inc., in LeRoy, a federally inspected facility, reported that since June he and his wife had traveled the state visiting 90 percent of the small meat processing plants in Kansas. He asked that the legislature address problems with the state meat inspection program and support equalization and not more restriction than required by USDA. He outlined areas where he believes improvements in the state meat inspection program are needed including supporting materials and letters from three processing plant owners. (Attachment 2)

In response to committee requests for information, the Kansas Department of Agriculture provided a list of facilities that have left state inspection since HACCP was implemented in January 2000, those that have gone federal, and new facilities under state inspection. The agency also provided copies of the 1997 outside peer review of the Kansas Meat and Poultry Inspection Program. (Attachment 3)

The meeting adjourned at 4:45 p.m. The next meeting of the House Agriculture Committee is scheduled for February 8, 2006.



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Report of the Kansas Meat and Poultry Inspection Program to the House Agriculture Committee

**by Constantine Cotsoradis
Assistant Secretary
Kansas Department of Agriculture**

February 6, 2006

Thank you, Mr. Chairman and members of the committee, for this opportunity to brief you about the Kansas Department of Agriculture's meat and poultry inspection program.

Overview of the Kansas Meat and Poultry Inspection Program

The meat and poultry inspection program, one of our agency's food safety programs, regulates and works primarily with small meat processing facilities. Most rural Kansans know these operations as the local locker plant. All processing facilities in the U.S. must be under some kind of inspection, and it can be either federal or state inspection.

Our mission is simple. We provide food safety for all consumers of meat and poultry products. These small plants and our meat and poultry inspection program continue to exist because we can provide effective, reasonable regulation.

About half the states have a state meat inspection program. Kansas chose to have a state program many years ago because the meat industry is important to our state's economy and we can maintain federal standards while being responsive to needs of these small businesses in our small towns.

There are two types of facilities: fully inspected plants and custom plants. Fully inspected plants process meat sold at meat counters, restaurants or grocery stores. Custom plants process animals for the owner, and those products are to be used only by the owner, or his or her family, employees or guests.

Ensuring safe products is our core mission regardless of the type of processing plant, but the amount of inspection required by federal law is greater for fully inspected plants.

At fully inspected plants, the law requires that animals be inspected before and after slaughter and that an inspector be on-site during processing. Therefore, an inspector needs to be there every day slaughter is scheduled or processing is being done. Custom plants are inspected less regularly to ensure sanitation standards are maintained.

Inspectors will call in a veterinarian to make more difficult decisions about animal diseases and conditions that could endanger human or animal health. With a beef industry worth billions of dollars to our state's economy every year, this is serious business for Kansas.

Just like other rural businesses, from supermarkets to feed stores, there are fewer small meat processing plants now than a quarter of a century ago. They provide a valuable service to agriculture and rural Kansas, and they are a source of employment in small towns. We want these businesses to succeed.

Currently there are 79 fully inspected plants and 28 custom-exempt plants in Kansas. We have 34 agricultural inspectors and six assistant supervisors in towns across the state, three state area veterinary supervisors, three compliance officers and four disposition veterinarians. We also have a training officer and an enforcement, investigation and analysis officer. In Topeka we have a program manager and administrative staff person.

Because economic conditions change, because requirements from the federal government change and because consistent inspection is paramount, this program must always be ready to adapt. In the recent past we have helped our small plants adapt to new requirements for Hazard Analysis at Critical Control Point (HACCP) plans, new testing and training requirements, and new rules designed to protect the entire beef industry from the consequences of finding BSE or foot-and-mouth disease in our livestock.

Adapting to change is not always easy for either the plants or our inspection program, but we want to work together to keep these small businesses alive and in compliance with the rules passed down to us from the federal government. Again, food safety is our goal.

Current Efforts

Chairman Johnson asked us to be here today because a member of the Kansas Meat Processors Association circulated a letter to legislators about our meat and poultry inspection program. This individual does not run a state-inspected plant.

As always, when we hear concerns, we act on them. In January, we met with a handful of elected officials and members of the meat processing industry. During our discussion, we determined that better communication was needed between our agency and industry. The need for better communication was exemplified by seven of the industry's areas for desired changes in food safety regulation that were already allowed under existing laws and regulations.

We took immediate steps to improve communication. The reemergence of the Kansas Meat Processors Association under a new executive director will help us get information to industry and to get industry's feedback to us. We have met with their executive director several

times since January, and we also have met with, or been in communication with, several meat processors.

We recently formalized our risk-based approach to inspecting custom-exempt plants and passed it along to key industry members for their comment. Formalizing our risk-based inspection schedule will ensure uniform and consistent inspection frequency throughout the state.

We are consulting the United States Department of Agriculture and Dr. Liz Boyle, KSU meat scientist, as well as industry stakeholders, to achieve consensus on policies for nonambulatory animals, the condition of carcasses, vacuum packing meat products, and the understandability of rules and regulations.

We still are seeking input from the Kansas Meat Processors Association and their members, but it looks like we have found a way to use local veterinarians to certify the health of certain animals presented for slaughter at custom-exempt plants.

We are amending our regulations to raise the dollar amount a retail store can sell to hotels, restaurants and institutions to the federal level. We are trying to word the new regulation to allow the state's HRI dollar limits to change when the federal limits change.

We appreciate industry bringing their concerns to us, and we look forward to better communication with them. Perhaps the best thing to come from this is building a stronger relationship. Improved relations will allow us to gather information, receive input and better serve the meat processing industry.

State-inspected meat processors continue to call me to express their opinions on various issues, and I'm glad they feel comfortable calling and that they know we are prepared to listen. We will continue to build on these relationships to further improve our service to industry and to ensure food safety for the public.

To whom it may concern;

Please help fix the KDA meat inspection system and help stop the erosion of the small meat processor and the wasted taxpayer's money by using extra restrictive inspection and protectionism groomed for and by the KDA meat inspection division. (see document 11- 2006 budget)

Please support **“Equalization and not more restriction than required by USDA.”** Here is how;

1. The Chain of command is the order in which USDA does inspections (especially in inspected plants). (As per 2003 Post Audit report – “eliminate the need for 2 or more food safety inspectors to visit one facility”)

Because of different interpretations of the regulations by inspectors, meat processors need one inspector to answer to, except when the regular inspector is on vacation or during annual review. When other inspectors or supervisors follows up the ISP (inspector in charge of that plant) and finds additional non-food safety problems such as sanitation conditions or different interpretation of HACCP plans, the issue must be presented to the processor through the ISP

2. Kansas must allow local vets to approve animals for slaughter and carcasses on request by the meat plant operator or owner of the animal. USDA contracts with local vets, except for downer cattle that need to be tested for BSE.

See document 7C-11 (verified by Ben-Lee Processing, a Federal plant at Atwood Ks. 785-626-3732)

3. In Inspected plants, Pre-op is required only in areas that are to be used that day.

4. Custom, retail plants are exempt from SSOP & HACCP regulations as in USDA plants.

See document 8A

5. Inspect Kansas custom, retail exempt plants on the equal basis as USDA inspects custom retail plants in Nebraska (4 times a year). Kansas has about half the meat plants than 10 years ago and more inspectors. 12 of those plants are now inspected by USDA.

(See documents 10, 7b-#5 and (recommendations from the 2003 Post Audit report, “eliminate the need for 2 or more food safety inspectors to visit one facility”& “develop a risk-based inspection system”)

6. KDA meat inspection restricts (USDA does not restrict) some animals processed in custom plants even though a local vet was available to qualify the animal as safe for food consumption; Custom, retail exempt plants in Kansas must be allowed to butcher Broken legged ambulatory cattle, pink eyed cattle, club-footed cattle, ruptured Hogs, prolapsed hogs, farm-raised buffalo, etc.

See document 7C#11

7. Wild game may be processed in all meat plants and be stored in the same cooler as beef and pork as long as they are not touching inspected carcasses. USDA allows this practice in Nebraska.

See document 8b#2&3

8. Kansas should as USDA, allow small retails to process for HRI accounts (grind, slice, smoke, etc.) \$54,800 worth of beef and pork and 54,500 in poultry as long as that they are made from previously inspected meat. See document 7A # 4

9. In addition, USDA allows small retails to sell unlimited amounts of "pass through" products to retail or wholesale customers. This would be items that are processed elsewhere under full inspection and are not being further processed in any way by the retail establishment.

10. If natural mold on an aged carcass is acceptable with USDA, it should be ok with KDA meat inspection. See documents 6 and 9

11. Meat plants in Kansas need to be able to continue to Vacuum package meats without going through all the red tape associated with HACCP. FDA guidelines include HACCP requirements to do so. The regulatory authority (KDA) or the legislature can provide a variance to those HACCP requirements so meat processors can continue to vacuum package as they have done for the last 30 years.

These are FDA internal guidelines (not regulatory codes) .

12. Some letters from 3 plants that have went under Federal inspection (partly to be able to ship interstate, but not the only reason). See documents 4 & 5 & 6

Eleven of the following 14 plants have switched to USDA in the last 5 years. They are located in Yates Center, Kensington, Uniontown, Alta Vista, Kiowa, Oakley, Bern, DeSoto, Eudora, Kingman, Eldorado, Atwood, LeRoy, McPherson.

AB

13. These rules and changes all need to be in plain language so all meat plant operators and inspectors interpret them as the same.

14. There is no regulation on meat processing equipment or building as long as it can be properly cleaned and sanitized. As per USDA regulation in section 416.3 (a)

15. Any KDA meat inspector or supervisor should be subject to immediate dismissal if engaging in any way, competition to the industry they inspect. Unfortunately, this is not the agency's policy.

Being equal to USDA rather than more restrictive could save many plants from extinction. The budget for KDA meat inspection could be cut substantially if these recommendations are met just because many inspected meat plants would go custom / retail exempt and eliminate the need for several inspectors.

I have visited 90% of all the small meat plants in Kansas since June and there are several plants that want to try to fix the Kansas meat inspection system before suggesting anything about dropping the whole state program. 14 small plants are Federal plants now and 11 have made the change in the last 5 years. Some for economic reasons, but not all. They are in Yates Center, Kinsington, Uniontown, Alta Vista, Kiowa, Oakley, Bern, DeSoto, Eudora, Kingman, Eldorado, Atwood, LeRoy, & McPherson. See documents 2 & 3 & 4.

support "**Equalization and not more restriction than required by USDA.**"

Please contact Senator Taddiken & Schmidt and the Secretary of Agriculture, etc. and express your views soon.

Sincerely, Martin D. Luther
Luther's Smokehouse, Inc.
LeRoy, Ks. 66857
620-964-2222 evenings 2472

Martin D. Luther

Foot note;

A custom slaughter or processor does not own the animal but does only the slaughter and/or processing (cut wrap freeze, of further processing into sausages, hams, snack sticks, etc.) brought into their plant by the owner of the animal.

A retail store is different in that they may process only previously inspected meat or poultry and sell it to the retail (ultimate) consumer (also meaning that it is not for resale). A retail store may do all

1.C
2-3

things permitted under inspection except slaughter and canning, but can only make products from inspected meats or poultry. A retail store can slice, smoke, grind, cut or otherwise process inspected product

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2-4

February 7, 2005

To whom it may concern;

We are a very small USDA inspected meat processing plant in Kansas. We have been in business under current ownership since 1961.

We *offer* complete custom service to the surrounding area. We also purchase beef and pork from local small family farm producers to retail in our business. We recently closed an outlet store in a neighboring community that we had owned and operated for the past 19 years. The retail store employed three people and provided a much appreciated service to that community. The deciding factor to close that store, was KDA's position on the two building issue. Plants can produce and sell a product, but not from a separate building, that they own.

I understand that in matters unique to our state, we should have the option of imposing different or safer regulations. However, the current position appears to be a barrier to economic development by Kansas businesses. I question a benefit to the people of Kansas. This is not an issue of food safety.

Terry L. Miller, president
Bern Meat Plant, Inc.
411 Main
Bern,KS 66408
(785)336-2165

Document # 2

Pyle Meat Co. Inc.

Makers of Authentic

Hombre Beef Jerky

800 Main, P.O. Box 490

Eudora, KS 66025

785-542-2151 or 1-800-946-6273

www.hombrejerky.com

To Whom it may concern,

I am writing this letter in regards to the Kansas State Inspection program concerning Meat and Poultry Inspection.

We at Pyle Meat Co. believe in Inspection and had voluntary inspection starting in the early 60's when it was voluntary and not mandatory.

When the Wholesome Meat Act passed in Washington many of us sought inspection as we felt it was good for our customers as well as for our business. I would still feel that way today if it was what it was intended for, "The safety of the public."

Pyle Meat Company asked for USDA inspection in January of 2000 and received inspection from the federal government on February 14, 2000 and has been operating since that day. We would not go back to Kansas State Inspection for any reason. I would lock my doors first because no person should be subjected to this type of tyranny as the State Inspectors and supervisors perpetrate on these business owners,

Our business because of Federal Inspection can cross the state line into Kansas City Missouri and sell to whomever we so choose. If we were still under state inspection, we would not be able to operate in this manner. Check with the list of Meat plants in Kansas and see how many small plants switched to Federal Inspection and maybe then you will question, "What is wrong?" and "Why are we spending this kind of money?" It is time to drop the state program and save taxpayers money.

Sincerely,



Tom Pyle, President
Pyle Meat Co., Inc.

Document # 3

From: Wayne & Jo Beckman [mailto:wjkenloc@ruraltel.net]
Sent: Friday, November 18, 2005 11:15 PM
To: jerky@jerkyusa.com
Subject: Federal Inspection

Martin,

Just wanted to say THANK YOU for stopping by the other day , it was good to see you and Shirley, wish we would have had more time to spend.

In regards to why we switched from State Inspection to Federal Inspection, it was partly due to our location being only 16 miles from the Nebraska border, and we were having several customers commenting that they would like to sell our products in Nebraska. We were waiting on interstate shipment to pass for quite a long time but finally decided that it was not going to happen.

When we made the switch, the federal inspectors laid everything out in black and white what we needed to do and we followed their guidelines.

So far we have been fairly satisfied with the switch, it has allowed us to serve a much larger customer base, and at the same time have better inspected products.

The last few years of State Inspection were very trying to say the least, it seemed that they, being the inspectors, were on a mission to see how much grief they could cause in our life. Everything was so petty, we would get NR's every day for something, it didn't matter how well prepared we were, they would keep looking until they found something to write. We kept getting the feeling that they, being the inspection service, wanted us out of business. It was definitely not a good working relationship.

Hope this finds you well, and we wish you the best in the upcoming Holiday Season!!

Sincerely,
Wayne Beckman

Kensington Lockers, Inc.

Document # 4

Kansas Department of Agriculture
Briefing on USDA 9CFR 303.1 Retail Exemption

Preface The Kansas Department of Agriculture (KDA) has adopted 9 CFR 303.1 as well as other federal regulations pertaining to meat inspections. Although the regulation has not changed, there has been a court case (Honey Baked Ham case) involving this issue and USDA – FSIS has issued a briefing paper to clarify how it interprets the regulation based on the court ruling. Consequently, KDA has reviewed its application of 9 CFR 303.1 based on the court case and USDA-FSIS briefing paper.

Application of 9 CFR 303.1, Retail Exemption KDA will consider, based on the court and subsequent USDA-FSIS briefing paper, that a USDA or state inspected meat processing plant may operate a retail store within the meat processing plant and another separate retail location(s) provided that the ownership of the meat processing plant is the same (exact with no variation) as the retail location(s).

Additionally, since these facilities are by definition “retail stores” and are operating outside of USDA or state inspection, they will be subject to KDA regulation as a retail store and subject to KDA licensing and inspection. Both the primary retail store (meat processing plant) and the auxiliary location must comply with all applicable food code requirements to ensure that only safe and wholesome food is sold to the public. This includes, but is not limited to only federally or state inspected and passed product being handled or used in the preparation of any product.

Firms inspected by USDA and shipping only products bearing the USDA seal of inspection are not subject to state inspections. This only applies to USDA inspected meat processing plants that choose to exercise the retail exemption to sell uninspected products to the public.

State inspected facilities must adhere with the time and space separation requirements for inspected and retail products. Specifically, there must either be declared retail production hours during which time no inspected products are produced or a separate retail production area with dedicated equipment.

Document # 5

Midwest
Laboratories, Inc

13611 B Street • Omaha, Nebraska 68144-3693 • (402) 334-7770 • FAX (402) 334-9121 www.midwestlabs.com

November 22, 2005

Martin Luther
Luther's Smokehouse, Inc.
102 6th Street
Leroy, KS 66857

Dear Mr. Luther,

Molds are microscopic fungi that live on plant, soil or animal matter. Most are filamentous organisms and the production of spores is characteristic of fungi in general. These spores can be transported by air, water or insects. When airborne, the spores spread the mold from place to place like dandelion seeds.

Some molds cause allergic reactions and respiratory problems when the spores are ingested. A few molds produce mycotoxins but these molds are limited to plant sources, grain and nut crops, celery, grapes and apples. Molds most common on meats are *Alternaria*, *Aspergillus*, *Cladosporium*, *Penicillium*, and *Rhizopus*.

Molds are found in virtually every environment and can be detected, indoors and outdoors, all year round. Indoors they can be found where humidity levels are high. Molds can grow slowly at refrigerator temperature and some can tolerate salt and sugar. Jams and jellies, cured and salty meats can sustain mold growth. Cleanliness will help control mold buildup and inside of the refrigerator should be cleaned every few months.

Fresh meat and poultry are usually mold free, but cured and cooked meats may not be. Dry-cured country hams normally have surface mold that must be scrubbed off before cooking. Fruits and vegetables with small mold spots can be cut off and consumed. It is difficult for mold to penetrate dense foods.

All the information cited is from FSIS web-site. Molds are naturally occurring, grow in humid environments with ambient temperatures and don't pose an immediate health hazard. Molds cannot penetrate dense foods so cutting off the affected area solves the problem. Periodic cleaning of refrigerated surfaces is recommended. This is a reasonable practice and any suggestion or requirement that the whole locker be cleaned with chlorine if mold is found on a carcass is not reasonable. The FSIS standards need not be tampered with or added to. Mold is normally present indoors and anyone's home refrigerator probably has mold growing. Areas under the sink are probably higher because of the humidity levels. Periodic cleaning is the best solution, not when mold is visible.

Respectfully submitted,

Document # 6

Ken Johnson, Microbiology Supervisor Midwest Laboratories, Inc.

From: Gillespie, Kevin [mailto:Kevin.Gillespie@fsis.usda.gov]
Sent: Tuesday, November 22, 2005 3:45 PM
To: Luther's www.JerkyUSA.com
Subject: RE: Meat plant regulations

Dear Mr. Luther,

The FMIA provides for "custom slaughter" and processing of amenable species normally subject to federal inspection. These requirements apply to all states nationwide and not just Nebraska. States with State inspection are expected to show equivalency with federal inspection; however, such products are not to be used interchangeably in interstate commerce. Only wholesome unadulterated animals may be used for food. Since the state is responsible for administering their own program, they may use a different approach to assure equivalency with federal requirements. I did find some errors in your original statements. I have edited them and believe the following are correct statements.

Federal Meat Inspection vs. State and Custom Exempt Programs

- 1. There is not a hoist height or a rail height requirement. Establishments must conduct operations in accordance with 9 CFR 416.2(a) such that there is not the creation of unsanitary conditions and product is not adulterated.**
- 2. Custom exempt establishments for livestock are subject to sanitary performance standards requirements outlined in 416.2-416.6. Review requirements are outlined in FSIS Directive 5930.1, Rev. 2.**
- 3. The custom retail establishments are exempt from the HACCP requirements.**
- 4. Per Federal Register Notice each year, the adjusted dollar limitation in a custom, retail exempt plant, HRI limit for calendar year 2005 is \$54,500 for meat and meat products and \$54,800 for poultry. This information can be obtained by searching the Federal Register on-line. Such meat and poultry can be sold to Hotels, Restaurants, & Institutions by a custom, retail exempt plant in any state. Retail or HRI sales would include, but not limited to grinding of hamburger and curing and slicing of cured products as long as they are made from previously inspected and passed meat.**

[Federal Register: April 15, 2005 (Volume 70, Number 72)]
[Notices]
[Page 19920]
From the Federal Register Online via GPO Access
[wais.access.gpo.gov]
[DOCID:fr15ap05-16]

Document 7A

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 05-010N]

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing new dollar limitations on the amount of meat and meat food products and poultry products that a **retail store** can sell to hotels, restaurants, and similar institutions without disqualifying itself for **exemption** from Federal inspection requirements. By reason of FSIS' regulations, for calendar year 2005 the dollar limitation for meat and meat food products has been increased from \$53,600 to \$54,500 and for poultry products from \$43,600 to \$45,800. FSIS is increasing the dollar limitations from calendar year 2004 based on price changes for these products evidenced by the Consumer Price Index.

5. Custom exempt retail establishments are not routinely inspected by USDA, FSIS.

6. With one blind eye and everything else normal the cow should not be condemned on ante-mortem inspection. The disposition of this animal depends on what caused the blindness. Who is qualified to make such determinations? A veterinarian. A blind eye from trauma alone would be a trim and pass condition.

7. The policy for custom slaughter plants and USDA federally inspected plants is the same and has not changed since implementation of the BSE regulations. Any non-ambulatory disabled bovine is not to be used for human food

8. Downer cattle are specifically defined as any "non-ambulatory (not walking) disabled cattle". Per FSIS Notice 4-04 and 9 CFR 309.2(b), these non-ambulatory disabled livestock or in this case cattle otherwise known as "downers" are defined as any beef that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column or metabolic conditions.

Document 7 b

9. Founder in cattle by itself is not a food safety condition. Any foundered cow not able to stand and walk is considered a “downer”.

10. Any otherwise healthy hog with a rupture may be slaughtered for food under custom exemption. As you know, butchering and meat inspection are jobs of experience. It is that experience that readily distinguishes normal from abnormal conditions. Per the FMIA, any custom slaughtered animal that you know appears unwholesome or would be condemned under federal inspection should be destroyed and not be used for human food. If you as a custom butcher are presented an animal that does not appear healthy or act normal, it should 1) not be slaughtered for food; 2) be destroyed; or 3) examined or inspected prior to slaughter as under federal inspection by a qualified veterinary inspector.

11. In certain situations, otherwise healthy broken legged ambulatory cattle, pink-eyed cattle, club footed cattle, ruptured hogs, prolapsed hogs, farm raised buffalo, wild game (otherwise a healthy animal) may be butchered in a custom plant for food, noting that a local vet may be called for verification of food safety by the butcher or farmer who owns the animal. The State has the responsibility to administer programs they oversee and may require inspection of clinically abnormal animals by a veterinary inspector.

Please contact me if you have any more questions.

Regards,

KJG

Kevin J. Gillespie, DVM
Staff Officer
Technical Assistance/Correlation Division
Technical Service Center
Suite 300, Landmark Center
1299 Farnam St.
Omaha, NE 68102
Ph: 402-221-7400
email: kevin.gillespie@fsis.usda.gov

Document 7 c

2-12

From: Gillespie, Kevin [mailto:Kevin.Gillespie@fsis.usda.gov]
Sent: Saturday, December 10, 2005 7:43 PM
Dear Mr. Luther,

I have responded to your questions below in *bold blue italic*.

Please contact me if you have any more questions.

Regards,

KJG

Kevin J. Gillespie, DVM
Staff Officer
Technical Assistance/Correlation Division
Technical Service Center
Suite 300, Landmark Center
1299 Farnam St.
Omaha, NE 68102
Ph: 402-221-7400
email: kevin.gillespie@fsis.usda.gov

-----Original Message-----

From: Luther's www.JerkyUSA.com [mailto:martin571@mchsi.com]
Sent: Wednesday, December 07, 2005 4:36 PM
To: Gillespie, Kevin
Subject: More questions from Martin Luther on Meat plant regulations

Dear Dr. Gillespie

1. In view of the fact that custom retail plants in states such as Nebraska are exempt from HACCP & SSOP regulations, What is required in these plants as far as record keeping. We would presume that all invoices of purchased inspected boxed meat would be available at all times as well as names of owners of custom processed animals. Is there any other recordkeeping required?

It is important to keep separate "custom" and retail operations since they are distinct entities under the law. Retail establishments use only inspected and passed product.

Good records are very important and beneficial to combination plants especially. The record keeping requirements are essentially the same for all meat operations. Combination plants that do custom, retail, and/or federal inspection are required to keep all records associated with transactions regarding the commerce of meat per 9 CFR 320. However, the regulations identify specific records requirements for custom operators. Custom plants are specifically required under 9 CFR 303.1(b)(3) to keep the following records:

Document 8 A

2-13

(3) *The custom operators claiming exemption under paragraph (a)(2) of this section shall keep records, in addition to records otherwise required by part 320 of this subchapter, showing the numbers and kinds of livestock slaughtered on a custom basis, the quantities and types of products prepared on a custom basis, and the names and addresses of the owners of the livestock and products.*

2. In INSPECTED USDA plants, can you hang a deer carcass in the same cooler as inspected beef if they clearly identified and are on separate rails?

Yes. As indicated in 318.1(h)(1), game animals may be brought into an official establishment.

(h)(1) Carcasses of game animals, and carcasses derived from the slaughter by any person of livestock of his own raising in accordance with the exemption provisions of paragraph 23(a) of the Act, and parts of such carcasses, may be brought into an official establishment for preparation, packaging, and storing in accordance with the provisions of Sec. 303.1(a)(2) of this subchapter.

Sanitary conditions and appropriate separation from inspected products must be maintained.

3. In CUSTOM, retail plants in USDA states such as Nebraska, can you hang a deer carcass in the same cooler as CUSTOM beef or pork?

Yes, per 9 CFR 303.1(a)(2), custom and game animals are handled the same as long as sanitary conditions, proper separation and identification are maintained. See above.

4. A plant slaughters CUSTOM animals and uses boxed beef from inspected plants. In CUSTOM, retail plants in USDA states such as Nebraska, can you hang a deer carcass in the same cooler as the boxed beef if the boxed beef is unpacked and in tubs and clearly marked for retail?

In lieu of any state requirements, it is feasible as long as all intact game and intact custom animals are adequately and properly identified, segregated, and sanitary conditions are maintained. Any processed custom or game product must be packaged and properly identified as "Not for Sale".

Kevin J. Gillespie, DVM

Document 8 b

Dr. Gillispie, Thank you for your prompt response. I have a few more questions if you please;

I was raised up on naturally aged beef (hanging 3-4 weeks average in a 32 F- 37F cooler)

I Cut aged beef carcass for Wolfermans Grocery in Kansas City during the 60s. We just cut off the mold when we cut it up on the meat table, and then sold it to the customer.

10. Can custom plants age beef naturally and process them in a similar manner?

Yes. As long as you can produce a safe and wholesome product.

11. Can custom and inspected plants use wooden meat blocks and tables if they are in good repair and can be cleaned and sanitized?

Possibly. Custom plants are expected to meet the 9 CFR 416.1-6 SPS regulations. Equipment must meet 416.3 requirements. Wood has often and perhaps unfairly been suspect. Wood blocks will be scrutinized. You may need to otherwise to back up your position with periodic food contact surface testing.

The 2005 FDA Food code allows wood as a food contact surface with certain limitations.

4-101.17 Wood, Use Limitation.

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, wood and wood wicker may not be used as a FOOD-CONTACT SURFACE.

(B) Hard maple or an equivalently hard, close-grained wood may be used for:

(1) Cutting boards; cutting blocks; bakers' tables; and UTENSILS such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

Please contact me if you have any more questions.

Regards,

Kevin J. Gillespie, DVM

Staff Officer

Document 9

Meat and Poultry Program Overview

Below is the requested information regarding the number of facilities that KDA's Meat and Poultry Program inspects, along with the number of FTE's in the program. Both datasets contain numbers from 1995, 2000 and 2005 and are divided by types of facilities inspected and the classification of each FTE.

As you review the data, you might have a concern as to why the decline in the number of inspected slaughter and processing plants has not resulted in a decline in FTE's. In 1995, USDA'S Food Safety and Inspection Service (FSIS) conducted a comprehensive review of the program to determine if the state meat and poultry program was equal to the standards of the federal program, as required under federal law. The review found the current status of field staffing was inadequate to cover the 151 plants that were in operation, and therefore not equal to the same standards of the federal program.

As a result of this review, the program has worked over the last ten years to come into compliance with federal law and to achieve the same level of inspection standards set forth by USDA. This was done by reorganization of the program structure, intensive training and supervision. It was also accomplished by maintaining the same number of FTE's despite the decrease in the number of plants.

The result of these actions is the current-M&P program is equal~to the federal-program. This is important not only in ensuring food safety and maintaining a state program, but will provide benefits to the state plants when, as we believe will happen, USDA allows the interstate shipment of meat by state plants in states that have "equal to" M&P programs.

If any of the data is not clear, myself or someone at KDA would be glad to provide a more comprehensive review of the information provided.

inspected Slaughter and Processing	1995	2000	2005	Plants
Meat Slaughter Only	4	4	4	
Meat Processing Only	46	22	20	
Meat Slaughter and Processing	96	60	55	
Poultry Slaughter Only	1	1	0	
Poultry Processing Only	3	1	1	
Poultry Slaughter and Processing	1	0	0	
<i>Totals</i>	<i>151</i>	<i>88</i>	<i>80</i>	

B. Food Safety and Consumer Protection

The Meat and Poultry Inspection subprogram ;

The Retail Food Inspection subprogram was transferred from the Department of Health and Environment to the Department of Agriculture on October 1, 2004, as directed by 2004 ERO 32 and 2004 SB 296. The goal of the program is to provide uniform, effective, and efficient food safety inspections to ensure a safe food supply. The subprogram is responsible for licensing and inspecting retail food stores (grocery stores), food service establishments (restaurants) located in retail food stores, mobile ice cream vendors, food vending machines, food vending machine companies, and food vending machine dealers.

FOOD SAFETY AND CONSUMER PROTECTION

Summary of Expenditures FY 2004-FY 2006

<u>Item</u>	Gov. Req.	Gov. Rec.
	<u>FY 2006</u>	
Salaries and Wages	\$ 4,872,745	\$ 5,214,626
Other Oper. Expend.	1,634,582	1,594,624
Total Oper. Expend.	<u>\$ 6,507,327</u>	<u>\$ 6,809,250</u>
FTE Positions	112.1	112.1
Non-FTE Uncl. Penn. Pos.	<u>1.0</u>	<u>TOTAL 113.1</u>

For FY2005, the agency estimates expenditures of \$6,192,980, which is an increase of \$621,952, or 11.2 percent, from the agency's FY 2004 actual expenditures. Of the increase, \$431,516 is attributed to the transfer of the Retail Food Inspection subprogram from the Department of Health and Environment (KDHE) to the Department of Agriculture. In addition, 6.0 FTE positions were transferred to the agency from KDHE for retail food inspection. The Department of Agriculture will administer the program for nine months in FY 2005.

For FY2005, the Governor recommends expenditures of \$6,205,960. The Governor's recommended salaries and wages includes a technical adjustment for the Retail Food Inspection Program. The Governor concurs with the agency's other operating expenditures estimate.

18 *Department of Agriculture*

Document 11



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

To: Chairman Dan Johnson
From: Kansas Department of Agriculture
Date: 2/8/2006
Re: Meat and Poultry Inspection program information

The two attachments are in reference to information requested during the House Agriculture committee hearing on Monday, February 6, 2006. The first document is a list of facilities that fall under specific criteria addressed during the hearing. The second attachment is a copy of the 1997 outside peer review of the program. Additional information can be provided as necessary.

State Plants that have left state inspection since HACCP started (January 2000):

Ragan's, Kansas City	1-6-00
Burlingame Meat, Burlingame	8-27-03
Stoffle Meat, Topeka	1-9-04
Labette Co. H.S., Altamont	1-1-00
Colby Locker, Colby	6-14-01
Belleville Locker, Belleville	7-1-00
Smith's Frozen Foods, Dighton	1-1-04
Lincoln Custom Slt., Lincoln	2-01-04
Falley's, Topeka	1-1-00
Wilson Turkey Farm, Topeka	1-1-04
El Dorado Meat Proc., El Dorado	1-1-04
Dieck's Country Fresh Meats, J.C.	1-1-02
Kingman Processing, Kingman	1-1-02
Moline Locker, Moline	1-1-01
Arctic Locker, Burden	1-1-02
LeRoy Locker, LeRoy	1-1-00
Masoner-Schneider, Mound City	1-1-00
Tiemeyer Meats, Wichita	1-1-00
Farmer's Meat Market, Hope	1-1-03
Outdoorsman Beef Jerky, Altamont	8-14-00

The following state plants went Federal during this timeframe (January 2000 to present):

Pyle Meat, Eudora
 Alta Vista, Alta Vista
 Van's Grocery & Locker, Uniontown
 Bern Meat Plant, Bern
 Heideman's Smokehouse, Seneca
 Kensington Locker, Kensington
 Kiowa Locker System
 Pat's Beef Jerky, Liebenthal
 B & R Bierocks, St. Francis

The following are new facilities under state inspection during this timeframe (January 2000 to present):

Alma Bakery, Alma
 Boulevard Pizza, Topeka
 Brother Bill's Jerky, Neodesha
 Family Tree, Grenola
 Farview Farms, Topeka
 GTB Custom Meats, Riley
 Kevin's Butcher Block, Arma
 Melvin Meyer's Rabbit Proc., Arkansas City
 Mont Ida Meats, Welda

The following facilities have left state inspection during FY 2005 (July 2004-July 2005):

Alta Vista, Alta Vista – Federal
Arctic Locker, Burden – Closed
Baker's Market, Council Grove – Withdrew Inspection
El Dorado Meat Proc. – Federal
Farmer's Meat Market, Hope – Closed
Kensington Locker, Kensington – Federal
Mike's Finest Beef Jerky, Junction City – Federal
Smith's Frozen Foods, Dighton - Closed
Wilson Turkey Farm, Topeka – Closed

New Facilities in FY 2005 (July 2004-July 2005):

Boulevard Pizza, Topeka
Mont Ida Meats, Welda
GTB Custom Meats, Riley

As of 12-6-05, there were 58 federal meat facilities registered.

Kansas Meat and Poultry Inspection Program
Peer Review
June 23-27, 1997

Team Members

Dr. Lee Jan, Texas
Dr. Bill Barnum, Oklahoma
Dr. Jan. Charminski, West Virginia
Dr. Bill Leese, director, Federal-State Relations, FSIS
Dr. Velmer Chipps, FSIS, Lawrence
Dr. Curtis Kastner, Kansas State University

Executive Summary

The team was charged with assessing the Kansas state meat and poultry inspection program. The emphasis was placed on observations about the program and system in place in Kansas, rather than on individual processing plants. The team studied materials and talked to program staff, as well as visiting 15 plants representing all areas of the state.

Team members were asked to share observations, both about conditions in the plants and about the Kansas program. They were asked to answer a series of questions posed by Secretary Devine. Those questions were:

- ◆ How does Kansas compare with the federal program and with programs in other states?
- ◆ Does Kansas over-regulate in state plants?
- ◆ Does the team have suggestions for improvement? How can Kansas improve its rating?
- ◆ Is enforcement consistent across the state?

In brief, the team noted that Kansas is in the bottom third of state inspection programs and confirmed that improvement is needed to lift it into a higher position. It found no evidence whatsoever that Kansas meat and poultry plants are over-regulated by the state.

Suggestions for improvement included increased training and education for both KDA inspection personnel and state meat plant industry; reevaluation of staffing and supervision in the program; and increased enforcement. Sanitation was emphasized as a major problem in many plants seen across the state.

There was a general feeling that enforcement may not be consistent across regions in the state, but a reluctance to come to a definite conclusion based on the limited number of plants which were visited.

1. How does Kansas Compare with the Federal and Other State Programs?

There are 26 state programs. Of those, six are categorized as #1; 14 are categorized as #2; and six as #3. Kansas, with its #3 ranking, is in the bottom third of the state programs. Federal programs are not rated by number, so comparison with the federal program is difficult.

Team members noted that ratings sometimes are inconsistent from state to state, since different reviewers work in different states. They said Kansas has some good plants--if those plants had been randomly drawn for the last federal review, Kansas' ranking could have been higher.

They questioned whether the Kansas system was in control, because of some instances of good inspectors working in bad plants. Reviewers tend to look for evidence of the program trying to control these plants. They reiterated that program planners and managers should focus on the system, not one or two individual plants. They noted that the types of problems they saw were not totally unique to Kansas.

The sanitary conditions observed in the majority of the plants must be improved to minimize potential health risks to consumers.

2. Is Kansas Over-Regulating?

Team members said they saw no evidence of over-regulation by the Kansas program. Indeed, it sometimes seemed the plants controlled the inspection process rather than the inspection process controlling sanitary conditions in the plant.

3. Does the Team Have Suggestions for Improvement? How Can Kansas Improve its Rating?

(Team members were asked to give suggestions without undue regard to limitations posed by budgets, fte counts, etc.)

Training and efforts are needed to get Kansas inspectors on the department's team. There appears to be a cultural problem in which some employees do not understand they are a part of the KDA team and its mission. They need to be informed and better trained as to what they should do. Employees who fail to make efforts to change should be identified and evaluated on the basis of this problem.

Program administrators should be very familiar with past reviews and ensure that problems identified in those reviews are corrected. The entire system and process should be the focus of improvement efforts, not just a particular plant. The state's request for re-review by FSIS should be withdrawn and review delayed until spring 1998. Kansas program administrators should re-write the state plan to bring it up-to-date. They should confine the plan to what can reasonably be accomplished.

Industry needs to be educated on the links between food safety and inspection and understand what they must do to be in compliance. The team noted that a stronger-than-average effort may be needed

to successfully reach the Kansas industry. Plant managers need to take more responsibility, especially as SSOPs, PBIS and HACCP are adopted. A strong and supportive industry association has the potential to help the state program; indeed, it is necessary to reach improvement goals. Good, consistent recording-keeping would help plants and the program. Although interstate shipment is a legal issue, support for the initiative might be influenced by impressions of whether state plants meet some perceived standard.

Communication with program supervisors, including proper use of personnel evaluations, is vital to success of the program. Supervisors play a key role in gaining buy-in from inspectors and in successfully passing federal reviews. Use performance evaluations and other management methods and tools to direct employees to do what they were trained to do. The program must utilize personnel properly in order to increase regulation of processing. The program director should increase his time in the field. He should do state performance reviews.

Some states have found increasing the qualifications for agricultural inspector I has resulted in a better workforce. Make sure the agricultural inspector I's are well supplied with written procedures, rules and regulations, instructions, etc. Electronic clipboards could assist with data management. Good plants and good inspectors could be used to mentor others. An exchange program to get staff into other areas for a period of time could improve regulation and employee education. The meat and poultry program should continue and improve the mini-meetings held in regions four times a year. It will be important for agency management to support the program director as the program is strengthened in the state.

Questions were raised about the adequacy of staffing, both in the areas of veterinary staff and agricultural inspectors in the plant. Questions also were raised about the contract veterinarian system, both in its efficiency and in the training they receive.

Compliance officers have good documentation skills and training which could be shared with others in the inspection force. This initiative would support improved utilization of Process Deficiency Records. When PBIS records are reflective of plant conditions, PBIS will serve to supplement field reviews as a means of tracking plant performance. The program also may want to consider contracting with a professional consultant to gain rapid change and program improvement.

The federal program should strive to achieve consistency among regions, perhaps through the use of a single person not tied to any one region. The central office sets the standard. It should define the standard and have sufficient correlation. There should be more networking between the states and more sharing of reviewers' findings. It was also noted that FSIS is sponsoring a small plant demonstration project which could be utilized in Kansas.

Is Enforcement Consistent Across the State?

The team believed that there were some differences in plant conditions across the state, but the small number of plants seen in each area made it difficult to come to defensible conclusions or rankings of the regions.

General Observations

Personnel--

Inspectors don't cover each plant sufficiently, even though each plant is scheduled every day. The question is if this is a manpower problem or a scheduling problem. Processing is not being regulated sufficiently. Regarding organization of the Kansas system--personnel staffing is similar to that of Texas. Oklahoma, however, does not seem to be "spread as thin" as Kansas.

There are not enough veterinarians in the field to provide the appropriate level of supervision and training. There is a shortage of both veterinarians and field inspectors. Questions were raised about the role of contract veterinarians. For example, there could be conflict of interest if a contract veterinarian both works for the feedlot as a consultant or veterinarian and then rules on disposition of the animal at slaughter. The training of these contract veterinarians also was discussed, with the general feeling that the training was inadequate. It was suggested that data be examined regarding the cost of the contract veterinarians versus a different configuration of FTEs. If personnel could be accessed, they suggested having more vets in the field to do supervision of inspectors in lieu of the Ag IIIs. The areas the veterinarians now cover are too large.

There appears to be a lack of enforcement. Plants aren't being told they can't operate or that product will be destroyed if compliance is not reached. Corrections should be made immediately when problems are found.

There appears to be a cultural problem among program employees. It must be corrected to improve the program.

Training--

The team observed instances in which department inspectors did not seem to see sanitary deficiencies. They observed many minor violations which inspectors would have been expected to find, which indicates a training problem. They also observed inspectors performing plant functions. Training of supervisors and inspectors is needed; they should understand that they are part of the regulatory KDA team, not the plant's team. If more veterinarians were available, they could perform much of the "trickle down" training, both for inspectors and plant personnel. They also could help with some of the general public relations with plants and the meat industry. There were questions about the efficacy of training for the contract vets.

Facilities should be reviewed (quarterly) and priorities for improvement established. In Oklahoma, the veterinarians review selected plants each quarter. The program director himself does some of these field reviews. There should be a correlation between what is expected and what is needed--what standards should be. There is a need for much training on minimum standards, combined with follow-up and support.

Supervision--

Some plants don't seem to have a timetable to help them reach the standard after having been grandfathered in, and thus have not done phased in improvements to get facilities up to speed. If items were written as deficiencies, they would have to fix them.

Rotate areas for review by veterinarians. In Oklahoma, the director does one district once a quarter on certification reviews.

Trends Observed in Plants--

Sanitation is a problem. There is dirty equipment in a product sense. Much equipment did not appear to be broken down for cleaning. There are condensation problems. Chemical storage is not contained. Chemicals were seen stored throughout plants. Pest control and residual chemicals are problems.

Flies were often seen in processing rooms and slaughter floors. Outside doors were found propped open and many doors had no screens, allowing more flies to enter buildings. Many employees of plants did not have their hair covered. General employee hygiene appeared to be lacking.

Ingredient storage resulted in dirty containers. Unsuitable hand washing facilities in employee restrooms were observed. They saw limited use of denaturing materials on inedible materials; tissues weren't slashed.

Several times the team observed non-amenable species/custom/and inspected hanging carcasses touching. Some low rails left carcasses very nearly touching the floor. Processing areas were not cool enough--cooler temperatures would help extend shelf life and product durability. (Processing rooms above 50 degrees F. were operated for more than 4-5 hours.)

The team observed what they considered an unusual number of facilities with no barrier between the processing area and a public entrance through which dust and other substances can enter. They saw structural cracks in walls between processing and other areas. Openings to outside need to be closed to improve rodent control.

Products need to be identified. Unidentified meat was found in coolers and freezers. Plants should have a separate area for personal items. Files are not uniform; hand washing stations need to be emphasized.

Cooked and uncooked products need to be kept separate. Processes need to be adopted to separate raw and cooked products, including separate areas, clean clothing, wearing frocks, not aprons, etc. Employee safety can be improved. Knocking areas need to provide for restraint. At least one freezer lacking an escape handle was observed. Plants did not have fenced dry landings.

Carcasses were seen rubbing against walls and boxed product. Plants need documentation of cooked products' internal temperature--no documentation found on some ready-to-eat products. Do the state inspectors verify temperatures, they asked.

Team members noted positively that carcasses seen in coolers were very clean. Light meters used in the program were very good.

Plants needed better identification and denaturing of products to be labeled as dog food. In many cases, an incomplete or no pest control plan was on record. Many inspectors' offices provided by plants were inadequate

Structural deficiencies were identified; i.e., good walls which have corners which need to be retailed. Some ceilings had gaps. Metal-clad doors needed attention in some instances. The many minor structural defects should be pointed out to the plants by inspectors.

One plant has a problem with records of roast beef processing.

Questions were raised about the protocol for antibiotic testing and sample handling. The program should review its procedures. At least one inspector appeared to have had no direction on how to do antibiotic testing.

Several plants did not have the required temperature of 180 degree F. water on the slaughter floor. Packaging materials and spices were often found stored in open boxes. Commonly found, storage space and stored materials above work surfaces need to be evaluated. This is another safety issue. Product ingredients, packaging materials, tools and chemicals frequently were found stored together. Much "junk" was seen around plant areas.

The inspection program should enforce the areas of violations, or discontinue operation, or destroy product, or correct immediately.

Equipment which contacts food should not be stored on the floor. Thermometers need to be checked; many seemed inaccurate or broken. Records were not always kept for inventory of certified bacon used for products such as bacon-wrapped filets. Attention needs to be given to assure that prescribed trichina treatments and documentation are in order for commercial and custom processed pork products, including alternative time/temperature combinations. Both custom and commercial pork products should reach 144 degrees F. and the plant should be able to prove it.

Plant personnel still need a better understanding of PBIS and SSOPs, and of food safety issues.