



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003 • www.awionline.org
telephone: (202) 337-2332 • facsimile: (202) 446-2131

September 25, 2013

Clint Quarles, Staff Attorney
Kentucky Department of Agriculture
500 Mero Street, 7th Floor
Frankfort, KY 40601

RE: Draft Livestock and Poultry Care Standards

Dear Mr. Quarles:

I am writing on behalf of the Animal Welfare Institute (AWI), and our supporters in the state of Kentucky, to offer comments on Kentucky's draft livestock and poultry care standards.

Since its founding in 1951, AWI has been dedicated to reducing animal suffering and promoting the welfare of all animals, including animals used in agriculture. As a part of our mission, we promote humane farming systems and work to advance legislative and regulatory efforts to improve the conditions of farm animals. We also administer our own animal welfare food certification program, Animal Welfare Approved (AWA), through which we work with scientists and farmers to set high farm animal care standards. Several Kentucky farmers are currently certified by the AWA program.

AWI offered several recommendations to the Livestock Care Standards Commission in the fall of 2011, and again in the summer of 2012. We are pleased to see that two of our recommendations – those pertaining to the housing of calves raised for veal and feed withdrawal for molting in poultry – have been addressed in some manner. We remained concerned about other aspects of the standards, however. In some cases the proposed regulations are inconsistent with industry guidelines and the recommendations of the American Veterinary Medical Association (AVMA). Furthermore, the regulations allow certain practices (e.g., tail docking of cattle) that have been discredited by science and the industry itself says shouldn't be done on a routine basis.

Comments on Regulatory Impact Analysis

The Regulatory Impact Analysis notes that implementation of the standards “will help identify bad actors in the circumstances of violations,” but also notes that no funding is being allocated for implementation or enforcement of the standards. Without funding it is unclear how these “bad actors” will be identified or dealt with. Furthermore, there is no mention of penalties or any sort of enforcement mechanism within the general provisions section or elsewhere in the proposed regulations. Without penalties and an effective means of enforcing the code, the standards become meaningless, nothing more than words on paper. In developing its farm animal care standards, the state of Ohio chose to set penalties for both major and minor violations and to allow for the assessment of fees to recover costs of investigating violations and for providing care for individual animals. These fees are then deposited to

the Livestock Care Standards Fund, which is used by the Ohio Department of Agriculture to enforce its standards.¹ AWI strongly encourages the Kentucky Livestock Care Standards Commission to add a penalties section to the regulations.

Comments on Livestock and Poultry Care Standards

AWI urges the Commission to incorporate the following recommended changes in order to address several common practices that cause pain, fear, and/or distress to farm animals. (Recommended changes are noted as strike-through for deleted text and double underline for added text.)

302 KAR 21:011. Definitions

A. Euthanasia

The draft definition of “Euthanasia” refers to the 2007 report of the AVMA Panel on Euthanasia. This document is outdated and has been replaced by the 2013 edition of the *AVMA Guidelines for the Euthanasia of Animals*. AVMA periodically updates and revises its euthanasia guidelines, and the regulations should reflect that this is a living document in order to ensure that the most current edition of the guidelines is consulted and applied as the appropriate standard for euthanasia.

Recommended language:

(3) “Euthanasia” means the act of putting an animal to death by methods specified as acceptable for that species by the ~~2007 report of the~~ current edition of the American Veterinary Medical Association (AVMA) ~~Panel on Euthanasia~~ Guidelines for the Euthanasia of Animals, incorporated by reference in 302 KAR 21:020.

302 KAR 21:020. General Livestock and Poultry Provisions

A. Livestock handling tools

Current language regarding animal handling (Section 4) is excessively vague. Specific language is needed covering the use of electrical prods given the high risk of abuse of these devices. AVMA has a policy statement regarding the use of livestock handling tools,² and Ohio addresses the issue in the general provisions section of its animal care standards.³

Recommended language:

(2) ~~If used~~ The following shall be used in a manner that minimizes the risk of injury that is consistent with the manufacturer’s recommendations:

(a) Facilities and equipment; and

¹ OHIO ADMIN. CODE 901:12-2 (2011).

² *Livestock Handling Tools*, AVMA (no date), <https://www.avma.org/KB/Policies/Pages/Livestock-Handling-Tools.aspx>.

³ OHIO ADMIN. CODE 901:12-3-03 (2011).

(b) Handling, sorting, or other devices either to move livestock or for diagnostic evaluation.

1. Electrical prods shall be used judiciously and only in extreme circumstances when all other techniques have failed.

2. Only hand held battery-operated electric prods of 50 volts or less can be used to facilitate movement of livestock as described in paragraph 1.

3. Electrical devices shall not be applied to sensitive parts of the animal such as face, genitalia, or mucous membranes.

4. Electrical prods must not be used on poultry, young calves or pigs, or on non-ambulatory disabled livestock.

B. Non-ambulatory disabled livestock

For animal welfare and food safety reasons non-ambulatory disabled animals should not be transported, except for medical treatment. The draft regulation allows non-ambulatory disabled animals to be transported to a terminal market such as a slaughterhouse. AVMA policy says an otherwise healthy animal who has been injured *but is ambulatory* can be transported directly to slaughter; however, the policy does not address whether a non-ambulatory animal can be transported for slaughter.⁴ Federal regulation prohibits the slaughter of non-ambulatory beef and dairy cattle,⁵ and USDA has indicated that it intends to grant a petition to prohibit the slaughter of non-ambulatory calves as well. Cattle industry standards prohibit transport of non-ambulatory animals to markets or a slaughter facility.⁶ Therefore, at a minimum the regulation should prohibit transport off the farm of all non-ambulatory cattle. In addition, the regulation should specifically prohibit the dragging of non-ambulatory disabled animals, as recommended by the AVMA policy on disabled livestock.⁷

Recommended language:

(4) Non-ambulatory disabled livestock shall be loaded only for transport ~~to a terminal market~~ or for treatment.

(6) At no time is a non-ambulatory animal to be dragged.

B. Euthanasia

As noted above, the AVMA has replaced its 2007 Panel on Euthanasia with an updated version of euthanasia guidelines. The regulation should be revised to indicate that the AVMA reference is a living document.

⁴ *Disabled Livestock*, AVMA (no date), <https://www.avma.org/KB/Policies/Pages/Disabled-Livestock.aspx>.

⁵ 9 C.F.R. 309.2-309.3.

⁶ *The Cattle Industry's Guidelines for the Care and Handling of Cattle*, Beef Quality Assurance 13 (no date).

⁷ *Disabled Livestock*, AVMA (no date), <https://www.avma.org/KB/Policies/Pages/Disabled-Livestock.aspx>.

Recommended language:

Section 7. Euthanasia. Euthanasia of livestock shall be performed using the approved methods pursuant to the ~~2007 report of the~~ current edition of the American Veterinary Medical Association (AVMA) ~~Panel on Euthanasia~~ Guidelines for the Euthanasia of Animals.

302 KAR 21:030 Beef Cattle, Bison and, Veal Specific Provisions

A. Dehorning and disbudding

The draft regulation allows dehorning and disbudding of beef cattle, bison, and veal calves with no age limitation and no requirement of pain relief. AWI supports a ban on dehorning altogether and a requirement that pain relief be provided for disbudding. However, if dehorning after eruption in mature ruminants is to be allowed, then the procedure should be performed by a veterinarian providing appropriate pain management.

AVMA recognizes a need to reduce and eventually eliminate dehorning due to the pain it causes animals. According to an AVMA paper on dehorning, “minimizing pain associated with disbudding and dehorning is important to limiting the pain-stress-distress cascade that creates altered behavioral and physiologic states. Pre-emptive analgesia can be accomplished with sedation, general anesthesia, local anesthesia, pre- and postoperative administration of NSAIDS.”⁸ Consistent with this, Ohio’s Livestock Care Standards require pain management for the procedure of dehorning in ruminants.⁹

Recommended language:

(c) Disbudding with provision of pain relief;

(d) Dehorning by a veterinarian with provision of pain relief;

B. Housing of veal calves

The draft regulation does not make clear that calves must be able to turn around and fully extend their limbs. In addition, although the regulation is consistent with the resolution of the American Veal Association to phase-out the use of crate housing (“individual pens”) by 2018, it does not specify the age by which calves must be housed in group pens. Under the current language it is possible that, even after 2018, calves could be confined to crates for a majority of their short lives. We recommend that the Commission state a maximum age for placing calves in group pens, as was done by the Ohio Livestock Care Standards Board.¹⁰

⁸ *Backgrounder: Welfare Implications of the Dehorning and Disbudding of Cattle*, AVMA (Apr. 20, 2012), <https://www.avma.org/KB/Resources/Backgrounders/Pages/Welfare-Implications-of-Dehorning-and-Disbudding-Cattle.aspx>. The background paper reviews scientific evidence in support of AVMA’s policy statement recommending pain management for dehorning and disbudding.

⁹ OHIO ADMIN. CODE 901:12-6-02 (2013); 901:12-7-02 (2011); 901:12-13-02 (2011).

¹⁰ OHIO ADMIN. CODE 901:12-5-03 (2011).

Recommended language:

1. Except as provided by subparagraph 2 of this paragraph, group pens and individual pens for veal calves shall be authorized if the pens allow for air circulation and lighting, allow socialization between veal calves, and allow the calves to stand ~~without~~ up, lie down, fully extend their limbs, and turn around without impediment, groom, and eat. 2. After December 31, 2017, veal calves shall be raised in group pens by the age of eight weeks.¹¹

302 KAR 21:040 Dairy Cattle Specific Provisions

A. Dehorning and disbudding

Please refer to the discussion of this issue under the section for Beef Cattle, Bison, and Veal.

Recommended language:

(c) Disbudding with provision of pain relief;

(d) Dehorning by a veterinarian with provision of pain relief;

B. Tail docking

The inclusion of tail docking as an authorized practice for dairy cattle is inconsistent with scientific research and the position of the dairy industry and veterinary associations. Allowing continued use of the elastrator band is simply not supported by science. Tail docking can result in chronic pain, and can cause stress during the fly season because the animals cannot use their tails to prevent flies from landing on or biting them. Cows and heifers are typically not given any pain relief for the procedure, and the process can take up to seven weeks to complete.

In 2008, a unanimous New Jersey Supreme Court rejected dairy cow tail docking as a “humane” practice.¹² As a result of the Supreme Court decision, in 2011 the Department of Agriculture of the state of New Jersey proposed state regulation prohibiting the routine practice of tail docking of cattle.¹³ Furthermore, California passed a bovine tail-docking ban in 2009,¹⁴ and the Ohio Livestock Care Standards Board enacted a phased-in ban on routine tail docking in 2011.¹⁵

The board of the National Mastitis Council has adopted the following statement in opposition to routine tail docking: “The National Mastitis Council (NMC) knows of no evidence that tail docking improves cow welfare, cow hygiene, or milk quality. NMC does not endorse the routine use of tail docking in dairy

¹¹ According to the animal care standards of the Certified Humane program, “the group socialization of calves should be completed by 8 weeks of age.” See *Young Dairy Beef*, Humane Farm Animal Care 4 (Jan. 2012).

¹² *New Jersey Soc’y for the Prevention of Cruelty to Animals v. New Jersey Dep’t of Agric.*, 955 A.2d 886, 909 (N.J. 2008).

¹³ 43 N.J. Reg. 3(a) (Jan. 3, 2011). The proposed regulation was adopted in Feb. 2012. See 44 N.J. Reg. 219(a) (Feb. 6, 2012); N.J. ADMIN. CODE 2:8-2.6(F) (2011).

¹⁴ CAL. PENAL CODE § 597n (2009).

¹⁵ OHIO ADMIN. CODE 901:12-6-02(A).

cattle.”¹⁶ In addition, routine tail docking is opposed by the AVMA,¹⁷ the American Association of Bovine Practitioners,¹⁸ and the National Milk Producers Federation (NMPF)¹⁹. The NMPF’s National Dairy Farm Animal Care Program opposes “the routine tail docking of dairy animals, except in the case of traumatic injury to an animal,” and has recommended that the practice be phased out by 2022.²⁰ While AWI sees no justification for a lengthy phase-out, we support an end to the practice and recommend that the Commission revise the proposed regulation to be consistent with the industry’s position on the matter or, preferably, ban the practice sooner.

Recommended language:

(f) Tail docking. 1. Until January 1, 2022, tail docking may be performed using an elastrator castration band... 2. After December 31, 2021, ~~All other methods of tail docking shall be performed only by a licensed veterinarian and only in the case of traumatic injury shall meet the requirements sub~~paragraph 1 of this paragraph;

302 KAR 21:070 Ovine, Caprine, Camelid, and Cervid Specific Provisions

A. Tail docking

AWI urges the Commission to prohibit routine tail docking of lambs by allowing tail docking only in situations where there is an unavoidable and high risk of animals suffering from fly strike. We further recommend that the Commission prohibit short and extreme tail docking of lambs, consistent with the recommendation of the AVMA.

The AVMA has recognized that pain is involved in tail docking of lambs, and that the practice is consequently a welfare concern. Furthermore, tail docking is not necessary to maintain the health and welfare of lambs. When tail docking is done, standards should set a minimum tail length to preclude short and extreme tail docking. AVMA recommends that tails be removed no shorter than the distal end of the caudal tail fold, and at the earliest age practicable.²¹ Docking tails shorter than this may result in an increased incidence of rectal prolapse. The tail is also needed to protect the lamb’s vulva and udder from weather extremes. A 2003 study that looked at the effect of short docking on the health of sheep

¹⁶ *NMC Board Adopts Position on Tail Docking*, Udder Topics, Vol. 34, No. 4&5 (2011).

¹⁷ *Tail Docking of Cattle*, AVMA (no date),

http://www.avma.org/issues/policy/animal_welfare/tail_docking_cattle.asp. A background paper reviews the scientific evidence in support of AVMA’s policy statement opposing routine tail docking of cattle. See *Backgrounder: Welfare Implications of Tail Docking of Cattle*, AVMA (May 29, 2013),

<https://www.avma.org/KB/Resources/Backgrounders/Pages/Welfare-Implications-of-Tail-Docking-of-Cattle.aspx>.

¹⁸ *AABP Opposes Routine Tail Docking*, AVMA News (Jun. 1, 2010).

¹⁹ Nat’l Milk Producers Fed’n, *National Dairy Farm Program: Animal Care Manual* 24 (2013).

²⁰ *Ibid.*

²¹ *Docking of Lambs’ Tails*, AVMA (no date), http://www.avma.org/issues/policy/animal_welfare/sheep.asp. A recently released video describes AVMA concerns regarding short tail docking. See C. Johnson, *Docking Lambs’ Tails: How Short is Too Short?*, AVMA (Aug. 7, 2013), <http://atwork.avma.org/2013/08/07/docking-lambs-tails-how-short-is-too-short/>.

found an increased risk of rectal prolapse and concluded that the practice “compromises the health and well-being of sheep” and “should be abandoned.”²²

Recommended language:

(c) Tail docking only in the case of unavoidable and high risk of suffering due to fly strike;

1. Performed between 24 hours and 14 days of age only and not shorter than the distal end of the caudal tail fold.

B. Dehorning and disbudding

Please refer to the discussion of this issue under the section for Beef Cattle, Bison, and Veal.

Recommended language:

(a) Disbudding with provision of pain relief;

(b) Dehorning by a veterinarian with provision of pain relief;

302 KAR 21:080 Poultry Specific Provisions

A. Euthanasia

It is unclear why the euthanasia standard for birds cites specific methods, while the euthanasia standard for mammals references the guidelines of the American Veterinary Medical Association. AVMA considers many of the methods listed in the current language to be acceptable *only under specific conditions*. For example, maceration, which is listed as an authorized method of killing birds, is only recommended for use with newly hatched chicks and poults and pipped eggs, and only when specialized equipment in excellent working order is available. Therefore, we recommend that the regulation reference current guidelines of the AVMA instead of listing specific methods. (Please note that AVMA will be developing specific guidelines for the killing of animals for disease control purposes in 2014.)

Recommended language:

(3) Euthanasia or Depopulation. ~~Additional authorized euthanasia or depopulation methods for poultry shall include inhalants such as carbon dioxide, nitrogen or argon, manual cervical dislocation, tool-assisted cervical dislocation, gunshot, blunt force trauma, decapitation, non-penetrating captive bolt, electrocution, maceration, water based foam, and barbiturates.~~ Euthanasia or depopulation of poultry shall be performed using the approved methods pursuant to current guidelines of the American Veterinary Medical Association (AVMA).

²² Thomas, et al., *Length of Docked Tail and the Incidence of Rectal Prolapse in Lambs*, 81 J. Anim. Sci. 2725 (2003).

Thank you very much for your consideration. Please do not hesitate to contact me at 202-446-2146 or dena@awionline.org should you have any questions or desire additional information.

Very truly yours,

A handwritten signature in black ink that reads "Dena Jones". The signature is written in a cursive style with a large, looping initial "D".

Dena Jones, M.S.
Farm Animal Program Manager