

export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption*—(1) *For types*. The following types of tomatoes are exempt from this regulation. Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity*. For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes*. Tomatoes which met the inspection requirements of paragraph (a)(4) of this section which are resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1) of this section, (ii) the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2½ inches in diameter and (iii) the container weight requirements of paragraph (a)(3) of this section.

(4) *For varieties*. Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) *Size*.

(e) *Definitions*. "Hydroponic tomatoes" means tomatoes grown in

solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855–2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports*. Under Section 8e of the act and § 980.212 "Import regulations" (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2½ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated November 27, 1979 to become effective December 1, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-37007 Filed 11-29-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1942

[FmHA Instruction 1942-A]

Associations; Community Facility Loans; Amendments

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding Community Facility Loans. The intended effect of this action is to remove reference to the use of Community facility loans for cable TV purposes, add a paragraph to allow the use of land purchase contracts, and to make certain editorial changes.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Louis K. Bangma USDA-FmHA, 14th and Independence Ave. S.W., Washington, D.C. 20250, Room 6310 (telephone (202) 447-7667).

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends

Subpart A of Part 1942, Chapter XVII, Title 7 in the Code of Federal Regulations. The Authority to make community facility loans for cable T.V. purposes has been transferred to the Rural Electrification Administration by the Secretary of Agriculture in accordance with the revision of 7 CFR Part 2, delegations of authority by the Secretary of Agriculture and General Officers of the Department, published as a final rule in the Federal Register, vol. 44, No. 103, p. 30313 on Friday 5/25/79. The amendment to the regulations concerning land purchase contracts is meant to clarify existing policy by specifically allowing their use to acquire title to land upon which facilities are to be constructed or otherwise improved, in accordance with existing regulations. The effect of this change is to allow applicants a greater latitude in eligible methods to be used for land acquisition. No significant changes in eligibility, security, or loan purposes are involved. Other changes are solely editorial in nature.

It is the policy of this Department that rules relating to public property, loan grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C 553 with respect to such rules. These amendments, however, are not published for comment since the effective action of the change regarding cable TV has taken place by final rule of the Secretary of Agriculture. The amendment concerning land purchase contracts only amplifies and clarifies existing policy, and the balance of the changes are only editorial in nature. Therefore, publication for proposed rule making is unnecessary. This determination was made by Kenneth Latcholia (telephone 447-3213).

Accordingly §§ 1942.3, 1942.17(b), 1942.17(c)(1)(i), 1942.17(g)(1)(i), 1942.17(g)(2)(i), 1942.17(j)(4), and 1942.18(l)(1)(iv) of Subpart A of Part 1942 are amended as follows:

§ 1942.3 Preparation of appraisal reports.

1. In § 1942.3, the third sentence, change the reference from "(g)(2)(iii)(B)(2)" to "(g)(2)(iii)(B)(2)".

§ 1942.17 [Amended]

2. In § 1942.17 paragraph (b) the third sentence, delete "or cable TV", insert "or" before "natural gas."

3. § 1942.17(g)(1)(i) delete "cable TV".

4. In § 1942.17(g)(2)(i) delete "cable TV".

5. In § 1942.17 paragraph (c)(1)(i) is amended, paragraph (j)(4)(i)(B) is deleted and paragraph (j)(4)(iii) is added as set forth below:

§ 1942.17 Appendix A—Community Facilities.

(c) Priorities.

(1) * * *

(i) Loans for facilities providing a utility-type service such as water and sewer system and natural gas distribution systems, may be made to other than public-body-type organizations, when operated on a not-for-profit basis.

(j) General requirements.

(4) Acquisition of land, easements, water rights, and existing facilities. * * *

(i) Title for land, easements, water rights, and existing facilities.

(A) * * *

(B) [Deleted]

(iii) Land purchase contract.

(A) Definition. A Land Purchase Contract (known in some areas as a contract for deed) is an agreement between two or more parties which obligates the purchaser to pay the purchase price, gives the purchaser the rights of immediate possession, control, and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specified part of the purchase price.

(B) Applicants may obtain land through land purchase contracts when all of the following conditions are met:

(1) The applicant has exhausted all reasonable means of obtaining outright fee simple title to the necessary land.

(2) The applicant cannot obtain the land through condemnation.

(3) There are no other suitable sites available.

(4) National Office concurrence is obtained in accordance with paragraph (D)(2) of this section.

(C) The land purchase contract must provide for the transfer of ownership by the seller without any restrictions, liens, or other title defects. The contract must not contain provisions for future advances (except for taxes, insurance, or other cost needed to protect the security), summary cancellations, summary forfeiture, or other clauses that may jeopardize the Government's interest or the purchaser's ability to pay FmHA loan. The contract must provide that if the purchaser fails to make payment that FmHA will be given at least 90 days written notice with an option to cure the default before the contract can be cancelled, terminated or foreclosed. Then FmHA must have the option of making the payment and charging it to the purchaser's account,

making the payment and taking over the ownership of the purchase contract, or taking any other action necessary to protect the Government's interest.

(D) Prior to loan closing or the beginning of construction, whichever occurs first, the following actions must be taken in the order listed below:

(1) The land purchase contract and any appropriate title opinions must be reviewed by the Regional Attorney to determine if they are legally sufficient to protect the interest of the Government.

(2) The land purchase contract, the Regional Attorney's comments, and the State Director's Recommendations must be submitted to the National Office for concurrence.

(3) The land purchase contract must be recorded.

7. In § 1942.18 the title of paragraph (l)(1) and paragraph (l)(1)(iv) are amended as follows:

§ 1942.18 Appendix B—Community facilities planning, bidding, contracting constructing.

(l) Resident inspection. * * *

(1) Inspector's daily diary.

(iv) Daily entries shall include daily work performed, number of persons and equipment used in the performance of work, and all significant happenings during that day.

(Authorities: 7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23 delegation of authority by the Assistant Secretary for Rural Development 7 CFR 2.70)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under this criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346, Washington, D.C. 20250. Additional Impact Analysis information regarding the transfer of authority for making cable TV loans from Farmers Home Administration to the Rural Electrification Administration available from the Assistant Administrator, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901—G "Environmental Impact Statements." It is the determination of the FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy

Act of 1979, P.L. 91-190, an Environmental Impact Statement is not required.

Dated: November 9, 1979.

Gordon Cavanaugh,
Administrator Farmers Home Administration.

[FR Doc. 79-36959 Filed 11-29-79; 8:45 am]

BILLING CODE 3410-07-M

9 CFR Parts 301, 304, 305, 313, 327, 335, 390, 391

Food Safety and Quality Service Humane Slaughter Regulations

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The Humane Methods of Slaughter Act of 1978 (Pub. L. 95-445, 92 Stat. 1069) amends the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) to require the adoption of slaughtering and handling practices in accordance with the provisions of the Humane Slaughter Act of 1958 (Pub. L. 85-765). This docket amends the Federal meat inspection regulations to implement Pub. L. 95-445.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold V. Giesemann, Acting Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION: In 1958, in response to intense and broadly based public concerns about cruelty to and abuse of livestock in meatpacking plants, Congress passed the Humane Slaughter Act of 1958 (Pub. L. 85-765, 72 Stat. 862; 7 U.S.C. 1901 *et seq.*). That Act established as the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods. The Act specifically identified several methods of humane slaughtering and handling before slaughter and required the Secretary of Agriculture to designate other humane methods of slaughter and handling prior to slaughter. However, the only authorized method of enforcement provided under the 1958 Act was to require that the humane slaughter and handling policies be adhered to in all plants of any packer desiring to sell meat to the Federal Government.¹ That Act also exempted

¹ Section 3 of the Humane Methods of Slaughter Act of 1958 (Pub. L. 85-765) provided in part: "The public policy declared herein shall be taken into consideration by all agencies of the Federal Government in connection with all procurement and price support programs and operations and after

Footnotes continued on next page

from its provisions, the slaughtering and handling or preparation of livestock for slaughter in connection with a religious ritual. Regulations implementing the 1958 Act were codified at 9 CFR, Subchapter D—"Humane Slaughter of Livestock," Parts 390 and 391.

Although the Humane Slaughter Act had its genesis in concern for the humane treatment of animals, meatpackers soon found an economic incentive to adopt humane methods of slaughter and handling in connection with slaughter. Humane methods proved to be more efficient and less hazardous to plant personnel and such methods also eliminated much of the bruising and other damage to meat which had been the occasion of significant financial loss to the industry. As one meat processor indicated when commenting on the Department's proposed regulations which are being finalized below, "Mistreatment of animals shows up as lost value to the packer. When an animal is bruised in handling, meat inspectors will require bruises to be cut away. When a slaughter animal is subjected to undue stress and excitement, the meat quality is adversely affected."

Thus, in the approximately 20 years since the 1958 law was passed, the vast majority of meat slaughterers in the United States and those in foreign countries who export meat to the United States have adopted humane methods of slaughter and handling. Of the 1,725 federally inspected establishments, only 11 percent (or 190) were considered not in compliance when the new law was adopted. The percentage of plants under State inspection not in compliance was even less. Of the then 2,564 plants operated under the 32 States' meat inspection programs, only 5 percent (or 136) were considered not in compliance. Out of a total of approximately 522 foreign plants slaughtering livestock for export of meat to the United States, only 64 sheep slaughtering plants in Australia were not in compliance. The Department is not aware of any appreciable change in those statistics since the passage of the Act in 1978.

Congress recognized the widespread acceptance of humane methods of slaughter and handling by the meat packing industry, both out of concern for humane treatment of the animals and in the industry's own economic self interest. Additionally, significant

constituent interest existed as a result of isolated, but persistent reports of continued abuse of or cruelty to livestock at the few plants which were not in compliance with the policies of the 1958 Act. Thus, Congress adopted the Humane Methods of Slaughter Act of 1978 (Pub. L. 95-445, 92 Stat. 1069).

Effect of the Legislation

The Humane Methods of Slaughter Act of 1978 amended section 3 and 10 of title I of the Federal Meat Inspection Act (21 U.S.C. 603 and 610) to require that all federally inspected slaughtering establishments adopt humane slaughter and handling practices for all cattle, swine, sheep, goats, horses, mules and other equines, in accordance with the provisions of the Humane Slaughter Act of 1958 (7 U.S.C. 1901-1906). The amendment also affected all State inspected establishments engaged solely in intrastate commerce, since a State must develop and effectively enforce requirements at least equal to those under titles I and IV of the Federal Meat Inspection Act. If a State's program fails to develop and effectively enforce such requirements, the Secretary of Agriculture is required by the Act (21 U.S.C. 661(r)) to designate the State and extend Federal requirements to all operators and transactors wholly within the State. Nondesignated States will therefore be required to implement and effectively enforce their own requirements at least equal to those promulgated below. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) was also amended to prohibit the importation of any carcass, or part thereof, or any meat or meat food products from livestock not slaughtered and handled in accordance with the humane methods promulgated in the regulations below.

Comments

The Department has been granted only limited discretion in implementing Pub. L. 95-445. Its proposed implementing regulations were made available for public comment in a document published in the *Federal Register* on June 29, 1979, at 44 FR 27954.

Comments on the proposal were received from 16 individuals and organizations. Private citizens, humane societies, livestock slaughterers, meatpacker associations, a State Agriculture Department, and a foreign embassy were represented in the comments.

Humane Handling Requirements

In general, industry, comments were supportive of the proposal, but some suggested increased specificity in the

definition of "humane handling." One commenter suggested that the provisions contained in proposed § 390.2 relating to the condition of livestock pens, driveways, and ramps were too subjective. Another industry commenter objected to the extension of the Federal meat inspector's "police powers" without improved definition of what was humane or inhumane. Some humane society commenters also noted this problem of vagueness indicating that this might lead to uneven enforcement. One such commenter observed that penalties and procedures for violations of the regulations "must be more clearly detailed."

The proposed regulations relating to humane handling practices, now contained in §§ 313.1 and 313.2, have accordingly been modified for purposes of clarity and specificity. In particular, language has been added to make it clear that determinations of violations of these sections are to be made by the inspector. The standards which he/she is to apply have also been clarified. For example, § 313.1(a), as proposed, included the requirement that livestock pens, driveways, and ramps shall be maintained in good repair and be free from sharp or protruding objects. This section has been expanded to further provide that these areas be free from such objects, "which may, in the opinion of the inspector, cause injury or pain to the animals." Similar revisions were made to clarify requirements relating to shelter for the animals (§ 313.1(c)) and driving implements (§§ 313.2 (b) and (c)).

In addition, in § 313.2(a), a requirement was added that specifies that livestock shall not be forced to move faster than a normal walking speed, since movement at a faster speed would lead to excessive excitement and discomfort to the animals. The other changes are minor, non-substantive in nature.

In discharging his responsibilities in administering the Federal Meat Inspection Act, the Secretary recognizes that he has several duties to carry out in the public interest. There is the primary goal to assure that only wholesome and otherwise unadulterated meat and meat food products reach the American public. Other goals include strong enforcement of the laws and regulations without unduly stifling meat production so that consumer prices for meat remain reasonable. These goals are supplemented by the Humane Methods of Slaughter Act to include efforts to assure that animals are humanely slaughtered and handled by

Footnotes continued from last page
June 30, 1960, no agency or instrumentality of the United States shall contract for or procure any livestock products produced or processed by any slaughterer or processor * * * by any methods other than methods designated and approved by the Secretary of Agriculture * * *."

establishments under the jurisdiction of the Federal Meat Inspection Act.

The Administrator believes that there should be no modification in the authority given to the inplant inspector in the proposed regulations. Our inspection program is designed so that the inspector on the scene has the authority to take appropriate action to protect the public interest. He is supported by an active training program and adequate supervision to assure even and proper enforcement of the Federal Meat Inspection Act and its implementing regulations. To limit his authority to enforce humane slaughter regulations could be perceived by some as a curtailment of authority leading to a possible weakening of his/her ability to act effectively in the public interest.

Jurisdiction for Enforcement

Two commenters stated that the proposed regulations did not contain requirements for farmers, transporters, buyers and sellers. The Department can only exercise enforcement authority in this area as authorized under the Humane Methods of Slaughter Act. In its report No. 95-1059 on the legislation, the U.S. Senate Committee on Agriculture, Nutrition, and Forestry specifically indicated its intent for the scope of the Department's enforcement:

It is the committee's intent that handling in connection with slaughter be interpreted by the Secretary to begin at the time the livestock come into the custody of the slaughtering establishment, up to and including the moment of slaughter. (Senate Committee Report No. 95-1059, p. 4)

The regulations, therefore, contain criteria for the handling of animals in holding pens; for the treatment of injured animals for minimum discomfort while on the premises of an inspected establishment; and for the construction and repair of pens, driveways, flooring, and fencing. In addition, the Department intends to enforce the Act with regard to any inhumane activity occurring on the premises of an official establishment. On the other hand, the Department cannot intend to enforce requirements which are outside the scope of its statutory authority.

Species Covered by the Act

Several commenters from industry and from humane groups requested further clarification as to which species of animal would be protected. In particular, questions were raised regarding whether the humane handling and slaughtering provisions would apply to chickens, American bison, reindeer, catalo, and beefalo. The Administrator has determined that beefalo are cattle and will be protected under the humane

slaughter regulations. The other species are not protected. Both the Federal Meat Inspection Act and the Humane Methods of Slaughter Act specify that the species to be regulated include cattle, sheep, swine, goats, horses, mules, and other equines.

Electric Prods and Cattle Canes

Two humane group commenters requested that electric prods and cattle canes be prohibited in the regulations. The Administrator believes that these driving implements are useful and can be used humanely. Therefore, they are not being prohibited. Electric prods connected to AC house current must be regulated to not more than 50 volts AC. The Administrator did receive support for this requirement describing it as specific, enforceable, and appropriate.

Another commenter stated that livestock handlers may need a means of defense such as a heavy stick or cane. The Administrator does not believe self defense is an issue in this regulation. Handlers should not put themselves in a position where they need to defend themselves from animals. Procedures should be implemented which require livestock to move in the proper direction without undue force. Thus, the regulation specifically prohibits as inhumane treatment the use of any sticks, pipes, clubs, and sharp pointed objects to move or direct livestock.

Availability of Water and Feed in Holding Areas

A suggestion was made that animals have feed and water available as soon as they arrive at the plant. The proposed and final regulations do provide that water is required to be made available in all holding pens and that feed is required to be provided in all holding pens if the animal is retained longer than 24 hours before slaughter.

Sanitary dressing of livestock and prevention of contamination to the meat during slaughter is most easily accomplished if the animal's stomach is nearly empty at the time of slaughter. Animals slaughtered with full stomachs suffer a higher incidence of contamination contributing to the loss of edible meat. The Administrator believes that feeding animals when they arrive at a slaughterer would result in increased condemnation of meat if the animals were to be slaughtered on the day they arrive. Animals which will be held longer than 24 hours should be fed.

Dragging of Crippled or Downer Animals

Two industry commenters objected to the all-inclusive prohibition against dragging of crippled and downer

animals. They suggested practical problems depending upon the place where the animal fell and objected to the waste of otherwise wholesome meat if the animal had to be destroyed before moved.

The Administrator recognized that it may not be possible to always get equipment to a spot to move a crippled or downer animal. The regulations provide, however, that no animal may be dragged without first being stunned. Additionally, inspection personnel will encourage the use of equipment dollies or stone boats to move the animal whenever possible to prevent additional injury or discomfort to the animal.

Withdrawal of Inspection

Several industry and humane group commenters discussed the procedures to be followed after a suspected violation of the Act. Industry commenters observed that the practical effect of proposed § 305.5(c) *Withdrawal of inspection; statement of policy*, § 335.30 *Suspension of Assignment of Inspectors*, and § 390.4 *Tagging of equipment, alleyways, pens or compartments to prevent inhumane slaughter or handling in connection with slaughter* will be to force shutdowns of an entire operation, at a cost of thousands of dollars per hour, without the opportunity for a hearing. It is further stated that although the regulations do "contemplate a hearing after the fact," operators would be forced to agree with the initial findings of the Administrator, or remain inoperable for approximately 10 days to 2 weeks. The costs of such delays could mean bankruptcy for the small operator and loss of income to suspended employees whether or not the initial grounds upon which the actions are based were upheld.

The Administrator does not contemplate a withdrawal of inspection from an official establishment without a hearing. However, the Humane Methods of Slaughter Act does authorize the Secretary of Agriculture to suspend inspection temporarily at an official establishment if he finds that any animals have been slaughtered or handled in connection with slaughter inhumanely until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter shall be in accordance with a method prescribed under the Act. Congress has declared it to be our national policy that animals covered by the Act shall be slaughtered and handled in connection with slaughter humanely. Therefore, it would be inappropriate for the Department to allow suspected inhumane activities covered by the Act

to continue until a final determination had been made. The principal purpose of the Act is to deter and prevent inhumane treatment, not to punish for violations. Furthermore, the temporary suspension of inspection for inhumane handling or slaughter would be done in the same manner as the temporary suspension of inspection because of sanitation deficiencies. The use of the "U.S. Rejected" tag would similarly have the same function and meaning as when used on insanitary equipment. It may be removed by the inspector in charge when the cause is corrected or satisfactory assurances are given.

A humane group suggested that some procedure should be included in the regulations to assure that all violations are reported and that the Secretary takes action as appropriate to suspend inspection services. Such reporting requirements will be required by internal instructions and therefore need not be part of the regulations.

Comfort and Shelter

Several commenters suggested that the regulations should provide that the livestock have sufficient room to lie down comfortably and that all holding areas provide shelter from the elements. The Administrator believes there is a distinction between comfort and humane handling. If an animal has enough room to lie down, it is not being inhumanely treated even though it may not have all of the room it would find available in a pasture.

Regarding shelter, healthy livestock (which have been raised on pastures or in feedlots) have less need for shelter than do sick or injured livestock. The regulations do provide for special protection for such livestock depending upon climatic conditions. However, for healthy livestock no specific requirements for shelter are deemed necessary.

Crippled Animals and U.S. Suspects

A suggestion was made that crippled and U.S. suspect animals should be slaughtered immediately. Existing regulations (9 CFR 309.12 and 311.27) already provide for emergency slaughter for humane reasons. In addition, meat packers already have incentives to slaughter U.S. suspects and crippled livestock expeditiously. To delay slaughter may result in further deterioration of the animal's condition which may result in condemnation. For these reasons the Department believes further rulemaking in these areas is unnecessary.

Implementation of the Regulations

One commenter suggested that implementation of the regulations be delayed for 6 months to allow plant management to evaluate humane slaughter procedures and make an informed decision before installing such equipment and training employees. The Humane Methods of Slaughter Act became effective on October 11, 1979, and there is no provision in that Act for any general delay in implementation. The regulations do provide, however, for delays in enforcement, on an individual plant's request showing that implementation will cause an undue hardship. Such delays may not exceed 18 months from the effective date of the Act.

Other Comments

A comment was made that the total elimination of pain during slaughter is impractical and expensive to the public. Although total pain elimination may not be possible it can be minimized by the adoption of proper humane handling and stunning procedures. Such procedures do not have to be expensive or require extensive remodeling. The public interest as expressed by Congress in passing the Act accepts the possibility of some additional expense being imposed upon the public in order to effectuate its goals.

Another comment suggested that inhumane acts of a slaughterer should be reported to the local humane society. Testimony by humane groups on the Humane Methods of Slaughter Act revealed that local humane societies do not have the resources to enforce humane slaughter in all establishments. For this reason, they endorsed the retention of enforcement authority in the Federal Meat and Poultry Inspection Program because the Program already has inspectors in the slaughtering establishments.

One person suggested that only one animal at a time be placed in the knocking pen. Some existing knocking pens were designed to hold two animals standing in a line. If only one animal were allowed in these pens, the animal could move too freely, resulting in inaccurate placement of the stunning device, delayed stunning, and increased excitement for the animal. Livestock should not be excessively crowded in the knocking pen, but they should be restricted in movement to permit effective stunning.

Some commenters raised questions concerning ritual slaughter. The Act specifically exempts certain ritual slaughter and the handling or other preparation of livestock for such ritual

slaughter from its requirements. The regulations are therefore similarly inapplicable to such ritual slaughter and handling.

One commenter suggested additional research in stunning methods. While such research may be desirable, it is not a necessary prerequisite to the promulgation of these final regulations.

Additionally, it should be noted that the designation of methods for humane slaughter previously located at 9 CFR Subchapter D, Part 390 have been transferred to new Part 313 as part of the Mandatory Meat Inspection Regulations contained in Subchapter A. Sections 390.5, 390.15, 390.16, and 390.30 have been redesignated as §§ 313.5, 313.15, 313.16, and 313.30. The definitions contained in § 390.1(d) through (j) have been redesignated §§ 301.2 (ooo) to (vvv) respectively.

Also, those new sections implementing Pub. L. 95-445 proposed at §§ 390.2, 390.3, 390.4, and 390.35 have been redesignated §§ 313.1, 313.2, 313.50, and 313.90 respectively.

And, the Definition of the Term *The Act* contained in § 301.2 has been amended to include reference to Pub. L. 95-445.

Accordingly, the following changes are made to the United States Department of Agriculture, Food Safety and Quality Service, meat inspection regulations (Title 9, Code of Federal Regulations, Chapter III).

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 301—DEFINITIONS

1. Part 301, § 301.2(a) (9 CFR 301.2(a)) is amended by inserting a reference to the Humane Methods of Slaughter Act of 1978. Additionally, Part 301, § 301.2 (9 CFR 301.2) is amended by adding at the end thereof new paragraphs (ooo) through (vvv) defining various terms relating to humane slaughter:

§ 301.2 Definitions.

* * * * *

(a) *The Act.* The Federal Meat Inspection Act, as amended, (34 Stat. 1260, as amended, 81 Stat. 584, 84 Stat. 438, 92 Stat. 1069, 21 U.S.C., Sec. 601 *et seq.*).

* * * * *

(ooo) *Inhumane slaughter or handling in connection with slaughter.* Slaughter or handling in connection with slaughter not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906, as amended by the Humane Methods of Slaughter Act of 1978, 92 Stat. 1069) and Part 313 of this subchapter.

(ppp) *Carbon dioxide*. A gaseous form of the chemical formula CO₂.

(qqq) *Carbon dioxide concentration*. Ratio of carbon dioxide gas and atmospheric air.

(rrr) *Exposure time*. The period of time an animal is exposed to an anesthesia-producing carbon dioxide concentration.

(sss) *Anesthesia*. Loss of sensation or feeling.

(ttt) *Surgical anesthesia*. A state of unconsciousness measured in conformity with accepted surgical practices.

(uuu) *Consciousness*. Responsiveness of the brain to the impressions made by the senses.

(vvv) *Captive bolt*. A stunning instrument which when activated drives a bolt out of a barrel for a limited distance.

PART 304—APPLICATION FOR INSPECTION; GRANT OR REFUSAL OF INSPECTION

2. Part 304, § 304.2 (9 CFR 304.2) is amended by adding a new paragraph (f) to read as follows:

§ 304.2 Drawings, information to be furnished; grant or refusal of inspection.

(f) Inspection may be refused in accordance with humane slaughter and handling provisions of the Act (21 U.S.C. 603(b)) and the applicable rules of practice.

PART 305—OFFICIAL NUMBERS; INAUGURATION OF INSPECTION; WITHDRAWAL OF INSPECTION REPORTS OF VIOLATION

3. Part 305, § 305.5 (9 CFR 305.5) is amended by adding a new paragraph (c) to read as follows:

§ 305.5 Withdrawal of inspection; statement of policy.

(c) Inspection service may be temporarily suspended, in whole or in part, at an official establishment, by the Administrator, to the extent that it is determined necessary to prevent inhumane slaughtering or handling in connection with slaughter of livestock as defined in § 301.2(ooo) (9 CFR 301.2(ooo)). The Administrator shall notify the operator of an establishment orally or in writing, as promptly as circumstances permit, of such suspension and the reasons therefor. Such suspension shall remain in effect until the operator of the establishment takes effective steps to prevent a recurrence, or provides other satisfactory assurances that there will not be any recurrences. Upon request,

the operator shall be afforded an opportunity for a hearing to show cause why the suspension should be terminated.

4. A new Part 313 is added to specify the following requirements relating to human slaughter and handling of livestock in connection with slaughter and actions to be taken by the inspector when inhumane treatment is observed.

PART 313—HUMANE SLAUGHTER OF LIVESTOCK

Sec.

313.1 Livestock pens, driveways, and ramps.

313.2 Handling of livestock.

313.5 Chemical; carbon dioxide

313.15 Mechanical; captive bolt.

313.16 Mechanical; gunshot.

313.30 Electrical; stunning with electric current.

313.50 Tagging of equipment, alleyways, pens or compartments to prevent inhumane slaughter or handling in connection with slaughter.

313.90 Extension of implementation date.

Authority: 92 Stat. 1069, 72 Stat. 862, 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 91, 438; 21 U.S.C. 71 *et seq.*; 601 *et seq.*; 7 U.S.C. 1901-1906.

§ 313.1 Livestock pens, driveways and ramps.

(a) Livestock pens, driveways and ramps shall be maintained in good repair. They shall be free from sharp or protruding objects which may, in the opinion of the inspector, cause injury or pain to the animals. Loose boards, splintered or broken planking, and unnecessary openings where the head, feet, or legs of an animal may be injured shall be repaired.

(b) Floors of livestock pens, ramps, and driveways shall be constructed and maintained so as to provide good footing for livestock. Slip resistant or waffled floor surfaces, cleated ramps and the use of sand, as appropriate, during winter months are examples of acceptable construction and maintenance.

(c) U.S. Suspects (as defined in § 301.2(gg)) and dying, diseased, and disabled livestock (as defined in § 301.2(ccc)) shall be provided with a covered pen sufficient, in the opinion of the inspector, to protect them from the adverse climatic conditions of the locale while awaiting disposition by the inspector.

(d) Livestock pens and driveways shall be so arranged that sharp corners and direction reversal of driven animals are minimized.

§ 313.2 Handling of livestock.

(a) Driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning

area shall be done with a minimum of excitement and discomfort to the animals. Livestock shall not be forced to move faster than a normal walking speed.

(b) Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which, in the opinion of the inspector, is excessive, is prohibited. Electrical prods attached to AC house current shall be reduced by a transformer to the lowest effective voltage not to exceed 50 volts AC.

(c) Pipes, sharp or pointed objects, and other items which, in the opinion of the inspector, would cause injury or unnecessary pain to the animal shall not be used to drive livestock.

(d) Disabled livestock and other animals unable to move.

(1) Disabled animals and other animals unable to move shall be separated from normal ambulatory animals and placed in the covered pen provided for in § 313.1(c).

(2) The dragging of disabled animals and other animals unable to move, while conscious, is prohibited. Stunned animals may, however, be dragged.

(3) Disabled animals and other animals unable to move may be moved, while conscious, on equipment suitable for such purposes; e.g., stone boats.

(e) Animals shall have access to water in all holding pens and, if held longer than 24 hours, access to feed. There shall be sufficient room in the holding pen for animals held overnight to lie down.

(f) Stunning methods approved in § 313.30 shall be effectively applied to animals prior to their being shackled, hoisted, thrown, cast, or cut.

§ 313.5 Chemical; carbon dioxide.

The slaughtering of sheep, calves and swine with the use of carbon dioxide gas and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the Act.

(a) *Administration of gas, required effect; handling.* (1) The carbon dioxide gas shall be administered in a chamber in accordance with this section so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be exposed to the carbon dioxide gas in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort to the animals.

(2) The driving or conveying of the animals to the carbon dioxide chamber shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the anesthesia chamber is essential since the induction, or early phase, of anesthesia is less violent with docile animals. Among other things this requires that, in driving animals to the anesthesia chamber, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) On emergence from the carbon dioxide chamber the animals shall be in a state of surgical anesthesia and shall remain in this condition throughout shackling, sticking and bleeding. Asphyxia or death from any cause shall not be produced in the animals before bleeding.

(b) *Facilities and procedures*—(1) *General requirements for gas chambers and auxiliary equipment; operator.* (i) The carbon dioxide gas shall be administered in a chamber which accomplishes effective exposure of the animal. Two types of chambers involving the same principle are in common use for carbon dioxide anesthesia. They are the "U" type chamber and the "Straight Line" type chamber. Both are based on the principle that carbon dioxide gas has a higher specific gravity than air. The chambers open at both ends for entry and exit of animals and have a depressed central section. Anesthetizing carbon dioxide concentrations are maintained in the central section of the chamber. Effective anesthetization is produced in this section. Animals are driven from holding pens through a pathway constructed of pipe or other smooth metal onto a continuous conveyor device which moves the animals through the chamber. The animals are compartmentalized on the conveyor by impellers synchronized with the conveyor or are otherwise prevented from crowding. While impellers are used to compartmentalize the animal, a mechanically or manually operated gate will be used to move the animal onto the conveyor. Surgically anesthetized animals are moved from the chamber by the same continuous conveyor that carried them into and through the carbon dioxide gas.

(ii) Flow of animals into and through the carbon dioxide chamber is dependent on one operator. The operation or stoppage of the conveyor is entirely dependent upon this operator. It is necessary that he be skilled, attentive, and aware of his responsibility. Overdosages and death of animals can

be brought about by carelessness of this individual.

(2) *Special requirements for gas chamber and auxiliary equipment.* The ability of anesthetizing equipment to perform with maximum efficiency is dependent on its proper design and efficient mechanical operation. Pathways, compartments, gas chambers, and all other equipment used must be designed to accommodate properly the species of animals being anesthetized. They shall be free from pain-producing restraining devices. Injury of animals must be prevented by the elimination of sharp projections or exposed wheels or gears. There shall be no unnecessary holes, spaces or openings where feet or legs of animals may be injured. Impellers or other devices designed to mechanically move or drive animals or otherwise keep them in motion or compartmentalized shall be constructed of flexible or well padded rigid material. Power activated gates designed for constant flow of animals to anesthetizing equipment shall be so fabricated that they will not cause injury. All equipment involved in anesthetizing animals shall be maintained in good repair.

(3) *Gas.* Maintenance of a uniform carbon dioxide concentration and distribution in the anesthesia chamber is a vital aspect of producing surgical anesthesia. This may be assured by reasonably accurate instruments which sample and analyze carbon dioxide gas concentration within the chamber throughout anesthetizing operations. Gas concentration shall be maintained uniform so that the degree of anesthesia in exposed animals will be constant. Carbon dioxide gas supplied to anesthesia chambers may be from controlled reduction of solid carbon dioxide or from a controlled liquid source. In either case the carbon dioxide shall be supplied at a rate sufficient to anesthetize adequately and uniformly the number of animals passing through the chamber. Sampling of gas for analysis shall be made from a representative place or places within the chamber and on a continuing basis. Gas concentrations and exposure time shall be graphically recorded throughout each day's operation. Neither carbon dioxide nor atmospheric air used in the anesthesia chambers shall contain noxious or irritating gases. Each day before equipment is used for anesthetizing animals, proper care shall be taken to mix adequately the gas and air within the chamber. All gas producing and control equipment shall be maintained in good repair and all indicators, instruments, and measuring

devices must be available for inspection by Program inspectors during anesthetizing operations and at other times. A suitable exhaust system must be provided to eliminate possible overdosages due to mechanical or other failure of equipment.

§ 313.15 Mechanical; captive bolt.

The slaughtering of sheep, swine, goats, calves, cattle, horses, mules, and other equines by using captive bolt stunners and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the Act.

(a) *Application of stunners, required effect; handling.* (1) The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.

(2) The driving of the animals to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the stunning areas is essential since accurate placement of stunning equipment is difficult on nervous or injured animals. Among other things, this requires that, in driving animals to the stunning areas, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.

(b) *Facilities and procedures*—(1) *General requirements for stunning facilities; operator.* (i) Acceptable captive bolt stunning instruments may be either skull penetrating or nonpenetrating. The latter type is also described as a concussion or mushroom type stunner. Penetrating instruments on detonation deliver bolts of varying diameters and lengths through the skull and into the brain. Unconsciousness is produced immediately by physical brain destruction and a combination of changes in intracranial pressure and acceleration concussion. Nonpenetrating or mushroom stunners on detonation deliver a bolt with a flattened circular head against the external surface of the animal's head over the brain. Diameter of the striking surface of the stunner may vary as conditions require. Unconsciousness is produced immediately by a combination of

acceleration concussion and changes in intracranial pressures. A combination instrument utilizing both penetrating and nonpenetrating principles is acceptable. Energizing of instruments may be accomplished by detonation of measured charges of gunpowder or accurately controlled compressed air. Captive bolts shall be of such size and design that, when properly positioned and activated, immediate unconsciousness is produced.

(ii) To assure uniform unconsciousness with every blow, compressed air devices must be equipped to deliver the necessary constant air pressure and must have accurate, constantly operating air pressure gauges. Gauges must be easily read and conveniently located for use by the stunning operator and the inspector. For purposes of protecting employees, inspectors, and others, it is desirable that any stunning device be equipped with safety features to prevent injuries from accidental discharge. Stunning instruments must be maintained in good repair.

(iii) The stunning area shall be so designed and constructed as to limit the free movements of animals sufficiently to allow the operator to locate the stunning blow with a high degree of accuracy. All chutes, alleys, gates and restraining mechanisms between and including holding pens and stunning areas shall be free from pain-producing features such as exposed bolt ends, loose boards, splintered or broken planking, and protruding sharp metal of any kind. There shall be no unnecessary holes or other openings where feet or legs of animals may be injured. Overhead drop gates shall be suitably covered on the bottom edge to prevent injury on contact with animals. Roughened or cleated cement shall be used as flooring in chutes leading to stunning areas to reduce falls of animals. Chutes, alleys, and stunning areas shall be so designed that they will comfortably accommodate the kinds of animals to be stunned.

(iv) The stunning operation is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately place the stunning instrument to produce immediate unconsciousness. He must use the correct detonating charge with regard to kind, breed, size, age, and sex of the animal to produce the desired results.

(2) *Special requirements.* Choice of instrument and force required to produce immediate unconsciousness varies, depending on kind, breed, size, age, and sex of the animal. Young swine, lambs, and calves usually require less

stunning force than mature animals of the same kind. Bulls, rams, and boars usually require skull penetration to produce immediate unconsciousness. Charges suitable for smaller kinds of livestock such as swine or for young animals are not acceptably interchanged for use on larger kinds or older livestock, respectively.

§ 313.16 Mechanical; gunshot.

The slaughtering of cattle, calves, sheep, swine, goats, horses, mules, and other equines by shooting with firearms and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the Act.

(a) *Utilization of firearms, required effect; handling.* (1) The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.

(2) The driving of the animals to the shooting areas shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the shooting area is essential since accurate placement of the bullet is difficult in case of nervous or injured animals. Among other things, this requires that, in driving animals to the shooting areas, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.

(b) *Facilities and procedure—(1) General requirements for shooting facilities; operator.* (i) On discharge, acceptable firearms dispatch free projectiles or bullets of varying sizes and diameters through the skull and into the brain. Unconsciousness is produced immediately by a combination of physical brain destruction and changes in intracranial pressure. Caliber of firearms shall be such that when properly aimed and discharged, the projectile produces immediate unconsciousness.

(ii) To assure uniform unconsciousness of the animal with every discharge where small-bore firearms are employed, it is necessary to use one of the following type projectiles:

Hollow pointed bullets; frangible iron plastic composition bullets; or powdered iron missiles. When powdered iron missiles are used, the firearms shall be in close proximity with the skull of the animal when fired. Firearms must be maintained in good repair. For purposes of protecting employees, inspectors and others, it is desirable that all firearms be equipped with safety devices to prevent injuries from accidental discharge. Aiming and discharging of firearms should be directed away from operating areas.

(iii) The provisions contained in § 313.15(b)(1)(iii) with respect to the stunning area also apply to the shooting area.

(iv) The shooting operation is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately direct the projectile to produce immediate unconsciousness. He must use the correct caliber firearm, powder charge and type of ammunition to produce the desired results.

(2) *Special requirements.* Choice of firearms and ammunition with respect to caliber and choice of powder charge required to produce immediate unconsciousness of the animal may vary depending on age and sex of the animal. In the case of bulls, rams, and boars, small bore firearms may be used provided they are able to produce immediate unconsciousness of the animals. Small bore firearms are usually effective for stunning other cattle, sheep, swine, and goats, and calves, horses, and mules.

§ 313.30 Electrical; stunning with electric current.

The slaughtering of swine, sheep, calves, cattle, and goats with the use of electric current and the handling in connection therewith, in compliance with the provisions contained in this section, are hereby designated and approved as humane methods of slaughtering and handling of such animals under the Act.

(a) *Administration of electric current, required effect; handling.* (1) The electric current shall be administered so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be exposed to the electric current in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort to the animals.

(2) The driving or conveying of the animals to the place of application of electric current shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals

to the place of application is essential to insure rapid and effective insensibility. Among other things, this requires that, in driving animals to the place of application, electrical equipment be used as little as possible and with the lowest effective voltage.

(3) The quality and location of the electrical shock shall be such as to produce immediate insensibility to pain in the exposed animal.

(4) The stunned animal shall remain in a state of surgical anesthesia through shackling, sticking and bleeding. However, the animal shall die from loss of blood resulting from the sticking and bleeding, and not from the electrical shock.

(b) *Facilities and procedures; operator*—(1) *General requirements for operator*. It is necessary that the operator of electric current application equipment be skilled, attentive, and aware of his responsibility. Overdosages and death of animals can be brought about by carelessness of this individual.

(2) *Special requirements for electric current application equipment*. The ability of electric current equipment to perform with maximum efficiency is dependent on its proper design and efficient mechanical operation. Pathways, compartments, current applicators, and all other equipment used must be designed to accommodate properly the species of animals being anesthetized. They shall be free from pain-producing restraining devices. Injury of animals must be prevented by the elimination of sharp projections or exposed wheels or gears. There shall be no unnecessary holes, spaces or openings where feet or legs of animals may be injured. Impellers or other devices designed to mechanically move or drive animals or otherwise keep them in motion or compartmentalized shall be constructed of flexible or padded material. Power activated gates designed for constant flow of animals to electrical stunning equipment shall be so fabricated that they will not cause injury. All electrical stunning and auxiliary control and other equipment shall be maintained in good repair and all indicators, instruments, and measuring devices shall be available for inspection by Program inspectors during stunning operations and at other times.

(3) *Electric current*. Each animal shall be given a sufficient application of electric current to insure unconsciousness immediately and through the bleeding operation. Suitable timing, voltage and current control devices shall be used to insure that each animal receives the necessary electrical charge to produce immediate unconsciousness. Moreover, the current

shall be applied so as to avoid the production of hemorrhages or other tissue changes that would interfere with the inspection procedures of the Meat and Poultry Inspection Program.

§ 313.50 Tagging of equipment, alleyways, pens, or compartments to prevent inhumane slaughter or handling in connection with slaughter.

When an inspector observes an incident of inhumane slaughter or handling in connection with slaughter, he/she shall inform the establishment operator of the incident and request that the operator take the necessary steps to prevent a recurrence. If the establishment operator fails to take such action or fails to promptly provide the inspector with satisfactory assurances that such action will be taken, the inspector shall follow the procedures specified in paragraph (a), (b), or (c) of this section, as appropriate.

(a) If the cause of inhumane treatment is the result of facility deficiencies, disrepair, or equipment breakdown, the inspector shall attach a "U.S. Rejected" tag thereto. No equipment, alleyway, pen or compartment so tagged shall be used until made acceptable to the inspector. The tag shall not be removed by anyone other than an inspector. All livestock slaughtered prior to such tagging may be dressed, processed, or prepared under inspection.

(b) If the cause of inhumane treatment is the result of establishment employee actions in the handling or moving of livestock, the inspector shall attach a "U.S. Rejected" tag to the alleyways leading to the stunning area. After the tagging of the alleyway, no more livestock shall be moved to the stunning area until the inspector receives satisfactory assurances from the establishment operator that there will not be a recurrence. The tag shall not be removed by anyone other than an inspector. All livestock slaughtered prior to the tagging may be dressed, processed, or prepared under inspection.

(c) If the cause of inhumane treatment is the result of improper stunning, the inspector shall attach a "U.S. Rejected" tag to the stunning area. Stunning procedures shall not be resumed until the inspector receives satisfactory assurances from the establishment operator that there will not be a recurrence. The tag shall not be removed by anyone other than an inspector. All livestock slaughtered prior to such tagging may be dressed, processed, or prepared under inspection.

§ 313.90 Extension of implementation date.

(a) A delay in the application of the humane slaughtering and handling provisions of the Act may be obtained. The authorized period of time for the delay of implementation shall in no event extend beyond April 11, 1981.

(b) Any person, firm, or corporation may request a delay in the application of the humane slaughtering and handling provisions of the Act to its operations. Requests shall be submitted in letter form to the regional director of the geographical region in which the requesting party's operations are located. Requests shall specify the reasons why a delay in the application of the humane slaughtering and handling provisions of the Act is necessary to avoid undue hardship and shall include an anticipated date by which full compliance can be accomplished.

(c) In evaluating a request for delay in the application of the humane slaughtering and handling provisions of the Act, the appropriate regional director will consider whether or not the requesting party will sustain undue hardship if made to comply after October 10, 1979. In deciding whether undue hardship would occur in a particular case, the regional director will consider, among other things, the extent of the facility and/or equipment changes required for the requesting party to achieve compliance and the unavoidable difficulties attendant with such changes, such as unavailability of construction materials, weather problems, and strikes.

PART 327—IMPORTED PRODUCTS

5. Part 327, § 327.2(a)(ii)(a) [9 CFR 327.2(a)(2)(ii)(a)] is amended by requiring inspection of the methods of slaughtering and handling in connection with slaughtering as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

(a) * * *

(2) * * *

(ii) * * *

(a) Ante-mortem inspection of animals for slaughter and inspection of methods of slaughtering and handling in connection with slaughtering which shall be performed by veterinarians or by other employees or licensees of the system under the direct supervision of the veterinarians;

* * * * *

PART 335—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT

6. Part 335, § 335.1 (9 CFR 335.1) is amended by adding a new paragraph (c) to read as follows:

§ 335.1 Scope and applicability of rules of practice.

* * *

(c) The rules of practice set forth in Subpart D of this Part shall be applicable to the suspension of assignment of inspectors under section 3(b) of the Act (21 U.S.C. 603(b)). In addition, the definitions applicable to proceedings under the Uniform Rules of Practice (7 CFR 1.132) shall apply with equal force and effect to proceedings under Part 313.

7. Part 335 is also amended by adding a new Subpart D and the Table of Contents is amended accordingly, to read as follows:

Subpart D—Rules Applicable to Suspension of Assignment of Inspectors Under Section 3(b) of the Federal Meat Inspection Act

Sec.

335.30 Suspension of the assignment of inspectors under section 3(b) of the Act.

335.31 Written notification to operator of establishment of incident.

335.32 Procedure upon receipt of the establishment answer.

Authority.—Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 92 Stat. 1069, 42 FR 35625, 35626, 35631.

Subpart D—Rules Applicable to Suspension of Assignment of Inspectors Under Section 3(b) of the Federal Meat Inspection Act

§ 335.30 Suspension of the assignment of inspectors under section 3(b) of the Act.

In any situation in which the Administrator has determined that livestock have been inhumanely slaughtered or handled in connection with slaughter at an official establishment, the Administrator may suspend the assignment of inspectors at that establishment, in whole or in part, as the Administrator determines necessary to prevent inhumane treatment of livestock. The Administrator shall notify the operator of an establishment orally or in writing, of such suspension as soon as possible. In the event of oral notification, a written confirmation shall be given as promptly as circumstances permit to the operator of the establishment. The written notification or confirmation shall be served upon the operator of the establishment in a manner prescribed in § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

§ 335.31 Written notification to operator of establishment of incident.

The written notification or confirmation, specified in § 335.30, shall constitute the complaint in the proceeding and shall briefly set forth the reason for the suspension of the assignment of inspectors, including allegations of fact which constitute a basis for the action. The complaint shall offer the establishment the opportunity to request a hearing with respect to the merits or validity of the suspension action and shall give the establishment the opportunity to furnish written assurances satisfactory to the Secretary that all inhumane slaughtering and handling in connection with slaughter have stopped and will not recur. The complaint shall state the time within which the respondent's answer must be made, which shall not be less than 10 days after service of the complaint.

§ 335.32 Procedure upon receipt of the establishment answer.

If any establishment notified in accordance with § 335.31:

(a) Returns an answer and requests a hearing, the complaint, answer, and request for hearing shall be filed with the Hearing Clerk, who shall assign the matter a docket number. The proceeding shall thereafter be conducted in accordance with the rules of practice which shall be adopted for the proceeding; or

(b) Returns written assurances which the Secretary determines to be unsatisfactory, the establishment shall promptly be informed of this determination in a written notification. Said notification shall briefly set forth the reason the assurances were deemed unacceptable and shall offer the establishment the right to file an answer to the original complaint and to request a hearing with respect to the merits or validity of the suspension action. If any establishment so notified files an answer to the original complaint and requests a hearing, a copy of the complaint, answer, and request for hearing shall be filed with the Hearing Clerk, who shall assign the matter a docket number. The proceeding shall thereafter be conducted in accordance with the rules of practice which shall be adopted for the proceeding.

(c) Returns written assurances which the Secretary determines to be satisfactory, the suspension shall be terminated and the establishment informed of this action as soon as possible.

SUBCHAPTER D—HUMANE SLAUGHTER OF LIVESTOCK

PART 390 [REVOKED]

PART 391 [REVOKED]

8. Subchapter D of 9 CFR, Chapter III is hereby revoked in its entirety.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 92 Stat. 1069, 42 FR 35625, 35626, 35631)

This final rule must become effective immediately upon publication in the *Federal Register* in order to comply with the Humane Methods of Slaughter Act of 1978 (Pub. L. 95-445; 92 Stat. 1069). Furthermore, it does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, it is found upon good cause, under the administrative procedure provisions in 5 U.S.C. 553, that further notice and other procedure with respect to these changes are unnecessary and good cause is found for making the amendments effective.

Further, this final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been designated "significant." An approved Final Impact Statement is available from Dr. Arnold V. Giesemann, Acting Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, on November 26, 1979.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 79-36846 Filed 11-29-79; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Physical Protection of Plants and Materials

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: The Nuclear Regulatory Commission is correcting an error in its notice of change of telephone numbers for Regions III and V published in the *Federal Register* on November 5, 1979 (44 FR 63515).

EFFECTIVE DATE: November 30, 1979.