

**TEXAS DEPARTMENT OF STATE HEALTH SERVICES  
MEAT SAFETY ASSURANCE  
AUSTIN, TEXAS**

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| <h1 style="margin:0;">MSA DIRECTIVE</h1> | 6900.2<br>Rev. 3.1 | 7/17/23 |
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**Humane Handling and Slaughter of Livestock**

**CHAPTER I - GENERAL**

**I. PURPOSE**

A. This directive informs inspection program personnel (IPP) of the requirements, verification activities, and enforcement actions for ensuring that the handling and slaughter of livestock, including disabled livestock and livestock slaughtered by religious ritual methods, is humane. This directive provides instructions to IPP for conducting humane handling activities randomly throughout their tour of duty.

B. In addition, Circuit Managers (CMs) are to notify establishments that they may choose to develop and implement a systematic approach for the humane handling of animals. On September 9, 2004, FSIS published a notice in the Federal Register (54 Fed. Reg. 54625) entitled "Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach To Meet Such Requirements." This Federal Register Notice details the background on the humane handling and slaughter statutes issued by Congress and regulation of humane handling by FSIS. It also details steps industry should take to assure effective compliance with the Acts and regulations.

C. This directive provides instructions to IPP in establishments that assert that they have put in place a systematic approach on how to assess whether that approach is robust enough that IPP should allow it to function in the event of an egregious inhumane handling, or whether IPP should intervene in accordance with the relevant instructions in this directive.

**II. CANCELLATION**

MSA Directive 6900.2, Revision 3, Humane Handling and Slaughter of Livestock, dated 09/24/20

**III. REASON FOR REISSUANCE**

A. MSA is reissuing this directive to:

1. Incorporate the instructions from MSA Directive 6900.1 related to disabled livestock and MSA Notice 06-11 related to the Humane Handling at All

Entrances and the Animal and Plant Health Inspection Service (APHIS) Twenty-Eight Hour Law;

2. Provide a definition of “egregious inhumane handling” and detail the actions that IPP are to take when they find that egregious inhumane handling has occurred;
3. Provide IPP with verification instructions when an establishment has a written animal handling program that incorporates the guidelines in the Federal Register Notice to such an extent that establishment management believes the program rises to the level of a robust systematic approach for humane handling;
4. Provide instructions for IPP to verify that an establishment does not use any secondary entrances or equipment to handle livestock inhumanely or to violate any of the regulatory requirements on humane handling that MSA has adopted pursuant thereto; and
5. Provide instructions for actions to take should IPP observe inhumane handling of animals being slaughtered under a Custom Exempt program.

B. Changes to the instructions in this directive that address Ritual Slaughter.

#### **IV. REFERENCES**

9 CFR Part 313; 9 CFR Part 381; CH 433 Texas Meat and Poultry Inspection Act; 25 Texas Administrative Code (TAC) CH 221; 25 TAC 221.14(a)(4); Humane Methods of Livestock Slaughter (HMSA)- 7 U.S.C. 1901, 1902, and 1906; the Federal Meat Inspection Act- 21 U.S.C. 603 and 610

#### **V. DEFINITIONS**

A. Ambulatory Disabled Livestock: Livestock capable of walking but with physical impairment such as central nervous system signs, lameness, or similar conditions.

B. Egregious inhumane treatment: An egregious situation is any act or condition that results in severe harm, suffering and distress to animals, for example:

1. Sticking/ bleeding or making cuts on or skinning conscious animals (Note: Ritual Slaughter is an allowed exception to sticking/ bleeding a conscious animal);
2. Excessive beating or prodding of ambulatory or non-ambulatory disabled animals or dragging of conscious animals;

3. Driving animals off semi-trailers over a drop off without providing adequate unloading facilities (animals are falling to the ground);
4. Running equipment over conscious animals;
5. Stunning of animals and then allowing them to regain consciousness;
6. Multiple attempts, especially in the absence of immediate corrective measures, to stun an animal versus a single blow or shot that renders an animal immediately unconscious;
7. Dismembering conscious animals, for example, cutting off ears or removing feet;
8. Leaving disabled livestock exposed to adverse climate conditions while awaiting disposition, or
9. Otherwise causing unnecessary pain and suffering to animals, including situations on trucks.

C. Falls: When an animal loses an upright position suddenly, in which a part of the body other than the limbs touches the ground or floor.

D. Humane Handling: Handling and slaughter practices that cause a minimum of excitement, pain, injury, or discomfort to livestock.

E. Hoisting: The process whereby an animal after it is shackled, is raised, usually from a lying position, and suspended by a leg or legs. (Note: Positioning an animal for Ritual Slaughter is an allowed exception to hoisting a conscious animal. However, all precautions should be taken to minimize pain or distress).

F. Non-Ambulatory Disabled Livestock: Livestock 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.

G. Shackling: Livestock are considered to be shackled when a device (e.g., rope, chain) used to shackle the animal has been placed around the animal's leg, even if the device has not been drawn tight. (Note: Positioning an animal for Ritual Slaughter is an allowed exception to hoisting a conscious animal. However, all precautions should be taken to minimize pain or distress).

H. Slips: When a portion of the leg other than the foot touches the ground or floor,

or a foot loses contact with the ground or floor in a non-walking manner.

I. Suitable Equipment: Establishment equipment that, in the opinion of IPP, is capable of enabling establishment personnel to move non-ambulatory disabled livestock with a minimum of excitement, pain, or injury. This type of equipment includes bobcat-type vehicles and self-propelled tractors capable of pulling stone boats (sleds) or similar conveyances, those conveyances themselves, holding chutes, and a voltmeter or other suitable equipment that is capable of verifying voltage of electric prods attached to AC current.

J. Suitable Restraints: Establishment-provided restraints that, in the opinion of IPP, are capable of effectively restraining livestock (including disabled livestock when necessary) and preventing injuries to Agency personnel when performing ante-mortem inspection. This includes inspections when conducted on a transport vehicle.

## VI. BACKGROUND

The Humane Methods of Livestock Slaughter (**HMSA**) (7 U.S.C. 1901, 1902, and 1906) states that the slaughtering and handling of livestock are to be carried out only by humane methods. In this statute, Congress determined (among other things) that the use of humane methods of handling and slaughtering livestock prevents needless suffering of animals and results in safer and better working conditions for employees in slaughter establishments. This includes using humane handling and slaughter practices for all livestock including non-ambulatory disabled livestock in accordance with the HMSA. See attachment 1 for MSA humane handling regulations.

However, it is not the Department's intent to interfere with religious practices and belief so an exception to the humane slaughter of livestock is made for:

Slaughtering in accordance with the ritual requirements of the Jewish faith or of any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of both carotid arteries with a single cut from a sharp instrument and handling in connection with positioning for such slaughtering is an allowed exception. Though handling in connection with positioning for ritual slaughter is an allowed exception, all precautions should be taken to minimize pain and suffering of these animals at all times.

The Department is exempting religious slaughter from the requirement to utilize the methods of stunning as listed in 9 CFR 313.

## **VII. SYSTEMATIC APPROACH TO HUMANE HANDLING AND SLAUGHTER (SYSTEMATIC APPROACH) IN A WRITTEN ANIMAL HANDLING PROGRAM**

A. There is no regulatory requirement for a written systematic approach to humane handling. However, an establishment may choose to develop and implement in a robust way a written animal handling program that effectively addresses the four aspects of a systematic approach that FSIS outlined in the 2004 Federal Register Notice. These five steps are:

1. Conduct an initial assessment of where, and under what circumstances, livestock may experience excitement, discomfort, or accidental injury while being handled in connection with slaughter, and of where, and under what circumstances, stunning problems may occur;
2. Design facilities and implement practices that will minimize excitement, discomfort, and accidental injury to livestock;
3. Evaluate and reassess at least annually or in any and all cases of a humane handling noncompliance the handling methods the establishment employs to ensure that those methods minimize excitement, discomfort, or accidental injury and evaluate those stunning methods periodically to ensure that all livestock are rendered insensible to pain by a single blow; and
4. Respond to the evaluations, as appropriate, by addressing problems immediately and by improving those practices and modifying facilities when necessary to minimize excitement, discomfort, and accidental injury to livestock.
5. A back up stunning device or method must be immediately accessible and in readiness for use at the stunning area in order to be considered to have a robust humane handling system. The backup stunning device or method is to be maintained to ensure its readiness for use.

B. After the issuance of this directive, IPP are to hold a meeting with establishment management to inform establishment management that if it has a robust systematic approach. MSA will take that into consideration should it be necessary to determine how to proceed in the circumstances set out in Chapter VII, IV, C (e.g., how to proceed when an incident occurs that involves egregious inhumane treatment). See Attachment 2 for details about a robust systematic approach.

C. When establishment management states that it believes it has an animal handling program that equates to a robust systematic approach, the CM and IPP are to ask to review the program and any records generated during its implementation. If the establishment has taken advantage of this robust systematic approach option, IPP will verify, when they perform their humane handling verification activities, that the procedures observed and documentation reviewed follow the establishment's program and comply with the humane handling regulations.

**NOTE:** The establishment is not required to provide IPP access to a written humane handling program. However, IPP will not be able to verify effective implementation of a program that the establishment believes reflects a robust systematic approach without access to the written program. Because a documented systematic approach is not a regulatory requirement, failure to implement provisions of such a program is not a noncompliance unless such failure to implement results in an identifiable failure to meet specific regulatory requirements.

D. IPP are to take into consideration whether the establishment has or has not implemented a robust systematic approach in determining how to proceed in the circumstances set out in Chapter VII, IV, C (e.g., how to proceed when an incident occurs that involves egregious inhumane treatment). If an establishment has chosen not to implement a robust systematic approach to humane handling, then the determination if a humane handling noncompliance is considered to be egregious may be affected and consequently may elevate the response or enforcement action taken by the MSA Department.

E. IPP are to document their meeting with the establishment, including date, attendees, and topics discussed, in a Memorandum of Interview (MOI) in the Public Health Inspection System (PHIS) and a copy is to be provided to establishment management.

## **CHAPTER II – LIVESTOCK TRANSPORTATION VEHICLES AND THE TWENTY-EIGHT HOUR LAW**

### **I. LIVESTOCK ON TRANSPORTATION VEHICLES**

Once a vehicle carrying livestock enters, or is in line to enter, an official slaughter establishment's premises, the vehicle is considered to be a part of that establishment's premises. The animals within that vehicle are to be handled in accordance with 9 CFR

313.2. If, for whatever reason, animals cannot be unloaded for ante-mortem inspection, IPP will determine whether ante-mortem inspections can be safely and adequately conducted from outside the vehicle or, at the IPP's option, by entering the vehicle.

### **II. TWENTY-EIGHT HOUR LAW**

A. Under the Twenty-Eight Hour Law, transporters are required to stop to provide animals with food, water, and rest. Transporters who have deprived livestock of food, water, or rest for more than 28 hours are in violation of the Twenty-Eight Hour Law (49 USC 80502).

B. If livestock arriving on a transport vehicle appear exhausted or dehydrated, IPP are to ask establishment management whether the truck driver stopped within the preceding 28 hours to provide the animals rest, food, and water. If the truck driver or establishment is unwilling to provide information, or if IPP believe the condition of the animals could be the result of being deprived of rest, food, and water for over 28 hours, IPP are to contact the Animal and Plant Health Inspection Service (APHIS), Area Veterinarian-in-Charge, via their FSIS chain of command, so that APHIS can conduct an investigation.

C. A MOI should be prepared to document what the IPP observed and all actions taken.

## **CHAPTER III. RITUAL SLAUGHTER OF LIVESTOCK**

### **I. GENERAL REQUIREMENT**

It is not the Department's intent to interfere with religious practices and belief so an exception to the humane slaughter of livestock is made for:

Slaughtering in accordance with the ritual requirements of the Jewish faith or of any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of both carotid arteries with a single cut from a sharp

instrument and handling in connection with positioning an animal for such slaughtering is an allowed exception. However, all precautions should be taken to minimize pain or distress. The Department is exempting religious slaughter from the requirement to utilize the methods of stunning as listed in 9 CFR 313. Under this exception, the ritual cut is treated as the method of stunning.

## **II. RESPONSIBILITIES OF IPP IN ESTABLISHMENTS WHERE RITUAL SLAUGHTER IS PERFORMED**

A. In an establishment at which ritual slaughter is performed, the establishment will be held responsible for the humane ritual slaughtering of animals. IPP are to request the establishment manager to inform them about what type of ritual slaughter (e.g., Kosher, Halal) will be performed, when it will be performed, how it will be performed, who, as identified by name, will perform the ritual slaughter and a certificate or written document from the Religious Authority that authorized the person who will be performing the ritual slaughter, the type of ritual slaughter, and the procedures taken to ensure the humane handling of the animals will be written and incorporated into the HACCP system.

B. IPP are to verify that the humane handling of animals prior to preparation of the animal for ritual slaughter follows 9 CFR 313.1 and 313.2. Examples of verification activities may include confirming the availability of water, checking the condition of pens and ramps, verifying that there is no excessive use of electric prods, and the animals are not released from restraint after the ritual cut until there are no signs of consciousness or returning to sensibility. No excessive force in handling the animals will be tolerated or considered acceptable, such as stepping on the animal, as part of the restraining procedures.

C. IPP are not to interfere in any manner with the preparation of the animal for ritual slaughter including the positioning of the animal or the ritual slaughter cut by or under the supervision of the religious authority to facilitate bleeding. An ineffective ritual cut will be treated similarly to a missed stun.

D. IPP are to verify that after the ritual slaughter cut and any additional cut to facilitate bleeding, that the animals are not released from restraint after the ritual cut until there are no signs of consciousness or returning to sensibility and no dressing procedure (e.g., head skinning, leg removal, ear removal, horn removal, opening hide patterns) is performed until the animal is insensible. The establishment will be held responsible for the assessment of no signs of consciousness before further dressing procedures are performed on the animals.

If IPP have concerns, they are to contact their CM or MSA Central Office (CO) if the CM does not respond in a timely manner.



## **CHAPTER IV - HUMANE HANDLING VERIFICATION ACTIVITIES**

### **I. HUMANE HANDLING ACTIVITIES TRACKING SYSTEM (HATS):**

A. The electronic animal disposition reporting system (eADRS) database provides valuable information concerning animal diseases and welfare in the United States. HATS is one component of the eADRS.

B. The HATS component provides MSA with data on the time that IPP spend verifying that specific humane handling and slaughter requirements are met. To the maximum extent possible, multiple IPP are routinely to conduct HATS related activities. IPP are to accurately and completely report the time that they spend on these activities and to separate that time into nine specific categories.

### **II. HATS CATEGORIES FOR VERIFICATION**

A. Category I - Inclement Weather (9 CFR 313.1 and 313.2): Under this category, IPP record their verification of how the establishment adapts its facilities and handling practices to inclement weather to ensure the humane handling of animals.

B. Category II - Truck Unloading (9 CFR 313.1 and 313.2): Under this category, IPP record their verification of the establishment's humane handling procedures during livestock unloading activities.

C. Category III - Water and Feed Availability (9 CFR 313.2): Under this category, IPP record their verification of the establishment's compliance with 9 CFR 313.2(e), which requires that water be available to livestock in all holding pens, and that animals held longer than 24 hours have access to feed.

D. Category IV - Ante-mortem Inspection (9 CFR 313.1 and 313.2): Under this category, while IPP are conducting ante-mortem inspection, they are to record the time spent verifying the establishment's facilities and procedures for humanely handling animals during ante-mortem inspection.

E. Category V - Suspect and Disabled (9 CFR 313.1 and 313.2): Under this category, IPP record their verification of the measures that an establishment takes to ensure that "U.S. Suspect" and disabled livestock (9 CFR 313.2 (d)) are handled humanely.

F. Category VI - Electric Prod/Alternative Object Use (9 CFR 313.2): Under this category, IPP record their verification of the establishment's procedures for humanely and effectively moving livestock without excessive prodding or the use of sharp objects after ante-mortem inspection has occurred (9 CFR 313.2).

G. Category VII - Slips and Falls (9 CFR 313.1 and 313.2): Under this category, IPP record time spent observing whether any animals are slipping and falling as they are handled and moved through the livestock facilities.

H. Category VIII - Stunning Effectiveness (9 CFR 313.5, 313.15, 313.16, and 313.30): Under this category, IPP record their verification of the establishment's procedures to appropriately and effectively administer stunning methods that produce unconsciousness in the animal before the animal is shackled, hoisted, thrown, cast, or stuck.

I. Category IX - Conscious Animals on the Rail (9 CFR 313.5, 313.15, 313.16, and 313.30): Under this category, IPP record their verification that the establishment ensures that animals do not regain consciousness throughout shackling, sticking, and bleeding (Section 1902 of the HMSA). This category focuses specifically on the time after stunning and throughout the process of shackling, hoisting, sticking and bleeding of the animal.

### **III. VERIFICATION OF ESTABLISHMENT HUMANE HANDLING ACTIVITIES**

A. Trained IPP are to perform verification of the establishment's humane handling activities during each shift that animals are slaughtered, or when animals are on site, even if it is during a processing only shift. IPP are to vary the times during these shifts when they perform the verifications.

B. IPP are to perform this verification in PHIS. This task should only be entered in PHIS one time per slaughter shift.

C. On each occurrence of ante-mortem inspection, IPP are to make verification observations as described for HATS Category IV – "Ante-Mortem Inspection;" except in very small establishments (see D. below), it is expected that there will be an entry of at least one-quarter hour in HATS Category IV for every slaughter shift.

D. Although IPP in very small establishments will perform ante-mortem inspection every slaughter shift, there are special instructions for documenting their HATS activities (see Chapter VI. B. *Documentation of HATS Time and PHIS Entries* for exceptions in very small establishments).

E. In addition to the daily verification of HATS Category IV, IPP are to verify one or more other HATS category during each slaughter shift.

F. IPP are to record the total time spent verifying HATS categories. IPP are to record this time in quarter hour increments rounding up to next the quarter hour. For

example, if IPP spend 20 minutes verifying HATS categories, they would record 2 quarter hour increments (i.e., 30 minutes).

G. Over time, IPP are to ensure that they routinely verify all HATS categories. IPP are to focus on complete quality verifications of each category.

H. For establishments with an animal handling program that effects a robust systematic approach, IPP, as a part of performing their daily HATS procedures, are to verify through observation the establishment employees during the handling and slaughter of animals or document reviews that the establishment is following its animal handling program, and that it is implementing effective corrective actions when appropriate.

I. If an establishment claims to have implemented a robust systematic approach, but IPP observe that the establishment is not following the written animal handling program, IPP are to first discuss their observations with establishment management and document this discussion on a MOI. If IPP continue to observe ineffective implementation of the animal handling program, they are to notify their CM of their concerns by email, which will serve as documentation of the IPP's concerns.

#### **IV. PRIORITIZING HATS CATEGORY VERIFICATION**

A. To prioritize which HATS categories to verify, IPP are to consider the documentation of the results of previous inspection activities, historical observations, and direction from the CM in consultation with CO.

B. In addition, IPP may decide to repeat some activities if a significant amount of time elapses between ante-mortem inspection and slaughter. Generally, inspection personnel are not to pass for slaughter more animals than can be slaughtered in approximately four hours.

C. CM Visits: When the CM reviews an establishment, they are to ensure that the IPP are employing correct decision making, correctly verifying HATS activities, correctly documenting their activities, and appropriately varying from day-to-day the times during their tour of duty when they verify that animals are handled humanely. The CM, in combination with the Veterinary –EIAO(s), is to verify all applicable aspects of humane handling as described in 9 CFR 313 and document such in a MOI at least every 18 months. If an establishment slaughters poultry under inspection, the CM will verify appropriate treatment in accordance with Good Commercial Practices (GCP). The MOI should contain the key words "...verified HATS humane handling..." or "...verified Good Commercial Practices (GCP)...", as appropriate for the relevant

species.

D. Veterinary EIAO Visits: When the Veterinary EIAO visits an establishment as part of performing a veterinary disposition, conducting a food safety assessment, or correlating with IPP, they are to ensure that the IPP are employing correct decision making, correctly verifying HATS activities, and correctly documenting their activities. The Veterinary EIAO, in combination with the CM, is to verify all applicable aspects of humane handling as described in 9 CFR 313 and document such in a MOI at least every 18 months. If an establishment slaughters poultry under inspection, the CM will verify appropriate treatment in accordance with Good Commercial Practices (GCP). The MOI should contain the key words "...verified HATS humane handling..." or "...verified Good Commercial Practices (GCP)...", as appropriate for the relevant species.

E. In Multi-IPPS Assignments:

1. IPPS that conduct ante-mortem and post-mortem inspection disposition activities as part of a multi-IPPS assignment are to conduct one or more HATS procedures whenever they have cause to visit an establishment. These IPPS are to focus on verifying Categories VIII and IX.
2. IPPS are to record their HATS time in eADRS and to document in PHIS the performance of the Livestock Humane Handling task.

F. Off-Hour Inspection of Establishment Humane Handling:

1. The IIC, in conjunction with the CM, is to determine, based on establishment history or other observations, how frequently IPP need to visit an establishment during a time when there is no assigned tour of duty for inspection services (e.g., prior to operations, weekends) to observe the livestock facilities and handling practices.

**NOTE:** All time incurred in the performance of off-hour inspection will be paid as non-reimbursable time.

2. Among other factors, they are to consider whether the establishment receives animals outside the establishment's hours of operation, and whether animals are routinely held overnight.
3. Document observations on a MOI. Record time in eADRS under the appropriate HATS category on the date for the next regularly scheduled inspection shift (note: this does not have to be a slaughter shift). If a non-compliance is identified, write the non-compliance record (NR) on the date for

the next regularly scheduled inspection shift.

## **CHAPTER V- VERIFICATION OF HUMANE HANDLING USING HATS CATEGORIES AND DETERMINING NONCOMPLIANCE**

### **I. GENERAL**

To assist IPP in implementing HATS, the following sections group HATS categories by the matters that they address, cite the humane handling regulations that support the verification category, specify the activities that IPP are to perform in verifying that category, and describe what would constitute noncompliance. Also, these sections provide examples of establishment procedures and documents that IPP might expect to observe and review at those establishments where establishment management has stated that it believes it has developed and implemented a written animal handling program that effectively addresses the four steps of a systematic approach and should be considered robust.

### **II. ESTABLISHMENT'S LIVESTOCK PENS, DRIVEWAYS, AND RAMPS (9 CFR 313.1) HATS CATEGORIES I, II, IV, AND, VII**

A. Category I - "Inclement Weather": Disabled livestock and U.S. Suspects, when present, are to be placed in a covered pen (9 CFR 313.1 (c) and 313.2 (d) (1)) to protect them from adverse climatic conditions.

1. IPP are to verify how the establishment adapts its facilities and holding practices to inclement weather to ensure the humane handling of animals. **NOTE:** There is no requirement for a dedicated covered pen; this section can be met if the establishment can show they can and will provide a covered area when needed.
2. IPP are to document noncompliance as set out in Chapter VII if US Suspect or disabled livestock are not placed in a covered pen.

B. Category II - "Truck Unloading": Unloading facilities, such as ramps, chutes, floors, and vehicles, are to be maintained in good repair (9 CFR 313.1 (a)). Vehicles and ramps are to be properly positioned for unloading animals (9 CFR 313.1 (b)).

1. IPP are to verify that the establishment's livestock handling facilities are in proper repair during livestock unloading activities.
2. IPP are to document noncompliance as set out in Chapter VII if:
  - a. The condition of the facilities appears likely to injure or are injuring

animals; or

- b. Vehicles or ramps are not properly positioned leading to the injury of animals.

C. Category IV – “Handling During Ante-Mortem Inspection”: Pens, floors, and driveways, including entrances and exits, are to be maintained in good repair (9 CFR 313.1).

1. IPP are to verify the establishment’s facilities for humanely handling livestock during ante-mortem inspection of livestock.

2. IPP are to document noncompliance as set out in Chapter VII if facilities are not maintained in good repair or may otherwise lead to animal injury.

D. Category VII – “Observations for Slips and Falls”: Establishments are to provide adequate footing in their livestock facilities (9 CFR 313.1 (b)).

1. IPP are to verify that the establishment prevents livestock from slipping and falling due to inadequate footing or improper handling practices.

2. IPP are to take appropriate actions and document noncompliance as set out in Chapter VII if animals are slipping and falling because of poor footing or lack of slip resistant flooring.

### **III. ESTABLISHMENT’S LIVESTOCK HANDLING PRACTICES (9 CFR 313.2) HATS CATEGORIES I, II, III, IV, V, VI, and, VII.**

A. Category I – “Adequate Measures for Inclement Weather”: Inclement weather (e.g., rain, heat, snow, ice) can have adverse effects on facilities and animal handling. Animals may slip or fall because of wet floor conditions or because of snow and ice. Animals may not have access to water when water buckets or troughs freeze over.

1. IPP are to verify how the establishment adapts its facilities and handling practices to inclement weather to ensure that animals are humanely handled.

2. IPP are to take appropriate actions and document noncompliance as set out in Chapter VII if:

- a. Livestock do not have access to water in holding pens (9 CFR 313.2 (e)); or

- b. Livestock are overheated because of a lack of proper shade or because

of a lack of water for cooling.

B. Category II – “Truck Unloading”: Animals are unloaded and driven to pens with a minimum of excitement and prod use (9 CFR 313.2 (a) and (b)). The unloading and “penning” of disabled animals is handled in strict accordance with 9 CFR 313.2 (d). Animals are not to be forced to move faster than a normal walking speed (9 CFR 313.2 (a)).

1. IPP are to verify the establishment’s humane handling procedures during livestock unloading activities.
2. IPP are to take appropriate actions and document noncompliance as set out in Chapter VII if:
  - a. Animals are forced to move faster than a normal walking speed;
  - b. Animals are slipping and falling;
  - c. Disabled or U.S. Suspect animals are not separated from normal ambulatory animals; or
  - d. During unloading and driving, animals are excessively prodded or not driven with a minimum of excitement and discomfort.

**NOTE:** Special mention is made here about the handling of “fatigued” or “slow” hogs. These “slow” hogs will not be able to move at the same normal walking speed as others in the lot and tend to lie down and in some cases may get knocked down by others in the lot. These hogs (though ambulatory and otherwise normal, bright, and alert) may need to be moved in a manner that protects them from other hogs in the group or lot. Therefore, establishments will need to develop a method or protocol for humanely handling these hogs.

C. Category III – “Water and Feed Availability”: 9 CFR 313.2 (e) states that water is to be accessible to livestock at all times in holding pens, and that feed is to be accessible after livestock have been held longer than 24 hours.

1. IPP are to verify the accessibility of water and feed to livestock.
2. IPP are to document noncompliance as set out in Chapter VII if:
  - a. Water is not accessible to livestock in holding pens; or
  - b. Food has not been provided to livestock being held for longer than 24

hours.

D. Category IV – “Handling During Ante-mortem Inspection”: Livestock are to be moved calmly and with a minimum of excitement during ante-mortem inspection (9 CFR 313.2 (a)) which includes minimal use of electric prods (9 CFR 313.2 (b)). Livestock are to be moved no faster than a normal walking speed (9 CFR 313.2 (a)).

1. IPP are to verify the establishment’s procedures for humanely handling livestock during ante-mortem inspection of livestock.
2. IPP are take appropriate actions and document noncompliance as set out in Chapter VII if:
  - a. Livestock are excessively prodded with an electric prod;
  - b. Livestock are injured because of handling practices; or
  - c. Livestock are moved faster than a normal walking speed.

E. Category V – “Handling of Suspect and Disabled”: Animals unable to move may be moved while conscious using suitable equipment (9 CFR 313.2 (d) (3)). Dragging of conscious animals is prohibited (9 CFR 313.2 (d) (2)).

1. IPP are to verify that the establishment handles Suspect and Disabled livestock humanely. In establishments that present higher numbers of disabled livestock, IPP would typically spend more time verifying the humane handling of these animals compared to establishments that present few disabled livestock.
2. IPP are to verify that the establishment is utilizing proper euthanasia methods for all antemortem condemned livestock that are not referred for veterinary treatment. Acceptable methods of euthanasia for antemortem condemned livestock are:
  - A. **Exsanguination** (act of draining blood from an animal) **AFTER** stunning by one of the below methods applied to the animal to produce immediate unconsciousness:
    - i. Captive Bolt
    - ii. Gunshot
    - iii. Electrical Stunning
  - B. **Euthanasia** by a licensed veterinarian thru pharmaceutical means



3. IPP are to take appropriate actions and document noncompliance as set out in Chapter VII if:
  - a. Conscious animals are dragged; and
  - b. Disabled animals are not separated from normal ambulatory animals.
  - c. Antemortem condemned livestock are not properly euthanized.

F. Category VI – “Electric Prod/Alternative Object Use”: Establishments are required to move livestock with a minimum of excitement and discomfort (9 CFR 313.2 (a)). Implements (including electric prods) are to be used as little as possible in order to minimize excitement and injury. Any use of such implements that, in the opinion of the inspector, is excessive is prohibited (9 CFR 313.2 (b), 315.5(a)(2), 313.16(a)(2), and 313.30 as applicable).

1. IPP are to verify that the establishment humanely and effectively moves livestock without excessive prodding or the use of sharp objects. This procedure includes direct observation at multiple locations (e.g., pens, alleyways, single-file chutes, stunning areas) involving animal movement.
2. IPP are to take appropriate actions and document noncompliance as set out in Chapter VII if livestock are being prodded excessively causing them to become overexcited or injured.

#### **IV. ESTABLISHMENT’S STUNNING METHODS AND EFFECTIVENESS (9 CFR 313.5, 313.15, 313.16, 313.30) HATS CATEGORIES VIII and IX.**

A. Category VIII – “Stunning Effectiveness”:

1. Livestock are to be rendered insensible to pain (unconscious) by a single blow or gun shot or an electrical, chemical, or other means that is rapid and effective. The stunning area is to be designed and constructed to limit the free movements of the animals and to allow the stunning blow to have a high degree of accuracy. Ante-mortem condemned animals are to be euthanized appropriately, using one of the four stunning methods identified in 9 CFR 313.

**NOTE:** If the breed or conformation of the animal presented for slaughter prohibits the animal from comfortably accessing the stunning area such as for exceptionally long horned cattle, then the animal may be rendered unconscious by an acceptable stunning method listed in 9 CFR 313 in the animal pens or on the truck after ante-mortem inspection has been performed.

2. IPP verify the establishment's procedures to appropriately and effectively administer stunning methods that are rapid and effective and that produce unconsciousness in the animals before the animal is shackled, hoisted, thrown, cast, or stuck.
3. IPP are to take appropriate actions and document noncompliance as set out in Chapter VII if:
  - a. The establishment cannot consistently render animals unconscious with a single application of the stunning methodology; or
  - b. There are no records for carbon dioxide gas concentrations.

**NOTE:** For those animals that are ritually slaughtered, stunning effectiveness will not be evaluated, unless stunning methods listed in 9 CFR 313 are an accepted part of that religious slaughter protocol and are inhumanely applied before or after the ritual slaughter cut. However, the animals are not to be released from restraint after the ritual cut until there are no signs of consciousness or returning to sensibility.

B. Category IX – “Check for Conscious Animals on the Rail”: Establishments are required to produce, at a minimum, unconsciousness or surgical anesthesia after application of the stunning method, and the animals are to remain in this state until death. The following regulations address these requirements:

- Chemical; Carbon Dioxide – 9 CFR 313.5 (a) (1) & (2);
- Mechanical; Captive Bolt – 9 CFR 313.15 (a) (1) & (3);
- Mechanical; Gunshot – 9 CFR 313.16 a (1) & (3);
- Electrical; Stunning or Slaughtering with Electric Current – 9 CFR 313.30 (a) (1) & (4) and 313.2 (f).

**NOTE:** According to the HMSA, stunning methods are to render the animal insensible to pain throughout the shackling, hoisting, throwing, casting, and sticking process. They should remain insensible until death.

1. After stunning, IPP are to verify that livestock, at a minimum, remain unconscious before and after they are shackled, hoisted, thrown, cast, or stuck. This category focuses specifically on the time after stunning and throughout the process of shackling, hoisting, sticking, and bleeding of the animal.

2. IPP are to take appropriate actions and document noncompliance as set out in Chapter VII if:
  - a. Establishments further process (e.g., shackle, hoist, cut) livestock not rendered unconscious by the method of stunning; or
  - b. Animals regain consciousness after being stunned.

## **V. SECONDARY ENTRANCES**

A. In addition to the verification activities that IPP are now conducting under HATS, IPP are to verify that animals are not brought into the establishment through entrances or pathways where:

1. IPP may not be aware that the animals are being moved and, therefore, may not be able to determine whether the animal is eligible for slaughter for human food (e.g., this situation would occur if non-ambulatory disabled cattle, dead, or uninspected animals are brought into the establishment through a secondary or alternative entrance);
2. The nature of the entrance may lead to the inhumane handling of the animal (e.g., the entrance is so small that the animal may be hurt); or
3. The equipment used, or the lack of equipment, may lead to inhumane handling of the animal (e.g., lack of ramps or slippery ramps).

B. This verification is not meant to cause IPP to prohibit the use of alternative entrances. The purpose of this instruction is to provide IPP with a means to verify that all livestock that enter the establishment are doing so under conditions that meet the relevant statutory and regulatory requirements.

C. IPP are to verify that the situations described in paragraph A. are not occurring at the establishment. They are to do so by making observations while performing the PHIS Livestock Humane Handling task for any evidence that animals are being moved through secondary entrances, or there are any of the others listed problems. They are to make observations under HATS Category VIII - *Stunning Effectiveness* because stunning is typically done near the location of secondary or alternative entrances.

D. If IPP find evidence that any of the situations described in section V.A., above has occurred, they are to control the condemned livestock (see 9 CFR 309.13) and take a regulatory control action by tagging the entrance to prevent the use of the entrance. If the situations in section V. A. 2. or 3., above occur, IPP are to

document noncompliance and take regulatory control actions (e.g., tagging equipment, alleyways, and pens). (See 9 CFR 313.50).

## **CHAPTER VI - DOCUMENTATION OF HATS TIME AND PHIS ENTRY**

A. IPP are to enter the hours devoted to verifying humane handling activities for each of the HATS categories into eADRS. These data are to be entered in one-quarter hour increments (e.g., .25, .50, .75, 1.00, 1.25). During normal operations, the total maximum time that would be entered across all HATS categories will generally not exceed the total operational hours for that respective shift. A minimum of one-quarter hour is expected to be entered for each slaughter shift in HATS category IV – “Ante-mortem Inspection,” except as described in B. (below) for very small establishments.

B. For very small establishments that slaughter one to a few animals per day, there are special procedures for documenting humane handling verification time in HATS. At many very small establishments the total amount of inspection time spent on HATS procedures during a shift may only total .25 hour. Therefore, because the minimum amount of time that can be recorded for any given HATS activity is .25 hour, the expectation described in A. (above) that .25 hour be entered in HATS Category IV - "Ante-mortem Inspection" for each slaughter shift does not apply. Instead at those establishments where, for example, two or more humane handling verification procedures (one of which will always be Ante-mortem Inspection for those shifts when slaughter is scheduled) may be performed in .25 hour, when entering their HATS time IPP are to rotate through the appropriate HATS categories (i.e., those categories actually performed at a particular establishment including Ante-mortem Inspection) and record .25 hour per day in a different HATS category each slaughter day. In this manner, all HATS activities actually performed by IPP will be reflected over the course of several slaughter days.

C. When writing a NR for a noncompliance in a HATS category that was not the selected category for observation, IPP are to record the HATS time for both the category that was being performed and for the category in which the noncompliance occurred.

Example: While observing animals during ante-mortem inspection, you identified that there was no accessible water in a livestock pen. You would document the time in the HATS system for the humane handling time during ante-mortem inspection (Category IV) as well as the time it took to take care of the noncompliance for “no water” under Category III. You should have a minimum of .25 hours in each category.

D. After IPP perform their HATS activities for a slaughter shift and have recorded the time in HATS, they are to enter in PHIS the Livestock Humane Handling task

and:

1. For compliant findings, complete the PHIS Livestock Humane Handling task.
2. For noncompliant findings, complete a Non-compliance Record.

**NOTE:** Only one PHIS Livestock Humane Handling task should be entered per slaughter shift.

## **CHAPTER VII - ENFORCEMENT AND DOCUMENTATION OF NONCOMPLIANCE**

### **I. GENERAL**

A. 9 CFR 313.50, 25 TAC 221.14(a)(4), 25 TAC 221.13(b)(4)(A)(i) and 25 TAC 221.13(a) provide for a progression of enforcement actions. This progression provides for an escalating response by IPP when the establishment does not comply with the humane slaughter of livestock regulations (9 CFR 313). The progressive response can be summarized as follows:

1. When IPP observe a humane handling noncompliance that does not involve injury or distress to livestock (e.g., facility condition, actions of employees) or observe a humane handling noncompliance that does involve injury or distress to livestock (e.g., animals driven faster than a normal walking speed), but IPP determine that it is not egregious:

- a. IPP are to inform establishment management to correct or stop the noncompliant deficiency or activity. If necessary, IPP are to take a regulatory control action to prevent further injury to the animal or to prevent injuries from occurring to other animals. The tag (the regulatory control action) is to stay in place until corrective actions are accepted and is only to be removed by IPP.

- b. IPP are to issue a NR for this finding and inform their CM. The IPP will document the corrective actions on a MOI in PHIS and a copy of the MOI will be given to the establishment.

- c. If IPP do not receive adequate response or corrective actions to the NR or the noncompliance observed continues to occur, IPP are to take a regulatory control action as appropriate to stop the noncompliance from continuing and the CM will document on a MOI in PHIS.

- d. If the establishment continues to have noncompliances or does not adequately correct the noncompliances of the aforementioned nature, the IIC is to communicate this to their CM. The CM will write a Letter

of Concern for multiple noncompliances and inform MSA CO.

e. The corrective actions in response to the Letter of Concern shall be documented on a MOI in PHIS by the CM and a copy of the MOI will be given to the establishment.

f. If the establishment fails to submit corrective actions in a timely manner or the corrective actions offered or implemented by the establishment are considered inadequate by the CM, then other enforcement actions will be considered.

2. When IPP observe a noncompliance that causes injury and distress and is of an egregious nature (whether as a result of continued noncompliances as described above or as a stand-alone incident), the IIC is to take a regulatory control action and recommend an immediate suspension of operations per 9 CFR 313.50 through the use of that regulatory control action.

B. The following sections provide further explanation of enforcement actions and provide documentation instructions.

## **II. NONCOMPLIANCES WITHOUT INJURY TO ANIMALS**

A. There are noncompliances with 9 CFR Part 313 that IPP are to act upon even though the noncompliances are not causing animals to be injured, to be in pain, or to be under excessive excitement or discomfort (e.g., forcing animals to move faster than a normal walking speed).

B. As required by 9 CFR 313.50, IPP are to inform establishment management of such noncompliances. As 9 CFR 313.50 states: "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."

C. IPP are to document the noncompliance on a NR in PHIS.

D. IPP are to specify all relevant regulations that pertain to the incident, provide a concise description of the noncompliances, and provide any other evidence that supports the determination that a noncompliance has occurred.

E. IPP are to indicate at the top of Block 10 of the NR which category of activity under HATS was being performed when they found the noncompliance. If the noncompliance is covered by a second HATS category as well, then IPP are to note both categories on the NR. If two categories are covered, IPP are to list the category where the noncompliance occurred first.

F. IPP are to verify that the establishment takes the necessary corrective actions and further preventive measures to achieve regulatory compliance and prevent recurrence. IPP are to take a regulatory control action if:

1. Establishment management fails to take such actions or to promptly provide the inspector with satisfactory assurances that such actions will be taken; or

2. A subsequent noncompliance is observed that derives from the same or related cause, thereby indicating a failure to continue effective implementation of previously proffered corrective and preventative measures.

G. IPP are to take a regulatory control action as specified in 9 CFR 313.50 (a), (b), or (c). When a regulatory control action is taken in response to inhumane handling because of employee actions, when placing the tag IPP may take into consideration whether, by applying the tag at a point that is more specific to the location or nature of the violation, the intent of 9 CFR 313.50 (b) will be met, i.e., control the situation and prevent injury, pain or excessive excitement or discomfort to animals. The regulatory control action will remain in place until the establishment implements the appropriate corrective actions and further preventive measures that ensure compliance with the appropriate section of 9 CFR Part 313.

H. If the establishment continues to have noncompliances or does not adequately correct a noncompliance of the aforementioned nature, the IIC is to communicate this first to the CM, and the CM will discuss with the MSA CO to determine whether a Letter of Concern or other enforcement actions should be issued for continued noncompliance.

### **III. INHUMANE SLAUGHTER OR HANDLING TREATMENT CAUSING INJURY OR DISTRESS BUT NOT OF AN EGREGIOUS NATURE**

A. Non-egregious inhumane slaughter or handling can lead to animals being injured, to unnecessary pain, or to excessive excitement or discomfort (e.g., driving animals too fast and causing a few to slip and fall) and is a noncompliance with appropriate sections of 9 CFR 313.

B. IPP are to follow 9 CFR 313.50 and inform establishment management of the noncompliance by issuing a non-compliance record: "When an inspector observes an incident of inhumane slaughter or handling in connection with slaughter, he or she shall inform the establishment operator of the incident and request that the operator take the necessary steps to prevent a recurrence." If necessary, IPP are to take a regulatory control action:

1. Before informing the establishment management, when it is necessary for MSA, rather than establishment management, to stop the inhumane

treatment of livestock because the noncompliance continues to injure, cause distress, or otherwise adversely affect livestock; or

2. When the establishment operator fails to take action or fails to promptly provide the inspector with satisfactory assurances that such action will be taken.

C. The application of the regulatory control action is to follow the procedures as specified in 9 CFR 313.50. IPP are to take a regulatory control action as indicated as specified in 9 CFR 313.50 (a), (b), or (c). When a regulatory control action is taken in response to inhumane handling because of employee actions, when placing the tag IPP may take into consideration whether, by applying the tag at a point that is more specific to the location or nature of the violation, the intent of 9 CFR 313.50 (b) will be met, i.e., control the situation and prevent further injury or distress to animals. The regulatory control action is to remain in place until the establishment implements the appropriate corrective actions and preventive measures that ensure compliance with the appropriate section of 9 CFR Part 313.

D. IPP are to document the noncompliance on FSIS Form 5400-4, Noncompliance Record (NR) in PHIS.

E. IPP are to specify all relevant regulations that pertain to the incident, provide a concise description of the noncompliance, and provide any other evidence that supports the determination that a noncompliance has occurred.

F. IPP are to indicate at the top of Block 10 of the NR which category of activity under HATS they were performing when they found the noncompliance. If the noncompliance is covered by a second HATS category as well, then IPP are to note both categories on the NR. If two categories are covered, IPP are to list the category where the noncompliance occurred first.

G. IPP are to verify that the establishment takes the appropriate corrective or preventive actions before removing the regulatory control action (tag).

H. If the establishment continues to have noncompliances or does not adequately correct the noncompliances of the aforementioned nature, the IIC is to communicate this to the CM, and the CM will discuss with the MSA CO to determine if a Letter of Concern or other enforcement actions should be issued for continued noncompliances.

I. If an establishment chooses not to have a written robust systematic approach to humane handling plan, incidents that could have been prevented with such a plan previously reviewed, approved and verified by MSA CM and IPP may be considered egregious and consequently elevate the Department's response and enforcement



actions.

#### **IV. INHUMANE SLAUGHTER OR HANDLING TREATMENT OF AN EGREGIOUS NATURE**

A. The IIC is to immediately stop the inhumane slaughter or handling of livestock that is of an egregious nature with an appropriate regulatory control action to prevent the inhumane handling and slaughter from continuing. The IIC will then orally notify the establishment management that he/she is correlating with the CM and MSA CO to discuss and recommend that an enforcement action be taken according to 9 CFR 313.50, 25 TAC 221.13(b)(4)(A)(i), and 25 TAC 221.14(a)(4). The regulatory control action (the tag) is to stay in place until written corrective actions are submitted and accepted by the CM. The tag can only be removed by MSA CM or IPP and no slaughter or handling of livestock will continue for Inspected or Custom Exempt establishments until the tag is removed (with the exception of handling necessary to ensure humane treatment of other animals). In summary:

- Take a regulatory action- stop the inhumane slaughter or handling of livestock and place a tag at the appropriate area.
- Verbally notify the establishment management that all slaughter or livestock handling has been discontinued and that the CM and MSA CO is being contacted.
- Contact the CM immediately. If the CM does not respond in a timely manner, contact MSA CO.

(see C and D below for exceptions to taking or delaying suspension action).

B. The IIC is to document the facts on a NR with guidance from the CM or the CM's designee and the CM is to document the facts that serve as the basis of the enforcement action on a memorandum of interview (MOI) in PHIS and promptly provide that information electronically to the MSA CO for their use in deciding the enforcement action. (See Attachment 3, for an example MOI that supports an enforcement action.) In summary:

- The IIC will write the NR with guidance from the CM or the CM's designee documenting the facts of the egregious event.
- The CM will document the facts on a MOI in PHIS to serve as a basis for the issuance of further enforcement actions that can include:
  1. Letter of Concern (LOC)
  2. Letter of Warning (LOW)
  3. Notice of Intended Enforcement (NOIE)
- CM and MSA CO will discuss the written corrective actions offered by the establishment and determine acceptance of the corrective actions.

- Once accepted, the CM verifies implementation of the corrective actions and the tag is removed by the CM or IPP. The tag is to remain in place until it is removed by the CM or IPP and no slaughter or handling of animals is to be done until the tag is removed.
- If acceptable corrective actions are not received in a timely manner, then the severity of the enforcement action may increase. For example, if a LOC was initially issued and acceptable corrective actions have not been received in a timely manner, then the enforcement action may be increased to a LOW.

C. However, in a situation where an establishment:

- a. Does not have any recent humane handling related enforcement actions;
- b. Has consistently been meeting the humane handling regulatory requirements;
- c. Has been operating under a written animal handling program that establishment management has proffered as a robust systematic approach and made accessible to IPP; and
- d. Has demonstrated the robustness of the program to IPP by effectively and consistently implementing all aspects of its program,

the CM, based on consideration of the above, may recommend to the MSA CO, that the egregious act be subject to enforcement discretion and recommend issuance a LOC or LOW rather than other enforcement actions (See attachment 4 for a sample MOI). The decision to recommend this enforcement action is based on 25 TAC 221.13(b)(4)(A)(i) that states: "The commissioner or the commissioner's designee may immediately withhold the mark of inspection or suspend or withdraw inspection services" without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely. In determining whether the egregious act is an anomaly, and whether the establishment should be allowed to continue to operate, the IIC, CM, and MSA CO are to consider:

1. Whether the establishment is operating under an animal handling program that provides for how the establishment will respond if an unforeseeable event of this type occurs;
2. Whether there is any basis for concern that the planned response in the establishment's animal handling program will not effectively address the problem; and
3. Whether the establishment has consistently and effectively implemented their animal handling program over time.

**NOTE:** As soon as a decision is made for an Enforcement Action (LOC, LOW, or NOIE), the CM is to communicate such to the establishment management. The CM or MSA CO is to issue the Enforcement Action to the establishment typically within 24 hours. Corrective actions from the establishment in response to the Enforcement Action will be in a written form with signatures submitted by mail, fax or scan and email to the CM with a copy provided to the MSA CO and IIC. The corrective actions from the establishment are expected typically within 72 hours after receipt of the Enforcement Action from the CM or MSA CO. If a LOW is issued, a Robust Humane Handling Plan would be expected to be included in the corrective actions offered by the establishment. A Verification Plan as determined by the CM may be issued with a LOW.

D. In situations where the establishment has no written animal handling program, or IPP have not determined that the establishment has implemented a robust systematic approach, and where an immediate suspension action would be warranted but is likely to result in inhumane treatment of additional animals (e.g., a line stoppage that may result in animals having to stay on a truck during an extremely hot day), the IIC may delay implementation of the suspension action until he/she can ensure that animals on-site or in-transit have been handled humanely.

1. In deciding whether to delay implementation of a suspension, the IIC is to consider:

- a. What immediate corrective action the establishment is taking?
- b. How likely is it, given the establishment's history, that the corrective action will be effective in preventing a recurrence of the root cause of the situation?
- c. How many animals are on premises or enroute that will need to be slaughtered?
- d. What conditions threaten the welfare of the animals if they are not promptly slaughtered?

**NOTE:** The IIC should encourage establishment management to redirect as many animals that are enroute as possible, per provisions in existing Good Commercial Practices (GCPs) for other emergency stoppages (e.g., major mechanical breakdowns, flooding) and to order the stoppage of further loading of animals onto trucks at the source location.

2. The IIC is to consult with the CM and CO to inform them of the need to delay

the implementation of the suspension action.

3. In this situation, the IIC will need to move a line inspector that is trained in humane handling to an appropriate area to directly observe establishment employees handling or slaughtering animals and decrease the line speed according to staffing standards in 9 CFR 310.1.
4. The IIC may allow slaughter to continue at a reduced line speed for a limited time on her or his own authority. It is not the intent of this section to provide for a "kill-out" but only for a "kill-down" to ensure that the number of animals to be held on-site meets the requirements in 9 CFR 313.2(e) for holding animals overnight. Any concerns IPP may have about allowing slaughter to continue at reduced line speeds are to be addressed through their supervisory chain for resolution.
5. The IIC is to promptly effect the suspension once he or she determines that animals will not be further subjected to inhumane handling.
6. IICs are to document their observations and actions in a MOI and submit it to the CM and CO.

## **V. TREND OF NONCOMPLIANCE AND ASSOCIATING NRs**

A. To determine whether a noncompliance trend exists, IPP need to decide whether the NRs are associated (i.e., linked). IPP are only to associate NRs when the noncompliances are from the same or related cause. To determine whether a trend exists, IPP are to answer the following questions:

1. How much time has lapsed since the previous NR was written?
2. Was this noncompliance from the same or related cause as the previous NR?
3. Were the establishment's further planned actions effectively implemented?
4. Is the establishment implementing additional planned actions that reduce the possibility of recurrence?

**NOTE:** If IPP are finding noncompliance trends in an establishment with a written animal handling program that establishment management has stated it believes effectively addresses the five steps of a systematic approach and thus should be considered robust, they are to notify the CM, and an establishment humane handling audit may be scheduled to assess the establishment's handling procedures.

B. NRs listing the same HATS category do not automatically associate together. Also, it is possible to have noncompliance in different HATS categories with the same or related cause (e.g., lack of employee training). IPP, using the noncompliance description and the establishment's corrective actions, are to determine whether the noncompliances arise from the same or a related cause. Support is needed to determine that there is a trend of inhumane handling for noncompliances that do not immediately affect an animal's safety or that do not involve an egregious inhumane act.

C. IPP are to discuss any associated NRs with establishment management during the weekly meetings

D. IPP are to continue to associate NRs together that derive from the same or a related cause until they determine that an enforcement action is necessary to bring the establishment into compliance with the regulations, or that the establishment has successfully corrected the problem.

E. When IPP determine that an enforcement action (i.e., suspension as described in 9 CFR 313.50) is necessary, they are to contact the CM and provide support for this determination.

F. The CM, in consultation with the MSA CO, is to determine whether to suspend inspection, as set out in 9 CFR 313.50. As provided in this regulation, MSA may impose a suspension of operations without prior notice if the establishment is handling or slaughtering animals inhumanely.

#### **CHAPTER VIII - CUSTOM EXEMPT ACTIVITIES CONDUCTED IN A STATE INSPECTED ESTABLISHMENT: HUMANE HANDLING OF LIVESTOCK DESIGNATED AS CUSTOM EXEMPT ANIMALS**

A. The 25 TAC 221.14(a)(4) prohibits slaughter or handling of livestock in connection with slaughter in any inhumane manner. This applies to all animals on the premises of a state-inspected establishment whether those animals are designated for slaughter under state inspection or a Custom Exempt program. The establishment will be held responsible for the humane slaughter and handling of animals under Custom Exemption.

B. The Department expectations are that if IPP observe inhumane handling or slaughter practices of custom exempt livestock, they are to take the following actions as described in Chapter VII of this Directive, except that the documentation of the NR and the MOI may be done on MSA forms if the establishment holds only a Grant of Custom Exemption and is not in PHIS.

## **CHAPTER IX**

### **I. DATA ANALYSIS**

A. The MSA CO is to analyze the data from humane handling NRs. The analysis is to include the category of activity under HATS that was indicated by the inspector in Block 10 of the NR. The analysis is also to report on humane handling NRs that are associated by the IPP to indicate a noncompliance trend.

B. MSA CO is to correlate with the CMs on the effects of the issuance of this directive on humane handling activities at establishments.

### **II. QUESTIONS**

Refer questions through supervisory channels.



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Department of State Health Services

## Attachment 1

### **Overview of the HUMANE HANDLING REGULATIONS (9 CFR 313)**

#### **A. The regulations related to livestock pens, driveways and ramps**

9 CFR section 313.1 states:

*(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 9 CFR 301.2(xxx)) and dying, diseased, and disabled livestock 9 CFR 301.2(y) 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.*

#### **B. The regulation related to handling of livestock**

9 CFR section 313.2 states:

*(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 section 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 section 313.30 shall be effectively applied to animals prior to their being shackled, hoisted, thrown, cast or cut.*

### **C. The general regulatory requirements related to approved stunning methods**

Appropriate stunning methods are required for an establishment to comply with the HMSA. When stunning is done correctly, animals feel no pain, are rendered instantly unconscious, and remain unconscious until slaughtered. There are four methods of stunning approved for livestock. A summary of these approved stunning methods appears below (refer to 9 CFR sections 313.5, 313.15, 313.16 and 313.30).

#### **Chemical; carbon dioxide**

Regulatory requirements for the use of carbon dioxide as a humane method of slaughter are specified in section 313.5 and include, among other things, the following:

1) Carbon dioxide gas may be used to slaughter and handle sheep, calves and swine.

2) The carbon dioxide gas shall be administered in a chamber so as to produce surgical anesthesia (a state where an animal feels no painful sensation) before the animal is shackled, hoisted, thrown, cast, or cut. Animals shall be exposed to the carbon dioxide gas in a way that will accomplish the anesthesia quickly and calmly.



3) Gas concentrations and exposure times shall be graphically recorded throughout each day's operation.

4) It is necessary that the operator be skilled, attentive, and aware of his or her responsibility.

### **Mechanical; captive bolt**

Regulatory requirements for the use of captive bolt stunners as a humane method of slaughter are specified in section 313.15 and include, among other things, the following:

1) Captive bolt stunners may be used to slaughter and handle sheep, swine, goats, calves, cattle, horses, mules, and other equines.

2) The captive bolt stunners shall be applied to livestock so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut.

3) The stunning operation is an exacting procedure and requires a well-trained and experienced operator who must use the correct detonating charge with regard to kind, breed, size, age, and sex of the animal to produce the desired results.

4) Stunning instruments must be maintained in good repair.

### **Mechanical; gunshot**

Regulatory requirements for the use of gunshot as a humane method of slaughter are specified in section 313.16 and include, among other things, the following:

1) Shooting by firearms may be used to slaughter and handle cattle, calves, sheep, swine, goats, horses, mules, and other equines.

2) A single shot delivery of a bullet or projectile into the animal is to produce immediate unconsciousness in the animal before it is shackled, hoisted, thrown, cast or cut.

3) Firearms must be maintained in good repair.

4) The shooting operation is an exacting procedure and requires a well-trained and experienced operator who must be able to accurately direct the projectile to produce immediate unconsciousness.

5) The operator must use the correct caliber firearm, powder charge and type of

ammunition to produce instant unconsciousness in the animal.

### **Electrical; stunning or slaughtering with electric current**

Regulatory requirements for the use of electric current as a humane method of slaughter are specified in section 313.30 and include, among other things, the following:

- 1) Electric current may be used to slaughter and handle swine, sheep, calves, cattle, and goats.
- 2) The animal shall be exposed to the electric current in a way that will accomplish surgical anesthesia (a state where an animal feels no painful sensation) quickly and effectively before they are shackled, hoisted, thrown, cast, or cut.
- 3) It is necessary that the operator of electric current application equipment be skilled, attentive, and aware of his or her responsibility.
- 4) Suitable timing, voltage and current control devices shall be used to ensure that each animal receives the necessary electrical charge to produce immediate unconsciousness.

9 CFR 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.

## **ELEMENTS OF A ROBUST SYSTEMATIC APPROACH TO HUMANE HANDLING AND SLAUGHTER**

There is no regulatory requirement for a systematic approach to humane handling and slaughter. However, if an establishment develops and maintains a robust systematic approach to humane handling and slaughter, FSIS would take that into consideration in the event of an egregious inhumane incident (see Chapter VII, IV, C). For FSIS to consider a systematic approach to be robust, the Agency has the expectation that the systematic approach include a written animal handling program that effectively addresses, through its design, maintenance, and execution, the four aspects of a systematic approach (2004 Federal Register Notice) and that also:

- Describes procedures that the establishment will effectively implement to stay in compliance with the humane handling regulations,
- Describes records that the establishment will keep to demonstrate that the program is being implemented as written,
- Describes records that the establishment will keep to demonstrate the program will effectively prevent identified potential noncompliances,
- Describes actions the establishment will take when it fails to implement the program as written or fails to prevent a noncompliance, and
- Is available to inspection program personnel for review.

If the management at an establishment requests that IPP consider the establishment's systematic approach to humane handling and slaughter to be robust, IPP are to consider criteria, such as the ones that are set out below, when reviewing the written humane handling program and associated records in determining whether it is robust.

### **INITIAL ASSESSEMENT**

Has the establishment conducted an initial assessment of what needs to be included in a humane handling program that addressed such matters as:

- Areas or equipment specific to the establishment where, or that could cause, animals to experience excitement, discomfort, or accidental injury.
- Standard animal handling procedures specific to the establishment to

ensure that livestock are handled in a manner to minimize excitement, discomfort, and accidental injury.

- Stunning procedures and equipment that are designed to prevent an ineffective stun or a return to consciousness after stunning. Monitoring for stunning effectiveness should be performed at set frequency each slaughter day for a certain number of animals by an individual designated by name trained in how to assess an animal for signs of unconsciousness or a return to sensibility. Stunning procedures should include how to render an animal unconscious if the first stun fails to do so. The indicators and criteria used to determine unconsciousness should be written and those designated to monitor stunning effectiveness should be trained in the indicators and criteria as supported by a training record.

Is there documentation to support that the establishment performed this assessment?

**NOTE:** Formats that this documentation may take include, but are not limited to, a narrative, a checklist with descriptions of any problem areas or procedures identified, or a flow chart with process control points identified for any area or equipment identified as a potential problem. Also, if establishments have had an animal handling program in place for a number of years, and they no longer have available the documentation for their initial assessment, IPP are to ask establishment management to describe the assessments and actions the establishment undertook during the development of its animal handling program. IPP are to document this discussion in a Memorandum of Interview and provide copies to establishment management and the CO.

## **FACILITY DESIGN AND HANDLING PRACTICES**

Has the establishment put in place a systematic approach to humane handling that addresses such matter as:

An animal handling program, facility design, and methods for correcting identified problems.

- Standard operating procedures (SOPs) for live animal handling; for example, has the establishment:
  - Designated a person or a position responsible for providing water and feed so as to meet regulatory requirements;
  - Posted stocking levels for live animal holding pens; and
  - Developed procedures for identifying and handling disabled or very

young animals.

- An animal handling training program for new employees working with live animals.
- Scheduled periodic (e.g., quarterly, annual) refresher training for all employees responsible for handling live animals.
- Procedures for checking that contracted truck drivers delivering animals to the establishment have received humane handling certification.
- Procedures for ensuring (e.g., through maintenance records or recording devices) that stunning devices (e.g., captive-bolt, firearm, electrical stunning system, CO2 system) are properly and regularly maintained so that animals are rendered insensible to pain as provided for in the regulations for the various stunning methods and that back up equipment is regularly maintained as supported by records and is immediately available on the spot in the event of a failure of the primary stunning device as indicated by an ineffective stun.

Does the establishment maintain documentation of its programs that address these matters?

## **ONGOING EVALUATION OF IMPLEMENTATION**

Has the establishment adopted written procedures for verifying that its program is effectively implemented, such as:

- A method for assessing, (e.g., through periodic monitoring) whether those establishment areas where live animals are held or pass through are in good condition and do not present any potential for injury, for example:
  - Evidence that written work orders are created when facility repairs are needed,
  - Maintenance logs to document that regular equipment inspections and maintenance are performed on permanent facility equipment used to move animals (e.g., hydraulic gates, direct current prods).
  - A method for ensuring that the animal handling program is effectively implemented, such as an in-house monitoring procedure that:

- Specifies at what time intervals (e.g., hourly, daily, weekly) the monitoring will be performed, and
- Identifies designated monitoring points in the process from truck unloading through stunning and bleed-out.

**NOTE:** At establishments performing only ritual slaughter, monitoring would be appropriate for all handling practices up to the point where an animal is restrained for the ritual cut (i.e., “intimate restraint”), and after an animal is released from the intimate restraint.

- In-house humane handling audits that employ accepted industry auditing methodologies.
- Third-party humane handling audits that are performed and the results reviewed, on a regular basis by establishment management.
- Video surveillance of live animal holding and handling areas or of the stunning area that allows designated establishment employees or contract personnel to:
  - In the case of live-feed-only systems, observe the feed from the video camera on a regular but random basis, or
  - In the case of systems with recording capability, regularly review a random selection of the records.
- Provision in the animal handling program for periodic documented monitoring of the stunning through bleed-out area to assess stunning practices and to verify that no animals return to consciousness during the post-stun through bleed-out period.
- An annual reassessment or anytime an inhumane noncompliance occurs, of all features of the program that reviews the program design, results, and effectiveness.
- A methodology to identify developing trends (e.g., Statistical Process Control charting) whereby establishment management, or its designee, makes periodic (e.g., weekly, monthly, quarterly) reviews of deficiencies identified during monitoring or audits and, based on these reviews, makes decisions to remedy the deficiencies.

## **RESPONSE TO EVALUATIONS**

Does the establishment have a written program for responding to and making changes in response to identified problems, such as:

- Provisions in the written animal handling program addressing actions to take in the event of a natural disaster (e.g., flood, tornado, or other catastrophic event such as a facility fire or major mechanical breakdown) to minimize injury or distress to animals on-site or enroute to the establishment.
- A methodology to track changes made in handling methods that address actual and potential problems identified during monitoring or audit activities.
- A methodology that employees and management would implement in the event an unanticipated inhumane incident occurs, for example:
  - The methodology might specify that, if an employee observes an inhumane handling incident, that employee is to immediately take action to eliminate or minimize any further animal pain and notify his/her supervisor;
  - The methodology might specify that the supervisor will document the report of the incident, make an assessment based on an investigation, and develop preventative measures to prevent recurrence;
  - The methodology may provide that if an inhumane stunning incident occurs employees are to take immediate action to minimize any further animal pain, stop further slaughter, and notify management;
  - The methodology may provide that management will make an assessment of the incident and will implement immediate corrective actions to prevent recurrence before resuming slaughter, and that the incident as well as all actions taken will be documented; or
  - The methodology may provide that the establishment's animal handling program will be reviewed and updated as needed, and that there is a provision for periodic (e.g., annual), assessment of the written animal handling program by management personnel.
  - The methodology may provide for a back up stunning device or method that is immediately accessible and in readiness for use at the stunning area. The back up stunning device or method would be maintained to ensure its readiness for use.

The above examples are not intended to be an inclusive list. If IPP have



questions or concerns they should inquire through their supervisory chain to the CM and CO for clarification.

Attachment 3

**"SAMPLE" - MEMORANDUM OF INTERVIEW REGARDING AN ENFORCEMENT ACTION FOR AN EGREGIOUS SITUATION OF INHUMANE HANDLING OR SLAUGHTER**

Memorandum of Interview

Month Day, 20XX

Today, Month Day Year, at approximately 3:15pm, I verbally notified Mr. Bob Jones, Establishment Manager, of my decision to suspend inspection at Establishment XXX.

I advised Mr. Jenkins that I was also contacting the Circuit Manager and MSA Central Office about the suspension action and that the Circuit Manager and MSA Central Office would be following up with a written enforcement action letter to the establishment. I based my decision to suspend inspection at the establishment on the following:

At approximately 2:35pm today, after examining hogs in suspect pen #2, I observed a hog that had already been stunned lying on the floor next to the south end of the shackle table. Upon closer observation, I saw that the hog was breathing rhythmically and had an intact palpebral reflex. The hog was also attempting to sit up but was unable to do so. Two establishment employees, Ms. Sally Johnson, and Mr. Tim Pratt were standing at the suspect pen and were not paying attention as the hog was repeatedly attempting to sit up but unable to do so. There was also one hog in the squeeze retainer that was about to be stunned and one hog that had been recently stunned hanging on the bleed chain in preparation for further processing.

I instructed establishment employees to immediately re-stun the hog that was repeatedly attempting to sit up and I observed the proper re-stunning of this animal. I also instructed establishment employees to properly stun the one hog that was in the squeeze retainer and I observed the proper stunning of this animal. I then advised establishment employees that further processing of these two hogs and the one hog hanging on the bleed chain could continue, but that I was implementing a regulatory control action to prevent the slaughter of animals until the inhumane stunning issues could be addressed. I then tagged the gate that allowed hogs to enter to the squeeze retainer thereby stopping the slaughter process. I then left the stunning area and located the Establishment Foreman, Mr. Ronald Tucker to alert him of this situation. I advised Mr. Tucker that the regulatory control action to stop further stunning would remain in place. I also advised him that due to the seriousness of this matter, an immediate suspension was being taken and that I was alerting the Central Office of the suspension.

/s/ Inspector-in-Charge, Jim James

**NOTE:** This sample MOI is intended to convey the minimum information to be included to support an immediate suspension for inhumane handling or slaughter. It is recognized that on a "case by case" basis and through discussions held with the Circuit Manager and MSA Central Office, that a MOI may contain more detail to describe the facts and the basis for taking the enforcement action.

Attachment 4

**"SAMPLE" - MEMORANDUM OF INTERVIEW REGARDING ISSUANCE OF LETTER OF CONCERN FOR AN EGREGIOUS SITUATION OF INHUMANE HANDLING OR SLAUGHTER**

Memorandum of Interview

Month Day, 20XX

Today, Month Day, Year, at approximately 2:50 pm, I verbally notified Mr. John Jones, the establishment manager, that I had taken a regulatory control action in the stunning area for improper stunning resulting in an egregious inhumane treatment of a hog. I also informed Mr. Jones that I was contacting the Circuit Manager and MSA Central Office (CO) to discuss and recommend the issuance of a Letter of Concern (LOC) enforcement action rather than a Letter of Warning (LOW), unless the CO determines otherwise. I based my decision to recommend the LOC on the following circumstances and establishment history:

At approximately 2:30 pm today while verifying the establishment's implementation of their humane handling program at the stunning area, I observed a recently hired employee become flustered with the squeeze chute which had been recently repaired. As the next hog approached the employee's station, the employee looked down at the chute before attempting to stun the hog, which resulted in a miss-stun. The employee immediately tried a second time to stun the hog and, simultaneously, the squeeze chute began to malfunction causing the hog to move quickly to the side. The bolt entered the side of the hog's head causing the animal to panic. The animal by this time was vocalizing loudly and thrashing about, making it difficult for the employee to attempt a third stun. The slaughter supervisor stopped the line and, at that point, the employee was able to effectively stun the animal. The slaughter supervisor informed me that he would immediately get maintenance to work on the squeeze chute and instruct the employee on properly restraining and stunning a fractious animal. I placed a "U.S. Rejected" tag (#1234567) on the entrance to the stunning area and left the stunning area to inform establishment management of this incident and enforcement action taken.

My decision to recommend an LOC to the District Office is due to the fact that you have a written animal handling program that has effectively implemented a robust systematic approach to humane handling resulting in the high rate of compliance you have exhibited over the last 6 months. The events I observed today and recorded above appear to be an unintentional random occurrence that resulted in an egregious inhumane handling incident. Your supervisor's actions were as indicated in your animal handling program. This history coupled with your

supervisor's immediate and effective intervention led to my recommendation for a LOC instead of a LOW.

/s/Inspector-in-Charge .....

**NOTE:** This sample MOI is intended to convey the minimum information to be included to support a LOC for inhumane handling or slaughter. It is recognized that on a "case by case" basis and through discussions held with the CM and MSA CO, that a MOI may contain more detail to describe the facts and the basis for issuing the LOC.