

**UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE**

**PETITION FOR RULEMAKING**

**Submitted to:**

FSIS Docket Clerk  
Department of Agriculture  
Food Safety and Inspection Service  
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**Petition:**

To Promulgate Additional Regulations Implementing the *Humane Methods of Slaughter Act* to Prevent Incidents of Inhumane Handling and the Needless Suffering of Animals at Slaughter

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## 1. Introduction

In early 2008, multiple instances of egregious cruelty to cattle at the Westland-Hallmark Meat Packing Co. in Chino, California, caught on videotape by animal protection advocates, resulted in widespread public outrage and eventually led to the largest beef recall in the history of the United States.<sup>1</sup> This incident occurred despite the continual on-site presence of United States Department of Agriculture (“USDA”) inspection personnel and the periodic performance of third-party humane slaughter audits at the plant.

In the aftermath of Westland-Hallmark, Congress held multiple hearings on humane slaughter, and the USDA’s Food Safety and Inspection Service (“FSIS”) took several actions to step up its enforcement of the federal Humane Methods of Slaughter Act<sup>2</sup> (“HMSA”), including conducting an audit of slaughter plants at high risk for humane violations,<sup>3</sup> temporarily increasing the time spent verifying humane handling and slaughter requirements,<sup>4</sup> and issuing a humane slaughter notice<sup>5</sup> and additional training modules<sup>6</sup> for in-plant inspection personnel.

The cruel treatment of animals at slaughter shocked the nation for a second time about 18 months later when egregious mistreatment of non-ambulatory, week-old calves at Bushway Packing in Grand Isle, Vermont, was captured on videotape.<sup>7</sup> No less than four egregious incidents occurred

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<sup>1</sup> See USDA, FSIS, “Statement by Secretary of Agriculture Ed Schafer regarding Hallmark/Westland Meat Packing Company Two Year Product Recall” (news release), Feb. 17, 2008, <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2008/02/0046.xml>.

<sup>2</sup> 7 U.S.C. § 1901 *et seq.*

<sup>3</sup> USDA, Office of Inspector General, *Audit Report: Evaluation of FSIS Management Controls over Pre-slaughter Activities*, Nov. 2008, <http://www.usda.gov/oig/webdocs/24601-07-KC.pdf>.

<sup>4</sup> USDA, FSIS, “Increased Verification of Humane Handling Requirements in Livestock Slaughter Establishments,” Notice 17-08, March 10, 2008.

<sup>5</sup> USDA, FSIS, “Humane Handling Activities and Documentation in Livestock Slaughter Establishments,” Notice 16-08, March 10, 2008.

<sup>6</sup> USDA, FSIS, “Regional Training,” [http://www.fsis.usda.gov/FSIS\\_Employees/Regional\\_Training/](http://www.fsis.usda.gov/FSIS_Employees/Regional_Training/). See also USDA, FSIS, “Key Facts: Humane Slaughter,” [http://www.fsis.usda.gov/factsheets/key\\_facts\\_humane\\_slaughter/index.asp](http://www.fsis.usda.gov/factsheets/key_facts_humane_slaughter/index.asp); USDA, FSIS, “Humane Interactive Knowledge Exchange,” [http://www.fsis.usda.gov/FSIS\\_Employees/HIKE/index.asp](http://www.fsis.usda.gov/FSIS_Employees/HIKE/index.asp).

<sup>7</sup> USDA, FSIS, “Agriculture Secretary Vilsack Responds to Allegations from the Humane Society of the United States” (news release), Oct. 30, 2009, <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2009/10/0540.xml>.

over a six-month period before FSIS finally suspended the plant indefinitely.<sup>8</sup> Again, Congress held hearings, and once again FSIS took action, this time establishing an “ombudsman” office for FSIS personnel needing direction and support on humane slaughter enforcement<sup>9</sup> and agreeing to grant a petition to ban the slaughter of non-ambulatory calves.<sup>10</sup>

Instances of inhumane slaughter continue, however. FSIS inspectors temporarily shut down operations at Central Valley Meat in Hanford, California, in August 2012 after receiving a video shot by animal protection advocates that showed non-ambulatory cows being handled inhumanely.<sup>11</sup> The federal government and McDonald’s Corporation suspended purchases of beef from the plant in response.<sup>12</sup> The plant was eventually allowed to reopen after agreeing to make a number of changes, including requiring workers to undergo training in the humane treatment of animals on a quarterly basis.<sup>13</sup>

While it may not be possible to avoid all incidents of animal suffering at slaughter, more must be done to reduce inhumane handling at slaughter, particularly that which is egregious and clearly preventable in nature. In an attempt to determine whether regulatory changes could be made to prevent inhumane slaughter—and what those changes might be—the Animal Welfare Institute (“AWI”) conducted a review of more than 1,000 incidents of inhumane handling and slaughter occurring at state and federally inspected slaughter establishments over a recent six-year period. Based on its analysis, AWI concluded that several simple and straight-forward amendments to HMSA regulations could significantly reduce the occurrence of inhumane treatment of animals at U.S. slaughter plants.

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<sup>8</sup> USDA, FSIS, *Quarterly Enforcement Report, October 1, 2009 through December 31, 2009*, at 30, [http://www.fsis.usda.gov/PDF/QR\\_Q1\\_FY10\\_Tables1-19.pdf](http://www.fsis.usda.gov/PDF/QR_Q1_FY10_Tables1-19.pdf).

<sup>9</sup> See USDA, FSIS, “Humane Handling Ombudsman,” [http://www.fsis.usda.gov/Fact\\_Sheets/Humane\\_Handling\\_Ombudsman/index.asp](http://www.fsis.usda.gov/Fact_Sheets/Humane_Handling_Ombudsman/index.asp).

<sup>10</sup> USDA, FSIS, “Final Response to Petition Submitted by the Humane Society of the United States,” March 13, 2013, [http://www.fsis.usda.gov/PDF/Petition\\_Fsis\\_Resp\\_HSUS\\_031313.pdf](http://www.fsis.usda.gov/PDF/Petition_Fsis_Resp_HSUS_031313.pdf). See also USDA, FSIS, “USDA Announces Measures to Improve Humane Handling Enforcement” (news release), Dec. 22, 2010, [http://www.fsis.usda.gov/News\\_&\\_Events/NR\\_122210\\_01/index.asp](http://www.fsis.usda.gov/News_&_Events/NR_122210_01/index.asp).

<sup>11</sup> USDA, FSIS, “USDA Suspends Central Valley Meat for Humane Handling Violations” (news release), Aug. 21, 2012, [http://www.fsis.usda.gov/News\\_&\\_Events/NR\\_082112\\_01/index.asp](http://www.fsis.usda.gov/News_&_Events/NR_082112_01/index.asp).

<sup>12</sup> D. Zahniser, “Central Valley Slaughterhouse Reopens after Animal Abuse Claims,” *Los Angeles Times*, Aug. 27, 2012.

<sup>13</sup> USDA, FSIS, “Notice of Suspension Held in Abeyance” (addressed to Central Valley Meat), Aug. 27, 2012, [http://www.fsis.usda.gov/PDF/FOIA/6063AM\\_Abeyance\\_082712.pdf](http://www.fsis.usda.gov/PDF/FOIA/6063AM_Abeyance_082712.pdf).

## **2. Interests of the Petitioner**

Petitioner the Animal Welfare Institute, a non-profit charitable organization, has been alleviating the suffering inflicted on animals by humans since 1951. AWI aims to improve the welfare of animals used in agriculture through engagement with policymakers, scientists, industry, non-governmental organizations, farmers, veterinarians, teachers, and the public. Specifically, AWI seeks to abolish factory farms, support high-welfare family farms, achieve humane slaughter, and improve transport conditions for all animals raised for food. Animal Welfare Approved, a high-welfare food certification, is a program of the Animal Welfare Institute. In administering this program, representatives of AWI audit compliance with its standards on farms and visit slaughter establishments to review animal handling practices. The organization has monitored enforcement of U.S. humane slaughter laws, and lobbied for increased enforcement, for decades. AWI conducted comprehensive reviews of state and federal humane slaughter enforcement in 2008, 2010, and 2012. Headquartered in Washington, DC, AWI has members and supporters throughout the United States.

## **3. Requested Action**

U.S. citizens have the right to petition their government to add, amend, or repeal regulations relating to agriculture under the Right to Petition Government Clause of the First Amendment of the United States Constitution,<sup>14</sup> the Administrative Procedure Act,<sup>15</sup> and USDA regulations.<sup>16</sup> Under this authority, the petitioner submits its petition for rulemaking to the Secretary of the USDA (“Secretary”). Petitioner requests that the Secretary amend HMSA regulations to require all slaughter establishments take a systematic approach to animal welfare by preparing and maintaining a comprehensive, written humane handling plan, and make other changes that are needed to prevent unnecessary incidents of inhumane handling at slaughter. These amendments include requiring routine testing and maintenance of stunning equipment, the availability of backup stunning devices, and employee training in animal handling. The purpose of the requested action is to protect the welfare of animals during the slaughter process and to provide safer and better working conditions for persons engaged in the slaughter industry. The requested

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<sup>14</sup> U.S. Const. Amend. I.

<sup>15</sup> 5 U.S.C. § 553(e).

<sup>16</sup> 7 C.F.R. § 1.28.

action is necessary under the Federal Meat Inspection Act (“FMIA”)<sup>17</sup> and the HMSA, which require the Secretary to ensure that the slaughtering of livestock and the handling of livestock in connection with slaughter is carried out only by humane methods. In addition, the proposed regulations are directed at preventing treatment of animals during slaughter which the agency itself has declared constitutes egregious violations of these Acts.

#### **4. Legal Background**

##### **4.1 Humane Methods of Slaughter Act**

Congress enacted the Humane Methods of Slaughter Act of 1958 “to establish the use of humane methods of slaughter of livestock as a policy of the United States, and for other purposes.”<sup>18</sup> The Act covers handling of animals, in addition to the slaughter process itself. It requires that animals be made insensible to pain “by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective” prior to being shackled, hoisted, or cut. Ritual slaughter in accordance with the requirements of a religious faith is deemed to be humane and exempted from the stunning requirement. However, the ritual exclusion does not exempt ritual slaughter establishments from complying with humane handling requirements.

Congress has taken action related to the HMSA (other than funding initiatives) on four occasions since the law’s initial passage. The Humane Methods of Slaughter Act of 1978 provided an enforcement mechanism by giving food safety inspectors the authority to stop production by withholding inspection until any observed cruel handling or slaughter practices are corrected.<sup>19</sup> The law also expanded coverage of the Act by requiring that any meat imported into the United States come from animals slaughtered under standards equivalent to the federal humane slaughter law and its regulations.<sup>20</sup>

In 1996, Congress approved legislation<sup>21</sup> to allow USDA to issue guidelines for the regulations of the commercial transportation of equines for slaughter.<sup>22</sup> A section was added to the humane

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<sup>17</sup> 21 U.S.C. § 601 *et seq.*

<sup>18</sup> *Id.*

<sup>19</sup> 21 U.S.C. § 603(a).

<sup>20</sup> 21 U.S.C. § 620(a).

<sup>21</sup> P.L. 104-127, Title IX, subtitle A, Apr. 4, 1996, 110 Stat. 1184.

slaughter law in 2002 to address practices involving non-ambulatory animals.<sup>23</sup> Moreover, a resolution was passed as part of the 2002 farm bill that expressed the desire that the Secretary of Agriculture fully enforce the humane slaughter law and continue tracking violations and report those data and relevant trends annually to Congress.<sup>24</sup>

FMIA and its regulations, including those related to humane handling and slaughter, apply to all federal and state inspected slaughter plants. On-farm slaughter by the farm owner or operator or by a commercial, mobile slaughtering operation is exempt, unless specifically covered under state law. Custom slaughter establishments are also exempt. However, these operations are required to comply with certain sanitary requirements of the food safety regulations,<sup>25</sup> and are expected to comply with humane handling and slaughter procedures as well, although no legal requirement currently exists that they do so.

#### **4.2 Humane Methods of Slaughter Act Regulations**

USDA published its regulations implementing the 1978 Humane Methods of Slaughter Act in the *Federal Register* in late 1979.<sup>26</sup> The regulations address facility construction and maintenance, handling of animals in connection with slaughter, and acceptable methods of slaughter, which include carbon dioxide gas, captive bolt, gunshot, and stunning with electric current.<sup>27</sup>

The humane slaughter regulations have been modified only twice in the past 20 years. In 1994, USDA amended the regulations to permit use of carbon dioxide to kill—and not merely stun—pigs. The amendment was prompted by a petition filed by the Danish and Swedish Meat Research Institute on behalf of Danish pork companies wishing to import to the U.S. products from animals killed with carbon dioxide gas.<sup>28</sup> In 2004, USDA added an amendment to prohibit use of penetrating captive bolt devices that inject air into the cranial cavity of cattle due to the

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<sup>22</sup> 9 C.F.R. Part 88.

<sup>23</sup> 7 U.S.C. § 1907.

<sup>24</sup> P.L. 107-171, Title X, Sec. 10305, May 13, 2002, 116 Stat. 493.

<sup>25</sup> 9 C.F.R. § 303.1.

<sup>26</sup> 44 FR 68813, Nov. 30, 1979.

<sup>27</sup> 9 C.F.R. Part 313.

<sup>28</sup> 59 FR 21640, Apr. 26, 1994.

findings of a risk assessment on bovine spongiform encephalopathy.<sup>29</sup> Neither of these amendments was aimed at improving the humane treatment of animals before and/or during slaughter.

While no new regulations have been promulgated in recent years, USDA has issued several notices and directives<sup>30</sup> related to humane slaughter. They address such topics as ritual slaughter procedures, assessing stunning effectiveness, and the treatment of non-ambulatory animals, and appear to have been published, in large part, as a response to documented reports of animal cruelty at slaughter.<sup>31</sup>

FSIS Directive 6900.2, Humane Handling and Slaughter of Livestock, defines egregious inhumane treatment as “any act or condition that results in severe harm to animals, for example:

- making cuts on or skinning conscious animals;
- excessive beating or prodding of ambulatory or nonambulatory disabled animals or dragging of conscious animals;
- driving animals off semi-trailers over a drop off without providing adequate unloading facilities;
- running equipment over conscious animals;
- stunning of animals and then allowing them to regain consciousness;
- 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;
- dismembering conscious animals, for example, cutting off ears or removing feet;
- leaving disabled livestock exposed to adverse climate conditions while awaiting disposition; or

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<sup>29</sup> 69 FR 18891, Jan. 12, 2004.

<sup>30</sup> See [http://www.fsis.usda.gov/regulations\\_and\\_policies/regulations\\_directives\\_and\\_notices/index.asp](http://www.fsis.usda.gov/regulations_and_policies/regulations_directives_and_notices/index.asp).

<sup>31</sup> For example, in 2004 FSIS issued a notice on humane handling, saying it was doing so “because there has been considerable congressional and public interest about the humane treatment of animals, and because the number of humane handling noncompliance incidents documented by FSIS in establishments has increased over the last three years.” See 69 FR 54625, Sept. 9, 2004. Further, in 2005, FSIS issued a similar notice related to the treatment of live poultry before slaughter after exposure of numerous instances of animal cruelty in poultry slaughter plants by animal protection advocates. See 70 FR 56624, Sept. 28, 2005.

- otherwise causing unnecessary pain and suffering to animals, including situations on trucks.”<sup>32</sup>

In 2004, FSIS published a notice in the *Federal Register* “encouraging livestock slaughter establishments to use a systematic approach to humane handling and slaughter to best ensure that they meet the requirements of the HMSA, FMIA, and implementing regulations.”<sup>33</sup> In 2008—after the incident at Westland-Hallmark—USDA’s Agricultural Marketing Service (“AMS”) issued animal handling and welfare technical requirements for suppliers participating in federal nutrition assistance programs.<sup>34</sup> A written quality management plan, addressing the provisions of the American Meat Institute’s (“AMI”) *Recommended Animal Handling Guidelines and Audit Guide*, is a requirement of participation. Notable 2013 updates to the technical requirements include requiring that vendors and their raw material suppliers establish an animal handling and welfare steering committee and requiring certification for the individual(s) facilitating a vendor’s animal handling and welfare training program.<sup>35</sup>

## 5. **Factual Background**

AWI has continuously analyzed state and federal enforcement of humane slaughter laws for more than five years. In 2008, AWI published a comprehensive review of state and federal enforcement over a 10-year period, 1998 through 2007.<sup>36</sup> In 2010, AWI published an update to the earlier report, which aimed to determine whether enforcement had increased in the aftermath of the Westland-Hallmark incident, and to compare state and federal enforcement of humane slaughter laws.<sup>37</sup> This report found that enforcement was up overall since early 2008 when the

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<sup>32</sup> USDA, FSIS, “Humane Handling and Slaughter of Livestock,” Directive 6900.2, Aug. 15, 2011, at 2-3, <http://www.fsis.usda.gov/OPPDE/rdad/FSISDirectives/6900.2.pdf>.

<sup>33</sup> 69 FR 54625, Sept. 9, 2004.

<sup>34</sup> USDA, AMS, “Technical Requirements Schedule—Animal Handling and Welfare 2010 (TRS-AHW-2010),” effective date May 2010.

<sup>35</sup> USDA, AMS, “Technical Requirements Schedule—Animal Handling and Welfare 2013 (TRS-AHW-2013),” effective date July 2013. AMS considered, but ultimately did not require, remote video auditing at slaughter facilities for the 2013 updates. See USDA, AMS, “Notice to the Trade: Animal Handling and Welfare Requirement Modifications for Federal Nutrition Assistance Programs,” Dec. 2012.

<sup>36</sup> D. Jones, *Crimes without Consequences: The Enforcement of Humane Slaughter Laws in the United States*, May 2008.

<sup>37</sup> Animal Welfare Institute, *Humane Slaughter Update: Comparing State and Federal Enforcement of Humane Slaughter Laws*, July 2010. Exhibit A.

Westland-Hallmark incident occurred, but that it varied widely among individual states and federal districts. Repeat state and federal violators was identified as a significant problem, along with inadequate training and a subsequent lack of consistency in response to humane slaughter violations by state and federal inspection personnel. The report concluded that while allocation of resources to humane slaughter activities appeared to have increased for state plants, resources devoted to humane handling at the federal level continued to constitute less than 2 percent of total funding for food safety inspections.<sup>38</sup>

Both of the earlier reports drew conclusions about the level of humane slaughter law enforcement based on records obtained from public records requests to state and federal departments of agriculture and from records posted on the FSIS website. In 2012 AWI again submitted a public records request to each state operating a meat inspection program,<sup>39</sup> this time requesting records for all enforcement actions occurring since January 1, 2010.<sup>40</sup> In addition, a number of Freedom of Information Act requests for federal enforcement records<sup>41</sup> were submitted to FSIS between January 2010 and March 2012, at which time FSIS began routinely posting on its website records related to Notices of Suspension and Notices of Intended Enforcement for humane slaughter violations.<sup>42</sup>

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<sup>38</sup> *Id.* An analysis of the Budget of the United States and FSIS data by the Government Accountability Office (GAO) estimated that between 1.23 and 1.46 percent of FSIS' total annual appropriations for federal food safety inspection for the years 2005 through 2008 went to activities related to humane handling inspection. GAO, *Humane Methods of Slaughter Act: Actions are Needed to Strengthen Enforcement*, GAO-10-203, Feb. 2010, at 32.

<sup>39</sup> Twenty-seven states operate meat or meat and poultry inspection programs. See USDA, FSIS, "Listing of Participating States," [http://www.fsis.usda.gov/regulations\\_and\\_policies/Listing\\_of\\_Participating\\_States/index.asp](http://www.fsis.usda.gov/regulations_and_policies/Listing_of_Participating_States/index.asp).

<sup>40</sup> The public records requests sought copies of all enforcement actions for violations of humane slaughter regulations, including all noncompliance records, memorandums of interview, warnings, suspension of plant operations, reinstatement of plant suspension, revocation of plant license, civil penalties, and criminal prosecutions.

<sup>41</sup> These requests sought copies of noncompliance records, memorandums of interview, warning letters, suspension of plant operations, and reinstatement of plant suspension.

<sup>42</sup> See USDA, FSIS, "Humane Handling Enforcement Actions," [http://www.fsis.usda.gov/regulations\\_and\\_policies/Humane\\_Handling\\_Enforcement\\_Actions/index.asp](http://www.fsis.usda.gov/regulations_and_policies/Humane_Handling_Enforcement_Actions/index.asp).

## 5.1 Humane Enforcement at Federally Inspected Plants

The number of federal plants suspended for humane slaughter violations increased dramatically after the previously described incident at Westland-Hallmark, which occurred in early 2008.<sup>43</sup> Enforcement, in terms of plant suspensions and other regulatory actions, is dependent upon the ability of inspection personnel to observe violations. However, the amount of time spent by FSIS personnel on humane handling activities at individual slaughter plants varies widely. In its 2010 report on humane slaughter enforcement, the Government Accountability Office (“GAO”) noted that Humane Activities Tracking System (“HATS”) time varied from 1.8 hours per shift to 9.7 hours per shift at 15 large slaughter plants for pigs.<sup>44</sup> Similarly, the amount of time spent on humane activities varies significantly by federal district, from a low of less than one hour per 1,000 animals to a high of approximately 20 hours per 1,000 animals, according to data containing in FSIS Humane Handling Quarterly Reports.<sup>45</sup>

AWI’s 2010 report noted that a number of federal plants had multiple suspensions for humane slaughter violations during the period 2007 to 2009.<sup>46</sup> One plant was closed down on five occasions for humane violations in 2008 alone, and in another case a plant was suspended eight times between May 2007 and November 2009.<sup>47</sup> The Bushway Packing plant in Vermont, cited previously, was suspended for humane slaughter violations in May, June, July, and October 2009.<sup>48</sup>

An analysis of enforcement actions for the period 2010 to 2012 showed that fewer plants were experiencing repeat suspensions compared to the previous period, as shown in Figure 1. Of all plants suspended during that time, less than 20 percent had multiple suspensions. However, plant suspensions may not be a reliable indicator of compliance with humane slaughter regulations. A

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<sup>43</sup> Suspensions jumped from 12 in 2007 to 97 in 2008. See USDA, FSIS, “Quarterly Enforcement Reports,” available at [http://www.fsis.usda.gov/regulations\\_&\\_policies/Quarterly\\_Enforcement\\_Reports/index.asp](http://www.fsis.usda.gov/regulations_&_policies/Quarterly_Enforcement_Reports/index.asp).

<sup>44</sup> GAO, *Humane Methods of Slaughter Act: Actions are Needed to Strengthen Enforcement*, GAO-10-203, Feb. 2010, at 30.

<sup>45</sup> USDA, FSIS, “Humane Handling Quarterly Reports,” available at [http://www.fsis.usda.gov/regulations\\_&\\_policies/Humane\\_Handling\\_Enforcement\\_Reports/index.asp](http://www.fsis.usda.gov/regulations_&_policies/Humane_Handling_Enforcement_Reports/index.asp).

<sup>46</sup> Exhibit A, at 14-15.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

report by the USDA Office of Inspector General, issued in May 2013, noted that FSIS inspectors did not always take appropriate enforcement actions at 8 of 30 pig slaughter plants visited.<sup>49</sup> Specifically, in 10 instances inspectors did not suspend plants after observing egregious humane handling violations.<sup>50</sup>

| <b>Figure 1. Suspensions per Federal Plant<sup>a</sup></b>                      |                               |                               |                               |
|---------------------------------------------------------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b># Suspensions</b>                                                            | <b>2002-2004<br/>% Plants</b> | <b>2007-2009<br/>% Plants</b> | <b>2010-2012<br/>% Plants</b> |
| 1                                                                               | 84.4                          | 27.8                          | 81.4                          |
| 2                                                                               | 12.5                          | 38.9                          | 13.6                          |
| 3                                                                               | 3.1                           | 16.7                          | 5.1                           |
| 4-5                                                                             | 0                             | 11.1                          | 0                             |
| 6+                                                                              | 0                             | 5.6                           | 0                             |
| <sup>a</sup> Of plants with one or more suspension during the indicated period. |                               |                               |                               |

## 5.2 Humane Enforcement at State Inspected Plants

All 27 states operating meat inspection programs responded to requests from AWI for humane slaughter enforcement records for the period January 1, 2010 through mid-2012.<sup>51</sup> The total number of state Noncompliance Records (“NRs”) written for humane slaughter violations remained relatively unchanged from the previously studied three-year period (2007-2009), while the total number of suspensions for all states increased by 50 percent, from 12 to 18 (Figure 2).

<sup>49</sup> USDA, OIG, *Food Safety and Inspection Service – Inspection and Enforcement Activities at Swine Slaughter Plants*, Audit Report 24601-0001-41, May 2013, <http://www.usda.gov/oig/webdocs/24601-0001-41.pdf>.

<sup>50</sup> *Id.*, at 22-25.

<sup>51</sup> The exact date range for the records varies by state according to when the individual state responded to the records request. Alabama Department of Agriculture and Industries refused to copy and mail the records, but offered to make the records available for review. South Carolina (Clemson University) refused to supply records based on a recent change in the South Carolina Code (Section 47-4-170) which prohibits the disclosure of information that may be used to identify a business activity subject to regulation by the South Carolina Department of Agriculture.

**Figure 2. State Enforcement Actions**

| State                                                                                                                                                                                                                                                                                                                 | Noncompliance Records |                |                        | Suspensions |                |                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------|------------------------|-------------|----------------|------------------------|
|                                                                                                                                                                                                                                                                                                                       | 2002-2004             | 2007-2009      | 2010-2012 <sup>a</sup> | 2002-2004   | 2007-2009      | 2010-2012 <sup>a</sup> |
| Alabama                                                                                                                                                                                                                                                                                                               | 0                     | 7              | 0 <sup>d</sup>         | 0           | 0              | 0 <sup>d</sup>         |
| Arizona                                                                                                                                                                                                                                                                                                               | 0                     | 0              | 6                      | 0           | 0              | 0                      |
| Delaware                                                                                                                                                                                                                                                                                                              | 0                     | 0 <sup>b</sup> | 0 <sup>b</sup>         | 0           | 0 <sup>b</sup> | 0 <sup>b</sup>         |
| Georgia                                                                                                                                                                                                                                                                                                               | 0                     | 5              | 3                      | 0           | 0              | 1                      |
| Illinois                                                                                                                                                                                                                                                                                                              | 0                     | 1              | 73                     | 0           | 1              | 2                      |
| Indiana                                                                                                                                                                                                                                                                                                               | 3                     | 4              | 0                      | 0           | 0              | 0                      |
| Iowa                                                                                                                                                                                                                                                                                                                  | 0                     | 12             | 20                     | 0           | 0              | 2                      |
| Kansas                                                                                                                                                                                                                                                                                                                | 2                     | 12             | 11                     | 0           | 0              | 1                      |
| Louisiana                                                                                                                                                                                                                                                                                                             | 0                     | 0              | 0                      | 0           | 0              | 0                      |
| Maine                                                                                                                                                                                                                                                                                                                 | 0                     | 2              | 6                      | 0           | 0              | 3                      |
| Minnesota                                                                                                                                                                                                                                                                                                             | 2                     | 5              | 7                      | 1           | 0              | 0                      |
| Mississippi                                                                                                                                                                                                                                                                                                           | 0                     | 3              | 5                      | 0           | 0              | 0                      |
| Missouri                                                                                                                                                                                                                                                                                                              | 0                     | 4              | 1                      | 0           | 0              | 0                      |
| Montana                                                                                                                                                                                                                                                                                                               | 0                     | 1              | 3                      | 0           | 0              | 0                      |
| North Carolina                                                                                                                                                                                                                                                                                                        | 7                     | 23             | 29                     | 0           | 4              | 5                      |
| North Dakota                                                                                                                                                                                                                                                                                                          | 1                     | 6              | 2                      | 0           | 0              | 0                      |
| Ohio                                                                                                                                                                                                                                                                                                                  | 10                    | 51             | 29                     | 1           | 0              | 1                      |
| Oklahoma                                                                                                                                                                                                                                                                                                              | 1                     | 13             | 5                      | 0           | 0              | 0                      |
| South Carolina                                                                                                                                                                                                                                                                                                        | 1                     | 28             | 0 <sup>d</sup>         | 1           | 2              | 0 <sup>d</sup>         |
| South Dakota                                                                                                                                                                                                                                                                                                          | 0                     | 0 <sup>c</sup> | 16                     | 0           | 0 <sup>c</sup> | 0                      |
| Texas                                                                                                                                                                                                                                                                                                                 | 41                    | 58             | 72                     | 0           | 2              | 3                      |
| Utah                                                                                                                                                                                                                                                                                                                  | 0                     | 0 <sup>c</sup> | 1                      | 0           | 0 <sup>c</sup> | 0                      |
| Vermont                                                                                                                                                                                                                                                                                                               | 0                     | 0              | 1                      | 0           | 0              | 0                      |
| Virginia                                                                                                                                                                                                                                                                                                              | 0                     | 0              | 1                      | 0           | 0              | 0                      |
| West Virginia                                                                                                                                                                                                                                                                                                         | 0                     | 21             | 23                     | 0           | 0              | 0                      |
| Wisconsin                                                                                                                                                                                                                                                                                                             | 4                     | 121            | 59                     | 0           | 3              | 0                      |
| Wyoming                                                                                                                                                                                                                                                                                                               | 0                     | 32             | 23                     | 0           | 0              | 0                      |
| <b>TOTAL</b>                                                                                                                                                                                                                                                                                                          | 72                    | 409            | 396                    | 4           | 12             | 18                     |
| <sup>a</sup> For the period January 2010 through mid-2012 (exact date varies by state).<br><sup>b</sup> State had no licensed meat slaughter plants during the indicated period.<br><sup>c</sup> State did not respond to request for enforcement records.<br><sup>d</sup> State refused to send enforcement records. |                       |                |                        |             |                |                        |

As with federal districts, it is difficult to compare enforcement between states as the number of slaughter plants under inspection and the number of animals slaughtered at those establishments varies considerably. Nevertheless, it is concerning that several states could supply no records whatsoever regarding humane slaughter enforcement for the three-year period.

In general, state inspection personnel appear far less likely than federal inspectors to suspend a plant—or even to write up a Noncompliance Record—for an observed humane violation.<sup>52</sup> In one case a Texas inspector noted on an internal memorandum that “some of the animals have 2 or 3 holes to the skull,” yet he failed to write an NR or to issue a suspension.<sup>53</sup> And in another example from Texas, it was noted on a weekly meeting memorandum that kill floor employees were “cutting and skinning animals after the throats were cut” but while the animals were seen still moving.<sup>54</sup> This serious humane violation was treated in the same manner as “trash all over the plant, especially in the restrooms and break rooms,” which was noted on the same memorandum. Again, no official enforcement action was taken. However, federal directives identify both of these violations (i.e., multiple stunning attempts and conscious animals on the bleed rail) as “egregious,” indicating that a suspension of plant operations is called for.

Of 805 violations cited at state inspected plants during the period 2007 through 2012, AWI classified approximately 250 as being egregious in nature. However, only 30 (or 12 percent) of these egregious violations resulted in a suspension,<sup>55</sup> indicating that the enforcement of humane slaughter regulations at plants inspected by state departments of agriculture (with oversight from USDA) is extremely lenient and inconsistent.

In addition to enforcement actions, AWI requested that states provide HATS data, indicating the amount of time inspection personnel spent on humane activities.<sup>56</sup> HATS data cannot be easily compared between states without information regarding the number of animals slaughtered,

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<sup>52</sup> For the year 2009, federal inspectors suspended 17 percent of plants committing humane violations, while state inspectors suspended four percent of plants cited. Exhibit A, at 8.

<sup>53</sup> Establishment TXM564, Jan. 12, 2012.

<sup>54</sup> Hamilton Meat Co. (establishment number not given), July 5, 2011.

<sup>55</sup> For examples of egregious incidents which did not result in suspension, *see* Exhibit A, at 16-17.

<sup>56</sup> The following states provided HATS data: Arizona, Georgia, Illinois, Kansas, Maine, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Vermont, Virginia, and West Virginia. South Carolina offered to provide data for a significant fee.

which was made available by only one state (Maine). However, from the data provided, it appears that inspectors in some states spend significantly more time on humane activities than in other states.<sup>57</sup>

Repeated humane violations at individual plants was again identified as a significant enforcement problem. In its 2010 report, AWI noted that one Ohio plant was cited for humane violations 10 times between January 2007 and May 2009, and a Wisconsin plant was cited 34 times and suspended twice between May 2007 and January 2009.<sup>58</sup> The percentage of plants with multiple violations for the years 2010 through 2012 remained essentially unchanged from the previous period (Figure 3). In the most recent review, one Texas plant<sup>59</sup> was cited a total of 21 times between June 2010 and June 2012. Other examples of repeated violations include a North Carolina plant<sup>60</sup> cited 17 times within a two-year period; a West Virginia plant<sup>61</sup> cited 15 times within a two-year period, and an Illinois plant<sup>62</sup> cited 12 times within an 18-month period.

| <b>Figure 3. Violations per State Plant<sup>a</sup></b>                        |                               |                               |                               |
|--------------------------------------------------------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b># Noncompliance Records</b>                                                 | <b>2002-2004<br/>% Plants</b> | <b>2007-2009<br/>% Plants</b> | <b>2010-2012<br/>% Plants</b> |
| 1                                                                              | 63.9                          | 54.3                          | 59.3                          |
| 2                                                                              | 25.0                          | 21.5                          | 18.1                          |
| 3                                                                              | 5.6                           | 16.9                          | 16.5                          |
| 4-5                                                                            | 5.6                           | 5.1                           | 2.1                           |
| 6+                                                                             | 0                             | 2.3                           | 3.3                           |
| <sup>a</sup> Of plants with one or more violation during the indicated period. |                               |                               |                               |

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<sup>57</sup> Average HATS per slaughter plant per month varied from a low of 1.1 hours for Virginia to a high of 14.7 hours for Utah.

<sup>58</sup> Exhibit A, at 15.

<sup>59</sup> Establishment TXM546.

<sup>60</sup> Establishment NCM318.

<sup>61</sup> Establishment WVM31.

<sup>62</sup> Establishment ILM60.

### 5.3 Types of Humane Violations at Federal and State Plants

AWI reviewed a total of 1,047 violations<sup>63</sup> in order to determine the types of humane noncompliances that are occurring and, if possible, the underlying cause(s). Each violation was placed into one or more of six categories that represent the main areas of handling and slaughter covered by the humane slaughter regulations. As shown in Figure 4 below, the most frequently cited violations at state plants, for the years 2007 through 2012, were (1) failure to provide feed and/or water, (2) ineffective stunning (multiple attempts), and (3) plant pens or grounds in a state of disrepair.

The most frequently cited violations at federal plants were (1) inhumane handling (e.g., improper handling of disabled animals, excessive use of force to drive animals, etc.), (2) pens or grounds in disrepair, and (3) failure to provide feed and/or water. While the state violations reviewed represent the entire universe of violations occurring at state plants during the indicated period, the federal violations included in the study represent only a convenience sample.<sup>64</sup> Approximately one-third of the state violations were of the type that could be classified as “egregious,” while one-half of the federal violations fit into this category; however the federal sample included a large proportion of noncompliances that resulted in suspension and was therefore biased toward more serious violations.

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<sup>63</sup> The violations included 805 state noncompliances (30 of which resulted in plant suspension) and 242 federal noncompliances (118 of which resulted in plant suspension). This represented all state NRs, all state suspensions, and a sample of federal NRs and suspensions occurring during the period 2007 through 2012.

<sup>64</sup> Consequently, comparisons should not be drawn between the two samples. For example, it should not be concluded that inhumane handling occurs more frequently at federal than state plants, because the federal sample was biased in that it over-represented suspensions, many of which are issued for egregious inhumane handling incidents.

| <b>Figure 4. Humane Violations by Type</b>                                                                                                                                                       |                                          |                                            |                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|--------------------------------------------|-----------------------------------------------------------|
| <b>Type of Violation</b>                                                                                                                                                                         | <b>% of State Violations<sup>a</sup></b> | <b>% of Federal Violations<sup>b</sup></b> | <b>% of All Violations (State &amp; Federal Combined)</b> |
| Conscious animal on bleed rail                                                                                                                                                                   | 6.0                                      | 4.7                                        | 5.9                                                       |
| Failure to provide feed and/or water                                                                                                                                                             | 36.0                                     | 19.7                                       | 33.9                                                      |
| Ineffective stunning                                                                                                                                                                             | 24.2                                     | 15.7                                       | 23.1                                                      |
| Inadequate space in pens for lying                                                                                                                                                               | 3.1                                      | 1.6                                        | 2.9                                                       |
| Inhumane handling                                                                                                                                                                                | 7.0                                      | 29.9                                       | 10.0                                                      |
| Pens or grounds in disrepair                                                                                                                                                                     | 23.7                                     | 28.3                                       | 24.3                                                      |
| <sup>a</sup> Based on all violations occurring at state plants 2007 through mid-2012.<br><sup>b</sup> Based on a convenience sample of violations occurring at federal plants 2007 through 2012. |                                          |                                            |                                                           |

**6. Records Reviewed by AWI Demonstrate that the Requested Amendments are Necessary to Ensure the Humane Slaughter of Livestock and to Prevent Needless Suffering**

Tens of thousands of incidents of inhumane handling at slaughter have been documented by food safety inspection personnel since passage of the HMSA, and countless other incidents have gone either unobserved or unreported. Yet, FSIS has made no attempt to amend the Act's regulations to address some of the causes of these incidents and thereby prevent their occurrence. Random observation and reporting of inhumane animal treatment after the fact is not an efficient or effective way to execute the Act. Regulations that prevent inhumane handling and needless animal suffering are required.

In order to identify possible means of preventing inhumane handling at slaughter, AWI reviewed records associated with a total of 1,047 humane handling and slaughter violations occurring at state and federal establishments. Unfortunately, in many cases the portion of a record's narrative describing the incident provided insufficient information to identify a possible cause. In some

cases, multiple factors appeared to be involved. Overall, however, AWI was able to identify at least one possible cause in approximately one-half of the 1,047 violations.

Based on the review, the most common causes of humane slaughter violations, not adequately addressed by current regulations, are:

- lack of employee training in humane handling;
- use of improper stunning device;
- improper placement of stun (often in connection with inadequate restraint);
- lack of backup stunning equipment; and
- lack of routine testing and maintenance of stunning equipment.

Other identified causes include the following: lack of proper equipment to move non-ambulatory animals; problems related to the use of captive bolt devices to stun mature hogs; inadequate stun-to-stick intervals in captive bolt and electric stunning; and problems in rendering insensibility with head-only electric stunning.

### **6.1 Lack of Employee Training in Humane Handling Results in Inhumane Slaughter**

Instances of inhumane handling (e.g., excessive use of force in driving animals, dragging non-ambulatory animals, etc.) are among the most commonly cited inhumane slaughter violations. Examples from AWI's review of Noncompliance Records and Notices of Suspension are presented in Exhibit B. Two examples follow:

Inspector observed an establishment employee inexperienced with handling animals attempt to cut out one mature sow from a group of 3 in a pen. The employee was shouting and chasing the sows causing them to run around and around the pen. He sometimes slapped the sows on the back with the side of the electric prod even when the animals were moving forward.<sup>65</sup>

Inspector observed that a hog had entered the alley leading to the stunner backwards while additional animals continued to enter facing forwards. An

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<sup>65</sup> Establishment NC265, May 26, 2011.

employee placed an electric prod between the eyes of a forward facing animal to get him to back up. The same employee placed the electric prod under the tail (genital area) of the animal that was backward in the alley.<sup>66</sup>

It is typically difficult to determine from the enforcement narrative whether the employee committed the inhumane act intentionally or as a result of insufficient knowledge of proper animal handling techniques. Either of these causes of the inhumane treatment of animals can be avoided by requiring training before the employee ever has contact with animals. The AMI animal handling guidelines recommend that slaughter establishments have “a documented training program for its employees or use of an outside training program to teach the principles of good animal handling.”<sup>67</sup> The World Organization for Animal Health (“OIE”), in its internationally recognized guidelines for slaughter, recommends that competence in animal handling be demonstrated through a current certificate from the inspection authority or from an independent body accredited by the inspection authority.<sup>68</sup> AWI requests that HMSA regulations are amended to require certification and/or training of industry workers in proper animal handling before commencing work and at regular intervals.

## **6.2 Use of Improper Stunning Device Results in Inhumane Slaughter**

Many plants—particularly smaller ones—slaughter animals of a variety of breeds, ages, and sizes. Further, many plants use more than one type of stunning device. These factors require that employees performing stunning be able to choose the proper device, the proper caliber and ammunition if using a firearm, and the proper detonating charge if using a captive bolt. This doesn’t always happen, as demonstrated by the two examples below and others presented in Exhibit C.

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<sup>66</sup> Establishment M818, Aug. 6, 2012.

<sup>67</sup> T. Grandin, *Recommended Animal Handling Guidelines and Audit Guide: A Systematic Approach to Animal Welfare*, AMI Foundation, Aug. 2012, at 84, 97, 107, <http://www.animalhandling.org/ht/a/GetDocumentAction/i/80011>.

<sup>68</sup> World Organization for Animal Health, *Slaughter of Animals*, Terrestrial Animal Health Code, Chapter 7.5, 2012, at 7.5.1.2.

Stunner was unable to render a hog unconscious with 3 gunshot attempts. He was instructed to use a heavier load round which was successful. All 4 shots penetrated the skull in the correct location.<sup>69</sup>

3 hogs were not rendered unconscious with the first shot. After this the owner decided to use a different firearm and ammunition, which was successful in stunning the remainder of the animals.<sup>70</sup>

Current regulations<sup>71</sup> note the issue but fail to require any action to prevent incidents of inhumane slaughter caused by it. Therefore, HMSA regulations should be amended to require that workers performing captive bolt and/or gunshot stunning be trained in proper usage of the devices and that guidelines be posted in the stunning area of a slaughter establishment regarding the appropriate device (if the plant uses multiple stunning devices) and the proper caliber of firearm and ammunition, and/or proper detonating charge, with regard to the kind, breed, size, age, and sex of the animal being stunned in order to produce insensibility.

### **6.3 Improper Placement of Stun Results in Inhumane Slaughter**

Placement is critical to stunning success. Improper placement, often but not always in connection with inadequate restraint, can lead to the need to re-stun animals. Improper placement is one of the most frequent causes of humane slaughter violations involving multiple stunning attempts, as demonstrated by the examples below (additional examples presented in Exhibit D).

While performing slaughter operations the inspector observed plant personnel shoot 3 pigs, out of the 13 pigs slaughtered, 2 or more times with the 22 mag. An employee shot the first pig 3 times, and slaughter was halted while a manager discussed the proper place to shoot pigs with the worker. Slaughter was stopped a second time after the next pig was shot twice while the manager again showed the worker the proper place to shoot pigs. A third pig was not stunned properly, and

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<sup>69</sup> Establishment IL145, March 8, 2010.

<sup>70</sup> Establishment IL171, Aug. 19, 2010.

<sup>71</sup> 9 C.F.R. § 313.15(b)(2); 313.16(b)(2).

slaughter was halted again. Once again, manager showed the employee how to place the shot.<sup>72</sup>

Inspector observed plant employee discharge a .22 caliber rifle into the left center of the forehead of a veal calf. The calf immediately went down, but within approx. 10 seconds, the calf stood up on all four legs and started to walk around the knock box. The inspector observed a tremendous amount of blood coming from the left nostril of the calf, but no vocalization was heard. The inspector in charge immediately instructed the owner to lower the knock box and fire the second round. The second shot was discharged and the calf immediately fell to the ground. Later the inspector inspected the calf's head and found two bullet holes. The first bullet hole was approximately 3 inches to the left of the middle of the forehead and the second bullet hole was placed in the middle of the head.<sup>73</sup>

Proper placement of the stun should be covered in the training of all employees with stunning duties. In addition, visual guidelines for captive bolt and firearms stunning, such as those offered by AMI,<sup>74</sup> should be posted in the stunning area of every slaughter establishment using one or both of these methods. The guidelines should address all species of animals slaughtered at the establishment. AWI requests that FSIS amend HMSA regulations to incorporate this requirement.

#### **6.4 Lack of Backup Stunning Equipment Results in Inhumane Slaughter**

Lack of an immediately available, proper functioning backup stunning device has been identified as the cause of a number of egregious humane slaughter violations. In some cases, animals have died slowly from exsanguination because no backup device was available when the sole stunning device failed. See two examples below (and others in Exhibit E):

A heifer was standing very calmly in the knock box. Plant employee proceeded to discharge a .22 caliber rifle into the center of the cow's forehead. The cow did not

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<sup>72</sup> Establishment KS125, Oct. 30, 2008.

<sup>73</sup> Establishment NC318, Jan. 12, 2012.

<sup>74</sup> T. Grandin, *Recommended Animal Handling Guidelines and Audit Guide: A Systematic Approach to Animal Welfare*, AMI Foundation, Aug. 2012, at 20.

go down. A second shot from the .22 rifle was discharged into the forehead. The cow, once again, did not go down. Both shots to the forehead did not penetrate the skull and one of the bullets was found lying on the floor near the viscera table. Inspector asked the employee to get the backup rifle. Employee stated that the plant did not have one.<sup>75</sup>

Inspector noticed an employee attempting to stun an animal improperly with a stun gun. The employee stunned the animal twice and the animal was still conscious. A rifle was not present at the time to provide immediate stunning. Animal was still conscious at the time the throat was slit.<sup>76</sup>

OIE recommends backup stunning devices be “available for immediate use if the primary method of stunning fails.”<sup>77</sup> Moreover, in other instances, disabled animals in holding areas have suffered for an extended period of time because no portable stunning device was available for use outside the stunning area of the plant. Therefore, HMSA regulations should be amended to require at least one backup stunning device to be available at all times in the stunning area and at least one portable stunning device to be available at all times for use in the unloading and holding areas of the plant.

## **6.5 Lack of Routine Testing and Maintenance of Stunning Equipment Results in Inhumane Slaughter**

Malfunctioning stunning equipment is a very common cause of humane slaughter violations. While current regulations require that equipment shall be/must be “maintained in good repair,”<sup>78</sup> this is clearly insufficient to prevent incidents of inhumane slaughter, as demonstrated by the examples below (and others presented in Exhibit F).

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<sup>75</sup> Establishment NC318, Feb. 2, 2012.

<sup>76</sup> Establishment TX98, Feb. 24, 2010.

<sup>77</sup> World Organization for Animal Health, *Slaughter of Animals*, Terrestrial Animal Health Code, Chapter 7.5, 2012, at 7.5.7.1g.

<sup>78</sup> 9 C.F.R. § 313.5(b)(3); 313.15(b)(1)(ii); 313.16(b)(1)(ii); 313.30(b)(2).

Facility was unable to render multiple animals unconscious with a single stun. Most cattle were rendered unconscious after multiple attempts. Facility uses a captive bolt which appears to be malfunctioning consistently.<sup>79</sup>

The first 5 of 7 animals had to be re-stunned. 4 of the 5 re-stunned steers were knocked using the captive bolt device twice while on the floor of the knock box. One of the 5 was re-stunned 3 times and never achieved an unconscious state before being bled.... After the captive bolt device was cleaned the following two animals were successfully stunned.<sup>80</sup>

There is currently no specific requirement that plants conduct routine equipment testing and maintenance. Noncompliance Records have documented that some plants have gone months without cleaning stunning devices that are used on a daily basis. AMI guidelines “strongly recommend” daily measuring of bolt velocity for captive bolt stunners used as a primary method of stunning.<sup>81</sup> AMI also recommends a verified maintenance program where a mechanic signs off each day that he/she has tested and cleaned the stunners. “If a plant shoots a captive bolt on a particular day, it has to be taken apart and cleaned. If a gun is not shot for a week, it should be cleaned weekly even if not used. If a gun is used, it must be taken apart and cleaned at the end of the shift.”<sup>82</sup> AMI guidelines also recommend a minimum cleaning schedule for electric stunners (electrodes) of once daily.<sup>83</sup> HMSA regulations should be amended to be consistent with this standard.

## **6.6 Lack of Humane Handling Plans by Establishments Results in Inhumane Slaughter**

At present, slaughter plants are often required or strongly recommended to prepare a comprehensive, written humane handling plan *only after* the occurrence of one or more

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<sup>79</sup> Establishment MN789, Oct. 6, 2010.

<sup>80</sup> Establishment WI174, June 30, 2008.

<sup>81</sup> T. Grandin, *Recommended Animal Handling Guidelines and Audit Guide: A Systematic Approach to Animal Welfare*, AMI Foundation, Aug. 2012, at 21.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*, at 27.

egregious humane violations. Although FSIS encouraged all plants to take a systematic approach to animal welfare eight years ago,<sup>84</sup> as of last summer, only 35 percent of federally inspected plants had a robust written approach to humane handling.<sup>85</sup> While nearly all federal plants classified as “large” had a robust written plan, 89 percent of “very small” federal plants—arguably the plants most in need of humane improvements—lacked such a plan.<sup>86</sup> The situation is likely far worse at the state level. Only two states supplied AWI with records of humane handling verification visits, and just one of those indicate on its form whether the plant being reviewed uses a proactive approach to humane handling. In that case (the state of West Virginia), none of 11 inspected plants had implemented a systematic approach at the time of the review.<sup>87</sup> FSIS’ current tactic is to gradually increase the number of plants with a plan;<sup>88</sup> however, this will allow future inhumane slaughter violations to occur that otherwise could be prevented.

As previously noted, AMS requires that a systematic approach to humane handling be used by all contractors and subcontractors participating in federal nutrition assistance programs,<sup>89</sup> and its 2013 update extended this requirement to cover formation of an animal handling and welfare steering committee and certification of individuals facilitating a contractor’s training program.<sup>90</sup> However, the impact of this initiative is limited by the fact that only approximately 70 U.S. beef, pork, and lamb suppliers,<sup>91</sup> among a total of 2,800 government inspected slaughter

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<sup>84</sup> 69 FR 54625, Sept. 9, 2004.

<sup>85</sup> USDA, FSIS (L. Davis), “Systematic Approach to Humane Handling One Year Later” (powerpoint presentation), Oct. 17, 2012, at slide 5.

<sup>86</sup> *Id.* As a result of having fewer available resources, small and very small plants are less likely than larger plants to have well maintained equipment, a structural design that facilitates humane animal handling, an animal welfare quality assurance program that includes internal and/or external audits, and the ability to respond quickly to emergency situations.

<sup>87</sup> Illinois and West Virginia sent records of humane handling verification visits, although AWI had not specifically requested these forms. West Virginia’s form included an entry for systematic approach to humane handling.

<sup>88</sup> FSIS has set a goal of 50 percent of plants with a robust humane handling plan by FY 2016. USDA, FSIS, *Strategic Plan FY 2011-2016*, no date, at 16. [http://www.fsis.usda.gov/PDF/Strategic\\_Plan\\_2011-2016.pdf](http://www.fsis.usda.gov/PDF/Strategic_Plan_2011-2016.pdf).

<sup>89</sup> USDA, AMS, “Technical Requirements Schedule—Animal Handling and Welfare 2010 (TRS-AHW-2010),” effective date May 2010.

<sup>90</sup> USDA, AMS, “Technical Requirements Schedule—Animal Handling and Welfare 2013 (TRS-AHW-2013),” effective date July 2013.

<sup>91</sup> See “AMS Approved Boneless Beef/Pork/Lamb Supplier/Contractor Listing,” as of Apr. 25, 2013. <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5097797>.

establishments,<sup>92</sup> participate in the programs. Moreover, it is likely that a majority of these establishments are among the 35 percent of establishments<sup>93</sup> that have already implemented a systematic approach to animal handling and welfare.

OIE recommends that every slaughter plant implement a humane handling plan.

Each slaughterhouse should have a dedicated plan for animal welfare. The purpose of such plan should be to maintain a good level of animal welfare at all stages of the handling of animals until they are killed. The plan should contain standard operating procedures for each step of animal handling as to ensure that animal welfare is properly implemented based on relevant indicators. It also should include specific corrective actions in case of specific risks, like power failures or other circumstances that could negatively affect the welfare of animals.<sup>94</sup>

AWI requests that FSIS amend HMSA regulations to require that all slaughter establishments inspected under the Act demonstrate a systematic approach to animal welfare by developing, implementing, and maintaining a comprehensive, written humane handling plan based on current regulations as well as the requested amendments included in this petition.

## **7. Proposed Regulation**

### **9 C.F.R. Part 313 – Humane Slaughter of Livestock**

#### **313.2 Handling of livestock**

(f) Stunning methods approved in ~~§313.30~~ Part 313 shall be effectively applied to animals prior to their being shackled, hoisted, thrown, cast, or cut.

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<sup>92</sup> See USDA, National Agricultural Statistics Service, *Livestock Slaughter: 2012 Summary*, Apr. 2013, at 62.

<sup>93</sup> See USDA, FSIS (L. Davis), “Systematic Approach to Humane Handling One Year Later” (powerpoint presentation), Oct. 17, 2012, at slide 5.

<sup>94</sup> World Organization for Animal Health, *Slaughter of Animals*, Terrestrial Animal Health Code, Chapter 7.5, 2012, at 7.5.2.1.

(g) If more than one stunning method is used at an establishment, guidelines shall be posted in the stunning area regarding the appropriate stunning device with regard to kind, breed, size, age, and sex of the animal to produce the desired results.

(h) At least one loaded backup stunning device shall be available in the stunning area at all times. This device shall be checked and cleaned at least weekly, and the routine maintenance recorded.

(i) A secondary stunning device, and backup, shall be available at the bleeding station at all times. These devices should be checked and cleaned at least weekly, and the routine maintenance recorded.

(j) At least one loaded portable stunning device shall be available at all times for use in pens, ramps, driveways, and unloading areas. This device shall be checked and cleaned at least weekly, and the routine maintenance recorded.

(k) All establishment personnel working with live animals shall be trained in humane handling procedures prior to first coming in contact with any animal and at least every six months thereafter. This training shall be recorded, and the record shall be available to inspection personnel.

### **313.3 Humane handling plan**

(a) Every establishment that slaughters animals covered by this part shall conduct an analysis of potential risks to the wellbeing of animals during the slaughter process.

(1) Every establishment shall develop and implement a written humane handling plan to cover each risk identified in §313.3(a). The plan shall reflect a systematic approach to humane handling and should include the following:

(i) Routine training of personnel in humane handling procedures;

(ii) Maintenance of pens, ramps, and driveways to prevent animal injuries, slips and falls;

(iii) Methods of unloading, moving, and driving animals to avoid excitement and discomfort;

(iv) Measures for inclement weather;

(v) Means of supplying water to all animals in holding pens, and feed if held longer than 24 hours;

(vi) Maximum pen stocking density to allow sufficient room for animals held overnight to lie down;

(vii) Methods of handling disabled and suspect animals;

(viii) Choice of proper stunning device with regard to kind, breed, size, age, and sex of the animal, and the training of personnel in proper use of the device(s);

(ix) Methods of proper restraint for effective stunning;

(x) Means of determining sensibility in animals and the training of personnel in determining sensibility;

(xi) Routine maintenance and testing of stunning equipment to prevent equipment malfunction;

(xii) Maintenance of back-up stunning devices for use in the stunning area and in holding areas of the plant; and

(xiii) Appropriate response to equipment malfunction and stunning failure.

(b) The humane handling plan shall be dated and signed upon initial acceptance by FSIS officials and upon any modification.

(1) Every establishment shall reassess the adequacy of the humane handling plan at least annually and whenever any changes occur that could affect the analysis of animal welfare risks or alter the humane handling plan.

(c) The humane handling plan and all records required by this part shall be available for official review and copying.

### **313.5 Chemical – carbon dioxide**

(b)(1)(iii) 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. Over-dosages and death of animals can be brought about by carelessness of this individual. All establishment personnel operating carbon dioxide stunning equipment shall receive training in the proper usage, testing, and maintenance of the equipment, as well as in signs of insensibility in animals stunned by carbon dioxide. This training shall be recorded, and the record shall be available to inspection personnel.

### **313.15 Mechanical – captive bolt**

(b)(1)(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 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. They must be test fired and cleaned on each slaughter day that the device is in use, and at least weekly when the device is not in use. Equipment maintenance and testing shall be recorded.

(b)(1)(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. All establishment personnel operating captive bolt stunning equipment shall receive training in the proper usage, testing, and maintenance of the equipment, as well as in proper placement of the captive bolt and signs of insensibility in animals stunned by captive bolt. This training shall be recorded, and the record shall be available to inspection personnel.

(b)(1)(v) Guidelines shall be posted in the stunning area regarding the appropriate detonating charge and proper placement of the captive bolt for all species of animals slaughtered at the establishment.

### **313.16 Mechanical – gunshot**

(b)(1)(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. They must be cleaned on each slaughter day that the device is in use, or as recommended by the manufacturer, and at least weekly when the device is not in use. Equipment maintenance shall be recorded. 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.

(b)(1)(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. All establishment personnel discharging firearms shall receive training in the proper usage and maintenance of the equipment, as well as in proper placement of the gunshot and signs of insensibility in animals stunned by gunshot. This training shall be recorded, and the record shall be available to inspection personnel.

(b)(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.~~ Guidelines shall be posted in the stunning area regarding the appropriate caliber of firearm and ammunition and proper placement of the gunshot with regard to kind, breed, size, age, and sex of the animal to produce insensibility.

### **313.30 Electrical – stunning or slaughtering with electric current**

(b)(1) It is necessary that the operator of electric current application equipment be skilled, attentive, and aware of his or her responsibility. All establishment personnel operating this equipment shall receive training in the proper usage, testing, and maintenance of the equipment.

as well as in signs of insensibility in animals stunned by electric current. This training shall be recorded, and the record shall be available to inspection personnel.

(b)(2) All equipment used to apply and control the electrical current shall be maintained in good repair, and all indicators, instruments, and measuring devices shall be available for inspection by Program inspectors during the operation and at other times. Electrical current equipment shall be tested according to manufacturer's instructions at the beginning of each day that the device will be in use. Equipment testing shall be recorded.

## **8. Conclusion**

Nearly 35 years have passed since USDA last amended its regulations to make slaughter more humane. During that interval tens of thousands of incidents of inhumane handling at slaughter have been observed and documented by inspection personnel at federal and state slaughter establishments. AWI analyzed a sample of more than 1,000 of these incidents to identify the most common causes of inhumane slaughter. This review showed that the most frequent causes of inhumane incidents, not being adequately addressed by current regulations, are: lack of worker training in humane animal handling techniques; lack of backup stunning device; use of inappropriate stunning device; improper shot placement; and lack of routine testing and maintenance of stunning equipment.

AWI's review also showed that repeat violations by individual slaughter establishments is a serious enforcement problem. At present, USDA considers the development and implementation of a written plan for handling and slaughtering animals to be at the discretion of the slaughter plant. Humane handling plans are not required until *after* one or more egregious incidents have occurred, if at all. Moreover, the type of plant least likely to have a humane handling plan is typically the most in need of one.

Regulations of the Humane Methods of Slaughter Act should be amended to require all establishments to develop a humane handling plan, and further amended to address some of the most frequent causes of inhumane handling and slaughter incidents. These changes will significantly reduce the needless suffering experienced by animals at slaughter in the United States, and will also make the slaughter process safer for industry workers and inspection

personnel and bring about improvement of products and economics in slaughtering operations, as intended by the Humane Methods of Slaughter Act.

## **EXHIBIT A**

# HUMANE SLAUGHTER UPDATE

COMPARING STATE AND FEDERAL ENFORCEMENT  
OF HUMANE SLAUGHTER LAWS



# Enforcement of Humane Slaughter Laws Has Increased at Both the State and Federal Levels but Remains Low and Inconsistent

## OVERVIEW

In early 2008, multiple incidents of egregious cruelty to cattle at the Westland-Hallmark Meat Packing Co. in Chino, California, caught on videotape by animal protection advocates, resulted in widespread public outrage and eventually led to the largest beef recall in the history of the U.S. These incidents occurred despite the continual on-site presence of U.S. Department of Agriculture (USDA) inspection personnel and the performance of periodic third-party humane slaughter audits at the plant.

Congress held multiple oversight hearings on humane slaughter in the wake of the Westland-Hallmark case, and the USDA took several actions to step up its enforcement of the federal Humane Methods of Slaughter Act, including conducting an audit of slaughter plants at high risk for humane violations, temporarily increasing the time spent verifying humane handling and slaughter requirements, and issuing various humane slaughter notices and training modules for in-plant inspection personnel.

The research described in this report looked at humane slaughter enforcement—both state and federal—in the aftermath of the Westland-Hallmark incident. Findings of the research include:

- **State and federal humane slaughter enforcement was up but varied widely among individual states and among individual federal districts.** The number of federal suspensions for humane violations increased 7-fold from 2006-2007 to 2008-2009; state suspensions were up sharply as well. However, some states offered no evidence of any enforcement, and enforcement differed dramatically among federal districts.
- **Repeat state and federal violators present a major enforcement problem.** Numerous examples of repeat violators were found, including a Wisconsin state plant that was cited for humane violations 34 times in a 20-month period and a North Carolina federal plant that was closed down 8 times in 30 months for incidents of inhumane slaughter.
- **State and federal inspection personnel have inadequate training in humane enforcement and inadequate access to humane slaughter expertise.** Enforcement documents reveal that inspectors react differently when faced with similar violations. Federal inspectors have limited access to humane slaughter experts, while states known to employ veterinary humane slaughter specialists generally have higher enforcement rates.
- **Humane enforcement was up at state and federal levels but remained low in comparison with other aspects of food safety enforcement.** Enforcement was up in terms of the issuance of noncompliance records and suspensions at state inspected plants and suspensions at federal plants. While allocation of resources to humane slaughter activities appears to have increased for state plants, resources devoted to humane handling at the federal level continue to constitute less than 2% of total funding for food safety inspection.

## IN THIS REPORT

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## About the research

*This report presents the findings of a survey of state and federal humane slaughter enforcement conducted between November 2009 and March 2010 by the Animal Welfare Institute (AWI). While other entities, including the Government Accountability Office (GAO), have studied federal humane slaughter enforcement, AWI is the first to conduct a review of humane slaughter at the state level.*

*The survey was undertaken as an update to a comprehensive, 10-year review of humane slaughter enforcement published by AWI in May 2008. The current study aims 1) to determine whether humane slaughter enforcement increased between the years 2008 and 2010 and 2) to compare state and federal enforcement of humane slaughter laws.*

*Data used to analyze humane slaughter enforcement was obtained from public record requests submitted to state and federal departments of agriculture and from records posted on the USDA website.*

*The research was conducted by Dena Jones and Deborah Press of AWI, with the assistance of Sarah Schanz.*

The paper used in this booklet contains a minimum of 10% post consumer fiber, is manufactured with 100% renewable green energy and is made 100% Carbon Neutral.

## About the Animal Welfare Institute

Since its founding in 1951, AWI has been alleviating suffering inflicted on animals by people. Major goals of the organization include abolishing factory farms and achieving humane slaughter for all animals raised for food. AWI seeks to achieve these goals through research, investigation, education, and lobbying on behalf of animals.

## Related Materials

This report expands on the findings of previous research conducted by AWI: *Crimes without Consequences: The Enforcement of Humane Slaughter Laws in the United States*, May 2008 (143 pp).

The previous report, along with additional information, including a regularly updated listing of slaughter plants that have been suspended for violating the Humane Methods of Slaughter Act, is available on AWI's website at [www.awionline.org](http://www.awionline.org).

# OVERVIEW OF HUMANE SLAUGHTER ENFORCEMENT

In the United States, approximately 10 billion animals are killed for food each year. The USDA's Food Safety and Inspection Service (FSIS) is charged with inspecting slaughtering operations to ensure that meat animals, excluding birds and rabbits, are killed according to the federal Humane Methods of Slaughter Act. This law requires that animals be made insensible to pain by "a single blow or gunshot or an electrical, chemical or other means that is rapid and effective" prior to being shackled, hoisted, or cut. The law also provides for the humane handling of animals on the premises of a slaughtering establishment up to the point of slaughter. (Figure 2 on the following page illustrates key requirements of the federal Humane Methods of Slaughter Act.)

There are generally three types of slaughter plants operating within the U.S. – federally inspected for interstate commerce, state inspected for intrastate commerce, and custom exempt for personal, non-commercial use. A large majority of the animals killed for food in the U.S. each year are slaughtered at federally inspected plants.

The designated status of an individual slaughter plant as being either federally or state inspected does not necessarily indicate what agency is responsible for conducting oversight, including matters related to humane slaughter. Some plants under federal oversight are inspected by employees of state agricultural agencies and federal personnel inspect some plants under state oversight.

Currently, 27 states run their own meat inspection programs (see Figure 1) in cooperation with FSIS, which provides up to 50% of the funding. These states inspect intrastate and custom slaughter plants within their state, with enforcement standards at least equal to those imposed under federal meat inspection laws, including the Humane Methods of Slaughter Act. FSIS certifies state inspection programs annually based on the state's self-assessment, as well as FSIS reviews that are performed every one to five years.

Figure 1. Meat Animal Slaughter Plants in the U.S. (2010)

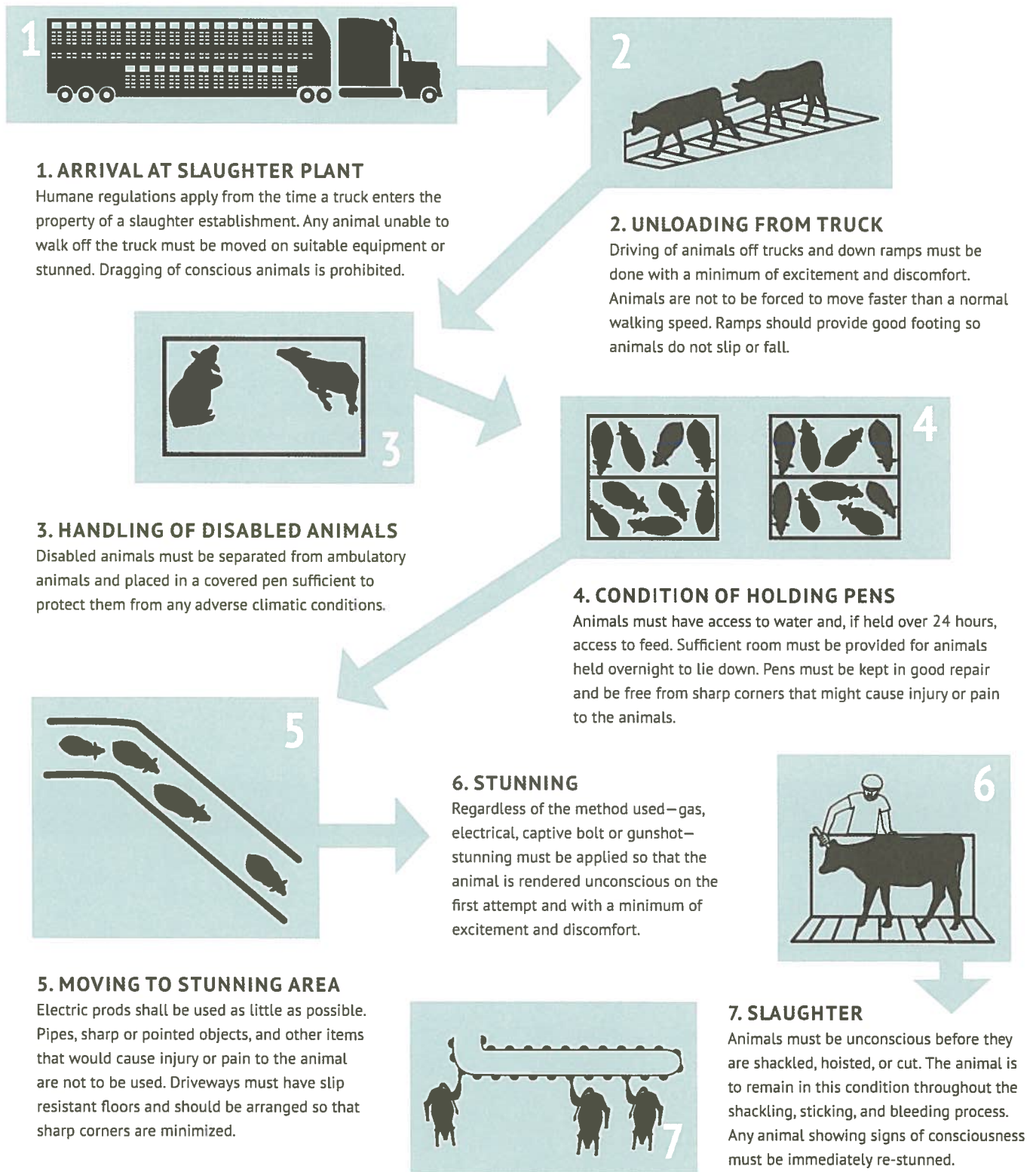
**FEDERALLY INSPECTED** – 834 plants  
**STATE INSPECTED BY USDA** – 480 plants  
**STATE INSPECTED BY STATE DEPARTMENTS OF AGRICULTURE** – 1,437 plants\*

**STATES OPERATING MEAT INSPECTION PROGRAMS**

|          |          |             |                |                |          |               |
|----------|----------|-------------|----------------|----------------|----------|---------------|
| Alabama  | Illinois | Louisiana   | Missouri       | Ohio           | Texas    | West Virginia |
| Arizona  | Indiana  | Maine       | Montana        | Oklahoma       | Utah     | Wisconsin     |
| Delaware | Iowa     | Minnesota   | North Carolina | South Carolina | Vermont  | Wyoming       |
| Georgia  | Kansas   | Mississippi | North Dakota   | South Dakota   | Virginia |               |

\* Excludes small number of plants in Vermont and Maine that are grouped by USDA under "New England" and not reported separately.

**Figure 2. Humane Handling and Slaughter Requirements**



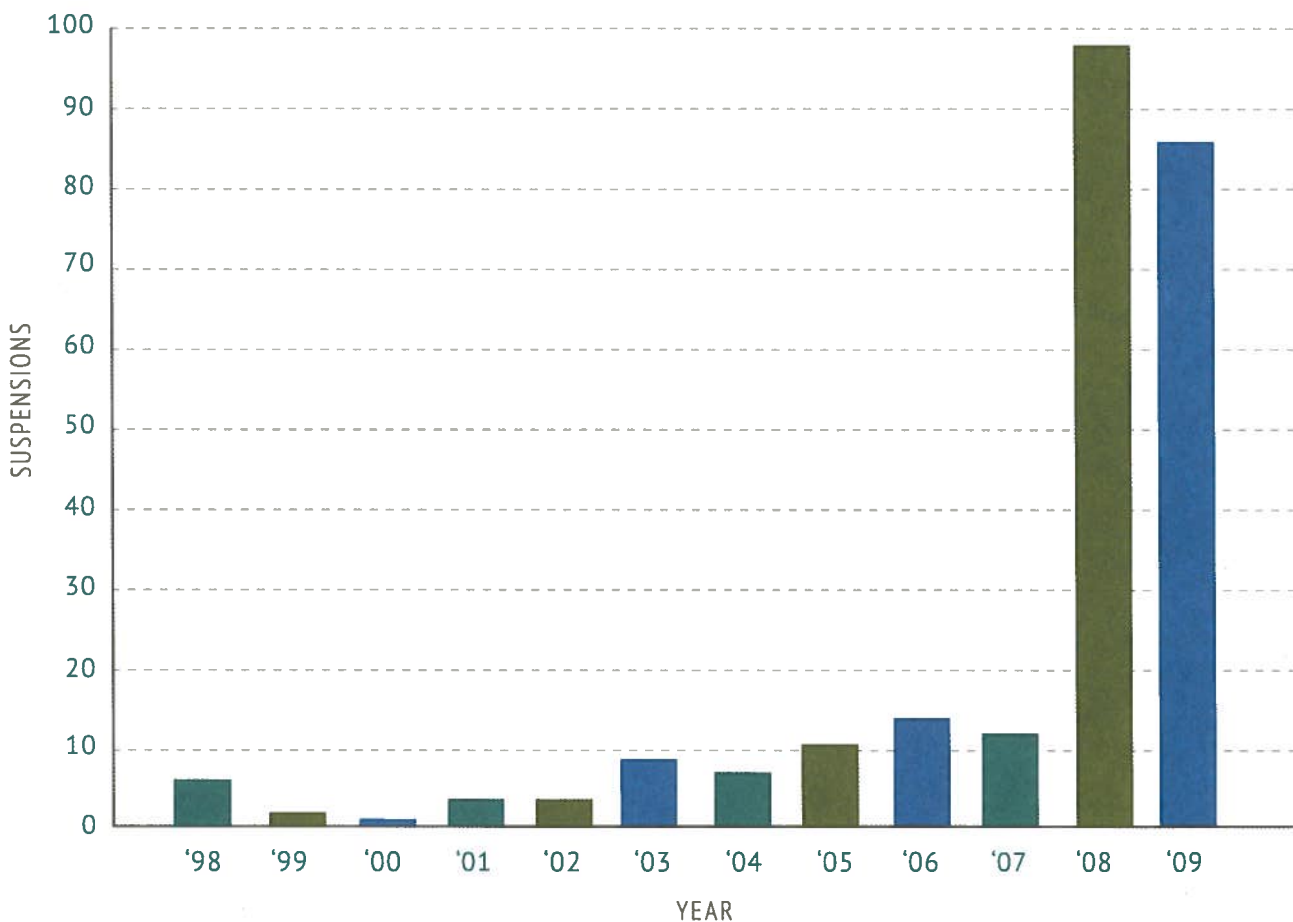
# ENFORCEMENT UP BUT UNEVEN

Federal and state departments of agriculture may take regulatory actions against an individual slaughter plant because of its inhumane handling or slaughter of animals. Regulatory actions available to agriculture agencies include: 1) the application of “reject tags” (which prevent use of specific equipment or areas of a plant until the deficiency is corrected); 2) issuance of noncompliance records (NR), notices of intended enforcement, and letters of warning; 3) suspension of inspection; and 4) withdrawal of inspection.

## Federally inspected plants

For the 10-year period 1998 through 2007, a total of only 71 suspensions were issued to federally inspected plants for violations of humane handling and humane slaughter regulations. In 2008 and 2009 following the Westland-Hallmark incident, however, federal suspensions increased dramatically (Figure 3).

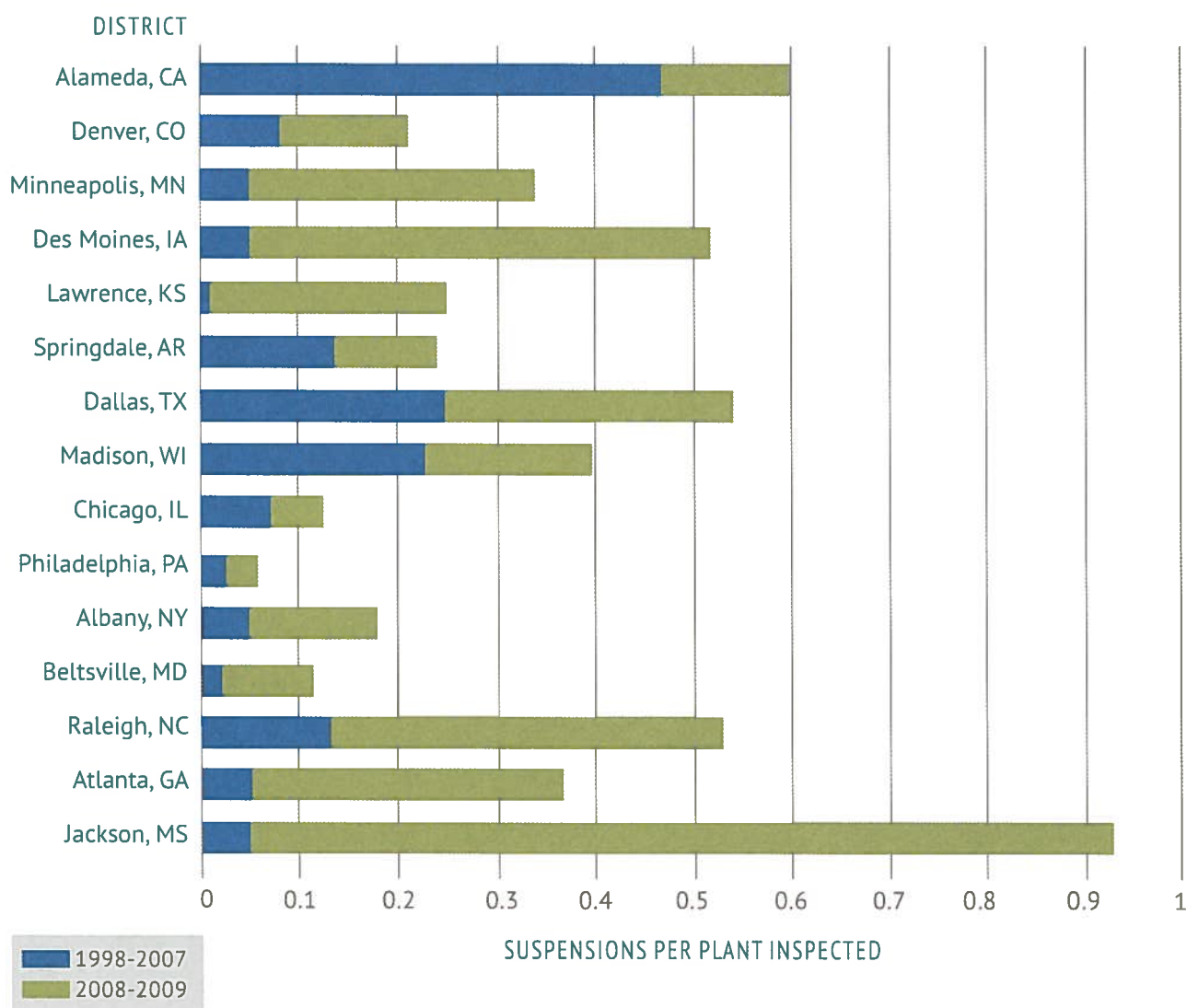
Figure 3. Federal Suspensions by Year, 1998-2009



Federal humane slaughter enforcement is conducted by 15 FSIS district offices. The number of slaughter plants each office inspects varies considerably—from approximately 20 to over 100. Two of the offices cover individual states (an office each for California and Texas), while the remainder cover anywhere from 2 to 12 states and territories.

AWI was the first, in its 2008 report, to call attention to the wide disparity in enforcement efforts among federal district offices, an observation mirrored in a March 2010 report by the Government Accountability Office (GAO)—*Humane Methods of Slaughter Act: Weaknesses in USDA Enforcement*. The rate of plant suspensions varied significantly among districts between 1998 and 2009, as depicted in

**Figure 4. Suspension Rate by Federal District, 1998-2009**



**Figure 5. State Enforcement Actions**

| State          | NONCOMPLIANCE RECORDS |           | SUSPENSIONS |           |
|----------------|-----------------------|-----------|-------------|-----------|
|                | 2002-2004             | 2007-2009 | 2002-2004   | 2007-2009 |
| Alabama        | 0                     | 7         | 0           | 0         |
| Arizona        | 0                     | 0         | 0           | 0         |
| Delaware       | 0                     | 0*        | 0           | 0*        |
| Georgia        | 0                     | 5         | 0           | 0         |
| Illinois       | 0                     | 1         | 0           | 1         |
| Indiana        | 3                     | 4         | 0           | 0         |
| Iowa           | 0                     | 12        | 0           | 0         |
| Kansas         | 2                     | 12        | 0           | 0         |
| Louisiana      | 0                     | 0         | 0           | 0         |
| Maine          | 0                     | 2         | 0           | 0         |
| Minnesota      | 2                     | 5         | 1           | 0         |
| Mississippi    | 0                     | 3         | 0           | 0         |
| Missouri       | 0                     | 4         | 0           | 0         |
| Montana        | 0                     | 1         | 0           | 0         |
| North Carolina | 7                     | 23        | 0           | 4         |
| North Dakota   | 1                     | 6         | 0           | 0         |
| Ohio           | 10                    | 51        | 1           | 0         |
| Oklahoma       | 1                     | 13        | 0           | 0         |
| South Carolina | 1                     | 28        | 1           | 2         |
| South Dakota   | 0                     | 0**       | 0           | 0**       |
| Texas          | 41                    | 59        | 0           | 2         |
| Utah           | 0                     | 0**       | 0           | 0**       |
| Vermont        | 0                     | 0         | 0           | 0         |
| Virginia       | 0                     | 0         | 0           | 0         |
| West Virginia  | 0                     | 21        | 0           | 0         |
| Wisconsin      | 4                     | 121       | 0           | 3         |
| Wyoming        | 0                     | 32        | 0           | 0         |
| TOTAL          | 72                    | 410       | 4           | 12        |

\* State had no licensed meat slaughter plants during the period.

\*\* State did not respond to request for enforcement records.

Figure 4 at left. The Alameda, CA, district had the highest rate of suspensions from 1998 through 2007, while Jackson, MS, (covering Alabama, Mississippi and Tennessee) and Des Moines, IA, (covering Iowa and

Nebraska) had the highest rate from 2008 to 2009. The Philadelphia, PA, district (covering Pennsylvania and New Jersey) had the lowest rate of suspensions for the entire 1998-2009 period.

South Carolina,  
Wisconsin, and  
Wyoming had the  
highest rate of NRs  
followed by Texas,  
West Virginia, and  
North Carolina.

## State inspected plants

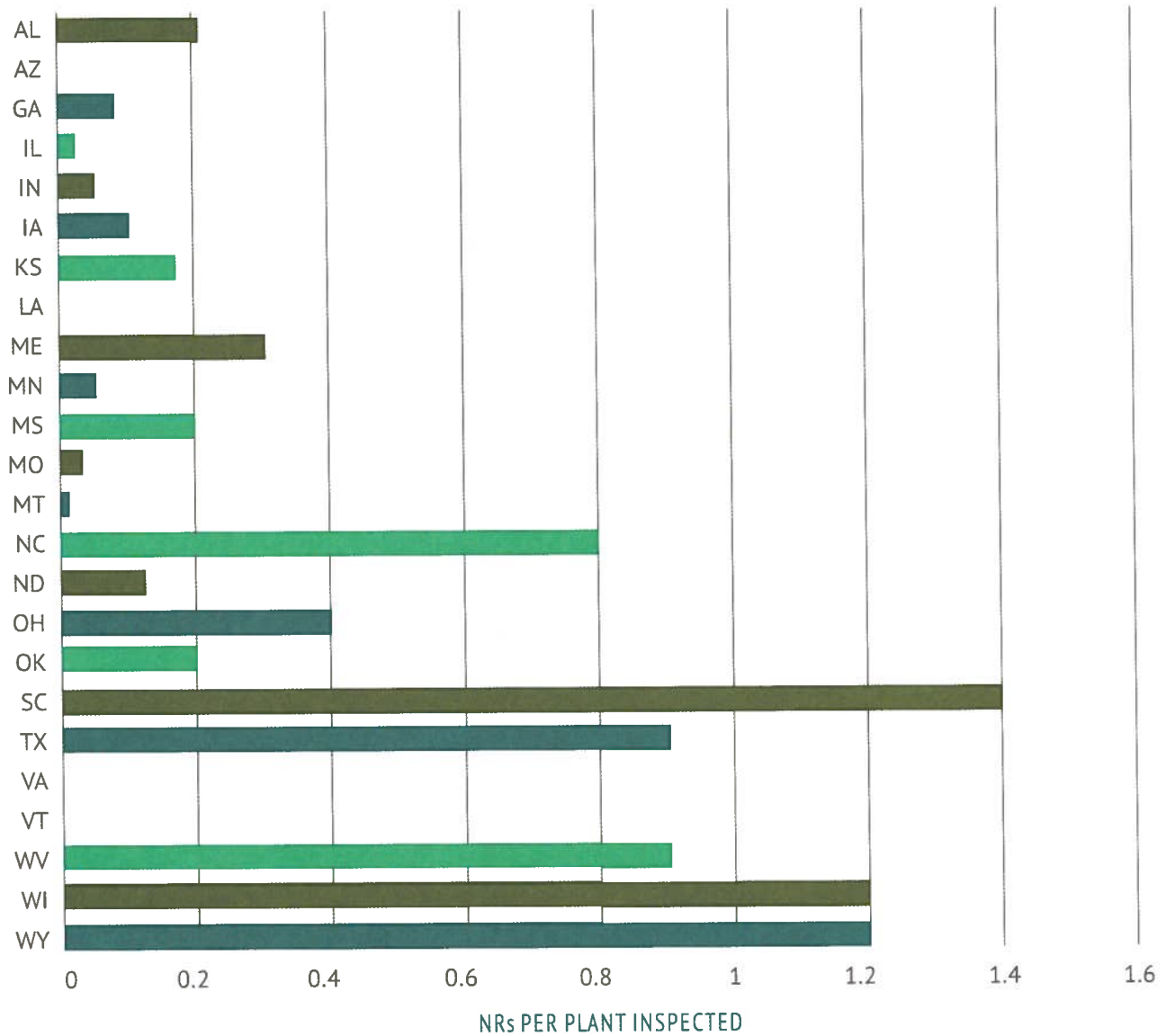
Research conducted for AWI's 2008 report, which reviewed state enforcement records for the three-year period, 2002 through 2004, documented so few enforcement actions that drawing conclusions was difficult. For those years, a total of only 72 noncompliance records and 4 suspensions were located for all states operating meat inspection programs.

Enforcement increased significantly in many states from 2007 through 2009, with a total of 410 noncompliance records and 12 suspensions documented (Figure 5), increases of 470% and 200%, respectively, compared to the period 2002 through 2004.

Some states take a significantly greater number of enforcement actions than others. Four states reported no noncompliance records for the period 2007-2009, indicating that no humane violations were cited at any of their inspected plants during this period (Figure 5). In addition, two states did not respond to the request for enforcement records, leaving open the possibility that they also have no records for the period. On the other hand, three states provided a relatively large number of records: Wisconsin with 121 noncompliance records and 3 suspensions, Texas with 59 noncompliance records and 2 suspensions, and Ohio with 51 noncompliance records and 0 suspensions (Figure 5).

Because the number of plants inspected varies widely by state, the number of enforcement actions per plant inspected must be calculated in order to compare enforcement rates. Figure 6 identifies South Carolina, Wisconsin, and Wyoming as the states with the highest rate of noncompliance records for humane violations during the period, followed by Texas, West Virginia, and North Carolina.

Figure 6. Non-compliance Record Rate by State, 2007-2009



# STATE ENFORCEMENT CATCHING UP WITH FEDERAL

The previous section described a dramatic increase in state humane slaughter enforcement between 2002-2004 and 2007-2009. Comparing enforcement at state inspected slaughter plants with enforcement at federally inspected plants is difficult due to differences in the type of facilities inspected and the number of animals killed. Federally inspected plants were issued three times as many noncompliance records and fourteen times as many suspensions as state inspected plants in 2009 (Figure 7); however, far more animals are killed at federal plants, and therefore a higher level of enforcement is to be expected. The rate of suspension (% of noncompliance records that result in suspension) and the amount of time spent on humane activities may be more useful measures of enforcement than the number of NRs or suspensions.

According to the 2010 GAO report, *Humane Methods of Slaughter Act: Weaknesses in USDA Enforcement*, the amount of time spent by FSIS inspectors on humane handling activities at 15 large pig slaughter plants in 2008 varied from 1.8 hours per shift to 9.7 hours per shift. While AWI did not specifically request humane activity hours in its public records requests, three states submitted this data. Georgia and North

**Figure 8. State Humane Activities Tracking\***

|                                 | Non-Vet Hrs | Vet Hrs | Total Hrs |
|---------------------------------|-------------|---------|-----------|
| Georgia<br>(4/07-10/09):        | 10.04       | 0.70    | 10.74     |
| North Carolina<br>(4/08-10-09): | 11.05       | 1.40    | 12.45     |

*\*Average time reported spent per slaughter plant per month on humane activities during the indicated period.*

Carolina reported their inspectors spent 10-12 hours *per month* on humane verification activities (Figure 8). It is impossible to estimate the number of hours spent per shift from this data since many state level plants slaughter animals only a few days each month; however, it is likely that the average amount of time spent is significantly less than 2 hours per slaughter day.

**Figure 7. State vs. Federal Humane Slaughter Enforcement (2009)**

|                            | State | Federal |
|----------------------------|-------|---------|
| Noncompliance Records      | 151   | 500     |
| Suspensions                | 6     | 87      |
| Suspension rate            | 4%    | 17%     |
| Number of plants inspected | 1,461 | 818     |

Data supplied by Maine indicated that inspectors in that state spent on average 0.25 hours per slaughter day per plant, and 0.04 hours per animal slaughtered, on humane activities in 2008. In 2009 the average amount of time spent increased to 1.3 hours per day per plant and 0.21 hours per animal slaughtered. It is suspected that the total amount of time spent per plant is higher at federal level plants, given the larger number of animals killed, while the more relevant indicator of time spent per animal may actually be higher at state plants.

# VIOLATIONS SIMILAR AT STATE AND FEDERAL LEVEL PLANTS

In its 2008 study, AWI reported on the types of humane violations cited at federally inspected plants (for the period 10/1/02 through 3/31/04) and at state inspected plants (for the period 1/1/02 through 12/31/04), although the small number of state records limited the usefulness of the latter analysis. AWI again analyzed types of noncompliances cited at state inspected plants for the period 2007-2009 and found similarities to the earlier findings for federally inspected plants (Figure 9).

The two main differences between the results for state and federal level plants are that 1) “failure to provide water and/or feed” was cited significantly more often at state inspected plants and 2) “improper handling of disabled animal” was cited more often at federally inspected plants.

Figures 10 and 11 present examples of state humane slaughter and humane handling violations, respectively.

**Figure 9. Types of Violations at State versus Federal Inspected Plants**

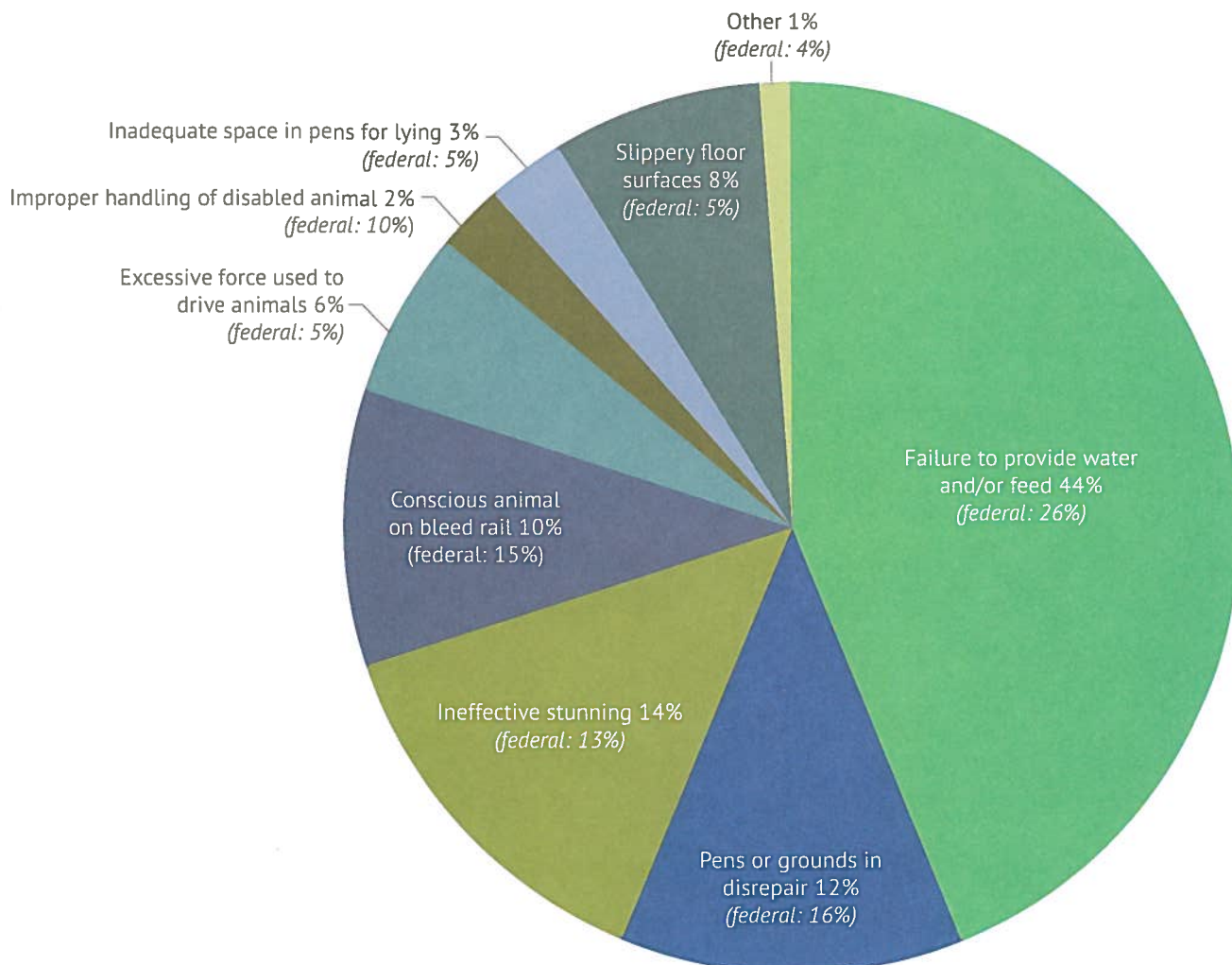


Figure 10. Examples of State Humane Slaughter Violations

## GUNSHOT STUNNING

"I heard the rifle (22 mag.) go off twice and I heard the hog squeal each time. As I exited the cooler I heard the rifle go off and the hog squealed again. When I got to the stunning area the hog was down but he was not dead. He was shaking his head continually. [Plant personnel] were in the front office trying to reload the gun. By the time they got back to the stunning area the hog had stood up and was pacing back and forth in agony. The stunner ... shot the animal again with the rifle but the shot did not kill him. They returned to the office to get another bullet. By this time the animal is agitated and is trying to get out of the cage. The employees attempted to shoot the animal again outside the knock box area and missed. By this time [plant owner] has arrived and she has a 357 magnum pistol. The animal is shot again with the pistol twice."

"While performing routine slaughter inspections, I observed two different plant employees repeatedly (6-8 times) attempt to stun a 300 pound hog with a 22 rifle. Most of the attempts were made while the animal was still in the knock box, but it did not become insensible until after 2-3 more shots. After a total of at least 10 attempts, the animal was unconscious and able to be shackled and hoisted."

## ELECTRICAL STUNNING

"Plant employees were stunning pigs using a standard electrical stunning device. They were stunning, hoisting, and then sticking the pigs to bleed out, two pigs at a time. I noticed the pigs were starting to blink their eyes and look around before and/or during the initial sticking. The following two pigs became conscious while being stuck and I then stopped any further kill. [Plant owner] informed plant employee to only do one pig at a time and he felt employee was not moving fast enough to be effective before the pigs were gaining consciousness. [Inspection personnel] and I observed the next pigs being processed. The second pig stunned started blinking and looking around while the shackle was being applied to be hoisted. I also noticed the stunner was not placed on the pig in the recommended area of the head to effectively stun the pig."

## CAPTIVE BOLT STUNNING

"This morning at approximately 7:25 AM while on the kill floor observing [plant personnel] stun a Holstein steer I noticed the steer was still alive after being stunned: the eyes blink three or four times. The steer was shackled and hoisted but before sticking and bleeding I told [owner] the steer was still alive and asked [him] to stun it again. He did not do it and I asked him again to stun the steer. He walked over to the steer and severed the spinal cord at the back of the head."

"I was observing the stunning of a calf with a mechanical bolt gun. Calf appeared to be stunned until it was being stuck to bleed out when it let out a beller. It was starting to arch its back and the eyes were moving. I immediately had the employee restun the animal and then proceed to stick it to bleed out. I asked the employee when he cleaned the mechanical bolt gun last and he said 'last month.'"

### Figure 11. Examples of State Humane Handling Violations

*(cont. page 12)*

## EXCESSIVE USE OF FORCE TO MOVE ANIMALS

"[Inspection personnel] was observing a trailer unload a hog. While observing this procedure, he heard an unusual amount of vocalization from hogs in the chute across the parking lot. While in process of crossing the parking lot that is approximately 25 yards wide he observed the plant employee attempting to move the vocalizing animal with the shaker paddle. When this appeared to not be successful, the plant employee swung the restraining gate and struck the hog [with the gate]."

"A customer arrived on the premises with a young bull. The bull was resistant to come off of the trailer and the plant employee gave the paddle to the customer and told him to unload the animal. During the process, the customer was seen hitting the bull about 5 times in the head with the paddle."

## EXCESSIVE USE OF FORCE TO MOVE ANIMALS

“During the slaughter of lambs I observed on two separate occasions where a lamb jumped over the stunning chute side and two different employees proceeded in picking up the lamb by the wool on its back and threw it back over the side panel into the stunning chute. Both times the lamb’s legs did not clear the side panel and the lamb landed on its side and/or back.”

“At establishment’s livestock unloading area an average size hog was improperly pulled off truck by both ears. The new employee pulled hog approximately 2-3 feet until entering designated pen area. As a result, the hog fell to the ground due to mishandling of livestock.”

## IMPROPER HANDLING OF SICK, DISABLED ANIMALS

“[Inspection personnel] was leaving the building and observed a truck and trailer arrive and back up the loading ramp. The unloading proceeded uneventfully until the final pig, larger than the others, began to slip on the metal floor. Once the pig began to slip and fall it panicked and struggled from the front to the back of the trailer where it collapsed, exhausted and trembling. The trucker walked over to the pig, now in ventral recumbency, and said, raising the tattoo hammer which he has been using, “You better get up or I will hit you with this hammer!” [Inspection personnel] replied, ‘If you do, I will close down this plant!’”

“When arriving I found one employee and owner of the hog unloading the hog. It was shackled and they were beginning to drag it off the trailer. I stopped the shackle and hoist chain was removed and with help the hog slowly walked into the holding pens.”

“[Inspection personnel] observed a plant employee repeatedly beating a market hog with a plastic shaker paddle. The hog was recumbent and unable to rise. The hog had injuries or disease to the back legs.”

“[I] observed an employee (new) shackling, dragging, and hoisting a live custom hog that was down off the farmer’s trailer to unload as it could not walk.”

# PLANT SIZE MAKES A DIFFERENCE

Plant size at the federal level is defined as follows:

- Very small—Fewer than 10 employees or annual sales of less than \$2.5 million
- Small—10 to 500 employees
- Large—More than 500 employees

Information regarding plant size at the state level is unavailable, and all state inspected plants are generally very small in size. Consequently, enforcement comparisons by size of plant were conducted for federally inspected plants only.

Figure 12 shows that a higher percentage of large than small or very small federal level plants were suspended for humane violations in 2008 and 2009. This higher rate of suspension for larger plants may reflect the fact that a greater number of animals are slaughtered at these establishments, or that more inspectors are present to witness violations. GAO's 2010 report on humane slaughter reported that in response to hypothetical scenarios, inspectors-in-charge at large plants were more likely than inspectors at very small plants to suspend operations for certain violations, including multiple incorrect electrical stuns, driving animals over top of others, and excessive electrical prodding of animals.

**Figure 13. Average Length of Federal Suspensions (2008-2009)**

|                   |                 |
|-------------------|-----------------|
| LARGE PLANTS      | Less than 1 day |
| SMALL PLANTS      | 1.6 days        |
| VERY SMALL PLANTS | 3.6 days        |

Large federally inspected plants may be suspended for humane violations more frequently than small or very small ones, but they remain shut down for a considerably shorter period of time (Figure 13). In fact, no large plant in the U.S. was suspended for more than a day during 2008-2009. This finding may reflect the fact that large establishments possess greater resources that permit them to respond more quickly to a reported deficiency, or they may exert greater political influence with federal regulators, helping them to get their suspension stayed sooner.

**Figure 12.  
Federal  
Suspensions  
by Plant Size  
(2008-2009)**

| PLANT SIZE | PLANTS<br>SUSPENDED | TOTAL # OF<br>PLANTS | % SUSPENDED* |
|------------|---------------------|----------------------|--------------|
| Large      | 25                  | 63                   | 39.7         |
| Small      | 46                  | 188                  | 24.5         |
| Very Small | 58                  | 531                  | 10.9         |

*\*Percent of plants suspended at least once during indicated time period*

# REPEAT VIOLATORS PRESENT A SERIOUS ENFORCEMENT PROBLEM

AWI's review of humane slaughter enforcement records revealed that repeat violators represent a significant problem at both the federal and state levels.

## Federally inspected plants

In its 2008 report, AWI identified several instances of slaughter plants being cited for multiple violations in a relatively short period of time: Tyson Fresh Meat plant in Geneseo, IL, received 10 noncompliance records in a one-year period; Nebraska Beef in Omaha, NE, received 12 noncompliance records in a six-month period; and Shapiro Packing in Augusta, GA, was cited 7 times in ten months. Moreover, a 2004 report by the GAO on federal humane slaughter enforcement (*Humane Methods of Slaughter Act: USDA Has Addressed Some Problems but Still Faces Enforcement Challenges*) cited one case where an inspector wrote up 16 separate incidents of inhumane handling or slaughter at one federal level plant.

In theory, the economic consequences of a plant suspension, handed out for multiple and/or egregious violations, should serve as a deterrent to future offenses. Unfortunately, that isn't always the case, perhaps in part because plants are typically shut down for such short periods of time. A number of federal plants have had multiple suspensions for humane slaughter violations in the past 3 years. Five plants were suspended at least three times each in 2008, and four others were suspended a minimum of three times each in 2009. In two of the worst examples, A & D Meat Processing of Chapel Hill, TN, was closed down on five occasions for humane violations in 2008 alone, and Robersonville Packing of Robersonville, NC, was suspended a staggering eight times between May 2007 and November 2009.

The enforcement record of Bushway Packing, Grand Isle, VT, with four suspensions for the same problem (improper handling of non-ambulatory animals) within a six-month period, provides a striking illustration of how the current USDA practice of issuing noncompliance records and short-term suspensions is not adequately addressing deficiencies in slaughter plant humane handling practices:

- May 13, 2009—Plant suspended for one day following observation of a non-ambulatory, week-old calf being dragged while conscious.
- June 24, 2009—Plant suspended for one day following observation of an employee picking up a calf and dropping the animal from the upper compartment of a truck to the lower level, landing on his head and side.
- July 1, 2009—Plant suspended for one day following observation of an employee dragging two non-ambulatory, week-old calves down a ramp from the upper deck of a truck.
- October 30, 2009—Plant suspended indefinitely following observation of an employee dragging a non-ambulatory calf by one leg. Employee was seen “excessively and repeatedly” applying an electrical prod to the neck and abdomen of the calf and then placing the animal in a pen occupied by ambulatory animals. Employees had also been observed repeatedly applying an electric prod to another disabled calf in an attempt to force the animal to stand.

**Figure 14.**  
**Violations per**  
**State Plant\***

| # NRs | 2002-2004<br>% PLANTS | 2007-2009<br>% PLANTS |
|-------|-----------------------|-----------------------|
| 1     | 63.9                  | 54.3                  |
| 2     | 25.0                  | 21.5                  |
| 3-5   | 5.6                   | 16.9                  |
| 6-8   | 5.6                   | 5.1                   |
| 9+    | 0                     | 2.3                   |

*\*Of plants with one or more violations during the indicated period.*

## State inspected plants

Although state plants are generally issued fewer citations and suspensions than federal plants (perhaps due to the lower number of animals handled), a similar trend with repeat violators has been identified. In analyzing state noncompliance records for 2007-2009 the following examples of repeat violators were uncovered:

- A North Carolina plant was cited 9 times and suspended twice between January 2007 and June 2009.
- An Ohio plant was cited 10 times (but not suspended) between January 2007 and May 2009.
- A Wisconsin plant was cited 34 times and suspended twice between May 2007 and January 2009.

Moreover, in reviewing state enforcement records for 2007-2009, it was noted that the percentage of plants with multiple violations was up over the previously-studied period 2002-2004 (Figure 14).

**For 2007-2009,  
it was noted that  
the percentage  
of plants with  
multiple violations  
was up.**

# INADEQUATE HUMANE TRAINING AND EXPERTISE

In its 2010 report, GAO noted that a review of federal noncompliance reports “identified incidents in which inspectors did not suspend plant operations or take regulatory actions when they appeared warranted,” an observation consistent with AWI’s prior review of federal noncompliance records for 2002-2004. In its most recent analysis of state enforcement records, AWI identified numerous incidents in which inspectors appeared uncertain of how to respond to particular humane handling situations and failed to take action beyond writing a noncompliance record. Of particular concern were noncompliance records that involved what FSIS identifies as an “egregious” act. In fact, of 89 incidents that potentially could be classified as egregious, 65 (73%) did not result in application of a reject tag or suspension. Some examples follow.

**For 2009,  
only 4% of state  
humane slaughter  
NRs resulted in  
plant suspension vs.  
17% of federal NRs  
(Figure 7).**

- In July 2009, a Wyoming meat inspector noted that an animal was still conscious after being cut for bleeding. Instead of instructing the employees to re-stun the hog, the inspector ordered that the animal be re-stuck. No mention was made of taking any regulatory control action other than issuance of a noncompliance report.
- In February 2008, a Wyoming meat inspector observed a steer being shot 6-7 times with a captive bolt gun and the animal being bled while still conscious. The inspector noted that the stunning technique was proper and “either the beef or the gun were faulty.” There was no mention of any regulatory control action being taken.
- In January 2009, a Wisconsin meat inspector observed multiple still-conscious animals being hung and bled. The inspector noted he had a talk with the owner about the problem who said “he would look into it.” No further regulatory control action was noted.
- In November 2007, a Wisconsin meat inspector noted that he was required to order restunning of 10 out of 45 pigs due to the animals resuming consciousness while being bled out. The inspector noted previous NRs for the same problem, but did not note taking any further regulatory control action.

- In July 2007, a Texas meat inspector observed plant personnel slicing the throat of lambs without first rendering the animals unconscious. (Killing of lambs was not ritual slaughter.) No further regulatory control action was noted.
- In June 2007, an Iowa meat inspector observed an employee shackling, dragging, and hoisting a conscious hog that was non-ambulatory upon arrival at the slaughter plant. No further regulatory control action was taken.
- In May 2008, a North Dakota meat inspector observed that an animal was still conscious and vocalizing when his throat was cut for bleeding. The inspector noted that this occurrence was linked to a previous NR written about nine months before, and that a low number of animals had been slaughtered in the interim. No mention was made of any further regulatory control action.
- In November 2007, a veterinarian working for the Ohio Department of Agriculture heard a steer that had been cut and was hanging on the bleed rail vocalize and saw the animal paddling with front feet and attempting to raise his head. Other than discussing the incident with the plant owner, there is no evidence of further regulatory control action.

After reviewing more than 400 state noncompliance records, AWI concludes that many government inspectors possess inadequate training in humane handling and slaughter and may lack ready access to humane handling expertise. At the federal level, District Veterinary Medical Specialists (DVMSs) are stationed in each district to serve as a liaison between the district office and headquarters on humane matters. Unfortunately, the work load of each of the 15 DVMSs – which includes visiting each meat and poultry plant within the district to perform humane audits, analyzing and summarizing monthly humane activities tracking data, participating in staff training, and conducting verification visits prior to a suspension being lifted – limits the effectiveness of the role.

Because of incomplete record keeping, GAO was unable to determine whether there is a higher rate of enforcement actions on the days that federal DVMSs conduct their humane handling audits. Likewise, AWI was not able to ascertain conclusively whether the presence of state veterinary medical specialists increased enforcement of humane slaughter laws. However, two findings from AWI's review point in this direction: 1) of the six states with the highest rate of enforcement actions, at least three (North Carolina, Texas, West Virginia) employ veterinary medical specialists that help oversee humane enforcement; and 2) states that are known to employ humane specialists had fewer instances where insufficient action was taken in response to egregious acts.

# HUMANE SLAUGHTER REMAINS A LOW PRIORITY RELATIVE TO OTHER FOOD SAFETY ISSUES

As noted earlier, enforcement at state plants, in terms of the number of violations cited and the number of plants suspended, rose significantly in the two years following the Westland-Hallmark case. The increase in noncompliance records suggests an increase in the amount of time state level inspection personnel spent on humane handling and humane slaughter verification. Information regarding all state food safety enforcement actions is not available for that period. Therefore, it is not possible to determine what percentage of food safety efforts at the state level were aimed at humane slaughter enforcement.

At the federal level, both the amount of time spent on humane handling verification procedures and the number of humane handling citations appear to have remained constant following the Westland-Hallmark event. Figure 15 compares the number of verification procedures and noncompliance records for humane handling to the total of all FSIS meat inspection verification procedures and noncompliance records for 2007 (pre-Hallmark) and 2009 (post-Hallmark).

GAO's 2010 report on federal humane slaughter enforcement noted that for fiscal year 2008, 1.46% of the FSIS annual appropriation for food inspection was devoted to humane handling activities. This is consistent with the finding that for 2009, only 1.5% of all FSIS inspection verification procedures were conducted to verify humane handling (Figure 15).

While the amount of time spent on federal humane handling activities may not have increased post-Hallmark, the response to violations certainly has. Inhumane handling went from being the basis of 18% of all FSIS slaughter plant suspensions in 2007 to 53% of all suspensions in 2009. This increase is likely due, in part, to an emphasis by FSIS headquarters on using plant suspensions to deal with egregious humane handling incidents and, by doing so, hopefully prevent the occurrence of another Westland-Hallmark.

**Figure 15. Federal Humane Slaughter vs. Food Safety Enforcement Actions**

| ENFORCEMENT ACTION      | 2007 "PRE-HALLMARK" | 2009 "POST-HALLMARK" |
|-------------------------|---------------------|----------------------|
| Verification Procedures | 1.9%                | 1.5%                 |
| Noncompliance Records   | 0.6%                | 0.5%                 |
| Plant Suspensions       | 17.6%               | 53.0%                |

*Humane slaughter enforcement actions as a percent of all meat inspection actions*

# RECOMMENDATIONS

Based on its research into state and federal humane slaughter enforcement, the Animal Welfare Institute offers the following recommendations:

- **FSIS should significantly increase its allocation of resources to humane handling and slaughter activities.**
- **FSIS should continually analyze federal district and state level enforcement activities** in order to ensure more consistent application of the humane slaughter law in plants of all sizes and locations across the country.
- **To address repeat violators and discourage future offenses, FSIS should establish a policy of escalating penalties,** including longer suspension periods and more frequent withdrawal of inspection. FSIS should monitor compliance with the repeat violator policy among states and federal district offices.
- **As a further means of deterrence, FSIS should cooperate with state and local law enforcement agencies in the pursuit of criminal animal cruelty charges for incidents of willful animal abuse.**
- **FSIS and state departments of agriculture should seek to improve the effectiveness of the district or regional veterinary specialist role** and increase funding for this position in order to provide in-plant personnel with greater access to humane slaughter expertise and to increase the frequency of audits – both scheduled and unscheduled – by qualified individuals outside the slaughter plant.
- **FSIS should make slaughter plant inspection records available to the public on its website** to help educate the public regarding humane slaughter practices and encourage compliance by slaughter plants with humane slaughter requirements.



**Animal Welfare**  
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## **EXHIBIT B**

## Examples of “Lack of Employee Training in Humane Handling” (State & Federal Violations)

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| 1.  | Inspector observed a lamb that appeared not to be moving in one pen. Management determined the animal was dead so put him on a truck for disposal. When inspector observed the animal he saw the lamb was slowly breathing. Later, the inspector walked out to the live animal holding pens and observed an employee dragging a conscious lamb by one hind leg. As he walked further he saw a downed lamb in another pen. An employee went into the pen which caused the other animals to trample the non-ambulatory disabled lamb. (Est. GA246, 4/12/2012) |
| 2.  | Inspector observed a new employee shackling, dragging, and hoisting a live custom hog to unload the animal from a farmer’s trailer since the animal could not walk. (Est. IA973, 6/18/2007)                                                                                                                                                                                                                                                                                                                                                                 |
| 3.  | Inspector found an employee and the owner of a hog unloading the animal. They were beginning to drag the animal off the trailer. Inspector instructed that the shackle and hoist chain be removed and with help the hog slowly walked into the holding pens. (Est. IA973, 10/30/2009)                                                                                                                                                                                                                                                                       |
| 4.  | Inspector observed unacceptable handling of a custom hog by owner unloading his animals for slaughter. Owner was repeatedly hitting the animals and was dragging the last animal off the trailer by his ears. (Est. IA728, 6/2/2010)                                                                                                                                                                                                                                                                                                                        |
| 5.  | A beef steer was presented for slaughter. Inspector was informed that the animal would not go up the ramp to the plant's holding pens and that antemortem inspection would need to take place on the trailer. The animal would not walk. Inspector informed workers that the animal was suspect. Upon his return to the slaughter floor he heard the steer vocalizing and observed a chain around his head. The steer had gone down, and the butchers were starting to hoist the conscious animal onto the slaughter floor. (Est. IA632, 10/27/2011)        |
| 6.  | A custom hog arrived for slaughter. The trailer was 2 feet higher than the unloading ramp. An employee first pulled the hog by his ears until stopped. After the hog was on the ramp, the worker kicked the animal to get him to the pen. (Est. IA973, 4/23/2012)                                                                                                                                                                                                                                                                                           |
| 7.  | Inspector observed excessive use of an electric prod. More than 25% of hogs were shocked while being moved up the alleyway to the stunning area. (Est. IL192, 9/13/2011)                                                                                                                                                                                                                                                                                                                                                                                    |
| 8.  | A steer with a broken leg was dragged into a pen. (Est. IL57, 1/10/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 9.  | The inspector in charge walked into the holding pen area to find a downed cow. The owner was using a prod to prompt the cow to stand. Excessive use of the prod was noted by the inspector. Once the inspector instructed staff to discontinue use of prod, a bobcat and length of material tied around the cow's left foreleg were used to drag the cow outside of the building. (Est. MN225, 7/8/2008)                                                                                                                                                    |
| 10. | At establishment's livestock unloading area an average size hog was improperly pulled off a truck by both ears. The new employee pulled hog approximately 2-3 feet until entering the designated pen                                                                                                                                                                                                                                                                                                                                                        |

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| area. As a result, the hog fell to the ground due to mishandling. (Est. NC312, 5/10/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>11. Two pigs were observed being unloaded, and one of the pigs' left hind leg dropped through a gap between the ramp and the trailer, causing the pig to fall and become wedged into the gap. The person who had brought the pigs had backed up to the ramp unevenly which left an opening three to four inches between the ramp-truck interface. When the plant employee came out to unload the pigs, he did not check to see if the ramp was flush with the trailer before unloading. After the pigs were unloaded the plant employee was informed that the animals could not be unloaded from this ramp if there is a gap between the trailer and the ramp. Later when the inspector was leaving the building he observed a truck and trailer arrive and back up the loading ramp. Plant employee came out of the live animal area to monitor to assist with the subsequent unloading. The unloading proceeded uneventfully until the final pig, larger than the others, began to slip on the metal floor. Once the pig began to slip and fall he panicked and struggled until he collapsed, exhausted and trembling. The trucker walked over to the pig, now in ventral recumbency, and raising the tattoo hammer said, "You better get up or I will hit you with this hammer!" Inspector replied, "If you do, I will close down this plant!" Inspector asked if there was something that could be spread on the trailer floor. Plant personnel brought a bag of Dri-lite which was spread on the floor. Using a cut board and a rattle, the pig was persuaded to rise, leave the trailer and enter the barn. (Est. NC163, 10/10/2007)</p> |
| <p>12. Inspector was observing the unloading of a hog. While observing this procedure, he heard an unusual amount of vocalization from hogs in the chute across the parking lot. He observed plant employee attempting to move the vocalizing animal with the shaker paddle. When this appeared to not be successful, the plant employee swung the restraining gate and struck the hog. (Est. NC163, 6/9/2009)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>13. While observing sows being unloaded the following was observed: Truck driver offloading animals was using more force than necessary with the paddle. He struck a non-cooperative sow on the truck an excessive number of times with great force. Driver had lost all patience with animal. (Est. NC37, 8/20/2009)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>14. Inspector observed an establishment employee inexperienced with handling animals attempt to cut out one mature sow from a group of 3 in a pen. The employee was shouting and chasing the sows causing them to run around and around the pen. He sometimes slapped the sows on the back with the side of the electric prod even when the animals were moving forward. (Est. NC265, 5/26/2011)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>15. Inspector observed an inmate with an electric type prod herding hogs off a trailer. Hogs were bunching up in the tail end of the trailer and on the movable ramp. These hogs were squealing quite loudly; some had legs protruding out of this ramp because they had ended up on top of another hog. No one was down at the bottom of the ramp to ensure that these hogs kept moving and hogs on the trailer were in a hurry to get off. Last week inspector had been notified of a hog with a broken rear leg. Other incidents resulting in broken bones have occurred due to improper handling. (Est. OH2005, 7/2/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>16. Inspector observed that excessive force was being used on goats as they were being brought from the holding pens to the knock box. The animals were bulking and lying down in the aisle way. The plant employee was using a wooden cane to strike the goats around the horns and trying to put an</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| excessive amount of animals in the knock box. (Est. OH110, 8/21/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 17. While offloading market swine from a delivery trailer, livestock delivery personnel were attempting to offload too quickly resulting in 2 pigs falling off the side of the ramp. Unloading was halted, and livestock delivery personnel were counseled on the proper procedures for unloading livestock. (Est. SC46, 5/13/2009)                                                                                                                                                                                                                                                                                                 |
| 18. Inspector observed a plant employee repeatedly beating a market hog with a plastic shaker paddle. The hog was recumbent and unable to rise. The hog had injuries or disease to the back legs. (Est. SC6, 7/16/2009)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 19. Inspector observed plant employee using electric prod excessively. (Est. SD107, 1/18/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 20. Inspector observed plant personnel using prod excessively to unload bison. (Est. SD107, 6/8/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 21. Inspecting personnel observed plant employees dragging a conscious cow with a hoist. (Est. TX546, 8/10/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 22. Inspector observed an excessive number of hogs being presented to the stunner at the end of the restraint chute. As a result, the stunner was using the stunning wand inappropriately to control the hogs and therefore not achieving an appropriate stun when the wand contacted the hog. The hogs were receiving an abbreviated-stun time as compared to normal establishment stunning procedures. The condition was created and exacerbated by the person driving the hogs to the restraint chute too rapidly and potentially through inappropriate use of a "hot shot". (Est. TX524, 3/27/2008)                             |
| 23. While the inspector was performing ante-mortem inspection on arriving livestock, a plant employee was observed using an electric prod on a steer to move the animal from one pen to another. Inspector noticed that employee did not appear to attempt to move the animal prior to the "hot shot" use. (Est. TX613, 6/4/2009)                                                                                                                                                                                                                                                                                                   |
| 24. While performing an in-depth review, the inspector in charge saw that a slaughter employee had a heifer backwards in the alleyway leading to the knock box. The employee was attempting to make the animal back up into the kill box and was using the hot shot excessively and causing the heifer to become excited and fall down. (Est. TX720, 7/6/2009)                                                                                                                                                                                                                                                                      |
| 25. It was observed by a circuit supervisor that cattle were being unloaded from a trailer with inappropriate, excessive use of a cattle prod creating unnecessary excitement and stress on the animals. (Est. TX98, 7/14/2009)                                                                                                                                                                                                                                                                                                                                                                                                     |
| 26. While walking to the holding pens the inspector noticed a steer being unloaded. He observed the animal slipping and falling twice during his 80 foot walk to the holding pens. Arriving at the trailer the inspector noticed the steer bleeding from his lower lip and also noticed the animal was short of breath and very stressed. Inspector asked the plant employee what was going on and was told that the steer did not want to get off the trailer. Inspector told him that since enough time had elapsed for the animal to be rested and less stressed that he could go ahead and try a new procedure. He attempted to |

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| <p>unload the steer again for about 2 minutes with no results. Inspector went into the plant and got the manager and told him the details. Owner immediately went out to the holding pens with another employee and had the animal unloaded in less than a minute. (Est. TX966, 10/15/2009)</p>                                                                                                                                                                                                                                                                               |
| <p>27. Inspector witnessed a plant employee excessively using a hot shot on a down cow. (Est. TX720, 9/8/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>28. As 2 beef cattle were exiting the unloading dock area to the holding pens, one plant employee used the gate as a shield wedging the head and body of one animal between the wall and gate to prevent the other animal from entering. A second employee at the end of the alley way at pen 5 was also observed using the holding pen gate as a shield, wedging the animal's head and body between the gate and wood post. (Est. TX98, 1/25/2012)</p>                                                                                                                    |
| <p>29. During the slaughter of lambs the inspector observed two separate occasions where a lamb jumped over the stunning chute side and employees proceeded in picking up the lamb by the wool on his back and threw him back over the side panel into the stunning chute. Both times the lamb's legs did not clear the side panel and the lamb landed on his side and/or back. (Est. WI167, 7/25/2007)</p>                                                                                                                                                                   |
| <p>30. Inspector observed excessive number of hogs being put in the kill floor holding pen, and excessive use of electric prod while moving the hogs. (Est. WI111, 8/28/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>31. Inspector observed an employee dragging a pig that was suspect into the stunning chute with a rope around his neck. During AM inspection the pig was unable to rise onto his back legs. (Est. WI167, 11/19/2007)</p>                                                                                                                                                                                                                                                                                                                                                   |
| <p>32. While performing inspection duties an inspector observed a rope placed around the neck of 6 cattle that were being driven from the holding area to the knock box. This system creates the potential for choking of animals. (Est. WI82, 12/6/2007)</p>                                                                                                                                                                                                                                                                                                                 |
| <p>33. Inspector was handling a suspect animal (hog) retained for further disposition. He cleared the animal for slaughter. He also reviewed with an employee the proper way to move disabled livestock to the knocking box. Another employee went to retrieve the animal to be stunned and stuck. While performing other inspection duties, the inspector heard loud squealing coming from the pen area and when he went to investigate witnessed an employee pulling on the animal's appendages (arms and ears) in an attempt to transport him. (Est. WI167, 1/26/2009)</p> |
| <p>34. While performing slaughter inspection, inspector observed an employee chasing pigs from the holding pens to the kill chute by striking them repeatedly with a fork handle. He continued striking them until he broke the handle. When the hides were removed bruise marks were visible. (Est. WI4, 3/3/2009)</p>                                                                                                                                                                                                                                                       |
| <p>35. Inspector observed excessive use of pipes and sticks to move hogs to the knocking box. (Est. WI 126, 11/4/09)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>36. During slaughter inspection the inspector observed bruise marks on the hog carcasses. The marks</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| <p>appeared to have been made with the stick used to drive pigs into the kill chute. Of the 18 pigs slaughtered, 11 had bruise marks on their carcasses, across the back area. (Est. WI4, 10/5/2010)</p>                                                                                                                                                                                                                                                                                                                                                                        |
| <p>37. Several large hogs were presented for slaughter. During the slaughter process an employee used a large meat hook and inserted it into the mouth of one of the hog to pull him into the knock box. Inspector verbally stopped the event and asked that the animal be put down at once. Later in the slaughter process an employee was out in the hallway moving this group of hogs and the inspector heard the animals squealing loudly. Moving to observe them, he saw a new employee was beating the hogs on the back with a plastic pipe. (Est. WI122, 11/18/2010)</p> |
| <p>38. Inspector observed an establishment employee use aggressive behavior and agitation on a pig before stunning. (Est. WI251, 3/23/2011)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>39. The Line Supervisor was seen running alongside the snake and yelling at cattle inside the snake. The B-shift Yards Supervisor was also running and yelling along the catwalk at the funnel area. He was crowding cattle into the snake, and was seen to pick up an electric prod and touch the last animal with it multiple times. At the same time an animal was observed further up the snake jumping on the back of another due to the crowding. (Est. M278, 2/15/2007)</p>                                                                                           |
| <p>40. A downed cow was in the alley and employees proceeded to move other ambulatory cattle over the animal. (Est. M2460, 8/15/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>41. A plant employee was observed driving cattle into the kill alley from the small holding pens just outside the entrance of the kill alley. The employee was prodding and jabbing each and every animal with an electric prod repeatedly and excessively without using any other devices to get the animals to move into the kill alley. (Est. M245D, 8/17/2007)</p>                                                                                                                                                                                                       |
| <p>42. An employee was seen trying to move an immobilized pig with a skid loader, at one point even picking the animal halfway up and dropping him. (Est. M3W, 2/5/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>43. The employee driving cattle into the restrainer used her electric prod on 20 of the 20 animals that passed her position. The employee was not making any attempt to drive the animals without the use of the electric prod. Once the employee became aware of the inspector's presence she began driving the animals with the use of her pom-pom and needed to use the electric prod on only 3 of the next 20 animals that passed her position. (Est. M208A, 2/21/2008)</p>                                                                                              |
| <p>44. A plant employee was observed to have used the electric prod 4 times on one animal while driving him into the knock box. (Est. M357, 3/6/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>45. Cattle were observed in pens without bedding and with slippery surface. Despite warnings that cattle would slip, employees proceeded to run cattle through the pens and the animals slipped and/or fell. (Est. M17690, 3/7/2008)</p>                                                                                                                                                                                                                                                                                                                                     |
| <p>46. Inspection personnel were observing animal handling in the area of the round pens leading to the stunning chutes. Inspector observed excessive use of the rattle paddles in the area of the round pens</p>                                                                                                                                                                                                                                                                                                                                                               |

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| and in the chutes leading to the stunners. (Est. M3W, 4/3/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 47. A female black Angus was excited and nervous and did not enter into the alley. The driver used a plastic rattle and the electric prod (once) to make her go into the alley. Later, a barn employee came with his whip and touched the back of the animal with the string of his whip in order to make the animal move into the alley, causing her to become more excited. The employee also used the electric prod during this period. After another use of the electric prod, another attempt in combination with the whip was used. Thus, the electric prod was used 4 times on the animal, causing nervousness and excitement before slaughter. (Est. M357, 4/23/2008) |
| 48. Inspector observed a truck of hogs being unloaded in alley 5. Hogs were vocalizing loudly. The trucker who was handling the hogs to move them off the truck had both a rattle paddle and a battery operated electrical prod in his hand. Inspector observed excessive use of the electric prod as the trucker moved approximately 10 hogs off the truck. Approximately 45 minutes later in the stick area inspector observed excessive use of the rattle paddle by the employees handling hogs in the circle pens as well as employees in areas of driving hogs up to the circle pens. (Est. M3W, 6/19/2008)                                                              |
| 49. A large group of pigs was being moved, seemingly too large to be moved as one large group, by driving from the back of the group. (The ante-mortem card indicated 332 pigs in the pen.) Pigs at the back of the group had little space to move forward or backwards, and could not reasonably be expected to move ahead quietly without being excited by the noise of the rattle paddle striking the wall. (Est. M3W, 7/3/2008)                                                                                                                                                                                                                                           |
| 50. An employee was seen beating his rattle paddle forcefully against the wall of the pen while excited pigs flipped about in excitement. The temperature in the pen was near 90 degrees. (Est. M3W, 7/7/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 51. An employee directly behind the knock box was seen using the electric prod on every animal (about 15-20 cows) poking them 1-3 times and prodding some of them when the knock box door was shut. Approx. 10 minutes after observation began the employee noticed the inspector watching, put down the electric prod and started using the paddle. (Est. M357, 7/9/2008)                                                                                                                                                                                                                                                                                                    |
| 52. While on night yard supervision the inspector saw a pig walk out through an open overhead door. The pig had apparently been skipped during stunning. A few minutes later the inspector went outside a second time to find the pig being chased by an employee in the skid loader. The animal was open-mouth breathing from exertion. (Est. M3W, 7/14/2008)                                                                                                                                                                                                                                                                                                                |
| 53. A driver was observed using a plastic rattle paddle while moving pigs, excessively hitting them on the back. Moments later another pig was struck in the neck by a gate that had been swung open by an employee. The truck driver also struck a slow moving animal to get him moving and when the animal turned a corner his front legs collapsed and was seen panting heavily. (Est. M3W, 9/4/2008)                                                                                                                                                                                                                                                                      |
| 54. A truck driver was seen to be walking over top of 3 pigs during the unloading process. (Est. M244L, 2/3/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| 55. Inspection personnel observed an employee pick up a veal calf and drop him from the upper compartment of a truck. (Est. M571, 6/24/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 56. An inspector observed a driver drag 2 non-ambulatory calves down a ramp from the upper deck of a truck. (Est. M571, 7/1/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 57. An employee was seen energizing an electric prod on a cow's back multiple times, in an effort to drive her into the single file. In response to this, the cow bellowed loudly, and ran into the single file entrance. The other cows in the crowd pen began to follow her into the single file, many at almost a running pace. At this time, the establishment employee energized the prod at least twice, sometimes 3 times, on each of the next 4 cows as they were entering the single file. (Est. M1085, 8/14/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 58. Inspection personnel observed video taken at an establishment which showed inhumane handling practices. In one instance, an employee was observed to be dragging a non-ambulatory calf by one leg in the pen area. He excessively and repeatedly applied an electrically charged hot shot to the neck and abdomen of the animal. He pushed a knee into the calf and pushed the downed animal along the floor of the pen with the hot shot. He then placed the downed calf into a pen that contained ambulatory animals. In another incident, an employee in the truck unloading area repeatedly attempted to get a brown and white non-ambulatory disabled calf to stand. A hot shot was delivered to the neck area of the animal causing him to bellow. The animal was being aggressively picked up in an attempt to make him stand. The animal stumbled and violently slammed into the wall. Employee again attempted to make the animal stand by aggressively picking him up from the hindquarters. (Est. M571, 10/30/2009) |
| 59. An employee was seen repeatedly hitting a pig with a barrel lid. The animal was sitting upright but unable to stand on his back legs. The animal squealed each time he was hit with the lid. When the animal finally reached the top of the loading ramp an employee kicked him, causing a loud squeal, and the animal slid halfway down the ramp, approximately 7 feet. (Est. M22064, 11/9/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 60. Pigs were wedged together at entrance of the unloading ramp. An employee was observing using paddle excessively to try and move the animals along. (Est. M13597, 6/16/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 61. In a group pen inspector witnessed the establishment employee who herds the animals into the chute repeatedly using a battery-powered electric prod on a cow that was down. Inspector saw the prod applied at least 3 times, pressed into the animal's rump. The animal was vocalizing loudly, and making no attempt to rise. (Est. M7209A, 2/3/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 62. A driver was handling lambs in a very rough manner while unloading them. The driver was kicking lambs, yelling and slamming a gate open which caused fright and excitement among the lambs. The driver even took hold of the wool near the top of the neck and aggressively jerked at least twice, even gripping the ear and violently propelling the animal past him. (Est. M5883, 2/14/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 63. An electric prod was applied to the prolapsed rectum of a non-ambulatory pig for about 10 seconds. (Est. M31559, 3/28/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

64. A bison bull was not entering the restrainer, and the handler was using a shaker paddle without success as the bison stood in one place without reacting. The handler then picked up the electric prod and used it along the back 2-3 times. The animal kicked and backed up against the door. The handler then used the electric prod on the animal multiple times along the back, approximately 10 times, quickly. A second bull was brought in to “push” the first into the restrainer. As the second bison placed his head on the first bison’s rump, the first bison sat down. After checking the electric prod on the chute bars and producing a blue arch, the handler brought back the prod and hit the animal 6 times in rapid succession. (Est. M18859, 4/3/2012)
65. An inspector observed a plant employee kick a cow moving in the alleyway, and allow 2 prone cows to be stepped on by other cows exiting the trailer. (Est. 39907, 5/4/2012)
66. Extremely rough unloading of animals observed: pigs began piling up during unloading process and the driver began hitting them violently with his sorting paddle. The pigs were panicking, screaming and climbing over the backs of other animals, causing one animal to flip and fall over and down onto a metal floor. The driver went on to jab and stick pigs in the eyes, face and ears. (Est. M717, 5/17/2012)
67. Inspector observed that a hog had entered the alley leading to the stunner backwards while additional animals continued to enter facing forwards. An employee placed an electric prod between the eyes of a forward facing animal to get him to back up. The same employee placed the electric prod under the tail (genital area) of the animal that was backward in the alley. (Est. M818, 8/6/2012)
68. At least 4 incidents of inhumane handling of animals was gathered through undercover video footage: pulling a downed cow by the tail; repeated electric prod usage on the face of an animal; repeated electric prod usage on a recumbent cow; and repeated electric prod usage (including on animal's neck) on a down cow in a trailer. (Est. M6063A, 8/19/2012)
69. Inspector heard a great deal of commotion coming from the stockyards area and noted a person unloading a trailer. The individual opened the gate and started unloading the pigs from the nose. There was a lot of yelling, vocalization and excessive use of the rattle paddle. Inspector noted that 2 out of 3 hits landed on the back of the hogs. As the pigs approached the ramp they appeared to balk and stopped moving, at which point the operator escalated the use of the rattle paddle with all the hits landing on the backs of the hogs. He then started swearing and choked down on the rattle paddle with both hands so that he could make a complete swing and repeatedly (15 to 20) times hit the back of the hog directly in front of him. This was an overhead chopping action with as much force as the operator could muster. (Est. M17D, 9/8/2012)
70. Inspector observed an employee prod a cow continuously with an electric prod while trying to move the animal into the bleeding cradle from the ante-mortem pens. (Est. M4928, 10/24/2012)

## **EXHIBIT C**

## Examples of “Use of Improper Stunning Device”

### (State & Federal Violations)

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| 1.  | While observing stunning of sows, inspector witnessed plant employee shoot a sow with a .22 rifle which did not render unconsciousness. Employee then had to shoot again to render stunning effectiveness. (Est. GA87, 4/18/2007)                                                                                                                                                                                                                                                                                                                                                                                                        |
| 2.  | The second pig killed this day was not rendered unconscious the first time it was shot with the .22 rifle and was immediately shot a second time. The second shot did render the animal unconscious. (Est. GA166, 5/14/2007)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 3.  | The fourth hog of the day was presented for inspection. The establishment uses a .22 rifle to render the animals unconscious. The hog was not rendered unconscious after two shots. Plant employee then switched to a captive bolt stunner and tried to render the hog unconscious two times with it. The hog was not rendered unconscious by either attempt with the captive bolt. No other stunning method was available. After two more attempts with the rifle the hog was rendered unconscious. The establishment's immediate corrective action was to borrow a .22 magnum to complete the day's slaughter. (Est. IA554, 3/28/2012) |
| 4.  | Inspector observed that a hog was not stunned with one shot. Owner retrieved a captive bolt that didn't work either, so he went back to the .22 rifle to render the hog unconscious. The owner said he would buy a new .22 rifle or .22 magnum. (Est. IA554, 3/30/2012)                                                                                                                                                                                                                                                                                                                                                                  |
| 5.  | Plant employee attempted to stun a hog with .22 rifle/long rifle bullet. The bullet appeared to strike the animal in the proper location, but the animal was not stunned. Another try failed also. Plant employee then switched to .22 magnum and successfully stunned the hog. (Est. IA653, 5/4/2012)                                                                                                                                                                                                                                                                                                                                   |
| 6.  | Plant employee took aim at a custom hog with a rifle to stun animal. Two shots were not effective, after which the employee switched to a larger caliber rifle and dispatched the hog with one shot. (Est. IA653, 6/12/2012)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 7.  | During inspection, the inspector witnessed the slaughter of Cow 1, which was shot 7-8 times in the knock box before being effectively stunned. Cow 2 was shot in the knock box before a rejection tag could be placed on the knock box. (Est. IL – no number given – 2/19/2008)                                                                                                                                                                                                                                                                                                                                                          |
| 8.  | Stunner was unable to render a hog unconscious with 3 gunshot attempts. He was instructed to use a heavier load round which was successful. All 4 shots penetrated the skull in the correct location. (Est. IL145, 3/8/2010)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 9.  | 3 hogs were not rendered unconscious with the first shot. After this the owner decided to use a different firearm and ammunition, which was successful in stunning the remainder of the animals. (Est. IL171, 8/19/2010)                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 10. | Inspector observed a plant employee fire a .22 shot at a hog. The hog squealed, dropped, and then                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

stood back up. Employee reloaded the rifle and fired a second shot, knocking the hog senseless. Employee had switched from a captive bolt stunner to the rifle because the captive bolt stunner had jammed and would not fire. Manager set out the magnum to be used with the next hog. He said he believed he could knock the hog with the .22. He said he was not comfortable using the electric stunner given how much metal was in the knocking pen. Employee successfully knocked the next hog with the .22. But later the inspector observed an employee fire a .22 at a hog, and the animal was not rendered insensible. (Est. ME1, 5/29/2012)

11. On the slaughter floor an inspector was verifying the stunning procedures by the establishment. They used a .22 caliber rifle to stun a steer. The steer had to be re-stunned again before dressing procedures could start since bullet did not render the animal insensible. The steer was still standing, showing no effects of being stunned. Delivery of another bullet did render the steer insensible and insensibility was still present when the steer was hoisted. (Est. MO153, 6/10/2009)

12. Inspector was in the cooler as the employees were preparing to stun a custom hog of about 400 lbs. He heard the rifle (.22 magnum bolt action) go off 3 times and heard the hog squeal each time. When the inspector arrived at the stunning area the hog was down but was not dead. The employee shot the animal again with the rifle but the shot did not kill him. Eventually the owner arrived and shot the hog twice with a .357 magnum pistol. At this time the animal is finally rendered unconscious. (Est. NC163, 3/17/2008)

13. An attempt was made to stun a large sow standing quietly in the stunning pen. A .22 magnum round was used. The stunning operator observed that the sow was not stunned, though wounded, and fired a second round. The stunning operator stated that the sow was not stunned. Inspector asked the stunning operator if he knew what to do. He replied that he did not. Inspector said that a larger caliber firearm or some other method was needed to adequately stun the sow. (Est. NC265, 5/26/2011)

14. A heifer was in the knock box and was very calm with little movement. Plant employee proceeded to discharge a .22 caliber rifle into the center of the cow's forehead. The cow did not go down. A second shot from the .22 rifle was discharged into the forehead. The cow, once again, did not go down. Both shots to the forehead did not penetrate the skull and one of the bullets was found lying on the floor near the viscera table. The owner arrived and said that the employee was not utilizing the correct bullets. The bullets being used were the .22 long rifle 36 grain hollow point copper-plated, which is designed for small vermin and small game. The owner proceeded to bring the solid-head bullets over and administered the 3<sup>rd</sup> shot to the forehead of the heifer. The heifer immediately went down. (Est. NC318, 2/2/2012)

15. During ante-mortem inspection, the inspector noticed a very large bull and asked the kill floor personnel if the .22 caliber rifle would be sufficient to knock the animal in one shot. The employees stated that it would. The bull was brought into the knock box and was shot with a .22 caliber rifle 2 times before he fell. The inspector heard the bull breathing and kept track of each time that the plant employee fired. The bull was close to 2,000 lbs and fell in such a way that the gate on the knock box would not open. The animal's head was against the knock box, so the shots were not optimal. After

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| <p>many shots the employee finally hooked the carcass hoist to the gate and allowed the bull to fall from the knock box. After more shots, and while still breathing, the bull's throat was cut while he was lying on the floor. The inspector kept track of the number of shots, and the employee had shot 56 times. (Est. OH118, 3/21/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>16. While performing kill floor duties, the inspector observed an employee shoot a market hog with a .22 caliber rifle. The employee required at least 7 shots in order to render the hog unconscious. (Est. OH130, 8/15/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>17. Inspector noted that it took plant personnel 8 shots with a .22 rifle to bring a bull into a state of unconsciousness. (Est. OH36, 1/22/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>18. Stunning operator shot a large bull several times before the bull was rendered unconscious. The owner was instructed to have a larger caliber firearm on premises to stun larger animals. (Est. OH183, 7/6/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>19. A large 800 lb barrow hog was brought into the knock box for stunning. Plant decided to use a .22 rifle for stunning instead of their normal electric stunner. While outside the inspector heard 3 shots. Plant employee came out and said that he fired two shots with a .22 caliber rifle and used a captive bolt once on the pig's head, but that the pig was still standing. Inspector asked him if he had a bigger caliber gun available. He replied that he could get one quick from in town (approximately 2 miles) and immediately left. Employee brought a .25 caliber rifle and the pig was shot and went unconscious. Plant was not properly equipped to handle such a large animal. (Est. WI110, 9/23/2010)</p> |
| <p>20. While doing slaughter of a bull, it took 4 shots from a .22 rifle to kill the animal. Inspector informed employee that he needs to have a larger firearm on hand to effectively knock larger animals to prevent this from happening again. (Est. WI183, 5/10/2011)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>21. A steer greater than 30 months of age was observed being shot with a .22 caliber discharge at point blank range into the head 4 times until the animal was rendered unconscious. The operator was using a standard .22 caliber rifle for the first two shots and then reverted to a magnum .22 rifle for the remaining two. From that point forward animals were rendered correctly utilizing the magnum rifle vs. the standard .22 caliber. (Est. WI3, 1/11/2012)</p>                                                                                                                                                                                                                                                      |
| <p>22. It took 4 shots to efficiently kill a large steer on the kill floor. Inspector immediately stopped slaughter, and the plant went and got a bigger rifle to finish the slaughter. (Est. WI243, 1/30/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>23. While performing routine slaughter inspections, inspector observed two different plant employees repeatedly (6-8 times) attempt to stun a 300 pound hog with a .22 rifle. After a total of at least 10 attempts, the animal was unconscious and able to be shackled and hoisted. (Est. WV31, 9/11/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>24. A very large mature Angus cross bull (more than 1900 lbs) needed to be shot 3 times in order to render the animal insensible due to the use of an inadequate weapon. A .38 caliber was used as opposed to the .357 magnum revolver normally used for large bulls at this plant (which was off site</p>                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| for repair at the time of the incident). (Est. M19924, 3/20/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 25. A failure to stun incident occurred involving a very large mature Angus cross bull. The animal remained standing and was not rendered insensible after the firearm was discharged. A second stun was administered and was successful in rendering the animal insensible. (Est. M19924, 4/17/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 26. A large Duroc cross pig (dressed wt: 280 lbs) was shot 3 times before being rendered insensible. The shots were accurately placed and the weapon was appropriate but the .22 caliber high velocity, copper-coated, hollow-pointed ammunition was not. After the first shot the pig was dazed, did not vocalize, and showed no signs of discomfort. The animal remained standing quietly in the hog restraining box with normal head movements. The operator then administered a second stun that was also ineffective, followed immediately by a third stun that was finally effective. (Est. M19924, 6/27/2008)                                                                                                                                                                                |
| 27. A bull needed to be shot in the head 3 times before being rendered unconscious. After being shot in the forehead once the animal sat down and turned his head away from the operator as they were performing the stunning operation. The animal was shot again in the back of the head and dropped to the floor. The animal continued making sounds and finally a .410 shotgun was retrieved and used to render the animal insensible. It was then revealed that a short time before this incident a pig was brought to the stunning chamber and shot in the forehead by the employee, but remained standing. The animal was then shot behind one ear and still remained standing. Finally a .22 magnum rifle was retrieved and used to render the animal unconscious. (Est. M21585, 1/28/2010) |
| 28. After 10 shots with a .38 caliber pistol a yak had still not been rendered insensible. An employee then went to retrieve a .223 caliber rifle, which rendered the animal insensible. (Est. M7748, 3/1/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 29. A pig was shot twice with a captive bolt. The first shot did not produce much effect but left the animal sensible and injured while the second shot became stuck in the animal's forehead. A firearm was then brought and the animal was shot twice before being rendered insensible. The first ineffective shot was with a .22 caliber and was not properly placed, while the second shot with a .30-.06 rifle was the only one to enter the cranial cavity. (Est. M4499, 3/15/2012)                                                                                                                                                                                                                                                                                                           |
| 30. Two gunshots were heard, about 20 seconds apart, followed by a third shot about a minute later. The stunner used a .45 caliber pistol with 230 grain soft lead .45 bullets for the first two shots and a .30-.30 shotgun for the third. The skinned head revealed a 2 inch diameter hole slightly left of center and providing a view directly into the braincase (.30-.30 gunshot). Just below that hole and central was a ½ inch hole (one of the .45 caliber gunshots). The other hole was not identifiable, but could have been obliterated by the 30-.30 shot. (Est. M7644, 4/18/2012)                                                                                                                                                                                                     |
| 31. Two attempts were made to stun a sow with a .22 magnum firearm, which was the wrong caliber for the animal. Finally an employee ran to retrieve a handheld captive bolt (loaded with a heavy "bull" charge) to render the animal unconscious. (Est. M10147, 4/24/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 32. The establishment knocker, new to the position, shot an adult black bull using .22 magnum                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

ammunition, but the animal remained standing. The same result was seen after a second shot with the .22 magnum. The employee was then instructed to use the .30-.30, available in the room, as a backup gun. After the .30-.30 was used, the bull slumped down on his belly but was holding his head off the floor, bobbing. A fourth shot (again with the .30-.30) was finally effective in rendering the animal insensible. (Est. M7644, 5/30/2012)

## **EXHIBIT D**

## **Examples of “Improper Shot Placement and/or Inadequate Restraint”**

### **(State & Federal Violations)**

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| 1.  | During stunning of a hog, the first attempt did not produce immediate unconsciousness in the animal due to movement of the head. (Est. GA166, 4/9/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2.  | The establishment employee shot the steer. The shot did not render the animal unconscious. Employee immediately shot the steer a second time. This shot rendered the animal unconscious. Owner said he will re-train the employee in proper shot placement. (Est. IA554, 1/24/2012)                                                                                                                                                                                                                                                                                                                                  |
| 3.  | As shooter was ready to stun the hog, the hog turned his head and the bullet did not contact animal enough to stun properly. The owner immediately took action to re-stun the hog and the animal was stunned properly. (Est. IA1138, 5/8/2012)                                                                                                                                                                                                                                                                                                                                                                       |
| 4.  | An attempt to render a hog unconscious failed on the first attempt. There were 2 hogs in the pen. (Est. IL53, 10/25/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 5.  | 2 hogs needed to be shot twice to render them unconscious. The first appeared to be shot a little high on the head. (Est. IL53, 12/10/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 6.  | 3-5 animals are being placed in the stunning area at one time and then stunned one after the other. Size of the stunning area is so big it allows livestock to move around freely. (Est. IL213, 12/28/2010)                                                                                                                                                                                                                                                                                                                                                                                                          |
| 7.  | I observed 3 pigs regain consciousness while being stuck. Also observed several pigs lying in the stunning area. This contradicts plant procedures of using a temporary gate to create a smaller stun box and limit animal movements. (Est. IL60, 2/10/2011)                                                                                                                                                                                                                                                                                                                                                         |
| 8.  | Second stun required when the animal moved suddenly at the last possible moment on the first try. (Est. IL118, 11/1/2011)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 9.  | While performing slaughter operations the inspector observed plant personnel shoot 3 pigs, out of the 13 pigs slaughtered, 2 or more times with the 22 mag. An employee shot the first pig 3 times, and slaughter was halted while a manager discussed the proper place to shoot pigs with the worker. Slaughter was stopped a second time after the next pig was shot twice while the manager again showed the worker the proper place to shoot pigs. A third pig was not stunned properly, and slaughter was halted again. Once again, manager showed the employee how to place the shot. (Est. KS125, 10/30/2008) |
| 10. | Inspector observed one of the employees not properly stun a black heifer on the first shot. A second gunshot had to be administered to render the animal unconscious prior to being shackled or hoisted. Proper target and alignment was reviewed with employee. (Est. KS461, 1/30/2012)                                                                                                                                                                                                                                                                                                                             |
| 11. | A plant employee was unable to render the second steer unconscious with the first gunshot. He was able to render the animal unconscious for the bleeding process with the second shot. It took several minutes before he was able to get an accurate shot as the animal became very aggressive after the                                                                                                                                                                                                                                                                                                             |

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| first attempt. (Est. ME6, 2/21/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 12. The knocker, without applying any form of head restraint, "followed the animal's head around" with a captive bolt revolver until a shot was fired. After stunning of the animal with the captive bolt, the animal appeared to be rendered unconscious. During the sticking/bleeding process the animal appeared to regain awareness, showing signs of eye blinking, breathing, vocalizing and arching head in an upward position. Due to the violent thrashing of the animal the kill floor employee was unable to re-stun the animal and the animal expired after 5 to 7 minutes of bleeding, showing signs of consciousness until death occurred. (Est. ME4, 3/13/2012)                                                                                                                                              |
| 13. The worker fired the captive bolt stunner and dropped the steer, but did not render the animal senseless. He immediately fired a second shot and the steer was rendered senseless. He said he believed there was just enough movement of the head when he fired the first shot to make the shot ineffective. (Est. ME72, 3/23/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 14. During slaughter an employee attempted to stun a hog using a captive bolt. The hog moved while the employee was attempting to stun the animal and the animal sustained a non-fatal injury, but remained conscious and bleeding (briefly vocalizing). The employee re-loaded the captive bolt and attempted to stun the animal a second time, and the animal vocalized for a brief amount of time and continued to bleed, but remained conscious. The employee reloaded the captive bolt and attempted to stun the hog for the third time. The captive bolt misfired and the animal was not injured further, but was still bleeding from the previous attempts. (Est. MN – no number given – 8/11/2010)                                                                                                                 |
| 15. A plant employee attempted to stun a hog using a hand held captive bolt stunner. As the employee struck the head of the hog the captive bolt did not activate. This caused undue stress on the animal, who vocalized as a result. The plant manager then attempted to stun using a firearm. This proved to be unacceptable because the animal was not restrained well enough to prevent him from becoming excited and vocalizing prior to being stunned. (Est. NC247, 4/18/2007)                                                                                                                                                                                                                                                                                                                                       |
| 16. I observed the stunner using the captive bolt gun on an extremely large boar. The shot penetrated the animal but failed to produce immediate unconsciousness, so the stunner went into an adjacent room and retrieved a rifle. He came back to the stunning area and made another attempt to shoot the boar. He grazed the animal with a second shot, and the animal squealed. The stunner then went back into the office to get another shell for the rifle. Once he returned he went over to the left side of the knock box at which he could not get a clear shot, so he went over to the right side of the knock box to see if he could get a clearer shot. He was not satisfied with that, so he returned back to the left side of the knock box before successfully stunning the animal. (Est. NC163, 7/25/2007) |
| 17. A .22 caliber rifle was used to stun the animal. Upon firing, the animal immediately fell to the ground. Approx. 10 seconds later, the animal raised back up and was once again standing. Approx. 20 seconds later a second shot was administered to the calf and the calf went down and never came back up. Further investigation of the head revealed 2 gunshot entry points with the first gunshot about 1 inch to the right of the second. (Est. NC318, 12/19/2011)                                                                                                                                                                                                                                                                                                                                                |
| 18. Inspector observed the slaughter employee shoot a hog with a .22 magnum long rifle. This shot did                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| <p>not render the animal unconscious or insensible to pain. Without hesitation the employee reloaded the gun and immediately rendered the hog unconscious and insensible with the second shot. Employee skinned head and point of entry was correct, but when shot the hog moved his head to change the angle of entry. (Est. NC191, 1/4/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>19. Inspector observed plant employee discharge a .22 caliber rifle into the left center of the forehead of a veal calf. The calf immediately went down, but within approx. 10 seconds, the calf stood up on all four legs and started to walk around the knock box. The inspector observed a tremendous amount of blood coming from the left nostril of the calf, but no vocalization was heard. The inspector in charge immediately instructed the owner to lower the knock box and fire the second round. The second shot was discharged and the calf immediately fell to the ground. Later the inspector inspected the calf's head and found two bullet holes. The first bullet hole was approximately 3 inches to the left of the middle of the forehead and the second bullet hole was placed in the middle of the head. (Est. NC318, 1/12/2012)</p> |
| <p>20. Employee was using a recently-acquired 9mm captive bolt, which operates differently than either of the previously used stunning devices -- a .22 gauge captive bolt and a .22 rifle. The stunning operator activated the bolt at an angle that resulted in the bolt entering the skull about 1.5 inches higher than the optimal site for stunning. The hog was not adequately stunned. (Est. NC238, 3/28/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>21. Inspector observed an employee attempting to stun a steer in the knock box. The steer was wild and jumping all around. The animal was shot with a captive bolt stunner but was not render unconscious. The employee reloaded the stunner and totally missed on the second shot. The steer's head was restrained, and the third attempt was successful. (Est. OH199, 1/24/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>22. While observing the stunning procedure, the inspector saw a plant employee make 3 attempts to stun a sow with an electrical stunner. All three attempts were unsuccessful, and as a result the animal became frightened, jumped the gate, and was running freely on the kill floor. While the animal was running freely, it became entangled in a water hose which resulted in falling rollers. Eventually the gate was unchained, opened, and the animal went back into the knocking area and was then placed in the knock box for stunning. (Est. OH199, 3/10/2008)</p>                                                                                                                                                                                                                                                                              |
| <p>23. It took plant personnel 8 shots with a .22 rifle to bring a bull into a state of unconsciousness. Upon investigation of the bovine head, it was observed that not all bullet holes were in the kill zone. (Est. OH36, 1/22/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>24. Observed 2 shots had been placed between the eyes of a beef. (Est. OH44, 2/3/2011)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>25. Plant manager was attempting to stun a steer using the captive bolt. Seconds prior to firing the captive bolt, the steer moved his head and the stun was ineffective. (Est. SC1, 7/17/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>26. Inspector observed a cow's head and noticed that there was no captive-bolt hole in the skull. When inspector asked the employee about it he told him that they shot the cow in the back of the pole section of the head. Inspector told him that this was not the correct way of stunning the animal. (Est.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| SC89, 1/13/09)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>27. The kill floor operator attempted to stun a market hog 2 times. The hog was injured and squealed in pain on both attempts. As the operator started to attempt stunning the hog for a third time, the inspector stopped the worker and instructed him to either get a crowder board to limit the hog's movement prior to the attempt or to use the rifle since his first two attempts were unsuccessful. Worker ignored the inspector's instructions and stunned the hog a third time. The third attempt was successful and the hog was rendered unconscious. (Est. SC10, 1/14/2009)</p>                                                                                                                                                                                                                                                                             |
| <p>28. While observing dressing procedures an inspector heard an excited animal in the knocking box. Plant employees were attempting to knock a steer of approximately 900 lbs. The animal was standing upright and the floor of the knocking box was covered with blood which had come from the animal's nose. The plant employee attempted to stun the animal a second time with the captive bolt device, but the animal did not drop and continued to vocalize and became more excited. On the third attempt, the animal was stunned properly. Upon post-mortem inspection of the head, the inspector found that the captive bolt had penetrated the skull in 3 places. One penetration was 5-6 inches below the desired stunning point. Another penetration was directly between the eyes. A third penetration was in the correct location. (Est. TX613, 2/8/2007)</p> |
| <p>29. The slaughter person who was in charge of stunning the hogs took 4 shots from a .22 rifle and was unable to properly stun one animal. I instructed him to stop and another employee properly shot the animal. (Est. TX369, 6/12/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>30. Inspector observed an improper stun occur on the 2nd steer. It was determined that the steer jerked his head as the employee committed to delivering the stun, causing the placement of the stun to be approx 1/2 inch higher than the ideal location on the skull. (Est. TX1, 12/8/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>31. A plant employee was using a captive bolt device to knock a steer. The first attempt did not render the animal unconscious. While the employee was starting to hoist the steer up inspector informed him the animal was not accurately stunned. Employee then knocked the steer again. After the animal was hoisted the inspector could see the animal again regaining a conscious state. Employee again knocked the steer. Inspector halted the slaughter operations. The owner and an extension agent showed employee where to accurately position the captive bolt. Extension agent had pictures of beef heads that had been correctly stunned and showed them to the owner to illustrate where the captive bolt should be positioned for an effective stun. (Est. WI74, 6/19/2008)</p>                                                                          |
| <p>32. It was observed by inspection personnel that the employee had to stun a steer 3 times due to improper location of the stun. (Est. WI138, 8/28/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>33. Inspector observed problems stunning some calves with the mechanical bolt pistol style gun. On the second calf, the plant worker stunned the calf too low on the head and the calf did not go down. The second stun behind the head took the animal down but not unconscious. On the third stun he hit the animal in the same place as the first stun with no results. Inspector then showed him where he needed to place the bolt on the head, and this time the animal was rendered unconscious. (Est.</p>                                                                                                                                                                                                                                                                                                                                                        |

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| WI167, 4/7/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>34. A very wild black Angus steer was brought into the knock box for slaughter. The animal was moving around so much that plant owner instructed an employee to shoot the animal with a rifle instead of using the captive bolt. He fired 3 shots from the rifle, with two hitting the animal in the head and one missing the head and grazing the side of the animal. The 2 shots to the head did not stun the animal. The plant employee then tried to stun the animal using the captive bolt. He shot the animal twice in the head without successfully stunning him. Plant owner then stepped in and shot the animal one more time with the captive bolt successfully stunning him. (Est. WI82, 5/28/2009)</p> |
| <p>35. While performing a slaughter inspection the inspector observed the knocking of a dairy cow. The first shot did not render her completely unconscious as she started to resume rhythmic breathing after being shackled and hoisted off the ground. At this point the owner told his worker to shoot her again, and the worker shot the animal from several feet away. One bullet wound was right on the mark, but the second bullet wound was approximately two inches off center. (Est. WI588, 2/4/2010)</p>                                                                                                                                                                                                   |
| <p>36. A group of hogs was being taken into the slaughter room knock box. One hog was shot with a .22 rifle. After the first shot, the animal escaped and ran around the room. He was returned to the box and shot again; he escaped again. Then a .22 magnum rifle was obtained; after a shot the hog escaped again, was returned to the box again and was shot 2 more times. The hog escaped the knock box 3 times and was shot a total of 5 times. When inspectors looked at the skinned head, 4 holes could be found. An inspector placed his finger in the holes; the bullet holes appeared to be downward moving and placed too low on the head to be effective. (Est. WI3, 11/9/2011)</p>                      |
| <p>37. While doing slaughter of a young steer, it took two shots from a .22 rifle to effectively kill the animal. The animal was still standing after the first shot to the head. The second shot killed the animal. The plant manager explained that the shot placement was too low on the head, and they would use better shot placement on the following animals killed. (Est. WI36, 3/28/2012)</p>                                                                                                                                                                                                                                                                                                                |
| <p>38. While observing a plant employee stun a beef heifer an inspector noticed the worker did not render the animal senseless after one shot. He attempted to take immediate corrective measures by stunning the animal with another captive bolt, which also failed. The third attempt was finally effective. After further evaluation it was noticed that the location of the stun attempts was too low. (Est. WI245, 4/11/2012)</p>                                                                                                                                                                                                                                                                               |
| <p>39. Inspector observed a plant employee shoot a beef animal in the kill chute with a .22 rifle. The first shot did not effectively kill the animal or knock it down. The worker immediately shot the animal a second time, which rendered him insensible. Inspector discussed the situation with the employee, and it was determined that the shot placement was too high. (Est. WI183, 5/8/2012)</p>                                                                                                                                                                                                                                                                                                              |
| <p>40. During inspection an inspector observed plant personnel stunning cattle in the top of the head behind the ears. The stun gun then became stuck in the animal's head. I immediately told plant personnel they could not stun cattle in this fashion. (Est. WY2876, 6/6/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>41. A steer had to be stunned 3 times. Plant manager stopped operations and went over with his</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| employees the proper way to stun the animals. (Est. WY2717, 9/3/2009)                                                                                                                                                                                                                                                                                         |
| 42. First animal to be stunned was noticed coming back from unconsciousness by employee after being hoisted and was stunned again to render unconscious. Stunning placement was properly addressed with the employee. (Est. WY2876, 6/7/2012)                                                                                                                 |
| 43. A hog was observed by inspector to be alert on the shackle table. The first attempt to stun the animal was ineffective due to improper placement and then the second needed to be performed by a supervisor. (Est. M3W, 7/13/2007)                                                                                                                        |
| 44. A large mature Charolais bull (dressed wt: 946 lbs.) was shot twice before being rendered insensible. Caliber was adequate but placement of first shot was slightly low and to the center. (Est. M19924, 5/19/2008)                                                                                                                                       |
| 45. An employee unsuccessfully tried to stun a bob veal calf in the back of the head in the poll region with a captive bolt. (Est. M2875, 8/22/2008)                                                                                                                                                                                                          |
| 46. After observing a skull with a knock hole in the improper location, the inspector proceeded to the stunning area to find a conscious animal on the line. (Est. M2456, 11/20/2008)                                                                                                                                                                         |
| 47. An employee cornered a pig and (accidentally) applied the captive bolt above the animal's left eye. The animal was injured but not unconscious and required a second stun. (Est. M9199, 1/9/2009)                                                                                                                                                         |
| 48. A bob veal calf was stunned just above the eye. The calf quickly moved away and the employee had to wade through numerous other animals before being able to reach the calf and administer another (successful) stun. The inspector noted that there were too many calves in the stunning area at the time. (Est. M2875, 3/9/2009)                        |
| 49. A 960 lb. crossbred Angus was shot twice before being rendered insensible. One of the shots was found to have been placed high. (Est. M27364, 8/20/2009)                                                                                                                                                                                                  |
| 50. A non-ambulatory cow was stunned with a captive bolt gun 3 times before being successfully rendered unconscious. The entire process took 5 minutes and the initial stunning attempt caused bleeding from the nostrils as the animal had been stunned on the forehead, slightly above the eyes, and then remained fully conscious. (Est. M2456, 9/11/2009) |
| 51. A first attempt at stunning a steer was too low, and the animal remained standing. The second (successful) attempt was delayed by 3 minutes as the animal had become so agitated following the first stun attempt. (Est. M27364, 10/1/2009)                                                                                                               |
| 52. A pig in one of the pens was found to be standing and vocalizing after being stunned with a hand held captive bolt; the stun had clearly been poorly placed. The animal was then stunned 2 more times. (Est. M244W, 9/9/2010)                                                                                                                             |
| 53. An older cow was not rendered insensible after being shot twice with a .22. After the second shot the                                                                                                                                                                                                                                                     |

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| <p>animal fell to the ground but was still showing signs of not being properly stunned. While the plant manager was preparing to fire a third time with the .22 magnum the animal kicked him and knocked him to the ground. At this time, another employee then shot the animal with a 20-gauge shotgun. It was determined that the first 2 shots were not correctly placed. (Est. M6354, 2/28/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>54. A pig was shot twice with a captive bolt. The first shot did not produce much effect but left the animal sensible and injured while the second shot became stuck in the animal's forehead. A firearm was then brought and the animal was shot twice before being rendered insensible. The first ineffective shot was with a .22 caliber and was not properly placed while the second shot entered the cranial cavity. (Est. M4499, 3/15/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>55. A steer was stunned with a captive bolt in the nasal cavity and was injured, stressed and vocalizing. Approximately a minute later the second shot was administered that rendered the animal unconscious. (Est. M9814, 4/18/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>56. The establishment knocker, new to the position, shot an adult black bull using .22 magnum ammunition, but the animal remained standing. The same result was seen after a second shot with the .22 magnum. The employee was then instructed to use the .30-.30 as a backup gun. After the .30-.30 was used, the bull slumped down on his belly but was holding his head off the floor, bobbing. A fourth shot (again with the .30-.30) was finally effective in rendering the animal insensible. The skinned head revealed 2 small holes located centrally in the forehead, just above and just below the ideal spot. A larger hole (the third shot) was central directly between the eyes, penetrating the nasal cavity. The other hole (fourth shot) was 2 inches above and 1 inch to the right of the smaller holes. (Est. M7644, 5/30/2012)</p> |
| <p>57. Gunfire was reported from the kill floor, followed almost immediately (within 5 seconds) by a second. Within another 15 seconds, there was a third, louder report. The first two shots had been .45 caliber bullets administered with a pistol, and the third was a .30-.30 slug. After the second shot the bull was observed to be on his knees, with the hind feet still standing. After the third shot, the bull dropped and was insensible. The skinned head had three holes, all central. The lowest appeared to be in the appropriate spot, another about ¼ inch above it, and another approximately ¼ inch above that. Cutting away tissue to assess the holes, the stunner found slugs lodged in the bone in the lowest and middle holes. Probing the highest hole, he found a slug just inside the braincase. (Est. M7644, 6/13/2012)</p> |
| <p>58. A pig that was stunned, hoisted and bled regained consciousness. The 120 lb. animal was stunned with a two-prong wand hog stunner, set for seven second hold time, and on the lowest setting, but the animal was not stunned in the proper location. The animal had to be stunned again with the captive bolt gun. (Est. M40455, 6/20/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>59. In an attempt to stun a market weight pig with a captive bolt, the employee missed and hit the animal above the eye, requiring another 45 seconds until the second successful stun could be administered (due to the back-up stunner not being loaded). (Est. M40091, 8/6/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>60. A cow was shot with a .22 caliber rifle that hit high and off center. The cow remained standing, and a</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

second shot was made with the same .22 rifle rendering the animal insensible. (Est. M2439, 11/1/2012)

61. A beef steer was unsuccessfully stunned with a .22 magnum rifle. The employee missed the proper location, hitting the animal in the left shoulder and completely missing the head. The animal pulled out of the head restraint and began vocalizing and thrashing in pain. (Est. M9542, 11/28/2012)
62. An employee attempted to stun an agitated cow with a rifle shot. The initial shot penetrated the animal's skull above the left ear, causing the animal to bleed and become more agitated. After 5 minutes, a second attempt to stun the animal with a rifle shot was successful. (Est. M44200, 12/11/2012)

## **EXHIBIT E**

## Examples of “Lack of Backup Stunning Device”

### (State & Federal Violations)

1. While inspector observed employee rendering a sow unconscious by rifle, the employee didn't render the stunning effectively. During the second attempt, the gun was found to be out of bullets so more bullets had to be loaded in the gun before the second shot could be fired. The second shot did render the animal unconscious. (Est. GA261, 5/7/2007)
2. Inspector observed the knocker, without applying any form of head restraint, followed the animal's head around with a captive bolt revolver until a shot was fired. The animal appeared to be rendered unconscious. During the sticking/bleeding process the animal became awake, showing signs of eye blinking, breathing, vocalizing and arching head in an upward position. Due to the violent thrashing of the animal, the kill floor employee was unable to re-stun the animal and the animal expired after 5 to 7 minutes of bleeding. The animal was very agitated and finally died of exsanguinations, showing signs of consciousness until death. No other means of stunning were available. (Est. ME4, 3/13/2012)
3. Inspector observed the stunner using the captive bolt gun on an extremely large boar. The shot penetrated the animal but failed to produce immediate unconsciousness, so the stunner went into an adjacent room and got a rifle. He came back to the stunning area and made another attempt to shoot the boar. He grazed the animal and the animal squealed. The stunner went back into the office to get another shell for the rifle. After returning he went over to the left side of the knock box at which spot he could not get a clear shot, so he went over to the right side of the knock box to see if he could get a clearer shot. He eventually returned back to the left side of the knock box before successfully stunning the animal. From the first initial shot with the captive bolt, the stunner used an excessive amount of time before successfully killing the animal. (Est. NC163, 7/25/2007)
4. Inspector was in the cooler as the employees were preparing to stun a custom hog of about 400 lbs. He heard the rifle (22 mag. bolt action) go off 3 times and heard the hog squeal each time. When he arrived at the stunning area the hog was down but he was not dead. He was shaking his head continually. Employees were in the front office trying to reload the gun. By the time they got back to the stunning area the hog had stood up and was pacing back and forth in agony. The stunner eventually shot the animal again with the rifle but the shot did not kill him. The employees returned to the office to get another bullet. They attempted to shoot the animal again outside the knock box area and missed. Finally the plant owner arrived, shot the animal twice with a .357 magnum pistol. At this time the animal is finally rendered unconscious. (Est. NC163, 3/17/2008)
5. An egregious noncompliance was observed during a humane slaughter verification visit. Although applied correctly, the first activation of a captive bolt to a pig failed to stun the animal. The sound made by the firing bolt was muted. The plant manager reloaded the bolt and applied it a second time at the correct point. This time a wound appeared in the pig's forehead but he remained standing. Again, the sound of the firing bolt was soft and diminished. The plant manager then left the slaughter floor for a rifle. A notice of suspension was prepared by the Raleigh office and sent electronically. Corrective actions proposed by the plant consisted of keeping the cartridges for the captive bolt in

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| <p>the combined inspection/management office where there is climate control and placing one of the rifles on the slaughter floor so it is readily available when needed. (Est. NC29, 9/21/2009)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>6. After a slaughter employee shot a cow with a .22 rifle the inspector observed the cow partially collapse. The cow was bellowing, blinking, breathing, and attempting to stand back up. The cow was able to rise up to her feet before the next shot was applied. The slaughter employee shot the cow with the same .22 rifle for the second time, and the cow was still conscious. She showed no signs of a limp head or body and was able to blink, moan, breathe and again stand up. Inspector informed the employee that he needed to do something, because this cow was suffering. He ran to the office to retrieve a .22 magnum rifle. At this point the cow is standing, breathing hard and bellowing. The employee shot the cow for the third time, and the cow partially collapsed, holding herself up with her front legs. She threw her head back moaning and bellowing, still attempting to stand. At this point she is now gasping and forcing her breath in pain. The employee reloaded the .22 magnum and placed the gun to the back of the cow's head to apply the fourth shot. The cow was immediately rendered unconscious. (Est. NC191, 2/24/2011)</p> |
| <p>7. Employees attempted to stun a large sow standing quietly in the stunning pen. A .22 magnum round was used. The stunning operator observed that the sow was not stunned, though wounded, and fired a second round. The stunning operator stated that the sow still was not stunned. Shortly afterward she rose to her feet. The inspector asked the stunning operator if he knew what to do now. He replied that he did not. Inspector said that a larger caliber firearm or some other method was needed to adequately stun the sow. The stunning operator responded that no firearms had been kept at the establishment since the robbery. The plant owner left and brought back a .30-.30 rifle after about 10 minutes. (Est. NC265, 5/26/2011)</p>                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>8. A heifer was standing very calmly in the knock box. Plant employee proceeded to discharge a .22 caliber rifle into the center of the cow's forehead. The cow did not go down. A second shot from the .22 rifle was discharged into the forehead. The cow, once again, did not go down. Both shots to the forehead did not penetrate the skull and one of the bullets was found lying on the floor near the viscera table. Inspector asked the employee to get the backup rifle. Employee stated that the plant did not have one. (Est. NC318, 2/2/2012)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>9. The third steer being slaughtered was younger than one year old. Animal's head and body were properly restrained in the knock box. Animal was shot twice but remained standing. The gun then jammed; it was nearly 5 minutes before the steer could be shot the third and final time. Owner stated that there was only one gun in the establishment on this day. (Est. OH115, 11/9/2009)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>10. Inspector noticed an employee attempting to stun an animal improperly with a stun gun. The employee stunned the animal twice and the animal was still conscious. A rifle was not present at the time to provide immediate stunning. Animal was still conscious at the time the throat was slit. (Est. TX98, 2/24/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>11. The first animal was a steer. The gun used did not fire properly twice, but did the third time. Inspector suspended slaughter until an effective stunning device was obtained and used for the remaining animals. A new rifle was provided and operations were resumed for the day. (Est. WI102,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| 6/29/2010)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 12. During slaughter operations ineffective stunning of two cows was witnessed. A cow was run into the knock box and plant employee shot 4-5 times with a .22 caliber rifle; at this point the animal was still conscious but the gun clip had no more bullets. The worker had to refill the clip and shoot the cow 2-3 more times before the animal was deemed unconscious. A couple hours later another cow was driven into the knock box and the stunner again shot the animal 4-5 times, and once again the gun clip had run out of bullets. Another plant worker took the clip, refilled it, and shot the cow another 3-4 times before the animal was deemed unconscious. (Est. WI3, 9/14/2011) |
| 13. Inspector observed plant employee shoot a steer in the kill chute with a .22 rifle. The first shot hit the steer's forehead but did not kill the animal or knock it down. The gun jammed, and it took the employee a couple minutes to unjam the rifle, put another round in it, and shoot and effectively kill the animal with the second shot. The plant immediately cleaned the rifle, and promised that they will have a back up rifle available on the kill floor before slaughter next week, or they will not be allowed to slaughter. (Est. WI183, 3/27/2012)                                                                                                                             |
| 14. A plant worker shot the only steer scheduled for slaughter for the day without having a back up rifle present. (Est. WI183, 4/10/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 15. The last hog to be slaughtered was shot with a rifle. The first shot did not render the hog unconscious. When the slaughter foreman attempted to shoot again the rifle ran out of bullets. He went back to the table where the ammunition was stored and reloaded the clip. The time between the first and second shot caused the hog more than a minimum of excitement and discomfort. (Est. WI56, 5/9/2012)                                                                                                                                                                                                                                                                                    |
| 16. A bull was shot once and did not go down. The employee was out of bullets and had to go retrieve them before returning to shoot the bull a total of 4 more times before rendering the animal insensible. (Est. M13445, 3/26/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 17. Inspector observed a hoisted pig was showing signs of sensibility. A plant employee stuck and bled the hog before the inspector could prevent it. There was no captive bolt equipment in the area to restun the animal. (Est. M3S, 3/10/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 18. A pig was found to be sensible on the rail due to a new employee improperly stunning the animal. When brought to the attention of the manager he proceeded to put the knife to the pig's throat until the inspector stopped him and told him to get the captive bolt to properly stun the animal. The captive bolt, by protocol, should have been on hand as a backup but was not. (Est. M40455, 11/18/2011)                                                                                                                                                                                                                                                                                     |
| 19. It took 4 shots to render an animal unconscious. The employee had to run to get more ammunition during several of the shots. (Est. M21585, 1/26/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 20. After 2 missed stunning attempts on a hog, it took 15 minutes for the employee to return with a backup stunner (gun). (Est. M34181, 4/16/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

21. When stunning a beef heifer with a captive bolt, 2 shots were not successful and caused the animal to drop to her knees, vocalize, and even attempt to jump out of the chute. An employee had to leave the kill floor to go retrieve a firearm in order to finally render the animal insensible. (Est. M33843, 6/11/2012)
22. As a goat was lying on the kill floor with his leg shackled, the inspector noticed the animal was still conscious. The inspector noticed the goat attempting to right himself and blinking as he was being hoisted. The employee ran to get the captive bolt gun, ran into the shackle pit and attempted to re-stun the animal but found it was not loaded. The employee then ran to the knock box to reload the gun, finally returning to stun the animal and render him insensible. (Est. M950, 6/19/2012)
23. A young lamb was restrained by a large gray poly board. The animal was shot 4 times with a captive bolt gun before being rendered insensible. A minute to a minute-and-a-half passed between each stunning attempt and no backup knocking device was in sight. The employee even went to retrieve the Temple Grandin stunning guidelines in between two of the shots. (Est. M40147, 6/22/2012)
24. In an attempt to stun a market weight pig with a captive bolt, the employee missed and hit the animal above the eye. Another 45 seconds passed until the second successful stun could be administered due to the back-up stunner not being loaded. (Est. M40091, 8/6/2012)
25. An employee attempted to stun an unrestrained pig in the Suspect holding pen. The bolt entered the hog's skull next to the hog's right eye and subsequently enucleated and desiccated the eye. The hog yelled in distress and retreated to rejoin the small herd of hogs at the far south end of the pen. The employee did not immediately attempt to re-stun the hog. Instead, he retrieved a red grease marker, located the affected hog and drew a red mark down the distressed hog's lower back with the grease marker. He then retrieved another cartridge for the captive bolt gun, reloaded the gun (since back-up stunning device was available) and then segregated the distressed hog from the herd. The hog appeared confused and dazed, and was experiencing obvious unnecessary pain, distress and shock from the misfire-induced injury. (Est. M717, 8/10/2012)

## **EXHIBIT F**

## **Examples of “Lack of Routine Equipment Testing and Maintenance”**

### **(State & Federal Violations)**

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| 1. | During hog slaughter, the current was interrupted and although this was not deliberately done as an act of inhumane treatment, it was still inhumane. Slaughter was stopped and the wand unit of the stunning device was taken out of service. Owner fixed the issue with the wand and slaughter was allowed to continue, and no further issues were observed. (Est. IA589, 10/13/2009)                                                                                                                                                                                                                         |
| 2. | The electric stunner was not working properly today. Owner ordered a new switch for the hog stunner. (Est. IA627, 3/26/2012)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 3. | A hog was not stunned with one shot. Owner retrieved a captive bolt that didn't work so he went back to the .22 rifle to render the hog unconscious. Said he would buy a new .22 rifle or .22 mag. (Est. IA554, 3/30/2012)                                                                                                                                                                                                                                                                                                                                                                                      |
| 4. | While covering slaughter, inspector observed that the captive bolt stun gun misfired and failed to stun the animal properly. (Est. KS782, 9/30/2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 5. | Inspector observed an employee fire a .22 shot to a hog. The hog squealed once, dropped, and then stood back up. The worker reloaded the rifle and fired a second shot, knocking the hog senseless. Employee had switched from a captive bolt stunner to the rifle because the captive bolt stunner had jammed and would not fire. (Est. ME1, 5/29/2012)                                                                                                                                                                                                                                                        |
| 6. | While stunning animals this establishment needed additional tries to effectively stun steer # 2 and steer # 5. This facility must review their humane slaughter handling and stunning methods. They may need to review the effectiveness of their stun gun. (Est. MN942, 11/21/2008)                                                                                                                                                                                                                                                                                                                            |
| 7. | Facility was unable to render multiple animals unconscious with a single stun. Most cattle were rendered unconscious after multiple attempts. Facility uses a captive bolt which appears to be malfunctioning consistently. (Est. MN789, 10/6/2010)                                                                                                                                                                                                                                                                                                                                                             |
| 8. | The inspector observed an animal in stunning box that appeared to be fully stunned. Plant employee was asked what happened and replied the box (stunner) went out. Since animal appeared stunned, eyes glazed and rolled back, the inspector instructed the worker to proceed. During shackling it was obvious the animal was not stunned, eyes blinking, etc. A similar incident occurred the day before. When attempting to stun a pig, the pig did not respond, and the stunner box had to be replaced. Rubber mats were placed in the stun box to prevent stunner from shorting out. (Est. NC37, 10/8/2008) |
| 9. | Although applied correctly, the first activation of a captive bolt to a pig failed to stun the animal. The sound made by the firing bolt was muted. Plant manager reloaded the bolt and applied it a second time at the correct point. This time a wound appeared in the pig's forehead but he remained standing. Again, the sound of the firing bolt was soft and diminished. Manager then left the slaughter floor for a rifle and after retrieving it shot the animal twice more. After a suspension was issued and held in                                                                                  |

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| <p>abeyance, slaughter commenced again. The first pig was successfully stunned, although the sound of the firing bolt was flat rather than sharp. The attempt to stun the second pig was unsuccessful. The sound of the firing was almost inaudible. Because the corrective action had failed to prevent recurrence of the same egregious noncompliance, the suspension which had been placed in abeyance was reactivated. (Est. NC29, 9/21/2009)</p>                                                                                                                                                                                                                                                                                                              |
| <p>10. Inspector observed owner shoot a calf with a .22 caliber rifle. Calf did not go down with this shot. First shot did not sound right and the inspector suspected the bullets may have gotten wet during cleanup. Bullets in box stored on the kill floor are corroded around the lead part of the bullet. Owner immediately shot the animal again. Calf went down on the second shot. (Est. NC318, 5/21/2010)</p>                                                                                                                                                                                                                                                                                                                                            |
| <p>11. A .22 caliber rifle was used to stun an animal. Upon firing, the animal immediately fell to the ground. Approx. 10 seconds later, the animal raised back up and was once again standing. Approx. 20 seconds later a second shot was administered to the calf, and the calf went down and never came back up. Plant response was to purchase a cleaning kit and clean the rifle. (Est. NC318, 12/19/2011)</p>                                                                                                                                                                                                                                                                                                                                                |
| <p>12. Inspector observed that a Holstein cow had to be stunned again with the captive bolt stunner. This process continued with the next 3 cattle. At this time the stunning and slaughter process was stopped so that the captive bolt stunner could be evaluated. When the stunner was taken apart, it was found to contain only one and a half rubber bushing in the cylinder, when it should have contained 3. All operation ceased so that another captive bolt stunner could be located. Inspector notified management he would be writing a noncompliance record for inhumane handling for the stunning of these cattle due to the improper maintenance of the captive stunner. (Est. OH2005, 4/1/2008)</p>                                                |
| <p>13. Inspector found a hog who had been rolled out of the box without being properly stunned. The inmate doing the stunning said that he had been shocked by the handle and had let go before completing the cycle. The inspector waited for him to come around and finish the process. The inmate tried again but did not make full contact. Another inmate then attempted to stick the hog. Inspector hollered that he wasn't to stick the hog because the animal wasn't rendered senseless and was vocalizing. (Est. OH2005, 9/29/2008)</p>                                                                                                                                                                                                                   |
| <p>14. The second sow of the day was in the knock box and stunned with an electrical current. After the initial stun, the inspector in charge noticed the sow was not rendered unconscious. The stunner released the sow from the knock box and the shackling process began. During the shackling process, the inspector informed the crew that the sow was not unconscious and needed to be stunned again. After the sow was fully hoisted the stunner continued to hit the sow with the electric stunner 3 or 4 times in order to render her fully unconscious. She was then properly stuck and bled out before regaining consciousness. The inspector informed the crew that the stunner needed to be checked and fixed properly. (Est. OH2005, 10/14/2008)</p> |
| <p>15. During slaughter one animal required 3 stunning shots with the captive bolt gun. The inspector in charge questioned storage of cartridges and bolt gun maintenance. This problem had been observed on previous reviews. (Est. OH148, 11/26/2008)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>16. It was noted that proper stunning was not being performed or rather the stunning was ineffective due</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| <p>to a deficiency in equipment or application. The first animal slaughtered today was shot once, effectively. The second animal, a cow at least 8 years of age, was shot with a .22 rifle a minimum of 8 times as counted by the inspector in charge. The shots were immediate and sequential, and the cow's head and body were properly restrained in the knock box. The shots were ineffective as the animal continued to look directly at the shooter until the last shot that caused her to become insensitive. The third animal was younger than one year old. Head and body properly restrained in the knock box, this steer was shot twice but remained standing. The gun jammed and it was nearly 5 minutes before the animal could be shot the third and final time. Owner stated that there is only one gun in this establishment today. The gun was fixed and cleaned. (Est. OH115, 11/9/2009)</p> |
| <p>17. An employee using an electric stunner failed to stun a hog in one attempt, causing 6 hogs to escape the stunning area and run loose around the slaughter floor. Employee said the stunner was malfunctioning last week and the establishment had failed to correct the problem before today's slaughter. (Est. OH21, 12/23/2011)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>18. The stunning operator used more than a single shot to produce immediate unconsciousness in a large male bison. The worker immediately re-stunned the animal without any hesitation and rendered the bison unconscious. An employee told the inspector he suspected a problem with the rifle being out of zero. (Est. SD151, 11/17/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>19. Inspection personnel observed an animal not rendered unconscious after 3 attempts due to the stun gun malfunctioning. (Est. TX1073, 7/29/2009)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>20. Inspector witnessed an employee attempt to stun a black bull with a mechanical captive bolt stunner. The employee attempted to render animal unconscious with this method twice without any success. As the animal was being hoisted, signs of consciousness were observed. Plant management determined their stunner was not functioning properly because of bone material from previous animals prevented the stunner from penetrating the skull. (Est. TX98, 9/4/2009)</p>                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>21. The first shot with the captive bolt gun did not render the animal unconscious. The second shot by the backup gun was unsuccessful due to the gun load not discharging properly. Employee returned to the first captive bolt gun which had been reloaded by another plant employee. The third shot rendered the beef steer unconscious. (Est. VA46, 6/8/2011)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>22. While conducting beef slaughter operations the plant's captive bolt stunning device wasn't operating correctly. Two consecutive animals were not rendered insensible after one blow. Owner tested the captive bolt several times (not on animals) with inconsistent results. Owner realizes this is a problem and had already ordered a new captive bolt stun gun which was backordered. (Est. WI245, 1/24/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>23. During the stunning process, some of the pigs are getting zapped when they are touching another pig who is being stunned, causing them to squeal. Some pigs are also vocalizing or squealing at the beginning of the stunning process. The calipers that are being used do not have a trigger, and it is plugged into a circuit breaker box and not a transformer box. (Est. WI167, 2/7/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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| 24. Inspector noticed the stunning of pigs was not effective. The inspector stopped plant employees 10 times, out of 45 attempts, to re-stun the pigs due to them resuming consciousness while being bled out. (Est. WI74, 11/5/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 25. While observing a steer being stunned, an inspector saw the mechanical gun misfire several times. This happened on one other animal. After examining the gun at the end of slaughter operations, it was brought to the inspector's attention that the gun had not been cleaned in many years. (Est. WI251, 11/7/2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 26. I observed the last beef of the day being stunned. The mechanical captive bolt gun being used was ineffective, and a .22 caliber rifle had to be used in its place to bring the animal down. (Est. WI251, 4/9/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 27. A plant employee was using a new electrical current stunning device to stun swine. Inspector observed a hog regain consciousness while being bled-out and informed the stunner and plant owner, who happened to be present on the slaughter floor. The plant chose to switch back to the old stunning device and slaughter operations resumed. The second hog became conscious while being hoisted, and the inspector requested that the animal be re-stunned. Numerous attempts were made to render the hog unconscious. They adjusted the amps on the control box, tried different timed applications of the unit, cleaned the probes and applied water to the animals' heads. An extension service agent who was present in the plant indicated that he would try and adjust the new device but it would take at least three weeks to get it back. (Est. WI74, 6/23/2008) |
| 28. The first 5 of 7 animals had to be re-stunned. 4 of the 5 re-stunned steers were knocked using the captive bolt device twice while on the floor of the knockbox. One of the 5 was re-stunned 3 times and never achieved an unconscious state before being bled. Corrective actions taken by plant included: applying captive bolt device higher on the steer's head, keeping animal's attention so head was up, fixing captive bolt device and finally cleaning the captive bolt device. After the captive bolt device was cleaned the following two animals were successfully stunned. (Est. WI74, 6/30/2008)                                                                                                                                                                                                                                                               |
| 29. Inspector observed a steer blinking while hanging and being stuck to bleed out. An employee that was knocking and sticking the animals had made an approximate 2 foot long incision along the animal's neck when I saw the steer blinking, crinkling his nose and breathing heavily. The animal was not yet bleeding heavily when inspector informed the employee to knock him again. Inspector informed the plant manager of what happened. She instructed an employee to clean the captive bolt device and had a different employee perform the knocking and sticking. (Est. WI74, 8/20/2008)                                                                                                                                                                                                                                                                              |
| 30. Inspector was observing the stunning of a calf with a mechanical bolt gun. Calf appeared to be stunned until he was being stuck to bleed out. The animal let out a bellow, started to arch his back and move his eyes. Inspector immediately had the employee re-stun the animal and then proceed to stick him to bleed out. Inspector asked the employee when he cleaned the mechanical bolt gun last, and he replied "last month". (Est. WI74, 1/29/2009)                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 31. It was noted that one star-shaped metal piece is missing from the end of the electrical hog stunner.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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| <p>This can produce an inconsistent electrical flow. (Est. WI119, 6/8/2010)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>32. Inspector observed that it took 7 shots from a .22 caliber rifle to stun the second to last pig. Inspector discussed with employee and plant manager that he believed the gun was being poorly serviced, and that the result was the hog was not stunned effectually and humanely. On the next slaughter day, the gun used did not fire properly twice. Inspector then suspended slaughter until an effective stunning device could be obtained. A new rifle was provided and operations resumed. (Est. WI102, 6/29/2010)</p>                                                          |
| <p>33. While performing regular slaughter inspection on cattle, an inspector noticed the plant personnel stunning an animal a second time after seeing signs of consciousness. When the plant personnel saw that the animal still remained conscious, he immediately stunned the animal 3 more consecutive times. One week earlier the inspector had a similar issue with the plant. In that instance a mature cow was stunned 5 times before being rendered insensible. In both cases the inspector did not hear a loud sound coming from the captive bolt gun. (Est. WI215, 12/21/2011)</p> |
| <p>34. While performing slaughter inspection an inspector noticed that the electrical stunner was not working properly. At the time of the application, a medium size hog showed signs of pain by making loud vocal sounds. The plant personnel immediately grabbed a captive bolt next to him and effectively stunned the hog. The electrical stunner was put out of service and the last 3 hogs were stunned with the captive bolt. (Est. WI293, 3/6/2012)</p>                                                                                                                              |
| <p>35. Inspector observed a plant worker shoot a steer in the kill chute with a .22 rifle. The first shot hit the steer's forehead but did not kill the animal or knock him down. The gun jammed, and it took the employee a couple of minutes to unjam the rifle, put another round in it, and shoot and effectively kill the animal with the second shot. The plant immediately cleaned the rifle. (Est. WI183, 3/27/2012)</p>                                                                                                                                                              |
| <p>36. While performing slaughter floor inspection duties, inspector observed two plant employees attempt to use a mechanical stunner to stun a market size pig. For whatever reason, the stunner did not produce immediate unconsciousness until after at least 5 attempts. (Est. WV31, 2/29/2008)</p>                                                                                                                                                                                                                                                                                       |
| <p>37. The second pig being slaughtered was stunned twice with a captive bolt. The first time the pig was stunned the bolt gun was stuck in the skull of the pig. The slaughter plant employees are not able to place an accurate stun on the pigs with the current equipment. The electric stunner was broken according to plant personnel. Plant was informed that the captive bolt stun gun needs to be thoroughly cleaned after slaughter each day. (Est. WY507, 9/21/2007)</p>                                                                                                           |
| <p>38. Plant employee was observed to be having some trouble stunning animals on the first try. He worked on his captive bolt stunner and it is operating better. (Est. WY2121, 12/19/2007)</p>                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>39. The first animal for slaughter today was shot 6-7 times with a captive bolt gun and was not rendered completely unconscious prior to bleeding. Rhythmic breathing, an arched neck and back, and responsive eye movement were observed. The location of the stun and the stunning technique was</p>                                                                                                                                                                                                                                                                                     |

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| proper, however, either the animal or the gun were faulty. (Est. WY507, 2/21/2008)                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 40. Inspector talked with the manager about needing to clean the bolt gun due to it not stunning animals on the first attempt. (Est. WY1301, 10/11/2010)                                                                                                                                                                                                                                                                                                                                                                   |
| 41. Two shots were needed to stun two animals today. Plant management is ordering a longer bolt for the gun and larger charges, which should fix the problem. Correction notes: Plant manager called the company about getting new parts for his stun guns. He was told that the expanded bolt will not work for his gun but he did order some new parts and larger loads. He also found out that he had been cleaning the guns wrong. He read the directions and is now cleaning the guns right. (Est. WY2121, 1/18/2012) |
| 42. The stun gun was not properly stunning animals. It was determined the gun was bent. This was discussed with the plant personnel and a different gun was used on the remaining cattle. (Est. WY2876, 3/15/2012)                                                                                                                                                                                                                                                                                                         |
| 43. Of 30 animals stunned with a captive bolt gun, only 22 were successfully rendered insensible on the first shot; 6 needed to be shot twice and 1 needed to be shot three times. In two instances the device misfired, and in some instances the first shot was simply unsuccessful. (Est. M6063A, 3/23/2007)                                                                                                                                                                                                            |
| 44. When the electrical stunner was placed on the head the animal would partially react by slightly buckling his knees, shaking his head and trying to move around the stunning area. The stunner was applied 4-5 more times before the animal were finally rendered unconscious. This process was observed in 2 animals. (Est. M21530, 9/13/2007)                                                                                                                                                                         |
| 45. A conscious pig in the stick area had his legs caught in the conveyor table. When the line was stopped the inspector noticed another conscious pig had gone past the final control point. The 2 conscious pigs indicate a problem with the stunning equipment. (Est. M3W, 3/6/2008)                                                                                                                                                                                                                                    |
| 46. An animal had to be stunned twice (the first time with a captive bolt gun and the second with a rifle). The inspector found too many rubber compression rings in the hand held captive bolt gun and the O-ring designed to hold the bolt in its proper pre-deployment position was missing. (Est. M22064, 4/23/2008)                                                                                                                                                                                                   |
| 47. An un-stunned pig came out of the restrainer and onto the shackle table and proceeded to run along the shackle table. When questioned, the employee claimed that he tried to electrically stun the animal but that the stunner had shorted out (the wand did in fact have a crack in it but the employee failed to check it before applying it to the animal). Replacement wands were delivered and upon further observation it seemed the equipment was stunning pigs effectively. (Est. M244L, 5/7/2009)             |
| 48. 3 pigs stunned in succession with a hand-held electric stunner were not rendered insensible. Employee did not attempt to re-stun animals. (Est. M9199, 10/13/2009)                                                                                                                                                                                                                                                                                                                                                     |
| 49. A pig was electrically stunned and remained conscious on the shackling belt. After 2 more attempts at stunning the animal with a hand-held captive bolt, the animal was rendered insensible. (Est.                                                                                                                                                                                                                                                                                                                     |

M244W, 9/8/2010)

50. An employee was attempting to stun a lamb using both captive bolt and electric stun of the head, followed by a cardiac electric stun. The lamb was unconscious but regained consciousness after being shackled and hoisted. The employee performing the stunning stated that the device had not been working, nor had the portable back up device. It took over 10 minutes for the employee to bring another portable gun to the stunning area with extra charges (employee stated that it typically misfires due to bullets being wet). The device misfired twice, and was successful on the third try, although it did not appear to fire completely. (Est. M17965, 3/20/2012)