Legal Protections for Farm Animals at Slaughter

The meat-packing industry in the United States grew dramatically during the first half of the 20th century. However, as packing houses expanded to take in more and more animals, they retained primitive methods of handling and stunning animals in preparation for slaughter. An editorial entitled “Still the Jungle” in the June 18, 1956, issue of the New Republic described the slaughtering procedure:

Cattle, like horses, are sluged on the head with iron mallets. The first blow frequently fails to stun them—as they stumble, electric shocks force them to their knees so that they may be struck again and again. Calves, hogs, and lambs are strung up (conscious) by chains tied to their hind legs. When the chains slip or legs are disjointed and broken, they crash from high conveyor lines to slaughter house floors. The throats of the calves are severed by sawing motions; lambs are knifed behind an ear and slowly bleed to death; hogs with slit throats frequently pass still squealing into scalding vats.¹

As cruel methods of slaughter continued to be regularly used in meat-packing houses in the United States, other parts of the world made progress—enacting humane handling laws and incorporating humane stunning equipment.

HISTORY OF THE FEDERAL HUMANE SLAUGHTER LAW
Humane slaughter legislation was first introduced in the US Senate on April 11, 1955 by Senator Hubert Humphrey of Minnesota and in the House of Representatives on May 9, 1955, by Representative Martha Griffiths of Michigan.² The specific aim of these first humane slaughter bills was to outlaw the shackling and hoisting of conscious animals and the use of manually operated sledgehammers for stunning. The US Department of Agriculture (USDA) denied these bills a favorable report, on the grounds that American industry could provide better humane slaughter than legislation could. The American Meat Institute (AMI) called the legislation “premature”—despite being introduced 82 years after a humane slaughter law was enacted in Switzerland and at least 20 years after such laws were enacted in other countries.

These first bills were tabled without a hearing, but similar legislation was introduced in 1956. Hearings were held on the Senate bill in the subcommittee chaired by Sen. Humphrey on May 9 and 10. The bill was reported favorably to the full Senate committee. In the House, Representative W. R. Poage of Texas led his subcommittee on an inspection tour of slaughterhouses to study humane and inhumane methods. Their observations more than confirmed complaints of unnecessary suffering. At the same time, public pressure was mounting for a humane slaughter law.

The bills were reintroduced in the 85th Congress. Rep. Poage called a hearing on April 2, 1957, at which humane societies from all parts of the country were represented. The Animal Welfare Institute (AWI) exhibited four of the humane stunning instruments then on the market and testified in favor of the bill, along with the Amalgamated Meat Cutters and Butcher Workmen of North America, the American Humane Association, the General Federation of Women’s Clubs, The Humane Society of the United States, the National Farmers’ Union, and many state and local humane organizations and church groups.³ Opponents included the USDA, the AMI, the Farm Bureau, the National Cattlemen’s Association, the National Grange, and the Union of Orthodox Rabbis. The bill cleared the House Agriculture Committee on June 29, 1957, and was overwhelmingly passed by the full House on February 4, 1958.

In the Senate, at a third set of hearings held from April 28 through May 1, 1958, powerful opposition by meat packers resulted in a June 18 amendment to the House humane slaughter bill by the Senate Agriculture Committee, deleting all the effective sections and turning the legislation into a mere study bill. A storm of disapproval followed this action. Editorials in leading newspapers throughout the country expressed outrage. Sen. Humphrey and 17 cosponsors offered
an amendment on the Senate floor to restore the language of
the bill, as passed by the House.

On July 29, Sen. Humphrey waged a seven-hour fight to defeat
the weak study bill reported to the Senate by its Agriculture
Committee. The first order of business was a vote on the study
bill. Against the protests of the bill sponsors, Senate Majority
Leader Lyndon B. Johnson scheduled the debate. The bill
was voted down 43 to 40—an unusual instance of the Senate
reversing one of its own committees.

Next came a vote on the compulsory bill. Amendment after
amendment was put forward in an attempt to weaken it. Only
one—the Case-Javits Amendment to exempt the pre-slaughter
handling of kosher-killed animals from the bill’s humane
requirements—was accepted. Thus amended, the bill passed by
a vote of 72 to 9. Recognizing that disagreements in conference
might result in a loss of the entire humane slaughter bill
through delays at the end of the congressional session, the
House conference decided to accept the Senate version of the
bill, and the full House passed it. On August 20, 1958, President
Dwight Eisenhower signed it into law, effective June 30, 1960.

This first federal Humane Methods of Slaughter Act covered
80 percent of US plants by requiring that all slaughter plants
selling meat to the federal government use humane methods.4

Just as the bill was about to go into effect, however, there
was an attempt to undermine it. The Military Subsistence
Supply Agency, purchaser for all meat for the Armed Forces,
announced it would require certification of compliance
with the humane slaughter regulations only in contracts
exceeding $2,500.5 At the time, the agency, through its Chicago
headquarters and 10 regional buying offices, purchased about
500 million pounds of meat and meat products per year—a
considerable portion in lots of $2,500 or less.

Sponsors of the legislation, Sen. Humphrey and Reps. Poage
and Griffiths, pointed out that such an attempted exemption
was illegal. On June 14, 1960, Sen. Humphrey received a
statement from the Army that it would comply in full with the
provisions of the Humane Methods of Slaughter Act.

FEDERAL HUMANE METHODS OF SLAUGHTER
ACT OF 1978
Sen. Robert Dole of Kansas and Rep. George E. Brown, Jr., of
California sponsored legislation enacted in 1978 to provide a
more effective enforcement mechanism and to expand the
coverage of the Act. The Dole-Brown amendment provides
federal employees authority to withhold inspection of slaughter
plants until any cruel practices are corrected.6 Profits in the meat
industry depend on speed in putting animals through “the line.”7
Thus, the fear of having an inspector stop the flow for humane
reasons is a powerful economic incentive to avoid cruelty.

The law also requires that any meat imported into the United
States be derived from animals slaughtered in establishments
with standards that meet those mandated by the federal
Humane Methods of Slaughter Act.8 Importation of meat from
inhumanely slaughtered animals is prohibited.9 Thus, both US
importers and foreign exporters of meat and meat products
must ensure that humane slaughter methods are used in
plants supplying them with meat.10 USDA personnel have long
inspected foreign plants that export to the United States in
order to assure that sanitary standards are adhered to; as such,
inspection for humane standards could be conducted by the
same officials.

Despite the eminently sound and sensible provisions of the
bill, meat industry lobbyists worked persistently behind the
scenes to delay action on it. The turning point came when Sen.
Dole chaired hearings in the Senate Agriculture Committee
that led directly to passage of the legislation by Congress.
President Jimmy Carter signed the amended Federal Meat
Inspection Act on October 10, 1978.11

Final regulations implementing the 1978 amendments to the
Humane Methods of Slaughter Act were published in the
Federal Register on November 30, 1979.12 Commenting on
complaints from the industry about the loss of funds that
a plant could suffer when operations are suspended under
the law, the administrator of the USDA’s Food Safety and
Inspection Service (FSIS) stated:
The principal purpose of the Act is to deter and prevent
inhumane treatment, not to punish for violations.
Furthermore, the temporary suspension of inspection for
inhumane handling or slaughter would be done in the
same manner as the temporary suspension of inspection
because of sanitation deficiencies. The use of the “U.S.
Rejected” tag would similarly have the same function and
meaning as when used on insanitary equipment. It may
be removed by the inspector in charge when the cause is
corrected or satisfactory assurances are given.13
The new regulations were the subject of a bulletin to USDA regional directors and supervisors that summarized stunning and humane handling requirements, including the treatment of downed animals, use of electric prods, and maintenance of pens, driveways, and ramps.4

The federal humane slaughter regulations have been modified only twice since the 1979 amendments were adopted. In 1994, the FSIS amended the regulations to permit use of carbon dioxide to stun and kill pigs, in response to a request from the pork industry.14 In 2004, the FSIS amended the regulations to prohibit the use of captive bolt stunners that inject compressed air into the heads of cattle as a measure to help prevent bovine spongiform encephalopathy (mad cow disease).15 Neither of these amendments were made for the purpose of decreasing animal suffering.

Apparently in response to reports of animal cruelty at slaughter, between the late 1990s and late 2000s the FSIS also issued a dozen notices and directives related to humane slaughter and handling.17 They address such subjects as ritual slaughter procedures, assessment of stunning effectiveness, and the treatment of nonambulatory (downed) animals.18 Although the livestock antemortem regulations are not part of the HMSA regulations, the FSIS has also amended them to prohibit the slaughter of nonambulatory veal calves.19

Since 1978, Congress has acted on the issue of humane slaughter on three occasions. In 1996, Congress approved legislation to allow the USDA to issue guidelines for the regulation of the commercial transportation of equines for slaughter.20 Legislation was added in 2002 to address practices involving nonambulatory animals.21 This amendment directed the secretary of agriculture to investigate and submit a report to Congress on the scope, causes, and treatment of nonambulatory animals.22 If determined to be necessary, the secretary is to “promulgate regulations to provide for the humane treatment, handling, and disposition of non-ambulatory livestock by stockyards, market agencies, and dealers.”23 In 2002, as a result of concerns about the adequacy of USDA enforcement of the federal humane slaughter law, Congress passed a resolution expressing the desire that the secretary of agriculture fully enforce the humane slaughter law, continue tracking violations, and make a report to Congress.24

ENFORCEMENT OF THE FEDERAL LAW

In response to evidence of inhumane handling or slaughter of livestock, the FSIS may take several regulatory actions, including the issuance of noncompliance records, reject tags, notices of intended enforcement (NOIE), notices of suspension (NOS), letters of concern, letters of warning, and withdrawal of inspection.25 In terms of suspensions, the FSIS may impose a suspension without providing the establishment prior notice if the establishment is found to be handling or slaughtering livestock inhumanely.26

In 2001, following exposure of inhumane slaughter at an IBP (now Tyson Foods) plant in Wallula, Washington, Congress appropriated $1 million to the USDA for humane slaughter enforcement.27 The USDA used that money in 2002 to create 17 veterinary positions, originally called “humane handling verification experts/liaisons.” The position title was eventually changed to “district veterinary medical specialist” (DVMS).28 As of 2014, 15 DVMSs assisted with humane slaughter enforcement through assignment to 10 FSIS district offices.29

To evaluate the level of humane law enforcement at federal slaughter plants, AWI conducted a review in 2008 of public records relating to humane slaughter. Approximately 500 humane handling and humane slaughter noncompliance records issued at federal slaughterhouses during an 18-month period were obtained and analyzed. The most common types of humane deficiencies were failure to provide water to animals in pens; failure to maintain pens and other facilities in good repair; and shackling, hoisting, and/or cutting of conscious animals.

For the year 2007, less than 1 percent of all citations for violations of federal food safety laws were issued for humane handling and slaughter. Over a 10-year period, from January 1998 through December 2007, the FSIS issued just 71 plant suspensions for humane handling and slaughter violations—an average of seven per year. In most cases, the suspension lasted a day or less.

AWI’s review of humane slaughter enforcement uncovered several serious problems in the USDA’s oversight of the federal humane slaughter law: incomplete and inconsistent record keeping, inadequate reporting of noncompliances, failure to take appropriate action to stop inhumane practices, and inconsistent actions by FSIS district offices. Striking inconsistencies were found in the manner in which violations were handled between
inspection personnel at individual plants and between FSIS districts. In some cases, slaughterhouse operations were halted for relatively minor offenses, such as failure to provide water to animals in pens, while in other cases, USDA officials took no action when plant workers were repeatedly observed butchering fully conscious animals.19

The findings of AWI’s study are similar to those of two reviews conducted by the US Government Accountability Office (GAO) in 200420 and 2008.21 The GAO reported on problems with the food safety inspection system, including inconsistent oversight, ineffective coordination, and inefficient use of resources. These deficiencies were illustrated in early 2008 when evidence of extreme cruelty at the Westland-Hallmark cattle slaughter plant in Chino, California, was publicized. That incident resulted in the largest beef recall in US history and a federal audit of 18 beef plants that supply beef to the National School Lunch Program.22

A subsequent investigation by the USDA Office of Inspector General (OIG) concluded that humane slaughter and handling problems are not systemic in the US food safety program, even though half of the 10 “cull” cattle plants reviewed failed to get a passing grade.23 Animal and consumer advocates point out that the situation is likely far worse than reflected in the OIG audit, given that companies have advance notice of inspections, which allows workers the opportunity to alter their practices.24

The USDA’s Agricultural Marketing Service (AMS) purchases meat for federal nutrition assistance programs, including the National School Lunch Program. In 2008—after the incident at Westland-Hallmark—the AMS issued animal handling and welfare technical requirements for suppliers to such programs.25 A written quality management plan, addressing the provisions of the AMI’s Recommended Animal Handling Guidelines and Audit Guide, is a requirement of participation.

AWI conducted a follow-up review in early 2010 of federal humane slaughter enforcement and found that enforcement was up dramatically in the aftermath of the Westland-Hallmark incident. The number of federal suspensions for humane slaughter increased sevenfold between 2006–07 and 2008–09.26 However, the number of noncompliance records written for humane slaughter violations remained constant following Westland-Hallmark, suggesting that the amount of time being devoted to humane handling activities had not increased.27 The length of suspensions remained low, and again it was observed that enforcement rates varied significantly by district office.28 Moreover, it was noted that the resources devoted to humane handling at the federal level continued to constitute a very low percentage of total funding for food safety inspection.29 A GAO report released in March 2010 reinforced AWI’s findings.30

In 2011, the FSIS revised its directive on humane slaughter (6900.2) to allow the issuance of NOIEs for egregious violations, despite the lack of any provision in the FSIS Rules of Practice allowing the use of advance notices of administrative actions in cases of inhumane slaughter.31 The revision allows the use of NOIEs in cases where the slaughter establishment commits an egregious violation while operating under a “robust systematic approach” to animal handling, and the establishment does not have any recent enforcement actions related to humane handling.32 In a 2009 letter to the FSIS, Tyson Foods requested that the use of notices of suspension be reduced in situations where the slaughter establishment uses a systematic approach to humane handling.33

AWI conducted a third review in 2012 of federal humane slaughter enforcement. The findings were similar to those for the review conducted in 2010. Combining enforcement records from the 2010 and 2012 reviews, AWI attempted to determine the cause(s) of more than 1,000 inhumane handling/slaughter violations, and was able to identify the following contributing factors involved in approximately half of the incidents:

1. lack of employee training in humane handling,
2. use of improper stunning device,
3. improper placement of stun (often in connection with inadequate restraint),
4. lack of backup stunning equipment, and
5. lack of routine testing and maintenance of stunning equipment. In May 2013, AWI petitioned the FSIS to amend the current HMSA regulations to address these causes of inhumane slaughter and to require that all slaughter establishments develop and keep updated a comprehensive, written animal handling plan.34 In December 2016, AWI filed a federal lawsuit in response to the FSIS’ failure to respond in a timely fashion to the 2013 petition for rulemaking.35

In 2012, the FSIS created the position of humane handling ombudsman.36 The position was established to serve as an additional resource available to FSIS employees, industry stakeholders, and the general public and was created specifically for hearing concerns and addressing complaints related to humane handling.37 The humane handling ombudsman can
issue both formal and informal recommendations, which may identify individual or systemic improvements in humane slaughter enforcement. The position reports directly to the Office of the Undersecretary for Food Safety.

Despite numerous steps taken by the FSIS over the past decade to improve the humaneness of slaughter, enforcement of the federal law remains inadequate, in terms of both the level and consistency of enforcement. A report by the USDA OIG, issued in May 2013, noted that FSIS inspectors did not always take appropriate enforcement actions at 8 of 30 pig slaughter plants audited. Specifically, in 10 instances inspectors did not suspend plants after observing egregious humane handling violations. In response, in October 2013 the FSIS published new guidance for industry compliance with humane handling and slaughter regulations. In February 2014, the FSIS Office of Field Operations implemented an action plan that includes increasing humane handling verifications during odd hours and hiring additional permanent staff to oversee humane handling in high-risk establishments (including plants slaughtering “cull” sows and veal calves). The FSIS also said it planned to hire additional DVMSs to increase oversight.

AWI conducted another review of federal enforcement in 2016. It revealed that the FSIS was continuing to regularly issue notices of suspension or notices of intended enforcement for egregious violations (91 NOSs and 30 NOIEs in 2015). However, FSIS records reveal that repeated violations by individual slaughter plants, both large and small, remain a significant problem. For example, a large Tyson Fresh Meat plant in Logansport, Indiana, was suspended a total of five times in 2015. That same year, one small plant, Kleemeyer & Merkel Inc., was suspended four times within a four-month period, and a very small plant, C & F Meat, was suspended three times within four months.

The AMS has revised its technical requirements for suppliers four times since animal welfare requirements were first initiated in 2008. In 2013, requirements were added for suppliers to establish an animal handling and welfare steering committee and for individuals facilitating a vendor’s animal handling and welfare training program to be certified. In 2014, the AMS again changed its federal supplier requirements, this time requiring 100 percent compliance for stunning accuracy, with any missed stuns that are documented by the FSIS resulting in an immediate for-cause animal handling and welfare audit by the AMS. (The previous standard was 95 percent.) In addition, a requirement was added that companies must immediately notify the AMS when any animal handling enforcement action is issued by the FSIS. In 2015, the AMS revised its animal welfare specifications to require that back-up stunning devices be available in all facilities that slaughter bovine, porcine, and ovine species. The AMS supplier requirements have a significant impact on the welfare of farm animals in the United States, as a large number of animals are raised and slaughtered to provide meat for federal nutrition assistance programs.

STATE HUMANE SLAUGHTER LAWS

At one time, states needed to pass humane slaughter legislation in order to cover animals slaughtered at plants that were not federally inspected. However, all states conducting their own meat inspection programs have now adopted by reference the federal food safety regulations, including those related to humane handling and slaughter. Therefore, the humane slaughter provisions of the federal law cover all animals slaughtered under the authority of state food inspection laws.

The vast majority of farm animals in the United States are killed at federally inspected plants, and state laws cannot effectively address issues of humane slaughter for these animals. Deficiencies in federal law must be remedied through amendments to the Humane Methods of Slaughter Act and its regulations. Nonetheless, state laws are important, as they can provide humane coverage to animals not under federal jurisdiction, such as those killed on the farm by the farm owner/operator, or by a mobile custom slaughterer. State-level laws can also prohibit additional methods of stunning, limit the federal exemption for religious slaughter, and assess additional penalties for violations.

To date, 30 states have passed humane slaughter laws (see below). Most were enacted shortly after passage of the original federal humane slaughter law. All are based on the language of the federal law, and many specifically reference that law. With the exception of New Hampshire and Wisconsin, all state humane slaughter statutes and regulations address only the slaughter process itself, and do not cover the handling of animals prior to slaughter. A number of state humane slaughter laws prohibit the use of a sledgehammer or ax to stun an animal for slaughter, methods not specifically banned in the federal law. Connecticut law, for example, states, “Use of a manually-operated sledge, hammer or poleax to render an animal insensible to pain is prohibited.”
Another difference between the federal and state laws is that several states apply their humane slaughter codes to stockyard operations, while the scope of the federal law is limited to slaughter plants. This application, however, has little practical effect, since animals are not typically slaughtered for food at stockyards. The federal humane slaughter law also does not cover farmers killing animals for their personal use, and although custom slaughterers are expected to comply with federal food safety regulations, they are not routinely inspected for compliance. For the most part, state laws do not provide much additional protection for animals killed for custom or personal use. Exceptions include Oregon, Utah, and Washington; all three cover custom and farm (mobile) custom slaughter operations.

Generally, penalties for violation of state humane slaughter laws are minor. For example, Washington’s law assesses the following penalty: “Any person violating any provision of this chapter or of any rule adopted hereunder is guilty of a misdemeanor and subject to a fine of not more than two hundred fifty dollars or confinement in the county jail for not more than ninety days.” Several states also allow for the filing of injunctions or the suspension of state inspection procedures of slaughter operations found to be in violation of the state humane slaughter code.

Following repeated incidents of inhumane handling at a federally inspected plant in Grand Isle, Vermont, the state passed legislation in 2010 enhancing penalties for violation of its humane slaughter law. Monetary fines are increased: up to $1,000 for the first violation, $5,000 for the second violation, and $10,000 for third and subsequent violations. In addition, the state agriculture department may seek an injunction against any slaughter establishment found to be violating the humane slaughter law and may refer humane slaughter violations to the attorney general for criminal prosecution. Federally inspected slaughter plants must submit to the state, within five days of receipt, any documents received from the USDA related to humane slaughter violations.
Animal advocates have looked to state anti-cruelty laws as a possible means of applying stronger penalties to incidents of inhumane slaughter. Although all 50 states have enacted anti-cruelty laws, approximately three dozen exempt accepted agricultural practices (see table below). These exemptions do not necessarily preclude prosecution of inhumane slaughter cases, since the meat industry has established clear standards for the humane handling and slaughter of livestock. Three of the states that exempt agricultural practices under anti-cruelty laws, as well as two additional ones, exempt slaughter by “approved methods” (see table below). Again, this limitation should not automatically rule out prosecution of inhumane slaughter under the law. However, under the anti-cruelty laws of five states that exempt slaughter in general, prosecution could be precluded.

To date, attempts to pressure state officials to prosecute inhumane slaughter under state animal cruelty codes have been largely unsuccessful. Individuals have been prosecuted for neglect/abuse of animals on the premises of a slaughterhouse in several cases, but there are very few recorded cases of successful prosecution of inhumane treatment during the slaughter process itself. In declining to prosecute under anti-cruelty statutes, state and local officials have cited either lack of evidence or deference to federal jurisdiction over slaughter establishments.

**SLAUGHTER AND STATE ANTI-CRUELTY LAWS**

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<th>STATE LAWS EXEMPTING ACCEPTED AGRICULTURAL PRACTICES (37 STATES)</th>
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<th>STATE LAWS EXEMPTING SLAUGHTER BY APPROVED METHODS (5 STATES)</th>
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<td>Connecticut, Delaware, Idaho, Oregon, South Dakota</td>
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<th>STATE LAWS EXEMPTING SLAUGHTER GENERALLY (5 STATES)</th>
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**ENFORCEMENT OF STATE LAWS**

Although a vast majority of animals slaughtered for food in the United States are killed at federally inspected plants, the treatment of animals at nonfederal plants is important and should be addressed in any attempt to improve humane slaughter practices in this country. There are approximately 2,000 slaughter plants in the United States that are not federally inspected. In most cases, these plants are inspected for compliance with food safety regulations, including those pertaining to humane handling and slaughter, by state agricultural inspectors.

To evaluate the level of humane law enforcement at nonfederal slaughter plants, AWI has conducted five reviews of public records provided by state meat inspection programs—in 2008, 2010, 2012, 2015, and 2016.

In the initial review, all records relating to humane slaughter at state-inspected plants were requested for a three-year period from January 1, 2002, through December 31, 2004. States provided relatively few documents in response to the request. Of the 30 states accredited to administer humane slaughter programs at the time of the review, 20 provided no humane enforcement records whatsoever. Four states provided records indicating they had issued at least one noncompliance record, but took no further actions, during the period. The records of another six states—California, Kansas, Minnesota, Ohio, South Carolina, and Wisconsin—show that they took at least one action for inhumane slaughter beyond issuance of a noncompliance record.

AWI resurveyed state meat inspection programs in early 2010 and found humane slaughter enforcement to be significantly increased in many states. For the period 2007–2009, states issued a total of 410 noncompliance records (versus 72 for the period 2002–2004) and 12 suspensions (versus 4 for 2002–2004). Some states took a significantly greater number of enforcement actions than others. South Carolina, Wisconsin, and Wyoming issued the most noncompliance records per plant inspected. No enforcement records were provided by six states (Arizona, Louisiana, South Dakota, Utah, Vermont, and Virginia).

In its review of state enforcement for the period 2010–2012, AWI found that enforcement agencies were issuing a similar number of noncompliance records, but the number of suspensions imposed for humane slaughter violations was
increased over the previously studied period. No enforcement records were provided by four states; Indiana and Louisiana indicated they had no records, and Alabama and South Carolina refused to provide their records. The most frequently cited violations at state plants were failure to provide feed and/or water, ineffective stunning (multiple attempts), and plant pens or grounds in a state of disrepair.\

In its 2015 and 2016 surveys of state inspection, AWI found that state programs were continuing to improve their humane slaughter oversight and close the gap with federal inspection. The issuance of suspensions continues to increase. However, as with previous surveys, wide disparity was found among the state programs in terms of the thoroughness and effectiveness of humane slaughter enforcement. While AWI assessed 5 of the 25 state programs as being roughly equivalent to federal inspection, the remainder were shown to possess significant deficiencies, and AWI assigned a failing grade to 8 of the programs.

In all of its reviews, AWI has noted that state inspection personnel were far less likely than federal inspectors to take a strong enforcement action, such as imposing a suspension, in response to egregious incidents of inhumane handling or slaughter.

RELIGIOUS SLAUGHTER

The method of killing animals for Jewish and Islamic ritual slaughter has been a subject of intense controversy in connection with humane slaughter laws. It is generally agreed that killing with prior stunning is more humane than killing without stunning, which is not allowed under some religious authorities. Moreover, the pre-slaughter handling of animals in kosher slaughter is unquestionably inhumane when conscious animals, particularly adult cattle, are shackled and hoisted before the killing cut is administered.

The process of shackling and hoisting is not part of the ritual of kosher slaughter. However, it has become standard practice because USDA sanitary regulations prohibit contact of the cut surface of the animal’s neck with the slaughterhouse floor. This might occur with the traditional kosher method of casting the animal to the floor before the ritual cut. Ritual slaughter requires that the animal be uninjured, so prior stunning has been deemed unacceptable in the United States, although rabbinical authorities in certain other countries have approved pre-slaughter stunning. Thus, to perform the ritual throat cutting, a shackle is typically attached to one leg of the animal, which is then hoisted so that the animal hangs upside-down by his shackled leg. The animal is then conveyed to the killing floor, struggling and sometimes suffering from a broken leg or split pelvis.

A religious slaughter amendment was added to the original Humane Methods of Slaughter Act of 1958 due to a lack of availability of humane restraining devices at the time. In the early 1960s, Cross Brothers in Philadelphia patented a holding pen that held adult cattle in a standing, upright position before and during kosher slaughter. The patents to this pen were purchased by the American Society for the Prevention of Cruelty to Animals (ASPCA), and it was made available royalty-free to the meat industry.

In 1980, Spencer Foods in Spencer, Iowa, installed the first conveyorized, high-speed, upright restraint system for kosher slaughter. In 1986, Utica Veal in Marcy, New York, installed the first humane restraint system for kosher calves and sheep. Dr. Temple Grandin and researchers at the University of Connecticut, with a grant from the Council for Livestock Protection, designed the restraint system.

Now that practical restraint equipment is available, the cruel practice of shackling and hoisting without prior stunning should be abolished. Shackling and hoisting as a method of restraint is not permitted in a number of countries, including Australia, Canada, the Netherlands, the United Kingdom, and several other European nations. The elimination of conscious shackling and hoisting has the added advantage of improving employee safety. Many kosher slaughter plants have voluntarily converted to humane restraint devices for large cattle but, unfortunately, some smaller plants continue to use the shackle-hoist. For veal calves, however, only about half are slaughtered using humane restraining equipment, and nearly all kosher-killed sheep and lambs are still shackled and hoisted prior to ritual slaughter in the United States. Simple, economical devices now available for even the smallest plants that slaughter calves and sheep make the necessary change readily attainable. Federal legislation is needed to require humane restraint devices to be used for all animals.

The federal Humane Methods of Slaughter Act not only identifies slaughtering in accordance with ritual requirements of the Jewish or other religious faiths as humane, it also spells out that “the handling or other preparation of livestock for ritual slaughter are exempted” from the Act. All states with humane
slaughter laws have included a similar exemption for religious slaughter. However, while the federal law includes language that covers handling for religious slaughter, state laws typically refer to slaughter only.

A few states have attempted to encourage, if not require, the use of holding pens for religious slaughter in order to avoid shackling and hoisting of conscious animals. Connecticut was the first state to require use of holding pens that allow animals not previously stunned to be cut while upright. However, a general exception to the law for religious slaughter makes use of the pens voluntary. Indiana and Michigan require that animals killed in accordance with requirements of a religious faith be cut “immediately following total suspension from the floor.” Pennsylvania currently allows an exemption for ritual slaughter. The exemption is to remain in place until acceptable alternatives are available, at which point the exemption would end. New Hampshire’s law allows conscious shackling “provided that the method used in bringing the animal into position for slaughter causes no injury or pain which can be avoided without interfering with the requirements of ritualistic slaughter or without imposing unreasonable economic hardship.”

The ritual exclusion does not exempt ritual slaughter establishments from complying with all humane handling requirements, only handling that is in conjunction with preparation for religious slaughter. Prior to 2003, the FSIS and state departments of agriculture cited slaughter plants if they failed to produce unconsciousness “by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.” For example, the FSIS issued noncompliance records to slaughter establishments for using multiple cutting strokes before severing the arteries. The inspector filing one such citation noted that, for a 10-animal sample, there was an average of more than five back-and-forth cutting strokes before severing the arteries. In another case, the FSIS issued a noncompliance record to an Islamic establishment for stabbing conscious lambs directly in the heart. In addition, the FSIS and the Texas Department of Health have cited plants for using ritual slaughter procedures in the absence of a Jewish or Muslim representative and for failure to have on file written ritual slaughter procedures from a religious authority.

However, in 2003 the FSIS revised its humane slaughter directive (6900.2) to further limit the government’s oversight of ritual slaughter practices. The directive notes: “Inspection personnel are not to interfere in any manner with the preparation of the animal for ritual slaughter, including the positioning of the animal, or the ritual slaughter cut and any additional cut to facilitate bleeding.” The change was in response to a letter to the USDA from Jewish religious authorities arguing that the department had no role to play whatsoever in “determinations regarding questions of ‘humaneness.’”

SPECIES COVERED BY HUMANE SLAUGHTER LAWS

The 1958 humane slaughter law requires pre-slaughter stunning of “cattle, calves, horses, mules, sheep, swine, and other livestock” (emphasis added). However, the 1978 amendments to the federal Meat Inspection Act reference “cattle, sheep, swine, goats, horses, mules, or other equine,” with no mention of other livestock. The USDA has not promulgated regulations to cover any additional species, with the exception of exotic animals—defined as reindeer, elk, deer, antelope, bison, and water buffalo. Stunng of these animals must be performed in accordance with the federal humane slaughter regulations, but only if the slaughter establishment wishes to market its products as being government (federal or state) inspected. At present, federal food inspection is not required for the slaughter of exotic animals, except under a voluntary program.

In 2000, Congress stipulated that the slaughter of ratites (e.g., ostrich) and squabs are henceforth subject to the antemortem and postmortem requirements of the Poultry Products Inspection Act. While extending USDA inspection to these species does not place the animals under the protection of the humane slaughter law, it allows for an enforcement mechanism should Congress or the USDA decide to amend the law or its regulations to cover these bird species.

US humane slaughter laws currently ignore 98 percent of all animals killed for food, as the USDA has not applied the federal law to birds. Animal advocates have made several attempts—including the introduction of federal legislation—to promote the protection of chickens, turkeys, and other birds at slaughter. In 1995, AWI and the Animal Legal Defense Fund submitted a rulemaking petition, requesting that the FSIS promulgate regulations for the humane treatment of birds at slaughter. In November 2005, The Humane Society of the United States, joined by East Bay Animal Advocates
and several individual consumers, filed a complaint in the US District Court, Northern District of California, under the Administrative Procedures Act, seeking humane slaughter coverage for birds. That lawsuit and a similar one filed around the same time by the Humane Farming Association were dismissed by the courts.

In 2005, the FSIS published a notice in the Federal Register on the treatment of live poultry before slaughter. The notice reminded poultry slaughter establishments that “under the Poultry Products Inspection Act (PPIA) and agency regulations, live poultry must be handled in a manner that is consistent with good commercial practices, which means they should be treated humanely.” Around this time, FSIS inspection personnel began citing poultry slaughter plants for violations of “good commercial practices” (GCP), and district veterinary medical specialists began conducting “good commercial practices verification visits” in poultry plants.

According to FSIS enforcement records obtained by the advocacy organization Farm Sanctuary, during an 18-month period, FSIS in-plant inspection personnel cited 120 poultry plants—40 percent of all such plants—for GCP violations. Violations were documented on noncompliance records and memorandums of interview. The most commonly cited violations included birds drowning in the scald tank, inadequate bleeding, and improper handling—such as use of excessive force and placing live birds in the dead-on-arrival bin. In December 2013, Farm Sanctuary and AWI petitioned the USDA to write regulations under the Poultry Products Inspection Act to regulate practices and actions that result in adulterated poultry products through inhumane handling of birds.

Nearly half of the 30 states with humane slaughter laws extend protection to species not covered under the federal law (refer to table below). Ungulates are the most commonly added species. Six states cover ratites, and five cover bison. The laws of three states—California, Indiana, and Utah—include poultry; however, only California has enacted regulations to implement the humane slaughter of birds. Although Maine’s humane slaughter law refers only to “livestock,” it was the opinion of the former state veterinarian, Henrietta Beaufait, in 2007 that the absence of a description of acceptable slaughter methods for poultry does not exclude poultry from a general requirement that livestock be slaughtered humanely.

Unlike the federal humane slaughter law, some state laws specifically exempt poultry. Some state laws have been written to limit coverage to listed species only. For example, Oregon’s law is limited to “cattle, equines, sheep or swine,” and Washington’s lists only “cattle, calves, sheep, swine, horses, mules and goats.” On the other hand, some states include coverage for other animal species that may be slaughtered for meat. For example, Maryland’s humane slaughter statute defines livestock as “cattle, calves, sheep, swine, horses, mules, goats, or other animals that may be used in the preparation of a meat product” (emphasis added). New Hampshire includes “other species of animals susceptible of use in the production of meat and meat products.”
ADDITIONAL ANIMALS COVERED UNDER STATE LAWS

<table>
<thead>
<tr>
<th>SPECIES</th>
<th>STATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aquatic Animals</td>
<td>Kansas</td>
</tr>
<tr>
<td>Rabbits</td>
<td>Georgia, Maine</td>
</tr>
<tr>
<td>Poultry</td>
<td>California, Indiana, Utah</td>
</tr>
<tr>
<td>Ratites</td>
<td>Florida, Georgia, Indiana, Kansas, New Hampshire, South Dakota</td>
</tr>
<tr>
<td>Bison, Buffalo</td>
<td>Georgia, New Hampshire, North Carolina, Oklahoma, Vermont</td>
</tr>
<tr>
<td>Llama, Alpaca, Yak</td>
<td>New Hampshire</td>
</tr>
<tr>
<td>Deer, Elk, Reindeer</td>
<td>California (fallow deer), Georgia (non-traditional livestock, farm-raised deer), Indiana (farm-raised deer), Iowa (farm-raised deer), Kansas (domesticated deer), Maine (domestic deer), New Hampshire (elk, fallow deer, red deer, reindeer), North Carolina (fallow deer, red deer), South Dakota (captive cervidae), Utah (domestic elk), Vermont (fallow deer), Wisconsin (farm-raised deer)</td>
</tr>
</tbody>
</table>

INTERNATIONAL STANDARDS

In 1979, the European Convention for the Protection of Animals for Slaughter was drafted, which by 2016 had been signed and ratified by 25 nations.113 The European Union in 1993 also adopted a directive on the Protection of Animals at the Time of Killing, replacing the previous Directive on Stunning of Animals before Slaughter.114 In 2005, the World Organization for Animal Health (OIE), now with 180 member countries and territories, adopted international Guidelines for the Slaughter of Animals for Human Consumption.115 Guidelines for the slaughter of farmed fish were added by the OIE in 2016.116

OTHER REPORTS IN THIS SERIES:

Legal Protections for Animals on Farms
Legal Protections for Farm Animals During Transport
Legal Protections for Nonambulatory (or “Downed”) Farm Animals

2 Id. at 53.
3 Id. at 54.
4 See id.; see also 7 U.S.C. 1902 (1978).
5 Leavitt, supra note 1, at 55
6 Id. at 56; see also 21 U.S.C. 603 (2005).
7 Leavitt, supra note 1, at 56.
9 Id.
10 Leavitt, supra note 1, at 56.
11 Id. at 57.
12 Id. at 56;
13 Id. at 56; see also 9 C.F.R. §§ 313.1—313.90 (1990).
14 Leavitt, supra note 1, at 57.
15 Id. at 56.
16 The amendment was prompted by a petition filed by the Danish and Swedish Meat Research Institute on behalf of Danish pork companies wanting to import into the United States products from animals killed with carbon dioxide gas. See 59 Fed. Reg. 21,638-40 (Apr. 26, 1994) (to be codified at 9 C.F.R. pt. 313).
19 The FSIS has also developed and distributed several Humane Interactive Knowledge Exchange (HIKE) scenarios designed to educate inspectors on proper handling of potential humane handling and slaughter situations. See Food Safety & Inspection Serv., Humane Interactive Knowledge Exchange (HIKE) Scenarios, U.S. Dep’t Agric., https://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/workforce-training/hike/hike-scenarios (last updated Dec. 20, 2016) (providing a list of scenarios “to help employees keep current, and correlated, on regulatory requirements, directives, notices, etc.”).
23 Id.
24 Following the discovery of a cow with bovine spongiform encephalopathy (mad cow disease) in the United States in 2004, the USDA published regulations prohibiting the slaughter of non-ambulatory disabled cattle. However, the rule allowed slaughter plant inspectors to determine the disposition of cattle that became non-ambulatory after passing antemortem inspection on a case-by-case basis. The USDA proposed to close the loophole in August 2008, following exposure of incidents of inhumane treatment of downed cattle at a California slaughter plant. The rule was finalized in 2009. See 74 Fed. Reg. 11,463 (March 18, 2009) (to be codified at 9 C.F.R. pt. 309).
25 Despite Congress urging the USDA to report annually on trends in compliance with humane slaughter methods, between 2002 and 2009, the USDA provided only two reports to Congress and these were based on incomplete data, according to the US Government Accountability Office (GAO). See Lisa Shames, U.S. Gov’t Accountability Office, GAO-10-487T, Humane Method of Slaughter Act: Weaknesses in USDA Enforcement 5 (2010).
Swine Slaughter Plants 12 (2013).
The audit found humane handling violations in 4 of the 18 plants, with one serious enough to result in plant suspension.
The Westland–Hallmark slaughter plant, where incidents of cruelty were captured on videotape, received high marks in two independent audits conducted days prior to the shooting of the undercover video.
Id. at 18.
Id. at 5.
Id. at 1.
Shames, supra note 24, at 5.
Id. at 2.
Letter from Dean Danielson, to Kenneth Peterson, FSIS Deputy Adm’r (Apr. 15, 2009).
See Animal Welfare Inst., Petition for Rulemaking to Amend the Humane Methods of Slaughter Act Regulations (Mar 2013) [hereinafter HMSA Petition].
Id.
Id. at 24.
See Letter from Dr. Daniel Engeljohn, supra note 29.
Id.
Not counting Idaho, which repealed its humane slaughter law in 2006.
Although the federal law does not prohibit use of a hammer or ax, the FSIS does not consider these to be acceptable mechanical means of stunning.
Id.
Id.
Id.
Id. (however, one state—New Mexico—has since lost its accreditation).
Id. at 69-71.
Id. at 70-74.
Id.
Id.
See HMSA Petition, supra note 45.
Id. at 16-17.
Leavitt, supra note 1, at 58.
Id. at 58-59.
Id. at 59.
A paper supporting humane slaughter using upright pens and finding shackling and hoisting to be a violation of Jewish laws forbidding cruelty.
to animals was approved by the Committee on Jewish Law and Standards (CJLS) of the Rabbinical Assembly on September 20, 2000. The CJLS provides guidance in matters of halakhah, but the individual rabbi is considered the authority for the interpretation and application of all matters of halakhah. See Elliot N. Dorff & Joel Roth, Comm. on Jewish Law & Standards, Shackling and Hoisting, GRANDIN (Sept. 20, 2000), http://www.grandin.com/ritual/conservative/jewish.law.html.

86 Leavitt, supra note 1, at 59.
89 Id.
90 IND. CODE § 15-17-5-11(2016).
93 Id.
94 Id. (citing the Noncompliance Record issued to the offending plant).
96 Id. (citing the Noncompliance Record issued to the offending plant).
97 Id.
98 See id.
99 Id.
101 Id.
102 Id.
103 Letter from Abba Cohen et. al., to Philip Derflur, Deputy Adm’t, Food Safety & Inspection Serv. (Nov. 6, 2003).
104 See 9 C.F.R. § 1.1 (2001) (excluding “exotic animals” from the definition of “animals” as well as “farm animals”).
107 The Humane Methods of Poultry Slaughter Act was introduced in the US House of Representatives in 1992 (H.R. 264), 1993 (H.R. 649), and 1995 (H.R. 4124).
108 See Complaint at 86, Levine et al. v. Johanns, No. 05-04764 (N.D. Cal. filed Nov. 21, 2005).
109 In March 2008, a federal district judge found that chickens are not “livestock” and are therefore not subject to the Humane Methods of Slaughter Act. See Levine v. Connor, 540 F.Supp.2d 1123, 1121 (N.D. Cal. 2008). In late 2009, the Ninth Circuit Court of Appeals ruled that The Humane Society of the United States did not have standing to pursue the lawsuit. The court said the animal advocacy organization could not show that the alleged injury to poultry by continued omission from the act would be redressed by a favorable ruling and handed the case back to the district court to be dismissed. See Levine v. Vilsack, 587 F.3d 986, 991 (9th Cir. 2009).
114 Id. at 8.
115 Id. at 9.
116 See generally id.
118 Id. at 6.
119 Id. at 6-7.
120 Id. at 6.
121 Id. at 16-17.
122 Id. at 6.
125 UTAH CODE ANN. § 4-32.3 (2016).
128 WASH. REV. CODE §16.50.100 (1967).
129 MD. CODE ANN. AGRIC. § 4-123.1 (2002).