

The Guides

We have reviewed comments and literature received at those meetings. We have determined at this time to offer guidance on how regulated entities can comply with the standards in the regulations as they apply to farm animals. Regulated entities would benefit in that they would have a better understanding of ways to meet the standards in the regulations. This would help ensure that farm animals used in regulated activities are cared for in a humane manner.

Two guides that comprehensively address the humane care of farm animals already exist. These are the "Guide for the Care and Use of Agricultural Animals in Agricultural Research and Teaching," published by the Federation of American Societies of Food Animal Sciences, and the "Guide for the Care and Use of Laboratory Animals," published by the Institute of Laboratory Animal Resources. These two publications are commonly known as "the Ag Guide" and "the ILAR Guide," respectively.

The ILAR Guide is a general guide that recommends practices to ensure the humane care of any vertebrate animal used in biomedical and behavioral research, teaching, or testing. The ILAR guide does not specifically address farm animals, but they are included in the general scope of the guide. We consider the general principles in the ILAR guide to be appropriate for application to the care and use of farm animals, primarily when they are maintained in laboratory settings.

The Ag Guide contains recommendations to ensure the humane care of agricultural animals used in research and teaching that are maintained in a simulated or actual production agricultural setting. The Ag Guide contains general principles that apply to all farm animals, as well as specific recommendations for animals such as cattle, horses, sheep, goats, and swine.

We have reviewed these two guides extensively and have determined that they represent the most current and complete scientific information available on the humane care of farm animals used for nonagricultural purposes. The guides are already in use by most research institutions regulated by APHIS that use farm animals. Specifically, any institution that receives funding from the National Institutes of Health or that is accredited by an organization such as the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC

International) must use the guides. The recommendations in these guides reflect the most current thinking on appropriate practices for the handling, care, treatment, and transportation of farm animals used for nonagricultural purposes.

Adoption of the Guides

This document notifies the public that we are considering adopting these two guides to help regulated entities understand how to meet the standards in the regulations. We are seeking public comment on whether or not to adopt these two guides.

Adoption of these guides would be intended only as guidance. Adoption of these guides would not create or confer any rights for or on any person and would not operate to bind APHIS or the public.

As an example, the regulations specify general requirements for feeding (see § 3.129(a)) that state "food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for age, species, condition, size, and type of the animal." The Ag Guide offers species-specific recommendations on feeding that would be acceptable to APHIS for meeting the feeding standards in the regulations. For example, for horses and cattle, the Ag Guide includes information on nutritional and other considerations when a feeding program includes grazing on pasture or range land and makes recommendations on feed that should be provided to avoid colic and unhealthy behaviors such as wood or tail chewing. The ILAR Guide contains recommendations for feeding that are not species-specific, but that provide guidance on things such as keeping food free of contamination and retaining nutritive value that is applicable to a laboratory setting.

The ILAR Guide and the Ag Guide also contain recommendations concerning animals and areas that are not covered under the regulations. We are considering using the guides only to supplement understanding of how to meet the standards in the regulations. Those portions of the guides that do not relate to the regulations would not be used. The Ag Guide would be used when farm animals are maintained in a traditional agricultural setting, and the ILAR Guide would be used when farm animals are maintained in a laboratory setting.

We recognize that there are numerous other published guides, as well as other sources of information, that provide recommendations on the humane care

of farm animals in various settings. We are considering adopting the ILAR Guide and the Ag Guide because, among other reasons, they are already widely used, are the most complete guides available, and are relatively inexpensive and easily obtained. The Ag Guide costs \$10.00 per copy and the ILAR Guide costs \$9.95 per copy. They also represent the most current thinking on appropriate practices for the handling, care, treatment, and transportation of farm animals used for nonagricultural purposes. However, our adoption of these guides would not prevent regulated entities from using recommendations from other sources, as long as the chosen practice satisfies the standards in the regulations. Other practices could be used, as well, if the practices also satisfy the standards in the regulations.

Because these guides are not published by APHIS, we would not be able to provide copies of these guides to the public. However, the guides are relatively inexpensive and readily available to regulated entities (see directions for obtaining copies of the guides under ADDRESSES at the beginning of this document). APHIS would assist regulated entities in obtaining copies, if necessary.

Done in Washington, DC, this 25th day of February 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Nutrition Program for the Elderly; Initial Level of Assistance From October 1, 1998 to September 30, 1999

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the initial level of per-meal assistance for the Nutrition Program for the Elderly (NPE) for Fiscal Year 1999. The Fiscal Year 1999 initial level of assistance is set at \$.5539 for each eligible meal in accordance with section 311(a)(4) of the Older Americans Act of 1965, as amended by section 310 of the Older Americans Act Amendments of 1992 and preempted by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Heddy Turpin, Acting Chief, Schools and Institutions Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302-1594 or telephone (703) 305-2644.

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under Nos. 10.550 and 10.570 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984.)

Paperwork Reduction Act of 1995

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Regulatory Flexibility Act

This action has been reviewed with regards to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). The Administrator of the Food and Nutrition Service (FNS) has certified that this action will not have a significant economic impact and will not affect a substantial number of small entities. The procedures in this notice would primarily affect FNS regional offices, and the State Agencies on aging and local meal providers. While some of these entities constitute small entities, a substantial number will not be affected. Furthermore, any economic impact will not be significant.

Legislative Background

Section 310 of Public Law (Pub. L.) 102-375, the Older Americans Act Amendments of 1992, amended section 311(a)(4) of the Older Americans Act of 1965, 42 U.S.C. 3030a(a)(4), to require the Secretary of Agriculture to maintain an annually programmed level of assistance equal to the greater of: (1) The current appropriation divided by the number of meals served in the preceding fiscal year; or (2) 61 cents per meal adjusted annually beginning with Fiscal Year 1993 to reflect changes in the Consumer Price Index. Section 311(c)(2) of the Older Americans Act (42 U.S.C. 3030a(c)(2)) was amended to provide that the final reimbursement claims must be adjusted so as to utilize the entire program appropriation for the

fiscal year for per-meal support. However, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1996 (Pub. L. 104-37) imposed, for Fiscal Year 1996 and succeeding years, the same NPE rate management requirements as applied to Fiscal Year 1994. That is, Title IV, Domestic Food Programs, of the Appropriations Act provides that “* * * hereafter notwithstanding any other provision of law, for meals provided pursuant to the Older Americans Act of 1965, a maximum rate of reimbursement to States will be established by the Secretary, subject to reduction if obligations would exceed the amount of available funds, with any unobligated funds to remain available only for obligation in the fiscal year beginning October 1, 1996.”

Notwithstanding the initial rates established by the Older Americans Act, the Department is required to comply with the spending clause of the U.S. Constitution and 31 U.S.C. 1341(a)(1)(A) (known as the Antideficiency Act), which prohibit the obligation or expenditure of funds in excess of the available appropriation. Thus the Department is required to establish (and if necessary, adjust) rates in such a manner as to not exceed the program appropriation.

Fiscal Year 1998 Level of Assistance

Based on its projection of the number of meals to be claimed during the fiscal year, and in light of constitutional and statutory prohibitions on obligating or spending funds in excess of the available appropriation, the Department announced an initial per-meal reimbursement rate of \$.5607 for Fiscal Year 1998, the highest rate which it believed could be sustained throughout the fiscal year. This initial level of per-meal assistance was announced in the April 2, 1998 **Federal Register** (62 FR 16242).

The Department's meal service projection for Fiscal Year 1998 assumed a slightly higher rate of growth than occurred in the preceding fiscal year. This initial per-meal support level of \$.5607 was sustained throughout Fiscal Year 1998, and thus no adjustment was necessary to keep expenditures within the limit of the \$140 million NPE appropriation established by Pub. L. 104-180. Funds in the estimated amount of \$500 thousand were not paid out for Fiscal Year 1997 and will, in accordance with the legislative mandate in Pub. L. 104-180, be carried over into Fiscal Year 1998 and expended in per-meal reimbursement for that year.

Fiscal Year 1999 Initial Level of Assistance

It is the Department's goal to establish the highest rate that can be sustained throughout the fiscal year so as to maximize the flow of program funds to States during the fiscal year. However, the Department wants also to minimize the possibility of a rate reduction and the hardship it causes to program operators. In order to guard against the need for a reduction, the Department, once again, has projected a slightly higher rate of growth in meal service than occurred in the preceding fiscal year. Based on its projections, the Department announces an initial per-meal support level of \$.5539, which will not be increased, and which will be decreased only if necessary to keep expenditures within the limit of the \$140 million NPE Fiscal Year 1999 appropriation established by Pub. L. 105-277. Any of these funds not paid out for Fiscal Year 1999 reimbursement will, in accordance with Pub. L. 105-277, remain available through Fiscal Year 2000. In the unlikely event that the rate needs to be decreased, States will be notified directly.

Dated: February 25, 1999.

Samuel Chambers,

Administrator, Food and Nutrition Service.

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Plainview (TX), Barton (KY), and North Dakota (ND) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

Plainview Grain Inspection and Weighing Service, Inc. (Plainview); J.W. Barton Grain Inspection Service, Inc. (Barton); and North Dakota Grain Inspection Service, Inc. (North Dakota).

EFFECTIVE DATES: June 1, 1999, for Plainview and July 1, 1999, for Barton and North Dakota.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S,