The erroneous example indicated that application of a $.60 per ton assessment rate on 50,000 tons of Segregation 1 farmers stock peanuts would result in an assessment obligation of $60. However, the correct assessment obligation in that example should have been $30 (50 tons, times $.60 per ton, equals $30).

Violation of this assessment regulation may result in a penalty in the form of an assessment by the Secretary equal to 140 percent of the support price of quota peanuts for the crop year during which the violation occurs. The support price for quota peanuts is determined under 7 U.S.C. 1445c-3.

This administrative assessment rate will impose some additional costs on non-signatory handlers. However, the costs will be in the form of uniform assessments on all handlers who are not signatory to the Agreement as well as all signatory handlers.

In accordance with the Paperwork Reduction Act of 1988 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0163.

Based on available information, the Administrator of the AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities. This rule is required by law. This administrative assessment will be applied uniformly to all non-signatory handlers and will be of benefit to all.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Public Law 103–66 requires the Department to impose an administrative assessment on peanuts received or acquired for the account of non-signatory handlers; (2) notice of intent to assess the 1995 crop peanuts was published in the **Federal Register** as a finalization of an interim final rule on February 2, 1995 (60 FR 6394); (3) the peanut crop year begins July 1, and to achieve the intended purpose of the law this action should be taken promptly; and (4) this interim final rule provides a 30-day comment period and any comments received will be considered prior to finalization of any rule.

List of Subjects in 7 CFR Part 997

Food grades and standards, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 997 is amended as follows:

PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO THE PEANUT MARKETING AGREEMENT

1. The authority citation for 7 CFR part 997 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new paragraph (b)(6) is added to § 997.40 to read as follows:

§ 997.40 Reconditioning and disposition of peanuts failing quality requirements.

* * * * *

(b) * * *

(6) Peanuts handled pursuant to paragraphs (b)(4)(i) and (b)(4)(iii) of this section are exempt from § 997.51 Assessments.

3. A new undesignated centerheading and § 997.100 are added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

Implementing Regulation

§ 997.100 Assessments.

For the 1995–96 crop year, the administrative assessment is $0.70 per net ton of assessable farmers stock peanuts received or acquired by each non-signatory handler.

Dated: August 15, 1995.

Terry C. Long,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–20644 Filed 8–18–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 117

[Docket No. 93–048–2]

Viruses, Serums, Toxins, and Analogous Products; Test Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to allow appropriate treatment of certain sick or injured test animals and the humane destruction of dying animals used in the testing of veterinary biological products. The effect of this action is to eliminate unnecessary discomfort to animals used in vaccine testing. The amendment provides the firms with a previously unauthorized option for handling test animals that are accidentally injured, become ill, or exhibit unfavorable reactions for reasons not due to the test. These animals may be removed from the test and treated or humanely destroyed. In addition, test animals that show clinical signs of illness resulting from the test may be treated or humanely destroyed when death is certain to occur without therapeutic intervention.

This action is necessary to provide for the treatment or humane destruction of ill or injured test animals under defined conditions. This option is not currently allowed by the regulations for test animals.

EFFECTIVE DATE: September 20, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Deputy Director, Veterinary Biologics, BBEP, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1237, (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 117 pertain to veterinary biological products that are licensed under the Virus-Serum-Toxin Act on the basis of their purity, safety, potency, and efficacy. In the course of evaluating a biological product, it is necessary to conduct potency, safety, or efficacy tests in animals.

This amendment is intended to eliminate unnecessary discomfort or suffering in the test animals as a result of injury, unfavorable reactions, or illness attributable to the test.

On October 25, 1994, we published in the **Federal Register** (59 FR 53612–53613, Docket No. 93–048–1) a proposal to amend the regulations in 9 CFR 117.4. We proposed that test animals which exhibit clinical signs of illness, become accidentally injured, or exhibit unfavorable reactions through events not associated with the test, may be removed from the test and be treated or humanely destroyed. We also proposed to allow for the treatment of test animals showing illness due to the test or humane destruction of test animals which show clinical signs of illness attributable to the challenge microorganism, which are likely to result in death.

We solicited comments concerning our proposed amendment for 60 days ending December 27, 1994. We received two comments by that date. Both comments were from producers of

veterinary biological products. We carefully considered the comments we received. They are discussed below.

One commenter supported the proposed rule as written.

The second commenter believed that the rule should include a provision to allow treatment for those animals that show certain clinical signs indicative of susceptibility to challenge (defined in an Outline of Production), rather than waiting until such animals have progressed to a point when death is certain to occur without therapeutic intervention.

The Animal and Plant Health Inspection Service (APHIS) cannot accept this recommendation because use of clinical signs as a test endpoint may result in a product that is sufficiently potent to protect against a mild challenge that causes certain disease symptoms, but not sufficiently potent to protect against severe clinical disease or death from natural challenge. APHIS notes that the level of challenge used in animal potency tests may have a significant effect on the results of tests. In order to ensure that a product will have adequate potency to protect animals against severe clinical disease or death resulting from natural challenge, many standard requirements for veterinary biological products currently require a challenge that is strong enough to cause death in the test animals. In such cases, assessment of susceptibility to challenge based solely on clinical signs would not provide an equivalent alternative to one based on death or the expectation of death.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The rule provides that animals used in testing biological products which become ill, accidentally injured, or exhibit unfavorable reactions as a result of factors not due to the test could be removed from the test and be treated or humanely destroyed. The rule also provides for the treatment or humane destruction of animals which are expected to die as a result of the testing of a veterinary biologic. The objective of the rule is to provide humane alternatives when conducting such tests in order to eliminate any unnecessary discomfort to animals.

The rule does not require additional testing of animals. It simply provides an option which was not previously available for the treatment of test animals under certain conditions. Therefore, the rule is not anticipated to increase costs to producers of veterinary biological products.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 117

Animal biologics, Animals.

Accordingly, 9 CFR part 117 is amended as follows:

PART 117—ANIMALS AT LICENSED ESTABLISHMENTS

1. The authority citation for part 117 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 117.4, new paragraphs (d) and (e) are added to read as follows:

§ 117.4 Test animals.

* * * * *

(d) During the course of a test, animals that are injured or show clinical signs of illness or unfavorable reactions that are not due to the test may be removed from the test and treated or humanely destroyed. If sufficient animals do not remain for the test to be evaluated, the test shall be declared inconclusive and may be repeated.

(e) Test animals that show clinical signs of illness that are due to the test may be treated or humanely destroyed if the illness has progressed to a point (defined in the filed Outline of Production) when death is certain to occur without therapeutic intervention. When interpreting the results of the test, the animals that were treated or humanely destroyed because of illness due to the test and the animals that have died from illness due to the test prior to being humanely destroyed shall be combined into a common statistic of mortality due to the test.

Done in Washington, DC, this 14th day of August 1995.

Terry Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–20592 Filed 8–18–95; 8:45 am]

BILLING CODE 3410–34–P

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 94–027F]

RIN 0583–AB84

Transporting Undenatured Poultry Feet to Other Establishments for Processing Prior to Export

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one federally inspected poultry establishment to another establishment for further processing before the feet are exported. Establishments are permitted to ship undenatured poultry feet to another establishment for export provided that the receiving establishment maintains records that identify the incoming undenatured poultry feet, their source, and their location at all times during processing. The receiving establishment is required to certify in writing that the poultry feet have not been, nor will be, commingled with other products intended for human consumption within the United States. This rulemaking was initiated in response to a petition submitted to the Agency by DanD Food Marketing, Inc., Springfield, MO.

EFFECTIVE DATE: September 20, 1995.