

Proposed Rule
LSA Document #10-122**DIGEST**

Amends [345 IAC 9-2-1](#), [345 IAC 9-7-4](#), and [345 IAC 9-7-5](#) to clarify scheduling procedures for state provided inspection. Amends [345 IAC 9-2.1-1](#), [345 IAC 9-21.5-2](#), and [345 IAC 10-2.1-1](#) to update federal regulations incorporated by reference. Adds [345 IAC 9-17-20](#) and [345 IAC 10-14-27](#) concerning quantity of contents labeling and requirements for accurate weights to be consistent with federal requirements. Makes other changes in the law governing the slaughter of livestock and poultry and the processing of meat and poultry products. Repeals [345 IAC 9-7-5](#) and [345 IAC 10-7-4](#). Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[345 IAC 9-2-1](#); [345 IAC 9-2.1-1](#); [345 IAC 9-7-4](#); [345 IAC 9-7-5](#); [345 IAC 9-17-20](#); [345 IAC 9-21.5-2](#); [345 IAC 10-2.1-1](#); [345 IAC 10-7-4](#); [345 IAC 10-14-27](#)

SECTION 1. [345 IAC 9-2-1](#) IS AMENDED TO READ AS FOLLOWS:

[345 IAC 9-2-1 Establishments requiring inspection or a grant of exemption](#)

Authority: [IC 15-17](#)

Affected: [IC 15-17-5-11](#); [IC 15-17-11](#)

Sec. 1. (a) Unless otherwise exempted, a person may not operate an establishment without receiving inspection service by the division. A person desiring to operate an establishment must meet at least one (1) of the following sets of requirements:

(1) A person may operate an official establishment by meeting the requirements of the act and this article for an official establishment, applying to the division for inspection, and receiving a grant of inspection from the division prior to beginning operation. ~~The division shall grant inspection services to an applicant as required under [IC 15-17-5](#) and this article.~~

(2) A person may operate a custom exempt establishment by meeting the requirements of the act and this article for a custom exempt establishment, applying to the division for inspection, and receiving a grant of exemption from inspection from the division prior to beginning operation.

(b) Establishments that must receive a grant of inspection under this section are those establishments that slaughter livestock or process meat, meat byproducts, or meat food products derived from livestock. Processing, for the purpose of this section, includes canning, curing, salting, cooking, smoking, packing, rendering, manufacturing, freezing, drying, and any other similar operation that is conducted on meat.

(c) Establishments conducting activities described in 9 CFR 303.1(a)(2) must receive a grant of exemption under this section.

(d) The division shall inspect the construction, sanitation, and operation of an applicant's establishment according to this article prior to and after granting inspection services or an exemption from inspection services. The division may temporarily or permanently withdraw inspection services or a grant of exemption from an establishment for violations of the act and this article.

(e) A person submitting an application for inspection under this section must include a description of the means by which the establishment will dispose of inedible products. The division shall approve the inedible disposal method if the proposed method complies with the act, this article, and [IC 15-17-11](#).

(f) A person conducting activities that are exempted by [IC 15-17-5-11](#) is not required to apply for and maintain inspection.

(Indiana State Board of Animal Health; Reg HMP-1R,CH A,PT 2, Sec 2.1; filed Feb 11, 1972, 2:00 p.m.: Rules

and Regs. 1973, p. 230; filed May 26, 1978, 3:30 p.m.: 1 IR 103; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1301; filed Oct 30, 2000, 2:06 p.m.: 24 IR 677; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; readopted filed May 9, 2007, 3:16 p.m.: [20070516-IR-345070037RFA](#); errata filed Oct 3, 2008, 3:30 p.m.: [20081022-IR-345080767ACA](#))
NOTE: Transferred from the Indiana State Department of Health ([410 IAC 9-2-1](#)) to the Indiana State Board of Animal Health ([345 IAC 9-2-1](#)) by P.L.137-1996, SECTION 76, effective July 1, 1996.

SECTION 2. [345 IAC 9-2.1-1](#) IS AMENDED TO READ AS FOLLOWS:

[345 IAC 9-2.1-1](#) Incorporation by reference

Authority: [IC 15-17](#)

Affected: [IC 4-21.5-3](#); [IC 15-17-2](#); [IC 15-17-17](#)

Sec. 1. (a) The board adopts as its rule and incorporates by reference the following federal regulations in effect on January 1, 2008: **2010:**

- (1) 9 CFR 301, except the definitions in [IC 15-17-2](#) and [345 IAC 9-1-3](#) shall control over conflicting definitions in 9 CFR.
- (2) 9 CFR 303 through 9 CFR 311, except the following are not incorporated:
 - (A) 9 CFR 303.1(c), 9 CFR 303.1(g), and 9 CFR 303.2.
 - (B) 9 CFR 306.1.
 - (C) 9 CFR 307.4, 9 CFR 307.5, and 9 CFR 307.6.
 - (D) 9 CFR 308.
- (3) 9 CFR 313 through 9 CFR 320, except 9 CFR 317.4 and 9 CFR 317.5.
- (4) 9 CFR 325.
- (5) 9 CFR 416 through 9 CFR 441.
- (6) 9 CFR 500, except the following:
 - (A) References to the Uniform Rules of Practice, 7 CFR Subtitle A, Part 1, Subpart H, shall mean [IC 15-17-17](#) and [IC 4-21.5-3](#).
 - (B) References to adulterated or misbranded product shall refer to products adulterated or misbranded as defined in [IC 15-17-2](#).

(b) When interpreting this article, including all matters incorporated by reference, the following shall apply:

- (1) A reference to any subpart of 9 CFR 302 refers to the corresponding section of [345 IAC 9-2](#).
- (2) A reference to:
 - (A) 9 CFR 307.4 shall refer to [345 IAC 9-7-4](#);
 - (B) 9 CFR 307.5 shall refer to [345 IAC 9-7-6](#); and
 - (C) 9 CFR 307.6 shall refer to [345 IAC 9-7-6](#).
- (3) A reference to any subpart of 9 CFR 312 refers to the corresponding section of [345 IAC 9-12](#).
- (4) A reference to:
 - (A) 9 CFR 316.16 shall refer to [345 IAC 9-16-16](#);
 - (B) 9 CFR 317.4 shall refer to [345 IAC 9-17-4](#);
 - (C) 9 CFR 317.5 shall refer to [345 IAC 9-17-5](#); and
 - (D) 9 CFR 317.16 shall refer to [345 IAC 9-17-16](#).
- (5) A reference to:
 - (A) 9 CFR 321.1 shall refer to [345 IAC 9-20](#); and
 - (B) 9 CFR 321.2 shall refer to [345 IAC 9-20](#).
- (6) A reference to any subpart of 9 CFR 329 shall refer to the corresponding section in [345 IAC 9-22](#).

(c) Where the provisions of this article conflict with matters incorporated by reference, the express provisions of this article shall control.

(Indiana State Board of Animal Health; [345 IAC 9-2.1-1](#); filed Dec 10, 1997, 11:30 a.m.: 21 IR 1301; filed Sep 10, 1999, 9:14 a.m.: 23 IR 14; filed Oct 30, 2000, 2:06 p.m.: 24 IR 678; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Dec 19, 2002, 12:43 p.m.: 26 IR 1540; filed Jul 14, 2004, 9:25 a.m.: 27 IR 3982; filed Jan 5, 2006, 8:00 a.m.: 29 IR 1552; readopted filed May 9, 2007, 3:16 p.m.: [20070516-IR-345070037RFA](#); filed Aug 11, 2008, 3:39 p.m.: [20080910-IR-345080126FRA](#); errata filed Oct 3, 2008, 3:30 p.m.: [20081022-IR-345080767ACA](#))

SECTION 3. [345 IAC 9-7-4](#) IS AMENDED TO READ AS FOLLOWS:

345 IAC 9-7-4 Inspection required; work schedules of establishments

Authority: [IC 15-17](#)

Affected: [IC 15-17-5-12](#)

Sec. 4. (a) No operation requiring inspection under this article may be conducted unless it is conducted under the supervision of a division employee. All slaughtering of animals shall be done:

(1) under the direct supervision of a division employee; and ~~shall be done~~

(2) with reasonable speed, considering the official establishment's facilities.

The division may implement inspection procedures for processing operations that are different than the inspection procedures for slaughter operations. Processing procedures may include procedures that allow for varied frequency of inspection depending on the processing operations conducted.

~~(b) Subject to section 5 of this rule, the division shall provide, without charge, inspection service to official establishments, up to eight (8) consecutive hours per shift during the basic work week. The basic work week shall consist of five (5) consecutive days beginning Monday and ending Friday, eight (8) hours each day not counting the lunch period.~~

~~(e)~~ Each official establishment shall submit a work schedule to the board for approval upon the occurrence of any of the following:

(1) Prior to the inauguration of inspection.

(2) When a change in work schedule is requested.

(3) Upon request by a board employee.

Work schedules must specify for all departments the daily clock hours of inspected and custom exempt operations and must specify lunch periods.

~~(d) (c)~~ The division director shall take into account the efficient and effective use of inspection personnel when approving work schedules. The division director ~~may~~ **will** designate the hours of the day and the days of the week during which inspection will be provided ~~if~~ **when** an establishment conducts operations requiring inspection less than eight (8) hours a day, fewer than five (5) days a week, or ~~otherwise different than a normal five (5) day, eight (8) less than forty (40) hours each day, in a work week.~~ The division director shall consult with the establishments involved when designating work schedules. ~~An approved work schedule must specify daily clock hours of operation and lunch periods for all departments of the establishment requiring inspection.~~

~~(e) (d)~~ Establishments shall maintain consistent work schedules. Any request by an establishment for a change in its work schedule shall be submitted to the board at least two (2) weeks in advance of the proposed change. Frequent requests for change ~~shall~~ **will** not be approved. ~~provided that~~ Minor deviations from a daily operating schedule may be approved by the area supervisor.

~~(f) (e)~~ Request for inspection service outside an approved work schedule shall be made:

(1) as early in the day as possible for overtime work to be performed within that same workday; or

(2) prior to the end of the day's operation when such a request will result in overtime service at the start of the following day.

But, an inspector may be recalled to his **or her** assignment after completion of the daily tour of duty under section 6(d) of this rule.

(f) [IC 15-17-5-12](#) and section 6 of this rule will govern the scheduling of inspection in the following circumstances:

(1) On any Saturday, Sunday, or holiday.

(2) For more than eight (8) hours on any other day.

(3) For more than forty (40) hours any one (1) week.

~~(g) (g)~~ For the purpose of administration of this rule, "few livestock" shall be construed as less than fifty (50) cattle or calves per week or an equivalent number of other species of livestock (two (2) animals of all other species being deemed equivalent to one (1) cattle). In addition, "small quantity of any product" shall be construed as less than seven hundred fifty (750) pounds per day or less than three thousand (3,000) pounds per week of

any one (1) class of product.

(Indiana State Board of Animal Health; Reg HMP-1R, CH A, PT 7, Sec 7.4; filed Feb 11, 1972, 2:00 p.m.: Rules and Regs. 1973, p. 240; filed May 26, 1978, 3:30 p.m.: 1 IR 105; filed Jun 2, 1980, 1:00 p.m.: 3 IR 1270; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1302; errata filed Dec 10, 1997, 3:50 p.m.: 21 IR 1349; filed Oct 30, 2000, 2:06 p.m.: 24 IR 679; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; readopted filed May 9, 2007, 3:16 p.m.: [20070516-IR-345070037RFA](#)) NOTE: Transferred from the Indiana State Department of Health ([410 IAC 9-7-4](#)) to the Indiana State Board of Animal Health ([345 IAC 9-7-4](#)) by P.L. 137-1996, SECTION 76, effective July 1, 1996.

SECTION 4. [345 IAC 9-17-20](#) IS ADDED TO READ AS FOLLOWS:

[345 IAC 9-17-20](#) Incorporation by reference; quantity of contents labeling and procedures and requirements for accurate weights

Authority: [IC 15-17](#)

Affected: [IC 15-17](#)

Sec. 20. (a) All scales used to determine the net weight of meat and poultry products sold or otherwise distributed in commerce in establishments must meet all of the following requirements:

- (1) The scales must be installed, maintained, and operated in a manner that ensures accurate weights.**
- (2) The scales must meet the applicable requirements contained in the matters incorporated by reference in [410 IAC 12-1-1.1](#).**
- (3) The scales must have the capacity to weigh the entire unit or package.**

(b) No person may use a scale in an establishment to determine the net weight of meat or poultry products unless it has been found upon test and inspection to provide accurate weight. The operator of each establishment must cause their scales to be tested for accuracy in accordance with the standards in subsection (a)(2) at least once each year. The board may order more frequent tests when scales are found not to maintain accuracy between tests.

(c) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a state or federal official or a state registered or licensed scale repair firm or person. The state veterinarian may approve alternative documented procedures showing that the scale has been tested for accuracy in accordance with the requirements in subsection (a)(2).

(d) If:

- (1) a scale is inspected or tested and found to be inaccurate; or**
- (2) any repairs, adjustments, or replacements are made to the scale;**

it may not be used until it has been reinspected and retested by a state or federal weights and measures official, or a state registered or licensed scale repair firm or person. All tests, inspections, repairs, adjustments, and replacements must be performed in accordance with the standards described in subsection (a).

(e) A board inspector may place a "retain" tag on a scale that does not meet the requirements of this section. A board inspector is the only person that may remove such a tag. A scale that has been tagged may not be used as long as the tag is on the scale.

(f) A product lot that is found to be out of compliance with net weight requirements upon testing in accordance with the methods prescribed in this section shall be handled as follows:

- (1) A lot tested in an official establishment and found not to comply with the net weight requirements may be reprocessed and must be reweighed and remarked in accordance with the requirements of this section.**
- (2) A lot tested outside of an official establishment and found not to comply with net weight requirements must be reweighed and remarked with a proper net weight statement. Such reweighing and remarking may not deface, cover, or destroy any other marking or labeling required under this article. The net quantity of contents must be shown with the same prominence as the most conspicuous feature of a label.**

(Indiana State Board of Animal Health; [345 IAC 9-17-20](#))

SECTION 5. [345 IAC 9-21.5-2](#) IS AMENDED TO READ AS FOLLOWS:

[345 IAC 9-21.5-2](#) General provisions and incorporation by reference

Authority: [IC 15-17](#)

Affected: [IC 15-17-5](#); [IC 15-17-17](#)

Sec. 2. (a) The board adopts as its rule and incorporates by reference the regulations in 9 CFR Part 354 in effect on January 1, 2005: **2010**.

(b) The following revisions, exclusions, and limitations apply to the regulations adopted by reference in subsection (a):

- (1) The term "department" shall mean and refer to the board.
- (2) 9 CFR 354.45(b) is not incorporated by reference. The state veterinarian shall follow the notice provisions in [IC 15-17-17](#) when suspending or denying services under this rule.
- (3) 9 CFR 354.100 through 9 CFR 354.110 are not incorporated. The state veterinarian shall follow the procedures in [IC 15-17-5](#) and other state laws when assessing and collecting fees and charges.
- (4) The marks, devices, and certificates in [345 IAC 9-12](#) shall be the official marks, devices, and certificates for the purposes of the inspection program authorized in section 1 of this rule. The state veterinarian may authorize, after consultation with the United States Department of Agriculture, use of the marks described in 9 CFR 354.63 and 9 CFR 354.65.
- (5) 9 CFR Part 416 and 9 CFR Part 417 apply to establishments participating in the inspection program established under section 1 of this rule.

(Indiana State Board of Animal Health; [345 IAC 9-21.5-2](#); filed Jan 5, 2006, 8:00 a.m.: 29 IR 1554; readopted filed May 9, 2007, 3:16 p.m.: [20070516-IR-345070037RFA](#); errata filed Oct 3, 2008, 3:30 p.m.: [20081022-IR-345080767ACA](#))

SECTION 6. [345 IAC 10-2.1-1](#) IS AMENDED TO READ AS FOLLOWS:

[345 IAC 10-2.1-1](#) Incorporation by reference; poultry products inspection

Authority: [IC 15-17](#)

Affected: [IC 4-21.5-3](#); [IC 15-17](#)

Sec. 1. (a) The board adopts as its rule and incorporates by reference the following federal regulations in effect on January 1, 2008: **2010**:

- (1) 9 CFR Part 362 with the following amendments and additions:
 - (A) 9 CFR 362.4(a)(2), 9 CFR 362.4(b)(2), 9 CFR 362.4(c), 9 CFR 362.4(d), and 9 CFR 362.5 are not incorporated.
 - (B) Fees for voluntary inspection service shall be charged in accordance with [IC 15-17-5-12](#).
 - (C) The state veterinarian may refuse to provide or withdraw voluntary inspection service for administrative reasons, including nonavailability of personnel and failure to pay for service.
- (2) 9 CFR 381.1, except the definitions in [IC 15-17](#) and [345 IAC 10-1-1](#) shall control over conflicting definitions in 9 CFR.
- (3) 9 CFR 381.10 with the following amendments and additions:
 - (A) 9 CFR 381.10(d)(2)(i) shall be amended by deleting the word "unless" and the remaining part of the sentence that follows that word.
 - (B) A person operating a facility engaged in exempt operations described in 9 CFR 381.10(a)(4) through 9 CFR 381.10(a)(7) and 9 CFR 381.10(b) through 9 CFR 381.10(c) shall comply with the registration and record keeping requirements in 9 CFR 381.175 through 9 CFR 381.182.
- (4) 9 CFR 381.11 through 9 CFR 381.95, except the following are not incorporated:
 - (A) 9 CFR 381.36.
 - (B) 9 CFR 381.37.
 - (C) 9 CFR 381.38.

- (D) 9 CFR 381.39.
- (5) 9 CFR 381.115 through 9 CFR 381.182, except the following are not incorporated:
 - (A) 9 CFR 381.132.
 - (B) 9 CFR 381.133.
- (6) 9 CFR 381.189 through 9 CFR 381.194.
- (7) 9 CFR 381.300 through 9 CFR 381.500.
- (8) 9 CFR 416 through 9 CFR 441.
- (9) 9 CFR 500, except the following:
 - (A) References to Uniform Rules of Practice, 7 CFR Subtitle A, Part 1, Subpart H shall mean [IC 15-17-17](#) and [IC 4-21.5-3](#).
 - (B) References to adulterated or misbranded product shall refer to products adulterated or misbranded as defined in [IC 15-17-2](#).

(b) When interpreting this article, including all matters incorporated by reference, the following shall apply:

- (1) References to 9 CFR 381.3 through 9 CFR 381.7 refer to the corresponding section in [345 IAC 10-2](#).
- (2) References to:
 - (A) 9 CFR 381.36 refer to [345 IAC 10-7-1](#);
 - (B) 9 CFR 381.37 refer to [345 IAC 10-7-2](#) and [345 IAC 10-7-3](#); and
 - (C) 9 CFR 381.38 and 9 CFR 381.39 refer to [345 IAC 10-7-4](#).
- (3) References to:
 - (A) 9 CFR 381.96 refer to [345 IAC 10-13-1](#);
 - (B) 9 CFR 381.98 refer to [345 IAC 10-13-2](#);
 - (C) 9 CFR 381.99 refer to [345 IAC 10-13-3](#);
 - (D) 9 CFR 381.100 refer to [345 IAC 10-13-4](#);
 - (E) 9 CFR 381.101 refer to [345 IAC 10-13-5](#);
 - (F) 9 CFR 381.103 refer to [345 IAC 10-13-6](#);
 - (G) 9 CFR 381.110 refer to [345 IAC 10-13-7](#); and
 - (H) 9 CFR 381.111 refer to [345 IAC 10-13-8](#).
- (4) References to 9 CFR 381.131, 9 CFR 381.132, and 9 CFR 381.133 refer to [345 IAC 10-14-18](#) and [345 IAC 10-14-20](#).
- (5) References to:
 - (A) 9 CFR 381.185 refer to [345 IAC 10-18-1](#); and
 - (B) 9 CFR 381.186 refer to [345 IAC 10-18-2](#).
- (6) References to 9 CFR 381.210 through 9 CFR 381.218 refer to the corresponding section of [345 IAC 10-20](#).

(c) Where the provisions of this article conflict with matters incorporated by reference, the express provisions of this article shall control.

(Indiana State Board of Animal Health; [345 IAC 10-2.1-1](#); filed Dec 10, 1997, 11:30 a.m.: 21 IR 1319; errata filed Mar 9, 1998, 9:30 a.m.: 21 IR 2393; filed Sep 10, 1999, 9:14 a.m.: 23 IR 16; filed Oct 30, 2000, 2:06 p.m.: 24 IR 685; errata filed Apr 9, 2001, 12:52 p.m.: 24 IR 2470; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895; filed Dec 19, 2002, 12:43 p.m.: 26 IR 1541; filed Dec 16, 2004, 1:30 p.m.: 28 IR 1474; filed Jan 5, 2006, 8:00 a.m.: 29 IR 1554; readopted filed May 9, 2007, 3:16 p.m.: [20070516-IR-345070037RFA](#); filed Aug 11, 2008, 3:39 p.m.: [20080910-IR-345080126FRA](#); errata filed Oct 3, 2008, 3:30 p.m.: [20081022-IR-345080767ACA](#))

SECTION 7. [345 IAC 10-14-27](#) IS ADDED TO READ AS FOLLOWS:

[345 IAC 10-14-27](#) Incorporation by reference; quantity of contents labeling and procedures and requirements for accurate weights

Authority: [IC 15-17](#)

Affected: [IC 15-17](#)

Sec. 27. The provisions of [345 IAC 9-17-20](#) apply to poultry establishments.

(Indiana State Board of Animal Health; [345 IAC 10-14-27](#))

SECTION 8. THE FOLLOWING ARE REPEALED: [345 IAC 9-7-5](#); [345 IAC 10-7-4](#).

Posted: 08/18/2010 by Legislative Services Agency
An [html](#) version of this document.