

**Document:** Proposed Rule, **Register Page Number:** 27 IR 2328

**Source:** April 1, 2004, Indiana Register, Volume 27, Number 7

**Disclaimer:** This document was created from the files used to produce the official CD-ROM Indiana Register.

**TITLE 345 INDIANA STATE BOARD OF  
ANIMAL HEALTH**

**Proposed Rule**  
LSA Document #04-15

DIGEST

Amends 345 IAC 7-3.5-16 concerning nonambulatory animals at livestock markets. Amends 345 IAC 9-2.1-1 to update matters incorporated by reference including rules related to the control of bovine spongiform encephalopathy (BSE). Adds 345 IAC 9-10.5-2 detailing required procedures for handling carcasses and parts of animals tested for BSE. Makes other changes in the law of meat and poultry inspection and animal disease control. Effective 30 days after filing with the secretary of state.

**345 IAC 7-3.5-16**

**345 IAC 9-2.1-1**

**345 IAC 9-10.5-2**

SECTION 1. 345 IAC 7-3.5-16 IS AMENDED TO READ AS FOLLOWS:

**345 IAC 7-3.5-16 Care and handling; nonambulatory livestock**

**Authority:** IC 15-2.1-3-19

**Affected:** IC 15-2.1-3-13; IC 15-2.1-14; IC 15-2.1-15

Sec. 16. (a) All persons licensed to operate a market facility in Indiana shall maintain the following minimum standards of care:  
(1) Livestock housed at a market facility for more than twenty-four (24) hours from the time of receipt at the facility must have access to feed and water.

(2) Any person using implements to drive animals, such as electric prods, canes, whips, paddles, or canvas straps, must use such implements only to the extent reasonably necessary to handle or move livestock.

(b) Market facilities in Indiana may not accept delivery of nonambulatory livestock. Market facilities in Indiana may unload nonambulatory livestock for the purpose of euthanizing the livestock at the market facility. Market facilities must have written policies, procedures, and equipment in place to handle animals that become nonambulatory after delivery to the market facility. Livestock that becomes nonambulatory after arriving at a market facility must be disposed of within twenty-four (24) hours of discovering or receiving notice of the animal's condition.

(c) The board recommends that livestock that becomes nonambulatory on the farm or en route to a market facility be treated or disposed of by the owner in the following manner:

(1) Delivery directly to a recognized slaughtering establishment by the owner or the owner's agent.

(2) Slaughter on the farm in compliance with the Meat and Poultry Inspection, Humane Slaughter Act.

(3) Euthanasia.

*(Indiana State Board of Animal Health; 345 IAC 7-3.5-16; filed Nov 20, 1997, 2:45 p.m.: 21 IR 1292; errata filed Mar 23, 1998, 10:05 a.m.: 21 IR 2990; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895)*

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 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7

**Affected:** IC 4-21.5-3; IC 15-2.1-2; IC 15-2.1-19; IC 15-2.1-24

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

~~2002:~~ **2004 and as amended in 69 FR 1862 through 69 FR 1891, January 12, 2004:**

- (1) 9 CFR 301, except the definitions in IC 15-2.1 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.
  - (6) 9 CFR 417.
  - (7) 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 15-2.1-19 and IC 4-21.5-3.
    - (B) References to adulterated or misbranded product shall refer to products adulterated or misbranded as defined in ~~IC 15-2.1-24~~ **IC 15-2.1-2**.
- (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*)

SECTION 3. 345 IAC 9-10.5-2 IS ADDED TO READ AS FOLLOWS:

**345 IAC 9-10.5-2 Animals tested for bovine spongiform encephalopathy**

**Authority:** IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7

**Affected:** IC 15-2.1-24

**Sec. 2. The following apply to the carcass and parts of carcasses of an animal that is tested for bovine spongiform encephalopathy (BSE):**

**(1) In an official establishment, carcass and parts thereof shall be retained until such time as the BSE test results are received and a board representative releases the carcass and parts. If the animal tests negative for BSE, the carcass and parts thereof may be passed if the carcass and parts otherwise qualify to be passed. If the animal tests positive for BSE, the carcasses and parts shall be condemned as adulterated and held for disposition in a manner approved by the state veterinarian.**

**(2) In a custom exempt establishment, carcass and parts thereof shall be retained until such time as the BSE test results are received and a board representative releases the carcass and parts. If the animal tests negative for BSE, the carcass and parts may be released. If the animal tests positive for BSE, the carcasses and parts shall be condemned as adulterated**

**and held for disposition in a manner approved by the state veterinarian.**  
(Indiana State Board of Animal Health; 345 IAC 9-10.5-2)

***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on April 22, 2004 at 9:40 a.m., at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50, Indianapolis, Indiana the Indiana State Board of Animal Health will hold a public hearing on proposed amendments to 345 IAC 7-3.5-16 concerning nonambulatory animals at livestock markets; 345 IAC 9-2.1-1 to update matters incorporated by reference including rules related to the control of bovine spongiform encephalopathy (BSE); the addition of 345 IAC 9-10.5-2 detailing required procedures for handling carcasses and parts of animals tested for BSE; and other changes in the law of meat and poultry inspection and animal disease control. Copies of these rules are now on file at the Indiana State Board of Animal Health, 805 Beachway Drive, Suite 50 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Bret D. Marsh, D.V.M.  
Indiana State Veterinarian  
Indiana State Board of Animal Health