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

Proposed Rule
LSA Document #05-70

DIGEST

Amends 345 IAC 9-2.1-1 to update matters incorporated by reference governing the slaughter and processing of livestock and poultry. Amends 345 IAC 9-12-2 concerning inspected and passed products. Amends 345 IAC 9-20-2 and adds 345 IAC 9-21.5 to authorize a voluntary inspection program for the slaughter of domesticated rabbits and the processing of rabbit products for human consumption. Amends 345 IAC 10-2.1-1 to update matters incorporated by reference governing the slaughter and processing of livestock and poultry. Effective 30 days after filing with the Secretary of State.

345 IAC 9-2.1-1 **345 IAC 9-21.5**
345 IAC 9-12-2 **345 IAC 10-2.1-1**
345 IAC 9-20-2

SECTION 1. 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

Sec. 1. (a) The board adopts as its rule and incorporates by reference the following federal regulations in effect on January 1, ~~2004~~ and as amended in ~~69 FR 1862 through 69 FR 1891, January 12, 2004;~~ **2005:**

- (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 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 15-2.1-19 and IC 4-21.5-3.
 - (B) References to adulterated or misbranded product shall refer to products adulterated or misbranded as defined in IC 15-2.1-2.

(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*)

SECTION 2. 345 IAC 9-12-2 IS AMENDED TO READ AS FOLLOWS:

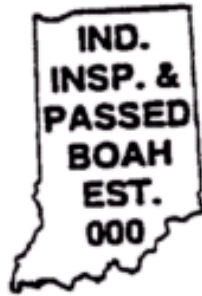
345 IAC 9-12-2 Inspected and passed products; official marks
Authority: IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7
Affected: IC 15-2.1-24

Sec. 2. (a) The official inspection legend required by 9 CFR 316 to be applied to inspected and passed carcasses and parts of carcasses of cattle, sheep, swine, ~~and~~ goats, **and rabbits**, meat food products in animal casings, and other products as approved by the board, shall be in the form of an outline of the state of Indiana with the words "IND. INSP. & PASSED BOAH EST. 000" inside the outline, as specified and depicted in this subsection, substituting the assigned establishment number where the number "000" is used. But, legend markers that were in use ~~prior to~~ **before** July 1, 1996, may contain "St. B. of H" followed by "Est. 000", and the establishment number may be placed elsewhere on a label as allowed under 9 CFR 317.2. **The official inspection legend described in this subsection is depicted in subdivision (2).** Each mark must be ~~the a~~ size specified in ~~this subsection~~, **the following subdivisions** but may vary by one-sixteenth ($\frac{1}{16}$) of an inch, plus or minus, in either direction: ~~The following marks must be used:~~

- (1) For applications to:
 - (A) sheep, calf, ~~and~~ goat, **and rabbit** carcasses;
 - (B) the loins and ribs of pork;
 - (C) beef tails; and
 - (D) all varieties of sausage and meat food products in animal casings;
 a mark that is **either** one and one-eighth ($1\frac{1}{8}$) inches tall by five-eighths ($\frac{5}{8}$) inches wide **or the following is a picture of the mark: size indicated in subdivision (2).**



- (2) For applications to:
 - (A) cattle, swine, equine, cervid, and carcasses, primal parts, and cuts therefrom;
 - (B) beef livers;
 - (C) beef tongues;
 - (D) beef hearts;
 - (E) smoked meats not in casings; and ~~for applications to~~
 - (F) burlap, muslin, cheesecloth, heavy paper, or other acceptable material that encloses carcasses or parts of carcasses;
 a mark that is one and fifteen-sixteenths ($1\frac{15}{16}$) inches tall by one and one-eighth ($1\frac{1}{8}$) inches wide. The following is a picture of the mark:



(b) The official inspection legend required by 9 CFR to be shown on all labels for inspected and passed products of livestock shall be in the form described and illustrated in subsection (a), except that it need not be of the size specified or illustrated, provided that it is proportionate to the size of the label, and a sufficient size and of such color as to be conspicuously displayed and readily legible and the same proportions of letter size and boldness are maintained as illustrated. This official mark shall be applied by mechanical means and shall not be applied by a hand stamp.

(c) The official inspection legend described in subsection (a) may also be used for purposes of 9 CFR 316 on shipping containers, band labels, artificial casings, and other articles with the approval of the secretary.

(d) Any brand, stamp, label, or other device approved by the board and bearing any official mark prescribed in this section shall be an official device for purposes of the act. (*Indiana State Board of Animal Health; Reg HMP-IR, CH A, PT 12, Sec 12.2; filed Feb 11, 1972, 2:00 p.m.: Rules and Regs. 1973, p. 276; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1305; errata filed Mar 9, 1998, 9:30 a.m.: 21 IR 2392; filed Oct 30, 2000, 2:06 p.m.: 24 IR 682; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895*) NOTE: Transferred from the Indiana State Department of Health (410 IAC 9-12-2) to the Indiana State Board of Animal Health (345 IAC 9-12-2) by P.L.138-1996, SECTION 76, effective July 1, 1996.

SECTION 3. 345 IAC 9-20-2 IS AMENDED TO READ AS FOLLOWS:

345 IAC 9-20-2 Federal-state program

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. (a) At the discretion of the state veterinarian, state employees may be assigned to plants granted federal inspection under the "Talmadge-Aiken Act" (7 U.S.C. 450) and receive any funds available from the United States government for the carrying out such required functions at plants granted federal meat inspection. The cooperative program under this section is called a federal-state program.

(b) **The state veterinarian may authorize board employees to become licensed or otherwise approved by the United States Department of Agriculture to conduct inspection activities under federal meat inspection regulations and federal programs, including the voluntary rabbit inspection program under 9 CFR Part 354.** (*Indiana State Board of Animal Health; Reg HMP-IR, CH A, PT 21, Sec 21.2; filed Feb 11, 1972, 2:00 p.m.: Rules and Regs. 1973, p. 364; filed Dec 10, 1997, 11:30 a.m.: 21 IR 1313; readopted filed May 2, 2001, 1:45 p.m.: 24 IR 2895*) NOTE: Parts 22, 23 and 24 reserved by agency. NOTE: Transferred from the Indiana State Department of Health (410 IAC 9-20-2) to the Indiana State Board of Animal Health (345 IAC 9-20-2) by P.L.138-1996, SECTION 76, effective July 1, 1996.

SECTION 4. 345 IAC 9-21.5 IS ADDED TO READ AS FOLLOWS:

Rule 21.5. Inspection of Rabbits and Rabbit Products

345 IAC 9-21.5-1 Voluntary rabbit inspection

Authority: IC 15-2.1-3-19; IC 15-2.1-3-18; IC 15-2.1-24-6; IC 15-2.1-24-7

Affected: IC 15-2.1-3-13; IC 15-2.1-24

Sec. 1. (a) The state veterinarian may do the following:

(1) Establish a voluntary inspection program for the slaughter of domesticated rabbits and the processing of rabbit products under 9 CFR Part 354.

(2) Refuse to provide inspection under this rule if doing so would likely result in personnel or other resource limitations that would inhibit providing mandatory inspection services or carrying out other provisions of the Act governing livestock or poultry.

(Indiana State Board of Animal Health; 345 IAC 9-21.5-1)

345 IAC 9-21.5-2 General provisions and incorporation by reference

Authority: IC 15-2.1-3-19; IC 15-2.1-3-18; IC 15-2.1-24-6; IC 15-2.1-24-7

Affected: IC 15-2.1-3-13; IC 15-2.1-24

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.

(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 15-2.1-19 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 15-2.1-24 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)

345 IAC 9-21.5-3 Fees

Authority: IC 15-2.1-3-18; IC 15-2.1-3-19; IC 15-2.1-24-6; IC 15-2.1-24-7

Affected: IC 15-2.1-3-13; IC 15-2.1-24-14; IC 15-2.1-24-17

Sec. 3. The state veterinarian shall charge an hourly fee for inspection service provided under this rule. The fee may not be more than the hourly fee charged for comparable voluntary inspection services by the United States Department of Agriculture. The state veterinarian shall establish overtime fees for services that qualify as overtime under IC 15-2.1-24-14.

(Indiana State Board of Animal Health; 345 IAC 9-21.5-3)

SECTION 5. 345 IAC 10-2.1-1, AS AMENDED AT 28 IR 1474, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

345 IAC 10-2.1-1 Incorporation by reference; poultry products inspection

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 15-2.1-24-14

Sec. 1. (a) The board adopts as its rule and incorporates by reference the following federal regulations in effect on January 1, ~~2004~~, 2005, relating to poultry products inspection:

(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 15-2.1-24-14(c).

(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 15-2.1 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.

~~(E) 9 CFR 381.45 through 9 CFR 381.61.~~

(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 15-2.1-19 and IC 4-21.5-3.
- (B) References to adulterated or misbranded product shall refer to products adulterated or misbranded as defined in IC 15-2.1-2.

(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*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on October 13, 2005 at 9:50 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 rules that update matters incorporated by reference governing the slaughter and processing of livestock and poultry and to authorize a voluntary inspection program for the slaughter of domesticated rabbits and the processing of rabbit products for human consumption.

The Board of Animal Health is required by state and federal law to maintain meat and poultry inspection rules that are at least equal to the standards in the federal Meat Inspection Act (21 U.S.C. 601 et. seq.) and the federal Poultry Products Inspection Act (21 U.S.C. 451 et. seq.). IC 15-2.1-24 and 21 U.S.C. 661(a)(1). The proposed rule changes are required to maintain equal to status.

The rabbit inspection program is a voluntary program that will use federal standards and is being implemented at the request of small businesses.

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