

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

Proposed Rule
LSA Document #05-121

DIGEST

Adds 345 IAC 1-7 to prescribe procedures for condemnation, indemnity, and disposition of animals and objects, euthanasia of animals and destruction of objects, and cleaning and disinfecting to prevent, detect, control, and eradicate diseases and pests of animals. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to This Rule:

The rule will affect persons that own animals or objects that are implicated in an animal disease outbreak. The number of businesses affected will vary greatly, ranging from zero in many years to hundreds or thousands in the event of a widespread disease outbreak. The number affected is directly dependent on unpredictable disease outbreaks and further on the nature of a particular disease at issue.

Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Imposed on Small Businesses:

The proposed changes do not impose any new annual reporting, record keeping, or other administrative costs.

Estimated Total Annual Economic Impact on Small Businesses:

In the event of an animal disease outbreak, small businesses will be impacted by any order from the Board of Animal Health (BOAH) to condemn animals or objects as authorized by state statute. The proposed rules are procedural rules implementing the condemnation and indemnity statutes. In most years, the annual economic impact on small businesses from condemnation and indemnity will be negligible. In the relatively rare event of a widespread outbreak of a significant animal disease, the economic impact on small businesses may be significant depending on the nature of the disease and its spread.

Justification for Costs:

State statute requires BOAH to pay indemnity in accordance with rules adopted by the Board. IC 15-2.1-18-14.

Regulatory Flexibility Analysis:

The proposed rule incorporates the alternative methods the agency determined to be less costly or less intrusive to small businesses while still meeting statutory requirements.

Supporting Data, Studies, or Analyses:

The Board did not rely on any studies in reaching the conclusions in this economic impact statement.

345 IAC 1-7

SECTION 1. 345 IAC 1-7 IS ADDED TO READ AS FOLLOWS:

Rule 7. Acquisition and Disposition of Animals and Objects

345 IAC 1-7-1 Definitions; applicability

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-2; IC 15-2.1-3

Sec. 1. The definitions in IC 15-2.1-2 and this rule apply throughout this rule. (*Indiana State Board of Animal Health; 345 IAC 1-7-1*)

345 IAC 1-7-2 "Board" defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3

Sec. 2. “Board” means the Indiana state board of animal health appointed under IC 15-2.1-3. *(Indiana State Board of Animal Health; 345 IAC 1-7-2)*

345 IAC 1-7-3 “Object” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3; IC 15-2.1-18

Sec. 3. “Object” means the following:

- (1) Any pest or disease.**
- (2) A material or tangible thing that could harbor a pest or disease.**

(Indiana State Board of Animal Health; 345 IAC 1-7-3)

345 IAC 1-7-4 “Payment limit” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3; IC 15-2.1-18

Sec. 4. “Payment limit” means a limit prescribed by law on the amount of money a person may receive for indemnity for destruction of an animal or object. *(Indiana State Board of Animal Health; 345 IAC 1-7-4)*

345 IAC 1-7-5 “Pest” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-2; IC 15-2.1-3

Sec. 5. “Pest” means any of the following that can directly or indirectly injure, cause damage to, or cause disease in animals:

- (1) A protozoan.**
- (2) A plant.**
- (3) A bacteria.**
- (4) A fungus.**
- (5) A virus or viroid.**
- (6) An infectious agent or other pathogen.**
- (7) An arthropod.**
- (8) A parasite.**
- (9) A prion.**
- (10) A vector.**
- (11) Any organism similar to or allied with any of the organisms described in this section.**

(Indiana State Board of Animal Health; 345 IAC 1-7-5)

345 IAC 1-7-6 “State veterinarian” defined

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-2; IC 15-2.1-4

Sec. 6. “State veterinarian” means the following:

- (1) The state veterinarian appointed under IC 15-2.1-4.**
- (2) The state veterinarian’s authorized representatives.**

(Indiana State Board of Animal Health; 345 IAC 1-7-6)

345 IAC 1-7-7 Condemnation

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3; IC 15-2.1-18

Sec. 7. The state veterinarian may order any animal or object condemned in order to do the following:

- (1) Protect the citizens and animals of the state from diseases and pests.**
- (2) Maintain or improve the state’s disease status as recognized by any of the following:**
 - (A) Another state.**
 - (B) The United States Department of Agriculture or other federal agency or entity.**

(C) A foreign country.

(D) The Office International des Epizooties (OIE) or other international standard-setting bodies.

(Indiana State Board of Animal Health; 345 IAC 1-7-7)

345 IAC 1-7-8 Indemnity

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-18-15; IC 15-2.1-18-16; IC 15-2.1-19

Sec. 8. (a) Except as provided in IC 15-2.1-18-15 and subject to any other limits imposed by law, the board will indemnify owners of animals or objects condemned by the board according to this section. The following apply:

- (1) If another provision of IC 15-2.1 or this title provides a specific procedure for indemnification for certain animals or objects, the more specific provisions shall control.
- (2) If indemnity is paid by the federal government, the indemnity procedures prescribed by the federal government may be used instead of the procedures in this rule.

(b) The state veterinarian shall determine an appraised value for all condemned animals and objects. For purposes of IC 15-2.1-18-16 and this rule, "satisfactory appraisal" means a value determined by the state veterinarian to be a fair estimate of the condemned animal's or object's fair market value. The state veterinarian may consider the following when determining appraised value:

- (1) The owner's purchase price for the condemned animal or object.
- (2) The sales price of similar animals or objects sold on the open market.
- (3) The animal's market value as the following:
 - (A) A food animal.
 - (B) A breeding animal.
- (4) The salvage value of the animal or object.
- (5) The value according to the following:
 - (A) Published catalogues.
 - (B) Market reports.
 - (C) Other formal and informal market surveys.
- (6) Any other relevant information.

The state veterinarian may survey, hire, or consult with and may rely on the opinion of independent appraisers, experts, and other knowledgeable persons when determining the value of animals and objects.

(c) The state veterinarian must notify the owner of the state veterinarian's determination of appraised value. The procedures in IC 15-2.1-19 shall control the following:

- (1) The notification process.
- (2) The owner's opportunity to appeal the state veterinarian's determination.

(d) The board will pay an owner of condemned animals and objects the lesser of the following amounts:

- (1) The appraised value determined under this rule minus any amounts received by the owner for the condemned animal or object from the following:
 - (A) Insurance proceeds.
 - (B) Indemnity from the federal government.
 - (C) Any other source.
- (2) The applicable payment limit, if any.

The state veterinarian shall keep a record of indemnity paid.

(e) The owner of condemned animals or objects must report to the board any money received for the condemned animal or object from any source other than the state immediately upon receipt of the money. *(Indiana State Board of Animal Health; 345 IAC 1-7-8)*

345 IAC 1-7-9 Acquisition of animals and objects by voluntary sale

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-18-16.5

Sec. 9. The state veterinarian may do the following:

(1) Purchase any animal or object for the purpose of:

- (A) preventing;**
- (B) detecting;**
- (C) controlling; and**
- (D) eradicating;**

diseases and pests of animals.

(2) Negotiate and pay a fair value for any animal or object purchased.

The state veterinarian shall keep a record of all animals and objects purchased. (*Indiana State Board of Animal Health; 345 IAC 1-7-9*)

345 IAC 1-7-10 Euthanasia and disposal

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-16; IC 15-2.1-18

Sec. 10. (a) When the board or its agents condemn an animal, the state veterinarian may prescribe the means by which the animal shall be euthanized. If the state veterinarian prescribes a method of euthanasia, the method shall be one that is reasonably humane while allowing for efficient accomplishment of disease control objectives under the prevailing circumstances.

(b) When the board or its agent condemns an object, the state veterinarian may prescribe the means by which the object is destroyed. If the state veterinarian prescribes a method of destruction, the method shall be one that allows for efficient accomplishment of disease control objectives under the prevailing circumstances.

(c) The state veterinarian may order any animal or object disposed of in a particular manner in order to prevent, detect, control, eradicate, or otherwise protect the citizens and animals of the state from diseases and pests of animals. In an order issued under this section, the state veterinarian may:

- (1) restrict the use of disposal methods prescribed in IC 15-2.1-16 and 345 IAC 7-7; or**
- (2) prescribe new or alternative methods of disposal.**

(d) Subject to state laws governing procurement, the state veterinarian may contract with:

- (1) private veterinarians;**
- (2) renderers; and**
- (3) any other qualified person;**

for euthanasia, destruction, and disposal services. (*Indiana State Board of Animal Health; 345 IAC 1-7-10*)

345 IAC 1-7-11 Cleaning and disinfecting

Authority: IC 15-2.1-3-19

Affected: IC 15-2.1-3-13; IC 15-2.1-15-7; IC 15-2.1-16-18

Sec. 11. The state veterinarian may do the following:

(1) Order the cleaning and disinfecting of any:

- (A) premises;**
- (B) building; or**
- (C) other:**
 - (i) structure;**
 - (ii) conveyance;**
 - (iii) equipment; or**
 - (iv) object;**

using procedures approved by the state veterinarian in order to prevent, detect, control, and eradicate diseases and pests of animals.

(2) Subject to state laws governing procurement, contract with qualified persons for cleaning and disinfecting services.

(*Indiana State Board of Animal Health; 345 IAC 1-7-11*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 19, 2006 at 9:45 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 a proposed new rule to prescribe procedures for condemnation, indemnity, and disposition of animals and objects, euthanasia of animals and destruction of objects, and cleaning and disinfecting to prevent, detect, control, and eradicate diseases and pests of animals.

The proposed changes are a result of requirements imposed by state statute, IC 15-2.1-18-14. The Board did not rely on any data, studies, or analyses in reaching this conclusion.

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.

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Indiana State Veterinarian
Indiana State Board of Animal Health