

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 1

[Docket No. 05–057–1]

#### Rules of Practice for Certain Adjudicatory Proceedings; Commercial Transportation of Equines for Slaughter

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the administrative regulations of the Office of the Secretary of Agriculture to provide that the rules of practice contained in those administrative regulations shall be applicable to adjudicatory proceedings under the Animal and Plant Health Inspection Service's regulations pertaining to the commercial transportation of equines to slaughtering facilities. This final rule is necessary to clarify the rules of practice that will apply to the adjudication of a violation of regulations pertaining to the commercial transportation of equines to slaughtering facilities.

**DATES:** Effective August 12, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve O'Neill, Assistant Chief, Regulatory Analysis and Development, PPH, APHIS, 4700 River Road Unit 118, Riverdale, MD 20737–1238; (301) 734–8682.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note) authorize the Secretary of Agriculture to issue guidelines for the regulation of commercial transportation of equines for slaughter by persons regularly engaged in that activity within the United States. To fulfill this

responsibility, the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture established regulations in title 9, part 88, of the Code of Federal Regulations.

The purpose of the regulations in 9 CFR part 88, “Commercial Transportation of Equines for Slaughter,” is to establish minimum standards to ensure the humane movement of equines to slaughtering facilities via commercial transportation. As directed by Congress, the regulations cover, among other things, the food, water, and rest provided to such equines prior to their being loaded for transportation, the condition of the conveyance in which they are transported, and the responsibilities of the owner/shipper of the equines upon arrival at the slaughtering plant. The regulations also require the owner/shipper of the equines to take certain actions in loading and transporting the equines to ensure that the equines are transported safely and humanely and require that the owner/shipper of the equines prepare and maintain paperwork certifying that the commercial transportation meets certain requirements. In addition, the regulations prohibit the use of electric prods on equines in commercial transportation to slaughter, and, after December 7, 2006, the use of double-deck trailers for commercial transportation of equines to slaughtering facilities.

In its final rule establishing the regulations in 9 CFR part 88 (see 66 FR 63588–63617), APHIS also amended its regulations in 9 CFR part 70, “Rules of Practice Governing Proceedings under Certain Acts,” to indicate that the uniform rules of practice for the Department of Agriculture promulgated in 7 CFR part 1, subpart II, would be applicable to adjudicatory, administrative proceedings under the equines for slaughter regulations.

Although the APHIS regulations were amended to indicate the applicability of those rules of practice, a corresponding amendment was not made in the administrative regulations of the Office of the Secretary in 7 CFR part 1, subpart II, “Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes” (7 CFR 1.130 through 1.151). Therefore, in this final rule we are attending § 1.131, “Scope and applicability of this

subpart,” to provide that the rules of practice contained in subpart II shall be applicable to adjudicatory proceedings under the regulations in 9 CFR part 88 pertaining to the commercial transportation of equines to slaughtering facilities.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive Orders 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

#### Paperwork Reduction Act

This rule contains no information collections or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of Information, Lawyers, Privacy.

■ Accordingly, we are amending 7 CFR part 1 as follows:

#### PART 1—ADMINISTRATIVE REGULATIONS

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

**Authority:** 5 U.S.C. 301, unless otherwise noted.

#### Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

■ 2. In § 1.131, paragraph (b) is amended as follows:

■ a. In paragraph (b)(4), by removing the word “and”.

■ b. By redesignating paragraph (b)(5) as paragraph (b)(6) and by adding a new

paragraph (b)(5) to read as set forth below.

**§ 1.131 Scope and applicability of this subpart.**

\* \* \* \* \*

(b) \* \* \*

(5) Adjudicatory proceedings under the regulations promulgated under sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note) pertaining to the commercial transportation of equines to slaughtering facilities (9 CFR part 88); and

\* \* \* \* \*

Done in Washington, DC, this 8th day of August, 2005.

**Mike Johanns,**

*Secretary of Agriculture.*

[FR Doc. 05–16011 Filed 8–11–05; 8:45 am]

**BILLING CODE 3410–34–M**

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Part 77**

[Docket No. 04–068–2]

**Tuberculosis in Cattle and Bison; State and Zone Designations; New Mexico**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Correcting amendment.

**SUMMARY:** We are correcting an error in an interim rule that amended the bovine tuberculosis regulations regarding State and zone classifications. This interim rule was published in the **Federal Register** on July 22, 2005 (70 FR 42259–42261, Docket No. 04–068–1).

**DATES:** This correction is effective August 12, 2005. We invite you to comment on the interim rule (Docket No. 04–068–1), as corrected by this document. We will consider all comments that we receive by September 20, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- **EDOCKET:** Go to <http://www.epa.gov/feddoCKET> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the “View Open APHIS Dockets” link to locate this document.

- **Postal Mail/Commercial Delivery:** Please send four copies of your comment (an original and three copies)

to Docket No. 04–068–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–068–1.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

**Other Information:** You may view APHIS documents published in the **Federal Register** and related information on the Internet at <http://www.aphis.usda.gov/ppd/rad/webpor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. M.J. Gilsdorf, Director, Ruminant Health Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

**SUPPLEMENTARY INFORMATION:** We published in the **Federal Register** on July 22, 2005 (70 FR 42259–42261, Docket No. 04–068–1), an interim rule that amended the bovine tuberculosis regulations (9 CFR part 77) by removing New Mexico from the list of modified accredited advanced States in § 77.9(a) and adding part of New Mexico to the list of modified accredited advanced zones in § 77.9(b) and the remainder of New Mexico to the list of accredited free zones in § 77.9(b).

There is one error in that document. In § 77.9, paragraph (a) lists the States which meet the criteria for modified accredited advanced States. When we set out the revised § 77.9(a), we inadvertently included California on the list of modified accredited advanced States. California was designated as an accredited free State in an interim rule published in the **Federal Register** on April 15, 2005 (70 FR 19877–19878, Docket No. 05–010–1). This document corrects that error by removing California from the list in § 77.9(a).

**List of Subjects in 9 CFR Part 77**

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

■ Accordingly, 9 CFR part 77 is corrected by making the following correcting amendments:

**PART 77—TUBERCULOSIS**

- 1. The authority citation for part 77 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

- 2. In § 77.9, revise paragraph (a) to read as follows:

**§ 77.9 Modified accredited advanced States or zones.**

- (a) The following are modified accredited advanced States: Texas.

\* \* \* \* \*

Done in Washington, DC, this 8th day of August 2005.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 05–16014 Filed 8–11–05; 8:45 am]

**BILLING CODE 3410–34–P**

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Part 78**

[Docket No. 05–009–2]

**Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of swine by adding Florida to the list of validated brucellosis-free States. The interim rule was based on our determination that Florida meets the criteria for classification as a validated brucellosis-free State. That action relieved certain restrictions on the interstate movement of breeding swine from Florida.

**DATES:** The interim rule became effective on May 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Korslund, Staff Veterinarian (Swine Health), Aquaculture, Swine, Equine, and Poultry Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737–1231; (301) 734–5914.

**SUPPLEMENTARY INFORMATION:**