

Economic Impact Statement

LSA Document #22-259

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

The Board of Animal Health (BOAH) proposes to amend its rules governing meat and poultry products inspection ([345 IAC 9](#); [345 IAC 10](#)). The primary purpose of the changes are to conform BOAH's rules to the United States Department of Agriculture - Food Safety Inspection Service (USDA-FSIS) regulatory requirements under the federal Meat Inspection Act and federal Poultry Products Inspection Act (9 CFR Parts 300 – 500).

State law requires the BOAH to enforce requirements with respect to intrastate operations that are at least equal to those imposed and enforced under 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.). See [IC 15-17-5-1\(4\)](#). In order to comply with this statutory mandate, BOAH must periodically update the meat and poultry rules to ensure they are at least equal to 9 CFR Subchapter E, which contains the requirements for federally inspected facilities. This is largely accomplished by updating the incorporation by reference of the pertinent federal regulations every two years, which is what is being proposed in this request. BOAH is proposing to update the incorporation by reference at [345 IAC 9-2.1-1](#), [345 IAC 9-21.5-2](#), and [345 IAC 10-2.1-1](#) from January 1, 2020, to January 1, 2022. The rule also updates the incorporation by reference of the federal regulations for the voluntary inspection of rabbits.

1. Description of Affected Industry

BOAH currently provides inspection service to 81 official meat and poultry slaughter and processing plants. In addition, BOAH oversees the operation of 50 custom exempt establishments, which are facilities that are in the business of slaughtering animals for the producer's use in their household. BOAH has worked to involve these regulated entities in the development of the rule. For example, prior to the first reading of a rule, BOAH sends out emails to interested stakeholders so they are aware of upcoming rulemaking matters before the board. The BOAH posts the board agenda in a prominent location on the website so the rule information can be found on this page in addition to the rulemaking docket. The BOAH also sends out an issues newsletter to stakeholders on a quarterly basis. The affected industry includes small businesses under the definition at [IC 4-22-2.1-4](#).

2. Estimated Annual Reporting, Record Keeping, and Other Administrative Costs

The proposed rule does not increase annual reporting, record keeping, or other administrative costs for regulated entities. The BOAH currently inspects Indiana's 81 official plants and 50 custom exempt plants. An inspector must be onsite at an official plant continually during the slaughtering process and inspect the processing area once per day. A custom exempt plant undergoes a routine inspection twice per year. There have been no changes in the federal regulations being incorporated that expand the scope of current record keeping requirements that are verified during these inspections.

3. Estimated Total Annual Economic Impact on Small Businesses

As stated above, because the 131 facilities impacted by this rule are already operating in accordance with USDA-FSIS regulations and directives, the BOAH does not anticipate the proposed rule will increase compliance costs for regulated entities. There have been no changes in the federal regulations being incorporated that expand the scope of current food safety standards that are verified during these inspections. [345 IAC 9-2.1-1\(d\)](#).

The proposed rule has the potential to decrease compliance costs because the incorporated regulations contain a recent amendment to 9 CFR 310.20 that eliminates the requirement to defibrinate livestock blood saved as an edible product. Defibrination is the process of removing the protein fibrin, which causes blood to clot. USDA-FSIS has determined that coagulated (i.e. non-defibrinated) blood is safe for human consumption, provided the blood is saved from inspected and passed animals and is otherwise produced and prepared in compliance with all other FSIS regulations. This change was made due to establishments in other states that are interested in collecting coagulated blood for use in human food products, including specialty and ethnic food products, that require coagulated blood as an ingredient. Such niche products include blood sausage, blood pudding, and blood tofu. According to the FSIS economic analysis, affected establishments will have an average annual cost savings of \$1,096 on anticoagulant solution and \$1,305 on wages associated with defibrination.¹

4. Justification of Requirements**a. Compliance with Federal and State Law**

In addition to the state statutory mandate discussed above, this proposed rule is necessary to implement a federal mandate. State law authorizes the BOAH to cooperate with USDA-FSIS to effectuate the purpose of the Meat and Poultry Inspection Law, to accept federal assistance for that purpose, and spend public funds appropriate for the administration of the law to pay not more than fifty percent (50%) of the total cost of the cooperative program ([IC 15-17-5-5\(11\)](#)). Pursuant to this authority, the BOAH has entered into a state-federal

cooperative agreement with USDA-FSIS to receive 50% of the annual operating costs of the Meat and Poultry Inspection (MPI) program. BOAH's program is subject to regular audits by USDA-FSIS to ensure that the state standards are at least equal to federal requirements. If BOAH does not update the incorporation by reference, it would jeopardize the funding the agency receives under the state-federal agreement.

If the BOAH does not remain in compliance with the state-federal agreement by proceeding with this proposed rule, it would have a negative impact on the regulated community. Indiana relies on the federal funding to support an adequate number of inspectors for the state's official and custom exempt plants. If BOAH cannot fund an adequate number of inspectors, the official plants will not be able to operate at full capacity because an inspector must be onsite continually during the slaughtering process and inspect the processing area once per day.

In addition to the above-described benefits to the plants, the proposed rule provides a secondary benefit to the state's livestock and poultry farmers. The increasing demand for locally produced meat products has resulted in continually increasing requests for MPI inspection service. The proposed rule ensures that federal funds continue to be available so inspectors can be present at the plants to assist them in accommodating the farmers' slaughter and processing needs. The ability of the plants to keep pace with increasing demand is critical because animals must be slaughtered and processed under inspection in order for the meat to be sold to end consumers, retailers, and restaurants (with limited exceptions). It also benefits consumer protection by ensuring that plants are being required to comply with the most recent federal food safety regulations.

b. Justification of Requirements not Mandated by Federal or State Law

The proposed rule does not impose a requirement or cost beyond what is expressly required by federal or state law. With regard to the official and custom exempt facilities, the proposed rule does not impose requirements above the incorporated federal standards. BOAH estimates that the total estimated impact (cost) will be less than \$500,000.

5. Regulatory Flexibility Analysis

Because the proposed rule does not impose requirements beyond what is required by federal law, BOAH did not examine alternative methods with regard to the rule changes.

¹ [https://www.federalregister.gov/documents/2021/06/24/2021-13160/elimination-of-the-requirement-to-defibrinate-livestock-blood-saved-as-an-edible-product#:~:text=On%20June%201%2C%202020%2C%20FSIS,product%20\(85%20FR%2033031\).](https://www.federalregister.gov/documents/2021/06/24/2021-13160/elimination-of-the-requirement-to-defibrinate-livestock-blood-saved-as-an-edible-product#:~:text=On%20June%201%2C%202020%2C%20FSIS,product%20(85%20FR%2033031).)

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