

Slaughter Horse Transport
IES Cases Initiated - Texas

Case Number	Request Date	Violation Date	9 CFR §	Violator(s)	Investigator	Status/Events
TX02160-VS	4/19/2002	4/4/2002	88	P.J. Halter Bridgeport, TX	(b)(6), (b)(7)c	Closed 7/29/02 - Closed with no action
TX02161-VS	4/22/2002	4/21/2002	(b)(5), (b)(6), (b)(7)a, (b)(7)c			Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03138-VS	3/13/2003	3/10/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c			Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03139-VS	3/13/2003	3/9/2003	88	Michael McBarron Kaufman, TX		Closed 6/12/03 - Official warnings issued to McBarron and
			88	Trent Ward Kaufman, TX		Ward
TX03144-VS	3/19/2003	3/9/2003	88	Tanner Musick Mitchell, SD		Closed 11/4/03 - Stipulation issued to Musick for \$500; rescinded upon program concurrence; warning issued
TX03145-VS	3/21/2003	3/19/2003	88	Bill Richardson Whitesboro, TX		Closed 5/19/03 - Warnings issued to Richardson and Hiatt
			88	Byron Hiatt Bottineau, ND		
TX03147-VS	4/1/2003	4/1/2003	88	Harvey Dominguez Deming, NM		Closed 12/30/03 - Warning issued to Spain
			88	Leon Spain Los Lunas, NM		
TX03163-VS	4/1/2003	3/31/2003	88	Joe Simon Webster, MN		Closed 10/6/03 - Warning issued to Simon

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TX03164-VS	4/1/2003	3/31/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03176-VS	4/22/2003	4/20/2003	88	Billy Rowan New Albany, MS	(b)(6), (b)(7)c	Closed 9/21/03 - Submitted to IES Staff 2/24/03 - Official warning issued to Rowan
TX03223-VS	6/3/2003	5/22/2003	88	Curtis Smith Bastrop, LA	(b)(6), (b)(7)c	Closed 10/29/03 - Warnings issued to Smith and Stanley
			88	Mitchell Stanley Hamburg, AR	(b)(6), (b)(7)c	
TX03234-VS	6/18/2003	6/10/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03270-VS	7/31/2003	7/23/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03271-VS	7/31/2003	7/28/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03283-VS	8/5/2003	7/23/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c	(b)(6), (b)(7)c	(b)(6), (b)(7)c	Open (b)(5), (b)(6), (b)(7)a, (b)(7)c

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TX03284-VS	8/5/2003	5/12/2003	88	R.G. Smith Hutchinson, KS	(b)(6), (b)(7)c	Closed 11/4/03 - Warning issued to Smith
TX03285-VS	8/5/2003	3/27/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c			Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03299-VS	9/10/2003	8/25/2003	88	Musick Livestock Mitchell, SD		Closed 1/30/04 - Insufficient evidence
TX03300-VS	9/10/2003	8/26/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c			Open (b)(5), (b)(6), (b)(7)a, (b)(7)c
TX03301-VS	9/10/2003	8/26/2003				
TX03304-VS	9/8/2003	8/25/2003				
TX04010-VS	10/3/2003	9/27/2003				
TX04011-VS	10/3/2003	9/15/2003				
TX04012-VS	10/3/2003	9/15/2003	88	Dennis Kunz Willard, UT		Closed 2/4/04 - Warning issued to Kunz

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TX04025-VS	10/21/2003	10/20/2003	(b)(5), (b)(6), (b)(7)a, (b)(7)c	(b)(6), (b)(7)c		Open
						(b)(5), (b)(6), (b)(7)a, (b)(7)c
TX04034-VS	11/4/2003	10/5/2003				
TX04041-VS	11/4/2003	10/2/2003				
TX04052-VS	11/18/2003	11/12/2003				
TX04066-VS	11/20/2003	11/13/2003				
TX04072-VS	12/17/2003	8/24/2003				
TX04073-VS	12/16/2003	11/23/2003				
TX04074-VS	12/16/2003	7/11/2003				
TX04079-VS	12/29/2003	9/3/2003				
TX04080-VS	12/29/2003	7/6/2003				

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er a 5-year period, they would be able plan accordingly and the facility might survive. They point out that their light, which generates export sales exclusively, may be forced to close regardless of the time frame imposed by is rule, but the facility's chances of naining open would be substantially proved with a 5-year phase-in.

If the facility closes, we believe it ely that horses in the United States at are intended for slaughter will be icked to feedlots in Canada or Mexico, tensibly as saddle horses, then go to ughter. If that happens, we will have jurisdiction over those movements cause our statutory authority to gulate is limited to the commercial nsportation of horses to slaughter and movements to slaughter within the ited States. Thus, a critical factor in r decision to use a 5-year time frame r the ban on double-deck trailers is r belief that if the rule has too great impact on horse slaughtering ilities in the United States, our rule ll not provide equines transported to ughter the protection that we intend. The information collection and ordkeeping requirements contained this rule were described in the oposed rule and have been approved the Office of Management and idget. See "Paperwork Reduction t," below.

Executive Order 12372

This program/activity is listed in the talog of Federal Domestic Assistance ider No. 10.025 and is subject to cecutive Order 12372, which requires tergovernmental consultation with ate and local officials. (See 7 CFR part 15, subpart V.)

Executive Order 12988

This final rule has been reviewed ider Executive Order 12988, Civil stice Reform. This rule: (1) Preempts l State and local laws and regulations at are in conflict with this rule; (2) has retroactive effect; and (3) does not quire administrative proceedings fore parties may file suit in court allenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of e Paperwork Reduction Act of 1995 4 U.S.C. *et seq.*), the information llection or recordkeeping quirements included in this final rule ve been approved by the Office of ament and Budget (OMB). The signed OMB control number is 0579-.60.

List of Subjects

9 CFR Part 70

Administrative practice and procedure.

9 CFR Part 88

Animal welfare, Horses, Penalties Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 9 CFR, chapter I, subchapter C, as follows:

PART 70—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

1. The authority citation for part 70 is revised to read as follows:

Authority: 21 U.S.C. 111, 112, 114a, 114a-1, 115, 117, 120, 122, 123, 125-127, 134b, 134c, 134e, and 134f; 7 CFR 2.22, 2.80, 371.4.

2. In § 70.1, the list of statutory provisions is amended by adding at the end of the list the following:

§ 70.1 Scope and applicability of rules of practice.

* * * * *

Sections 901-905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

* * * * *

3. A new part 88 is added to read as follows:

PART 88—COMMERCIAL TRANSPORTATION OF EQUINES FOR SLAUGHTER

Sec.

88.1 Definitions.

88.2 General information.

88.3 Standards for conveyances.

88.4 Requirements for transport.

88.5 Requirements at a slaughtering facility.

88.6 Violations and penalties.

Authority: 7 U.S.C. 1901, 7 CFR 2.22, 2.80, 371.4.

§ 88.1 Definitions.

The following definitions apply to this part:

APHIS. The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Commercial transportation.

Movement for profit via conveyance on any highway or public road.

Conveyance. Trucks, tractors, trailers, or semitrailers, or any combination of these, propelled or drawn by mechanical power.

Equine. Any member of the *Equidae* family, which includes horses, asses, mules, ponies, and zebras.

Euthanasia. The humane destruction of an animal by the use of an anesthetic agent or other means that causes

painless loss of consciousness and subsequent death.

Owner/shipper. Any individual, partnership, corporation, or cooperative association that engages in the commercial transportation of more than 20 equines per year to slaughtering facilities, except any individual or other entity who transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture (production of food or fiber).

Owner-shipper certificate. VS Form 10-13,¹ which requires the information specified by § 88.4(a)(3) of this part.

Secretary. The Secretary of Agriculture.

Slaughtering facility. A commercial establishment that slaughters equines for any purpose.

Stallion. Any uncastrated male equine that is 1 year of age or older.

USDA. The U.S. Department of Agriculture.

USDA backtag. A backtag issued by APHIS that conforms to the eight-character alpha-numeric National Backtagging System and that provides unique identification for each animal.

USDA representative. Any employee of the USDA who is authorized by the Deputy Administrator for Veterinary Services of APHIS, USDA, to enforce this part.

§ 88.2 General information.

(a) State governments may enact and enforce regulations that are consistent with or that are more stringent than the regulations in this part.

(b) To determine whether an individual or other entity found to transport equines to a slaughtering facility is subject to the regulations in this part, a USDA representative may request from any individual or other entity who transported the equines information regarding the business of that individual or other entity. When such information is requested, the individual or other entity who transported the equines must provide the information within 30 days and in a format as may be specified by the USDA representative.

§ 88.3 Standards for conveyances.

(a) The animal cargo space of conveyances used for the commercial transportation of equines to slaughtering facilities must:

(1) Be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the equines being transported (e.g., provides

¹ Forms may be obtained from the National Animal Health Programs Staff, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231.

adequate ventilation, contains no sharp protrusions, etc.);

(2) Include means of completely segregating each stallion and each aggressive equine on the conveyance so that no stallion or aggressive equine can come into contact with any of the other equines on the conveyance;

(3) Have sufficient interior height to allow each equine on the conveyance to stand with its head extended to the fullest normal postural height; and

(4) Be equipped with doors and ramps of sufficient size and location to provide for safe loading and unloading.

(b) Equines in commercial transportation to slaughtering facilities must not be transported in any conveyance that has the animal cargo space divided into two or more stacked levels, except that conveyances lacking the capability to convert from two or more stacked levels to one level may be used until December 7, 2006. Conveyances with collapsible floors (also known as "floating decks") must be configured to transport equines on one level only.

§ 88.4 Requirements for transport.

(a) Prior to the commercial transportation of equines to a slaughtering facility, the owner/shipper must:

(1) For a period of not less than 6 consecutive hours immediately prior to the equines being loaded on the conveyance, provide each equine appropriate food (i.e., hay, grass, or other food that would allow an equine in transit to maintain well-being), potable water, and the opportunity to rest;

(2) Apply a USDA backtag² to each equine in the shipment;

(3) Complete and sign an owner-shipper certificate for each equine being transported. The owner-shipper certificate for each equine must accompany the equine throughout transit to the slaughtering facility and must include the following information, which must be typed or legibly completed in ink:

(i) The owner/shipper's name, address, and telephone number;

(ii) The receiver's (destination) name, address, and telephone number;

(iii) The name of the auction/market, if applicable;

(iv) A description of the conveyance, including the license plate number;

(v) A description of the equine's physical characteristics, including such information as sex, breed, coloring, distinguishing markings, permanent brands, tattoos, and electronic devices that could be used to identify the equine;

(vi) The number of the USDA backtag applied to the equine in accordance with paragraph (a)(2) of this section;

(vii) A statement of fitness to travel at the time of loading, which will indicate that the equine is able to bear weight on all four limbs, able to walk unassisted, not blind in both eyes, older than 6 months of age, and not likely to give birth during the trip;

(viii) A description of any preexisting injuries or other unusual condition of the equine, such as a wound or blindness in one eye, that may cause the equine to have special handling needs;

(ix) The date, time, and place the equine was loaded on the conveyance; and

(x) A statement that the equine was provided access to food, water, and rest prior to transport in accordance with paragraph (a)(1) of this section; and

(4) Load the equines on the conveyance so that:

(i) Each equine has enough floor space to ensure that no equine is crowded in a way likely to cause injury or discomfort; and

(ii) Each stallion and any aggressive equines are completely segregated so that no stallion or aggressive equine can come into contact with any other equine on the conveyance.

(b) During transit to the slaughtering facility, the owner/shipper must:

(1) Drive in a manner to avoid causing injury to the equines;

(2) Observe the equines as frequently as circumstances allow, but not less than once every 6 hours, to check the physical condition of the equines and ensure that all requirements of this part are being followed. The owner/shipper must obtain veterinary assistance as soon as possible from an equine veterinarian for any equines in obvious physical distress. Equines that become nonambulatory en route must be euthanized by an equine veterinarian. If an equine dies en route, the owner/shipper must contact the nearest APHIS office as soon as possible and allow an APHIS veterinarian to examine the equine. If an APHIS veterinarian is not available, the owner/shipper must contact an equine veterinarian;

(3) Offload from the conveyance any equine that has been on the conveyance for 28 consecutive hours and provide the equine appropriate food, potable

water, and the opportunity to rest for a least 6 consecutive hours; and

(4) If offloading is required en route to the slaughtering facility, the owner/shipper must prepare another owner-shipper certificate as required by paragraph (a)(2) of this section and record the date, time, and location where the offloading occurred. In this situation, both owner-shipper certificates would need to accompany the equine to the slaughtering facility.

(c) Handling of all equines in commercial transportation to a slaughtering facility shall be done as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, stress, physical harm, or trauma. Electric prods may not be used on equines in commercial transportation to a slaughtering facility for any purpose, including loading or offloading on the conveyance, except when human safety is threatened.

(d) At any point during the commercial transportation of equines to a slaughtering facility, a USDA representative may examine the equines, inspect the conveyance, or review the owner-shipper certificates required by paragraph (a)(3) of this section.

(e) At any time during the commercial transportation of equines to a slaughtering facility, a USDA representative may direct the owner/shipper to take appropriate actions to alleviate the suffering of any equine. If deemed necessary by the USDA representative, such actions could include securing the services of an equine veterinarian to treat an equine, including performing euthanasia if necessary.

(f) The individual or other entity who signs the owner-shipper certificate must maintain a copy of the owner-shipper certificate for 1 year following the date of signature.

§ 88.5 Requirements at a slaughtering facility.

(a) Upon arrival at a slaughtering facility, the owner/shipper must:

(1) Ensure that each equine has access to appropriate food and potable water after being offloaded;

(2) Present the owner-shipper certificates to a USDA representative;

(3) Allow a USDA representative access to the equines for the purpose of examination; and

(4) Allow a USDA representative access to the animal cargo area of the conveyance for the purpose of inspection.

(b) If the owner/shipper arrives during normal business hours, the owner/shipper must not leave the premises of

² USDA backtags are available at recognized slaughtering establishments and specifically approved stockyards and from State representatives and APHIS representatives. A list of recognized slaughtering establishments and specifically approved stockyards may be obtained as indicated in § 78.1 of this chapter. The terms "State representative" and "APHIS representative" are defined in § 78.1 of this chapter.

slaughtering facility until the equines have been examined by a USDA representative. However, if the owner/shipper arrives outside of normal business hours, the owner/shipper may leave the premises but must return to the premises of the slaughtering facility to meet the USDA representative upon his or her arrival.

(c) Any owner/shipper transporting equines to slaughtering facilities outside

of the United States must present the owner-shipper certificates to USDA representatives at the border.

§ 88.6 Violations and penalties.

(a) The Secretary is authorized to assess civil penalties of up to \$5,000 per violation of any of the regulations in this part.

(b) Each equine transported in violation of the regulations of this part will be considered a separate violation.

(Approved by the Office of Management and Budget under control number 0579-0160.)

Done in Washington, DC, this 3rd day of December 2001.

Bill Hawks,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 01-30259 Filed 12-6-01; 8:45 am]

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