



## **NOTICE OF PUBLIC RULEMAKING HEARING**

### **FOR AMENDMENTS TO**

### **“Rules Pertaining to Public Livestock Markets Veterinary Inspection” 8 CCR 1201-13**

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: November 30, 2021  
TIME: 12:00 pm  
LOCATION: This hearing will be held via [Zoom](#)  
CALL INFORMATION: 1-253-215-8782  
MEETING ID: 824 6316 7400  
PASSCODE: 892086

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to [Jenifer.Gurr@state.co.us](mailto:Jenifer.Gurr@state.co.us). Pre-registration is not required to participate in the hearing.

The purposes of these proposed revisions are to incorporate changes as a result of the Department's Regulatory Efficiency Review Process; and to increase clarity surrounding the obligations of a market veterinarian and the options of an animal's owner.

The statutory authority for these rules §§ 35-55-101 and 35-55-113(6) C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at [Jenifer.Gurr@state.co.us](mailto:Jenifer.Gurr@state.co.us). A copy of the proposed rule is available on the Department of Agriculture's website at [www.colorado.gov/ag](http://www.colorado.gov/ag) or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



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## DEPARTMENT OF AGRICULTURE

### Animal Health Division

#### PUBLIC LIVESTOCK MARKETS VETERINARY INSPECTION

#### 8 CCR 1201-13

#### RULES PERTAINING TO PUBLIC LIVESTOCK MARKETS VETERINARY INSPECTION

##### Part 1. Definitions

- 1.1. "Actinobacillosis" or "Actinomycosis" means a localized, chronic, progressive, granulomatous abscess that most frequently involves the mandible, the maxillae, or other bony tissues in the head.
- ~~1.2. "Animal" means any species of animal, including those defined as "Livestock" that is consigned or delivered to any public livestock market to be offered for sale.~~
- ~~1.2. "Livestock" means horses, mules, cattle, burros, swine, sheep, goats, poultry, alternative livestock as defined in § 35-41.5-102(1) and any other animal presented to the market for sale.~~
- ~~1.3. "Body condition score" means a numerical score assigned to the animal concerning the amount of flesh the animal has on its body. Each species or class of animal has its own scoring system. For information on the scoring system relevant to a particular species, please contact the Department.~~
- ~~1.4. "Commissioner" means the Commissioner of Agriculture, Colorado Department of Agriculture or a designated employee of the Department of Agriculture.~~
- ~~1.35. "Department" means the Colorado Department of Agriculture.~~
- ~~1.46. "Euthanasia" means to produce a humane death by techniques accepted by the American Veterinary Medical Association.~~
- ~~1.5. "Livestock" means horses, mules, cattle, burros, swine, sheep, goats, poultry, and alternative livestock as defined in § 35-41.5-102(1)~~
- ~~1.6. "Market Veterinarian" means an individual who is currently licensed and in good standing with the State Board of Veterinary Medicine to practice veterinary medicine and is accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, with a Category II accreditation.~~
- 1.7. "Metastatic" or "Metastasis" means the invasion or infiltration of other structures or tissue by a neoplasm.
- 1.8. "Neoplasia," "neoplasm," or "neoplastic" means new, abnormal tissue growth ~~which-that~~ is deleterious to the animal's health.
- 1.9. "Non-ambulatory" means the animal is unable to rise to its feet and walk with minimal stimulus.

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- 1.10. "Owner" means the person or entity owning the livestock and the owner's officers, members, employees, or agents.
- 1.11. "Urinary Calculi" means solid particles in the urinary system that cause the disease commonly known as water belly.
- ~~1.12. "Veterinarian" means an individual who is currently licensed and in good standing with the State Board of Veterinary Medicine to practice veterinary medicine and is accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.~~

## Part 2. Notice

- 2.1. The following notice shall be posted:

LIVESTOCK OWNER NOTICE: ALL LIVESTOCK WILL BE VISUALLY INSPECTED PRIOR TO SALE BY THE MARKET'S VETERINARIAN- ANIMALS WHICH ARE DETERMINED TO BE BEYOND RECOVERY, DUE TO DISEASE, INJURY OR DISABILITY MAY NOT BE SOLD AT A PUBLIC LIVESTOCK MARKET PURSUANT TO: 35-55-113(4), C.R.S. You may be requested to remove such animal(s) from the livestock market if the market veterinarian's professional opinion is that the animal(s) you are presenting for sale are unacceptable under this law. Alternatively, the market veterinarian may euthanize such animal(s) if you do not choose to remove the animal(s).

- 2.2. This notice shall be posted at the public market office and the check-in dock.
- 2.3. The Department shall make a A leaflet printed form of this notice ~~shall be made~~ available upon request ~~to the Department~~.

## Part 3. Veterinary Inspection Procedures

The following procedures ~~shall~~ apply:

- 3.1 A market veterinarian shall inspect all livestock and animals presented to a public livestock market for sale for the purpose of determining their condition of health and freedom from infectious or contagious animal diseases.
- 3.24. Veterinary inspection shall occur prior to sale, with a determination made by the market veterinarian whether any of the animals presented to the public livestock market for sale possesses any of the diseases or injuries specified in Parts 4 or 5 below.
- 3.32. Should the market veterinarian determine that an animal presented to the public livestock market for sale possesses any of the diseases or injuries specified in Parts 4 or 5 below and should the market veterinarian determine that such disease or injury renders the animal injured, disabled, or diseased beyond recovery, the market veterinarian shall either humanely euthanize the animal or, direct the animal's consignor to remove the animal from the premises, except where the market veterinarian determines that the animal cannot be humanely removed from the premises.
  - 3.3.1. If the market veterinarian determines that the animal identified pursuant to Part 3.3 above may be humanely removed from the premises, the market veterinarian must make no less than one attempt to contact the consignor, whether by phone, or in-person.
  - 3.3.2. A consignor who receives notification from the market veterinarian as provided in 3.3.1 above and who does not, at the time of such notification, direct the market veterinarian to

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~~ethanize the animal must immediately remove the animal from the premises. Removal must occur within no more than 12 hours from the point of notification described in 3.3.1.~~

~~3.3.3. The market veterinarian, in his or her sole discretion, may euthanize any animal whose consignor, or consignor's designee, has not removed the animal from the premises within 12 hours from the point of the market veterinarian's notification as described in 3.3.2.~~

~~The veterinarian shall make a reasonable effort over a two-hour period to contact the owner by phone or in person regarding an animal identified by the veterinarian pursuant to Parts 4 and 5 below.~~

~~3.3. Within twelve hours of notification, the owner may remove from the livestock market any animal identified by the veterinarian pursuant to Parts 4 and 5 below, or may direct the veterinarian to euthanize such animal.~~

~~3.3.4. If, after making no less than one attempt to contact an animal's consignor pursuant to 3.3.1 and if the animal's consignor has not responded to the market veterinarian's notification within two hours, if the veterinarian is unsuccessful in contacting the owner, the market veterinarian, in his or her sole discretion, shall determine whether, in the sole discretion of the veterinarian, the animal identified by the market veterinarian pursuant to Parts 3.3. above 4 and 5 below should be euthanized, to prevent further pain and suffering.~~

~~3.5. Any animal identified by the veterinarian pursuant to Parts 4 and 5 below which is not removed from the livestock market 14 hours after the initial veterinary inspection may be euthanized, in the sole discretion of the veterinarian.~~

~~3.46. The owner-consignor of any animal euthanized will pay the costs of the euthanasia and of any disposal cost associated with such euthanasia.~~

#### **Part 4. Diseases ~~which~~ that shall render livestock diseased beyond recovery**

The following diseases shall render livestock diseased beyond recovery for the purposes of these Rules:

4.1. Ocular neoplasia:

~~4.1.1. Unless the neoplastic lesions show no clinical signs of metastasis and have not destroyed the eye or eye-lids;~~

4.1.12. If the neoplastic lesions affect the eye and/or eye-lids and have destroyed the affected organ to the point that the affected area is not amenable to surgery;

4.1.23. If the neoplastic lesions show signs of local metastatic invasion from the primary site to the bone of the orbit or lymph nodes; or

4.1.34. If the following signs are present: abnormal swelling, discoloration, open necrotic regions with drainage, or deformation of tissue.

4.2. Other forms of neoplasia:

Other neoplasias, regardless of tissue origin, which exhibit significant involvement, including, but not limited to, the following signs: abnormal swelling, discoloration, open necrotic regions with drainage, or deformation of tissue.

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- 4.3. Any disease process, or ~~body~~ condition, that in the opinion of the market veterinarian has not or will not respond in a timely manner to treatment, or that renders an animal into a poor body condition including, but not limited to: Actinobacillosis, Actinomycosis, Pneumonia, and Urinary Calculi.
- 4.4. Any disease process or condition ~~which-that~~ has resulted in the presentation of a non-ambulatory animal.

#### **Part 5. Injuries ~~which-that~~ shall render livestock injured beyond recovery**

The following injuries shall render livestock injured beyond recovery for the purposes of this Rule:

- 5.1. A fracture of a long bone, other fractures, or dislocation of a joint that renders the animal unable to bear weight on the affected limb without that limb collapsing.
- 5.2. Any injury ~~which-that~~ in the opinion of the market veterinarian has not or will not responded to treatment and has resulted in the livestock being in a poor a-body condition.
- 5.3. Any injury ~~which-that~~ has resulted in the presentation of a non-ambulatory animal.

#### **Part 6. Euthanasia**

- 6.1. Euthanasia shall be accomplished by or under the direction of the market veterinarian.
- 6.2. The market veterinarian will provide written notice within 24 hours to the owner and market of any euthanized animal citing the reason for euthanasia in such written notice.

#### **Part 7. Disposal of euthanized animal carcasses**

- 7.1. The owner ~~may request the return of the carcass and~~ may retrieve the carcass within six hours of euthanasia, except that the market veterinarian may refuse retrieval of the carcass if the market veterinarian euthanized the animal with barbiturates or any other chemical euthanasia solutions.
- 7.2. Unless the owner ~~requests return of and~~ retrieves the carcass as set forth immediately above, the carcass shall be disposed of pursuant to law ~~and as customary for the community~~. In the event that there is a disposal fee, the fee shall be borne by the owner.

#### **Part 8. Statement of Basis and Purpose**

- 8.1. Rules Adopted Prior to 2016

These Rules are adopted pursuant to the Public Livestock Markets provisions, specifically, §35-55-113(6), C.R.S.

The purposes of these Rules are to: define applicable terms; specify the requisite notice to animal owners; establish the procedures for inspection, removal and euthanization of animals; and designate diseases and injuries which are beyond recovery.

The statements of basis and purpose for some rule changes are no longer in the Department files and are presumably in the state archives.

- 8.2. Adopted June 8, 2016 – Effective July 30, 2016

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#### Specific Statutory Authority

The specific statutory authority for this Rule is located in §§ 35-55-113(6), C.R.S., which grants authority to the Commissioner of Agriculture, upon approval by the Colorado Agricultural Commission, to adopt reasonable Rules for the administration of the Public Livestock Markets Act, § 35-55-101, et seq., and to adopt Rules to identify diseases that render livestock permanently disabled or the carcasses thereof permanently unfit for human consumption.

#### Purpose

The revisions to these Rules incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

#### Factual Policy and Issues

In reviewing and updating these Rules, the reviewers updated the definitions Parts to clarify the meanings of key diseases or disorders; to remove the word "animal," as livestock markets do not operate to sell animals; to update information regarding the body-condition scoring to reflect that the Department would no longer incorporate body-condition scoring charts with the Rule; to strike "euthanize" to leave "euthanasia" as the proper term; to update the definition of "owner" to make it consistent with other Division of Animal Health Rule definitions; and to re-define "veterinarian" to indicate that for these Rules, "veterinarian" is someone who is also accredited by the USDA, Animal Plant Health Inspection Service.

Where the reviewers found provisions that were outdated or non-useful, the reviewers made changes. For instance, the Notice section of the Rule sets forth more simply and more clearly the actual notice that must be provided at all livestock markets regarding diseased, injured, or disabled animals. In Part 4, the reviewers clarified that both "disease" and "body condition" that do not timely respond to treatment render livestock "diseased beyond recovery." Similarly, the reviewers also changed 5.2 to indicate that livestock with an injury that results in a poor condition renders that livestock "injured beyond recovery." Finally, the reviewers removed paragraph B of Part 6 because the Commissioner is not authorized to set euthanasia costs state-wide or to interfere with such price-setting by independent veterinarians who perform such actions.

Additionally, the reviewers have removed all static charts regarding body condition scoring. Some of the formerly adopted charts did not provide a useful means of scoring certain species, and codifying such charts limits the Department's ability to rely on the most updated, precise charts that are available. Removing the charts permits the Department to respond to questions regarding body-condition scoring charts with the most accurate, updated, precise charts or methods available.

### 8.3. December 8, 2021 -- January 30, 2022

#### Statutory Authority

The specific statutory authority for this Rule is located in § 35-55-113(6), C.R.S., which grants authority to the Commissioner of Agriculture, upon approval by the Colorado Agricultural Commission, to adopt reasonable rules for the administration of the Public Livestock Markets Act, § 35-55-101, et seq., and to adopt rules to identify diseases that render livestock permanently disabled or the carcasses thereof permanently unfit for human consumption.

#### Purpose

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The revisions to these Rules incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

#### Factual and Policy Issues

Because 35-55-113(1)(a) requires veterinary inspection of both livestock and animals, the reviewers defined "Animal" to identify those animals not named as "Livestock" in the definitions of the Act, 35-55-101(1), C.R.S.

To provide increased clarity surrounding the obligations of a market veterinarian and the options of an animal's owner once the market veterinarian determines that an animal must be euthanized or when the market veterinarian determines that an animal is unfit for sale but may be humanely removed from the livestock market, the reviewers added clarification to the rules to give a step-by-step procedure regarding how and when a market veterinarian is to notify the animal's owner and how long such owner has to respond to the market veterinarian before the market veterinarian may euthanize the animal as well as regarding collection of any carcass that has not experienced euthanasia by means of barbiturates or any other chemical euthanasia process.

#### Specific Purpose of the Rulemaking

In Part 1.0 the reviewers added the definition for "Animals" to clarify that all animals bought and sold at livestock markets are subject to veterinary inspection. The reviewers deleted the definition for "Body condition score" as that term is no longer used in the rule. The reviewers also changed the term "Veterinarian" to "Market veterinarian" to clarify that the inspection and veterinary medical decisions including treatment and euthanasia will be conducted by the market veterinarian. Additionally, the reviewers clarified that the market veterinarian must have a USDA type II accreditation.

The reviewers added a new Part 3.1 to parallel the statute's requirements that all animals, not just livestock, must be inspected by a market veterinarian for the purpose of determining the animals' health and freedom from infectious or contagious diseases.

In Part 3.3, the reviewers clarified the steps the market veterinarian must take upon reaching a determination that an animal must be euthanized, including what the steps necessary to notify the owner of the determination and the owner's options after euthanasia.

In Part 4.1, the reviewers provided additional clarity to describe when Ocular neoplasia would render an animal diseased beyond recovery.

In Part 6.2, the reviewers added the requirement that the market veterinarian must provide written notice within 24 hours to the owner and market of any euthanized animal, citing the reason for euthanasia in such written notice.

In Part 7.1, the reviewers added language to deny an owner's collection of a carcass of any animal euthanized by barbiturates or any other chemical euthanasia solutions.