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(2) They are moved directly to a recognized slaughtering or rendering establishment; or

(3) They are moved from the farm of origin for veterinary medical examination, treatment, or diagnostic purposes and either returned to the farm of origin without change in ownership or euthanized and disposed of at the veterinary facility; or

(4) They are moved directly from one State through another State and back to the original State; or

(5) They are moved between shipping and receiving States or Tribes with a VS Form 9–3 or documentation other than an ICVI, as agreed upon by animal health officials in the shipping and receiving States or Tribes.

(6) They are moved under permit in accordance with part 82 of this chapter.

(h) *Captive cervids.* Captive cervids moved interstate must be accompanied by documentation as required by part 77 of this chapter.

§§ 86.6–86.7 [Reserved]

§ 86.8 Preemption.

State, Tribal, and local laws and regulations may not specify an official identification device or method that would have to be used if multiple devices or methods may be used under this part for a particular species, nor may the State or Tribe of destination impose requirements that would otherwise cause the State or Tribe from which the shipments originate to have to develop a particular kind of traceability system or change its existing system in order to meet the requirements of the State or Tribe of destination.

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.

SOURCE: 66 FR 63615, Dec. 7, 2001, unless otherwise noted.

§ 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.

Assembly point. Any facility, including auction markets, ranches, feedlots, and stockyards, in which equines are gathered in commerce.

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.

Equine for slaughter. Any member of the Equidae family being transferred to a slaughter facility, including an assembly point, feedlot, or stockyard.

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.

Feedlot. Any facility which consolidates livestock for preconditioning, feeding, fattening, or holding before being sent to slaughter.

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.

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

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

Stockyard. Any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce.

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.

[66 FR 63615, Dec. 7, 2001, as amended at 76 FR 55216, Sept. 7, 2011]

§ 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 for slaughter 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.

[66 FR 63615, Dec. 7, 2001, as amended at 76 FR 55216, Sept. 7, 2011]

§ 88.3 Standards for conveyances.

(a) The animal cargo space of conveyances used for the commercial transportation of equines for slaughter 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 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 for slaughter 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.

[66 FR 63615, Dec. 7, 2001, as amended at 76 FR 55216, Sept. 7, 2011]

§ 88.4 Requirements for transport.

(a) Prior to the commercial transportation of equines for slaughter, 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 backtag[2] 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

[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.

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slaughter 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 commercial transportation of equines for slaughter, 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 at 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 equines for slaughter.

(c) Handling of all equines for slaughter 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 for slaughter 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 for slaughter, 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 for slaughter, 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

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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.

(Approved by the Office of Management and Budget under control numbers 0579–0160 and 0579–0332)

[66 FR 63615, Dec. 7, 2001, as amended at 76 FR 55216, Sept. 7, 2011]

§ 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 a 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)

PART 89—STATEMENT OF POLICY UNDER THE TWENTY-EIGHT HOUR LAW

Sec.

89.1 Amount of feed.
89.2 Two or more feedings at same station.
89.3 Feeding, watering, and resting livestock in the car.
89.4 Watering.
89.5 Feeding pens.

AUTHORITY: 49 U.S.C. 80502; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 28 FR 5967, June 13, 1963, unless otherwise noted.

§ 89.1 Amount of feed.

(a) Under normal conditions, the amount of feed designated in the following schedule will be considered as sustaining rations for livestock in transit when fed at the intervals required by the Twenty-Eight Hour Law:

Species and quantity of livestock	At first feeding station	At second and subsequent feeding stations
Cattle and beef type or range calves (for each car[1])	200 lbs. of hay[1 2]	300 lbs. of hay.[1 2]
Dairy calves (for each car deck[1])	100 lbs. of hay[1 2]	150 lbs. of hay.[1 2]
Horses and mules (for each car[1])	400 lbs. of hay[1 2]	400 lbs. of hay.[1 2]
Sheep and goats (for each car deck[1])	200 lbs. of hay[1 2]	300 lbs. of hay.[1 2]
Lambs and kids (for each car deck[1])	100 lbs. of hay[1 2]	150 lbs. of hay.[1 2]
Swine (for each carload lot, in single or double deck car, the amount of shelled corn[2] indicated):		
Lots of not more than 18,000 lbs	2 bushels	2 bushels.
More than 18,000 lbs. but not more than 21,000 lbs	2½ bushels	2½ bushels.
More than 21,000 lbs. but not more than 24,000 lbs	3 bushels	3 bushels.
More than 24,000 lbs. but not more than 27,000 lbs	3½ bushels	3½ bushels.
More than 27,000 lbs. but not more than 30,000 lbs	4 bushels	4 bushels.
More than 30,000 lbs.—proportionately larger amounts.		

[1] The requirements set forth the sustaining rations for a full load of livestock in a railroad car 40 feet in length. The requirements for a full load of livestock in railroad cars of different sizes should be modified proportionately, *i.e.*, a load of livestock transported in a car 50 feet in length would require an additional 25 percent of feed or 2.5 percent for each additional foot of car over 40 feet.

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