

## § 82.25

destination listed on the special permit.

(Approved by the Office of Management and Budget under control number 0579-0116)

### § 82.25 Denial and withdrawal of permits and special permits.

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed to prevent the spread of chlamydia, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal must be in writing<sup>3</sup> and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there

<sup>3</sup>See footnote 10 to § 82.13.

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is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits or validity of the denial or withdrawal in accordance with rules of practice adopted for the proceeding.

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## PART 83—VIRAL HEMORRHAGIC SEPTICEMIA

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 73 FR 52184, Sept. 9, 2008, unless otherwise noted.

EFFECTIVE DATE NOTE: At 73 FR 52184, Sept. 9, 2008, part 83 was added, effective Nov. 10, 2008. At 73 FR 63867, Oct. 28, 2008, the effective date was delayed until Jan. 9, 2009. At 74 FR 1, Jan. 2, 2009, the effective date was delayed indefinitely.

### § 83.1 Definitions.

*Accredited veterinarian.* A veterinarian who is approved by the Administrator, in accordance with part 161 of this chapter, to perform official animal health work of the Animal and Plant Health Inspection Service specified in subchapters A, B, C, and D of this chapter; and to perform work required by cooperative State-Federal disease control and eradication programs.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

*Anadromous fish.* Fish that are born and spawn in freshwater, but which spend part of their lifecycle in salt-water.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant

Health Inspection Service of the United States Department of Agriculture.

*APHIS representative.* A veterinarian or other individual employed by APHIS who is authorized to perform the services required by this part.

*Approved laboratory.* A laboratory authorized by a State, Tribal, or Federal competent authority for aquatic animal health to perform assays for the detection of VHS virus.

*Catch-and-release fishing.* Fishing for pleasure or for recreational purposes, including tournaments, organized fishing competitions, fishing derbies, or other types of contests where individuals catch, compare, and release live VHS-regulated fish. This term excludes VHS-regulated fish used, or intended to be used, as live bait.

*Competent authority.* The State, Tribal, or Federal entity with the legal responsibility for ensuring or supervising the implementation of aquatic animal health measures.

*Cultured fish.* Fish of the same species and age class, originating from the same broodstock and on the same water supply, whose care is partly or totally managed from the first life stage onwards.

*Department.* The United States Department of Agriculture (USDA).

*Interstate.* From one State into or through any other State.

*Interstate Certificate of Inspection (ICI).* An official document issued by an accredited veterinarian or a State, Tribal, or Federal competent authority in the originating State that certifies that the fish being moved interstate originated from a facility that has been found free of VHS virus.

*Moved (movement).* Shipped, transported, delivered, or otherwise aided, induced, or caused to be moved.

*Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

*Secure water source.* A biosecure water supply that does not contain pathogens or has not had the opportunity to be contaminated with pathogens. Biosecure water supplies include well, spring, or borehole water; surface water that does not contain fish populations; or water that has been treated to eliminate aquatic animal pathogens.

*State.* Any of the 50 States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the District of Columbia, and any territories and possessions of the United States.

*State animal health official.* The State official responsible for livestock, disease control, and eradication programs.

*VHS-regulated area.* Any State or portion of a State listed in accordance with § 83.4.

*VHS-regulated fish.* Any fish species listed in accordance with § 83.4.

*VHS virus.* Any North American (type IV) strain of viral hemorrhagic septicemia (VHS) virus, a rhabdovirus of fish.

*Viral hemorrhagic septicemia (VHS).* A disease caused by infection with VHS virus.

### § 83.2 General restrictions.

Live VHS-regulated fish may not be moved interstate from a VHS-regulated area except in compliance with this part.

### § 83.3 Interstate movement of live VHS-regulated fish species from VHS-regulated areas.

(a) Except as provided in paragraphs (b) through (e) of this section, live VHS-regulated fish, including fish moved to live fish markets, may only be moved interstate from a VHS-regulated area if the fish originated from a facility that has been found free of the VHS virus in accordance with § 83.6 and the fish are accompanied by an Interstate Certificate of Inspection (ICI) issued by an accredited veterinarian or a State, Tribal, or Federal competent authority for aquatic animal health.

(b) Live VHS-regulated fish may be moved interstate directly to a slaughtering establishment provided that:

(1) The fish are accompanied by a VS Form 1-27;

(2) The fish are transported in sealed conveyances;

(3) The slaughtering establishment meets the following conditions:

(i) The slaughtering establishment discharges its waste water to a municipal sewage system that includes waste water disinfection sufficient to neutralize any VHS virus or to either a