

(c) The Administrator will give the operator of the establishment actual notice that APHIS, FSIS, or an APHIS contractor will be taking blood and/or tissue samples at the establishment. The Administrator may give the operator of the establishment notice in any form or by any means that the Administrator reasonably believes will reach the operator of the establishment prior to the start of sample collection.

(1) The notice will include the anticipated date and time sample collection will begin. The notice will also include the anticipated ending date and time.

(2) The Administrator will give the operator of the establishment as much advance notice as possible. However, the actual amount of notice will depend on the specific situation.

(d) *Denial and withdrawal of listing.* The Administrator may deny or withdraw the listing of an establishment upon a determination that the establishment is not in compliance with the requirements of this section.

(1) In the case of a denial, the operator of the establishment will be informed of the reasons for the denial and may appeal the decision in writing to the Administrator within 10 days after receiving notification of the denial. The appeal must include all of the facts and reasons upon which the person relies to show that the establishment was wrongfully denied listing. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(2) In the case of withdrawal, before such action is taken, the operator of the establishment will be informed of the reasons for the proposed withdrawal. The operator of the establishment may appeal the proposed withdrawal in writing to the Administrator within 10 days after being informed of the reasons for the proposed withdrawal. The appeal must include all of the facts and reasons upon which the person relies to show that the reasons for the proposed withdrawal are incorrect or do not support the withdrawal

of the listing. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the establishment. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

(Approved by the Office of Management and Budget under control numbers 0579-0212 and 0579-0342)

[69 FR 10150, Mar. 4, 2004, as amended at 78 FR 26489, May 7, 2013]

§ 71.22 [Reserved]

PART 72—BOVINE BABESIOSIS

Sec.

- 72.1 Interstate movement of infested or exposed animals prohibited.
- 72.2 Restrictions on movement of cattle.
- 72.3 Areas quarantined in the Virgin Islands of the United States, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Island of Guam.
- 72.4 [Reserved]
- 72.5 Area quarantined in Texas.
- 72.6 Interstate movement of cattle from quarantined areas not eradicating ticks.
- 72.7 Interstate movement of cattle from cooperating States.
- 72.8 Interstate movement of cattle from free premises upon inspection and certification by APHIS inspector.
- 72.9 Interstate movements of cattle; inspection and certification by APHIS inspector required.
- 72.10 Inspected or dipped and certified cattle subject to restrictions of State of destination.
- 72.11 Quarantined area; cattle considered infested; requirements for placing in non-infectious pens or premises.