needed, and the change in date is in effect immediately.

List of Subjects in 7 CFR Part 1710

Electric power, Electric utilities, Loan programs—energy, Rural areas.

For the reasons set out in the preamble, and under the authority of 7 U.S.C. 901 *et seq.*, RUS amends 7 CFR part 1710 as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901–950(b); Pub. L. 99–591, 100 Stat. 3341; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. Section 1710.7 is amended by revising paragraph (b)(3) to read as follows:

§ 1710.7 Exemptions of RUS operational controls under section 306E of the RE Act.

* * * * *

(b) * * *

(3) By no later than July 1 of each year, RUS will notify each borrower in writing of its exemption status. If the borrower's net worth to RUS debt ratio exceeds 110 percent based on the most recent year-end data, the borrower will be exempt from the operational controls exempted under paragraph (c) of this section until subsequently notified in writing by RUS that it is no longer exempt.

* * * * *

Dated: May 15, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97–13424 Filed 5–21–97; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 51, 56, 71, 75, 76, 78, 80, and 85

[Docket No. 96–041–2]

Interstate Movement of Livestock; Approved Livestock Facilities, Hog Cholera Provisions, and Livestock Identification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations regarding the interstate movement of livestock by combining the provisions for the approval of livestock markets for cattle and bison, horses, and swine into a single section. These changes are the result of a comprehensive review of the Animal and Plant Health Inspection Service's regulations, programs, and policies regarding livestock markets and stockyards. We are also removing the regulations that restrict the movement of swine and swine products from areas quarantined for hog cholera and that provide for the payment of compensation to the owners of swine destroyed because of hog cholera. We are removing the hog cholera regulations because the United States has been free of hog cholera since 1978 and import requirements have proven adequate to prevent the reintroduction of the disease into this country. These actions will eliminate unnecessary or duplicative regulations and remove the implication that hog cholera has not yet been eradicated in the United States.

EFFECTIVE DATE: June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. James P. Davis, Senior Staff Veterinarian, Surveillance and Animal Identification Team, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–5970; or E-mail: jdavis@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in subchapters B and C of chapter I, title 9, of the Code of Federal Regulations contain provisions designed to prevent the dissemination of animal diseases in the United States and facilitate their control and eradication. Subchapter B, ''Cooperative Control and Eradication of Livestock or Poultry Diseases,'' comprises 9 CFR parts 49 through 56; subchapter C, ''Interstate Transportation of Animals (Including Poultry) and Animal Products,'' is made up of 9 CFR parts 70 through 89.

In a proposed rule published in the **Federal Register** on October 31, 1996 (61 FR 56155–56165, Docket No. 96–041–1), we proposed to amend the regulations regarding the interstate movement of livestock by combining the provisions for the approval of livestock markets for cattle and bison, horses, and swine into a single section. In that same document, we also proposed to remove the regulations that restrict the movement of swine and swine products from areas quarantined for hog cholera and that provide for the payment of compensation to the owners of swine destroyed because of hog cholera.

We solicited comments concerning the proposed rule for 60 days ending December 30, 1996. We received five comments by that date. The comments we received were from a private veterinarian, three State animal health officials, and a livestock industry association. Two commenters generally supported the proposed rule but expressed reservations or offered suggestions on particular points. The remaining three commenters were opposed to specific aspects of the proposed rule and spoke only to those issues. The comments are discussed in detail below by subject.

Definitions

One commenter asked why sheep were not included in the proposed definition of *livestock* in § 71.1. When we prepared the proposed definition of *livestock*, our focus was on the term as it applied to the proposed new combined livestock facility agreement. Because that agreement contains no sheep-related provisions, we did not feel it was necessary to include sheep in the definition of *livestock*. However, the regulations in part 71 do refer numerous times to diseases of ''livestock or poultry'' or the interstate movement of ''livestock or poultry;'' in that context, it appears clear that sheep should be included in the definition of *livestock*. We have, therefore, added sheep to the definition of *livestock* in this final rule.

One commenter suggested that we add a definition for cull sows and boars to § 71.1 to differentiate such swine from breeder swine, feeder swine, and slaughter swine. The commenter stated that cull sows and boars, even though they are most often purchased for further feeding, would fall under the definition of *breeder swine* because they are sexually intact, and thus would be subject to more restrictions than other swine intended for further feeding, i.e. those covered under the definition of *feeder swine*. Breeder swine and feeder swine are subject to the same restrictions under the regulations in part 71 as amended by this document, so sexually intact cull sows and boars will not be subject to more restrictions than feeder swine as the commenter had anticipated. Because sexually intact cull sows and boars meet the definition of breeder swine—i.e., sexually intact swine over 6 months of age—and will not be handled in a manner different from breeder swine under the regulations, it is not necessary to define cull sows and boars apart from breeder swine.

Presence of Veterinarians at Livestock Facilities

Two commenters were opposed to the provision of paragraph (1) of the livestock facility agreement in § 71.20(a) that would allow States, with the concurrence of the Animal and Plant Health Inspection Service (APHIS), to determine how frequently State representatives, APHIS representatives, or accredited veterinarians should be present at individual stockyards and livestock facilities. Both commenters believed that the regulations should continue to require that a State or APHIS representative or accredited veterinarian be present on all sale days. One commenter pointed out that most States require a certificate of veterinary inspection for livestock, even for steers and spayed heifers, but that some States allow animals to be moved to livestock markets without a certificate because of the APHIS requirement for a veterinarian to be present at those facilities. That same commenter went on to remark that, in light of the increasing world trade in animals, it would not be prudent to reduce the opportunity for veterinary inspection. The second commenter offered a similar observation, stating that the United States has successfully eradicated or controlled many diseases due in large part to the presence of qualified veterinarians at its livestock markets.

On the same subject, a third commenter stated that it was unclear as to whether a veterinarian would have to be present at a livestock facility when animals were received from another State. As an example, the commenter stated that test-eligible cattle could arrive at an approved livestock facility from a brucellosis Class Free State without a health certificate. In such a case, the commenter asked, would an accredited veterinarian or APHIS or State representative have to be present to receive the animals, or would the approved livestock facility's employees be authorized to check for health certificates?

Closely related to those concerns about the presence of veterinarians at livestock facilities were the concerns of three commenters who opposed the proposed provision of paragraph (7) of the livestock facility agreement in § 71.20(a) that would prohibit the sale of any livestock that show signs of being infected with any infectious, contagious, or communicable disease without the authorization of an APHIS representative, State representative, or accredited veterinarian. One of those commenters pointed out that animals could be moving through an approved facility on a sale day when there is no APHIS, State, or accredited veterinarian on the premises—which is a possibility under paragraph (1) of the livestock facility agreement—then a determination as to the health status of those animals would be the responsibility of the facility's employees, i.e., lay people without the training or scientific background to make such a determination. Another commenter stated that 25 States currently have laws that either exempt or restrict implied warranties in livestock sales transactions. According to the commenter, most of those State laws are conditioned upon compliance with, or showing a reasonable effort to comply with, Federal and State animal health laws. Without a veterinarian present at the facility, the commenter argued, this proposed provision would set an unreasonably high standard and thus adversely affect the protection afforded to livestock facilities by those State laws.

After reviewing and considering the comments discussed in the preceding paragraphs, we believe that the commenters have raised several valid points regarding the disease control and surveillance, regulatory, and liability ramifications of our proposal to require the presence of an APHIS veterinarian, State veterinarian, or accredited veterinarian at approved livestock facilities only on specified sale days. Therefore, based on those comments, we have changed paragraphs (1) and (2) of the livestock facility agreement in § 71.20(a) in this final rule to retain the requirement that an APHIS veterinarian, State veterinarian, or accredited veterinarian be present on all sale days.

Combined Livestock Facility Agreement

One commenter opposed the proposal to combine the livestock facility agreements for cattle and bison, swine, and horses into a single agreement in § 71.20 on the grounds that some facility operators may be unwilling or unqualified to operate a facility for all three classes of livestock. It was not our intention to require all approved livestock facilities to accept all three classes of livestock. In the ''Background'' section of the proposed rule, we stated ''When completing the agreement, the operator of the livestock facility would indicate which animals and classes of animals the facility would accept by initialing the appropriate paragraphs of the agreement.'' In § 71.20(a), under the heading ''Standards for Handling Different Classes of Livestock'' following paragraph (13), the agreement itself states ''By his or her initials, the operator of the facility shall signify the class or classes of livestock that the facility will handle.'' Thus, we do not believe that the livestock facility agreement, as presented in the proposed rule and in this final rule, would require any livestock facility operators to accept all classes of livestock. Therefore, we have made no changes in this final rule based on that comment.

Release of Swine

Paragraph (15)(v) of the livestock facility agreement in § 71.20(a) states that ''no release shall be issued for the removal of feeder swine or breeder swine from the livestock facility until the swine are officially identified in accordance with applicable Federal or State regulations and have been inspected by an APHIS representative, State representative, or accredited veterinarian, and certified in accordance with applicable Federal or State regulations.'' One commenter stated that the paragraph's requirement for all feeder swine and breeder swine to be inspected by an APHIS representative, State representative, or accredited veterinarian prior to release is overly restrictive, especially in States that are classified as brucellosis free and in the latter stages of pseudorabies eradication.

It appears that the inspection-before-release provision of paragraph (15)(v) in the livestock facility agreement in § 71.20(a) was inadvertently carried over from the hog cholera regulations in part 76, which are being removed by this final rule. That provision, as noted by the commenter, is inconsistent with the brucellosis regulations in part 78 and the pseudorabies regulations in part 85. Therefore, because paragraph (15)(i) of the agreement already states that swine must be received, handled, and released by the facility only in accordance with 9 CFR parts 71, 78, and 85, and because paragraph (8) of the agreement requires all livestock to be officially identified as required by those regulations, we have removed paragraph § 71.20(a)(15)(v) in this final rule. Paragraph (15)(vi) has been redesignated as paragraph (15)(v). We have also removed the reference to official identification in that paragraph because, as noted previously, that requirement is already set forth in paragraph (8) of the agreement.

Rules of Practice

One commenter was concerned by the language of proposed § 71.20(b)(1) and (b)(2) regarding rules of practice for hearings that may be held to resolve any conflict of material fact concerning a denial or withdrawal of approval for a livestock facility. As presented in the proposed rule, the regulations state that

rules of practice for such hearings will be adopted by the Administrator of APHIS. The commenter believed that by allowing the rules of practice to be adopted on a case-by-case basis, this provision ''flies in the face of consistency and fairness.'' The commenter suggested that APHIS should either abide by established U.S. Department of Agriculture rules of procedure or adopt and publish a standard set of rules of practice for use in withdrawal hearing cases.

Uniform rules of practice such as those sought by the commenter are used for a formal Administrative Procedures Act (APA) hearing before an administrative law judge. The hearings provided for by this final rule are non-APA proceedings that would be held before a hearing officer, not an administrative law judge, so those uniform rules of practice are not applicable. The due process rights of a person whose livestock facility approval has been denied or withdrawn are met in this rule by its notice and opportunity for that person to be heard before a qualified hearing officer. Therefore, we have made no changes in this rule based on that comment.

Identification of Livestock

One commenter supported the use of premises identification numbers, but questioned why APHIS did not provide for the use of premises identification numbers for animals other than swine. That commenter also stated that it may be necessary to establish minimal standards for assigning premises identification numbers to provide for uniformity within and between States, especially if APHIS allows for their use to identify animals other than swine. The definition of *premises identification number* does not include or exclude any specific animals but, as the commenter noted, the proposed rule did explicitly provide for their use for swine identification only. We believe, however, that the commenter is correct in suggesting that premises identification numbers could be used to identify animals other than swine. Therefore, to provide for the use of premises identification numbers to identify cattle, which is the only other class of livestock that currently requires such identification under the livestock regulations, this final rule amends the definition of *official eartag* in § 71.1 and § 78.1 to provide for the use of a premises identification number on an official eartag. With regard to the commenter's concerns regarding the need for minimal standards for the issuance of *premises identification numbers,* we believe that the definition of premises identification number, as proposed, provides a sufficient degree of guidance for the issuance of numbers. That definition provides that unique numbers that begin with the State's two-letter postal abbreviation will be assigned by the State animal health official to epidemiologically distinct livestock production units. It appears that any further guidance would have to be administrative in nature, and we do not believe that it is necessary to dictate how individual State animal health officials should, for example, distribute numbers or keep records.

Also with regard to premises identification numbers, one commenter questioned the need for a space between the State's two-letter postal abbreviation and premises' assigned number, noting that other official alpha-numeric systems do not require a space. We acknowledge that a space is not necessary in a premises identification number. We have, therefore, amended the definition of *premises identification number* in this final rule to remove the requirement for a space between the State's two-letter postal abbreviation and the premises' assigned number.

One commenter asked that we consider amending § 71.19 to remove all references to identifying swine moved in ''interstate commerce'' and replace them with references to swine ''moved interstate.'' Because our proposed changes to § 71.19 dealt only with means of swine identification—i.e. tattoos and eartags—and not with determining which swine must be identified, that comment is outside the scope of this rulemaking. Any changes to the regulations based on that comment would have to be part of a future rulemaking.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule amends the regulations regarding the interstate movement of livestock by combining the provisions for the approval of livestock markets for cattle and bison, horses, and swine into a single section and by removing the regulations that restrict the movement of swine and swine products from areas quarantined for hog cholera and that provide for the payment of compensation to the owners of swine destroyed because of hog cholera. The changes to the livestock market approval provisions were recommended following a review of APHIS' regulations, programs, and policies regarding livestock markets and stockyards; the hog cholera regulations will be removed because the United States has been free of hog cholera since 1978 and import requirements have proven adequate to prevent the reintroduction of the disease into this country. These actions will eliminate unnecessary or duplicative regulations and remove the implication that hog cholera has not yet been eradicated in the United States.

We estimate that combining livestock market approval provisions for horses, swine, cattle, and bison into a single section and, thus, reducing the livestock market agreement to one form will reduce the number of approvals from 4,800 to fewer than 1,800 because each livestock facility and stockyard will need only one approval. Many livestock facilities and stockyards now have three approvals. APHIS does not charge a user fee for inspections or approvals, so livestock facilities will not experience a reduction in costs. However, this rule change will reduce the amount of paperwork associated with livestock facility approvals.

The removal of the hog cholera regulations in 9 CFR parts 56 and 76 will not have any economic impact on livestock markets or stockyards or any other entity. Hog cholera has been eradicated in the United States since 1978 and there are no enforcement measures currently in place.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings

before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects

9 CFR Part 51

Animal diseases, Cattle, Hogs, Indemnity payments, Reporting and recordkeeping requirements.

9 CFR Part 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 75

Animal diseases, Horses, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 76

Animal diseases, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 Part CFR 80

Animal diseases, Livestock, Transportation.

9 CFR Part 85

Animal diseases, Livestock, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending chapter I, title 9, of the Code of Federal Regulations as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation for part 51 is revised to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a-1, 120, 121, 125, and 134b; 7 CFR 2.22, 2.80, and 371.2(d).

§ 51.1 [Amended]

2. In § 51.1, the definition of *Specifically approved stockyard* is amended by removing the reference ''§ 78.44'' and adding the reference ''§ 71.20'' in its place.

PART 56—[RESERVED]

3. Part 56 is removed and reserved.

PART 71—GENERAL PROVISIONS

4. The authority citation for part 71 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114a, 114a-1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

5. Section 71.1 is amended as follows:

a. By removing the definitions of *accredited herd, APHIS inspector, designated dipping station, recognized slaughtering center,* and *stockers and feeders.*

b. By adding, in alphabetical order, definitions of *APHIS representative, approved livestock facility, breeder swine, feeder swine, horses, livestock, premises identification number,* and *slaughter swine* to read as set forth below.

c. In the definition of *livestock market,* by removing the word ''swine'' and adding the word ''livestock'' in its place.

d. By revising the definition of *official eartag* to read as set forth below.

§ 71.1 Definitions.

* * * * *

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Approved livestock facility. A stockyard, livestock market, buying station, concentration point, or any other premises under State or Federal veterinary supervision where livestock are assembled and that has been approved under § 71.20.

* * * * *

Breeder swine. Sexually intact swine over 6 months of age.

* * * * *

Feeder swine. Swine under 6 months of age that are not slaughter swine.

* * * * *

Horses. Horses, asses, mules, ponies, and zebras.

* * * * *

Livestock. Horses, cattle, bison, sheep, and swine.

* * * * *

Official eartag. An identification eartag approved by APHIS as being tamper-resistant and as conforming to the alpha-numeric National Uniform Eartagging System, which provides unique identification for each animal, or as bearing a valid premises identification number.

* * * * *

Premises identification number. A unique number assigned by the State animal health official to a livestock production unit that is, in the judgment of the State animal health official or area veterinarian in charge, epidemiologically distinct from other livestock production units. A premises identification number shall consist of the State's two-letter postal abbreviation followed by the premises' assigned number. A premises identification number may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal.

* * * * *

Slaughter swine. Swine being sold or moved for slaughter purposes only.

* * * * *

§ 71.3 [Amended]

6. Section 71.3 is amended as follows:

a. In paragraph (a), the words ''hog cholera,'' are removed and the word ''pseudorabies,'' is added in their place.

b. In paragraph (b), the words ''hog cholera,'' are added immediately after the words ''African swine fever,''.

c. In paragraph (c)(2), the reference ''§ 77.8'' is removed and the reference ''§ 77.5'' is added in its place.

d. In paragraph (d), introductory text, in the second proviso, the word ''inspector'' is removed and the word ''representative'' is added in its place.

e. In paragraph (d)(5), first sentence, the word ''inspector'' is removed and the word ''representative'' is added in its place.

§ 71.4 [Amended]

7. Section 71.4 is amended as follows:

a. In paragraph (a), at the end of the first sentence, the word ''inspector'' is removed and the word ''representative'' is added in its place; at the beginning of the second sentence, the words ''such inspector'' are removed and the words ''an APHIS or State representative'' are added in their place; and near the end of the second sentence, the words ''such an inspector'' are removed and the words ''an APHIS or State representative'' are added in their place.

b. In paragraph (b), the word ''inspector'' is removed and the word ''representative'' is added in its place.

§ 71.5 [Amended]

8. In § 71.5, the undesignated regulatory text are amended by removing the word ''inspector'' both

times it appears and by adding the word ''representative'' in its place.

§ 71.6 [Amended]

9. In § 71.6, paragraphs (a) and (b) are amended by removing the word ''inspector'' both times it appears and by adding the word ''representative'' in its place.

§ 71.13 [Amended]

10. In § 71.13, the section heading and the undesignated regulatory text are amended by removing the word ''inspector'' each time it appears and adding the word ''representative'' in its place.

§ 71.16 [Amended]

11. In § 71.16, paragraph (a) is amended by removing the word ''inspector'' both times it appears and by adding the word ''representative'' in its place.

§ 71.18 [Amended]

12. Section 71.18 is amended as follows:

a. In the introductory text of paragraph (a), in the first sentence, the words ''§§ 78.9(a)(3)(iv), 78.9(b)(3)(iv), 78.9(c)(3)(iv), and 78.9(d)(3)(vii)'' are removed and the words ''§§ 78.9(a)(3)(ii), 78.9(b)(3)(iv), and 78.9(c)(3)(iv)'' are added in their place.

b. In paragraph (a)(1)(i), footnote 1, the words ''Veterinary Services'' are removed both times they appear and the word ''APHIS'' is added in their place.

c. Paragraphs (a)(1)(i)(*a*) through (a)(1)(i)(*g*) are redesignated as paragraphs (a)(1)(i)(A) through (a)(1)(i)(G).

d. Paragraphs (a)(1)(ii)(*a*) through (a)(1)(ii)(*f*) are redesignated as paragraphs (a)(1)(ii)(A) through (a)(1)(ii)(F).

e. Paragraphs (a)(1)(iii)(*a*) through (a)(1)(iii)(*g*) are redesignated as paragraphs (a)(1)(iii) (A) through (a)(1)(iii)(G).

f. In paragraph (a)(2), in the second sentence, the word ''inspector'' is removed and the word ''representative'' is added in its place.

g. In paragraph (a)(5), the words ''§ 78.44 of this chapter'' are removed and the reference ''§ 71.20'' is added in its place.

13. Section 71.19 is amended as follows:

a. In the introductory text of paragraph (a)(1), the words ''they are individually'' are removed and the words ''each swine is'' are added in their place.

b. In paragraph (b)(5), the word ''and'' at the end of the paragraph is removed.

c. Paragraph (b)(6) is revised and a new paragraph (b)(7) is added to read as follows:

§ 71.19 Identification of swine in interstate commerce.

* * * * *

(b) * * *

(6) Tattoos on the ear or inner flank of any swine, if the tattoos have been recorded in the book of record of a swine registry association; and

(7) An eartag or tattoo bearing the premises identification number assigned by the State animal health official to the premises on which the swine originated.

* * * * *

14. A new § 71.20 is added to read as follows:

§ 71.20 Approval of livestock facilities.

(a) To qualify for approval by the Administrator as an approved livestock facility [6] and to retain such designation, the individual legally responsible for the day-to-day operations of the livestock facility shall execute the following agreement:

AGREEMENT—APPROVED LIVESTOCK FACILITY FOR HANDLING LIVESTOCK PURSUANT TO TITLE 9 OF THE CODE OF FEDERAL REGULATIONS

[*Name of facility*]
[*Address and telephone number of facility*]

I, [*name of the individual legally responsible for the day-to-day operations of the livestock facility*], operator of [*name of facility*], hereby agree to maintain and operate the livestock facility located at [*address of premises*] in accordance with the applicable provisions of this agreement and Chapter I, Title 9, of the Code of Federal Regulations (9 CFR).

Cooperation

(1) The State animal health official and the area veterinarian in charge shall be provided with a schedule of the facility's sale days, which shall indicate the types of animals that will be handled at the facility on each sale day, and shall be apprised of any changes to that schedule prior to the implementation of the changes.

(2) An accredited veterinarian, State representative, or APHIS representative shall be on the facility premises on all sale days to perform duties in accordance with State and Federal regulations.

(3) State representatives and APHIS representatives shall be granted access to the facility during normal business hours to evaluate whether the facility and its operations are in compliance with the applicable provisions of this agreement and 9 CFR parts 71, 75, 78, and 85.

(4) An APHIS representative, State representative, or accredited veterinarian shall be immediately notified of the presence at the facility of any livestock that are known to be infected, exposed, or suspect, or that show signs of possibly being infected, with any infectious, contagious, or communicable disease.

(5) Any reactor, suspect, or exposed livestock shall be held in quarantined pens apart from all other livestock at the facility.

(6) No reactor, suspect, or exposed livestock, nor any livestock that show signs of being infected with any infectious, contagious, or communicable disease, may be sold at the facility, except as authorized by an APHIS representative, State representative, or accredited veterinarian.

Records

(7) Documents such as weight tickets, sales slips, and records of origin, identification, and destination that relate to livestock that are in, or that have been in, the facility shall be maintained by the facility for a period of 2 years. APHIS representatives and State representatives shall be permitted to review and copy those documents during normal business hours.

Identification

(8) All livestock must be officially identified in accordance with the applicable regulations in 9 CFR parts 71, 75, 78, and 85 at the time of, or prior to, entry into the facility.

Cleaning and Disinfection

(9) The facility, including all yards, docks, pens, alleys, sale rings, chutes, scales, means of conveyance, and their associated equipment, shall be maintained in a clean and sanitary condition. The operator of the facility shall be responsible for the cleaning and disinfection of the facility in accordance with 9 CFR part 71 and for maintaining an adequate supply of disinfectant and serviceable equipment for cleaning and disinfection.

General Facilities and Equipment Standards

(10) All facilities and equipment shall be maintained in a state of good repair. The facility shall contain well-constructed and well-lighted livestock handling chutes, pens, alleys, and sales rings for the inspection, identification, vaccination, testing, and branding of livestock.

(11) Quarantined pens shall be clearly labeled with paint or placarded with the word ''Quarantined'' or the name of the disease of concern, and shall be cleaned and disinfected in accordance with 9 CFR part 71 before being used to pen livestock that are not reactor, suspect, or exposed animals.

(12) Quarantined pens shall have adequate drainage, and the floors and those parts of the walls of the quarantined pens with which reactor, or suspect, or exposed livestock, their excrement, or discharges may have contact shall be constructed of materials that are substantially impervious to moisture and able to withstand continued cleaning and disinfection.

(13) Electrical outlets shall be provided at the chute area for branding purposes.

[6] A list of approved livestock facilities may be obtained by writing to National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231.

Standards for Handling Different Classes of Livestock

(By his or her initials, the operator of the facility shall signify the class or classes of livestock that the facility will handle.)

(14) Cattle and bison:

—This facility will handle cattle and bison: [*Initials of operator, date*]

—This facility will handle cattle and bison known to be brucellosis reactors, suspects, or exposed: [*Initials of operator, date*]

—This facility will not handle cattle and bison known to be brucellosis reactors, suspects, or exposed and such cattle and bison will not be permitted to enter the facility: [*Initials of operator, date*]

(i) Cattle and bison shall be received, handled, and released by the facility only in accordance with 9 CFR parts 71 and 78.

(ii) All brucellosis reactor, brucellosis suspect, and brucellosis exposed cattle or bison arriving at the facility shall be placed in quarantined pens and consigned from the facility only in accordance with 9 CFR part 78.

(iii) Any cattle or bison classified as brucellosis reactors at the facility shall be identified in accordance with 9 CFR part 78, placed in quarantined pens, and consigned from the facility only to a recognized slaughtering establishment or an approved intermediate handling facility in accordance with 9 CFR part 78.

(iv) Any cattle or bison classified as brucellosis exposed at the facility shall be identified in accordance with 9 CFR part 78, placed in quarantined pens, and consigned from the facility only to a recognized slaughtering establishment, approved intermediate handling facility, quarantined feedlot, or farm of origin in accordance with 9 CFR part 78.

(v) The identity of cattle from Class Free States or areas and Class A States or areas shall be maintained.

(vi) The identity of cattle from Class B States or areas shall be maintained, and test-eligible cattle from Class B States or areas shall not be placed in pens with cattle from any other area until they have fulfilled the requirements of 9 CFR part 78 for release from the facility.

(vii) The identity of cattle from Class C States or areas shall be maintained, and test-eligible cattle from Class C States or areas shall not be placed in pens with cattle from any other area until they have fulfilled the requirements of 9 CFR part 78 for release from the facility.

(viii) The identity of cattle from quarantined areas shall be maintained, and test-eligible cattle from quarantined areas shall not be placed in pens with cattle from any other area until they have fulfilled the requirements of 9 CFR part 78 for release from the facility.

(ix) Test-eligible cattle that are penned with test-eligible cattle from a lower class State or area, in violation of this agreement, shall have the status of the State or area of lower class for any subsequent movement.

(x) Laboratory space shall be furnished and maintained for conducting diagnostic tests. All test reagents, testing equipment, and documents relating to the State-Federal cooperative eradication programs on the facility's premises shall be secured to prevent misuse and theft. Adequate heat, cooling, electricity, water piped to a properly drained sink, and sanitation shall be provided for properly conducting diagnostic tests.

(15) Swine:

—This facility will handle breeding swine: [*Initials of operator, date*]

—This facility will handle slaughter swine: [*Initials of operator, date*]

—This facility will handle feeder swine: [*Initials of operator, date*]

—This facility will handle pseudorabies reactor, suspect, or exposed swine: [*Initials of operator, date*].

—This facility will not handle swine known to be pseudorabies reactor, suspect, or exposed swine and such swine will not be permitted to enter the facility: [*Initials of operator, date*].

(i) Swine shall be received, handled, and released by the livestock facility only in accordance with 9 CFR parts 71, 78, and 85.

(ii) Slaughter swine may be handled only on days when no feeder swine or breeder swine are present at the facility, unless the facility has provisions to keep slaughter swine physically separated from feeder swine and breeder swine or unless those areas of the facility used by slaughter swine have been cleaned and disinfected before being used by feeder swine or breeder swine.

(iii) No feeder swine or breeder swine may remain in the livestock facility for more than 72 hours, and no slaughter swine may remain in the livestock market for more than 120 hours.

(iv) Feeder swine shall be kept separate and apart from other swine while in the livestock facility.

(v) No release shall be issued for the removal of slaughter swine from the livestock facility unless the slaughter swine are consigned for immediate slaughter or to another slaughter market and the consignee is identified on the release document.

(16) Horses:

—This facility will handle horses: [*Initials of operator, date*]

—This facility will handle equine infectious anemia (EIA) reactors: [*Initials of operator, date*]

—This facility will not handle horses known to be EIA reactors and will not permit EIA reactors to enter the facility: [*Initials of operator, date*]

(i) Horses shall be received, handled, and released by the livestock facility only in accordance with 9 CFR parts 71 and 75.

(ii) Any horses classified as EIA reactors and accepted by the facility for sale shall be placed in quarantined pens at least 200 yards from all non-EIA-reactor horses or other animals, unless moving out of the facility within 24 hours of arrival.

(iii) Any horses classified as EIA reactors and accepted by the facility for sale shall be consigned from the facility only to a slaughtering establishment or to the home farm of the reactor in accordance with 9 CFR part 75.

(iv) Fly Control Program: The livestock facility shall have in effect a fly control program utilizing at least one of the following: Baits, fly strips, electric bug killers (''Fly Zappers,'' ''Fly Snappers,'' or similar equipment), or the application of a pesticide effective against flies, applied according to the schedule and dosage recommended by the manufacturer for fly control.

Approvals

(17) Request for approval:

I hereby request approval for this facility to operate as an approved livestock facility for the classes of livestock indicated in paragraphs (14) through (16) of this agreement. I acknowledge that I have received a copy of 9 CFR parts 71, 75, 78 and 85, and acknowledge that I have been informed and understand that failure to abide by the provisions of this agreement and the applicable provisions of 9 CFR parts 71, 75, 78, and 85 constitutes a basis for the withdrawal of this approval. [*Printed name and signature of operator, date of signature*]

(18) Pre-approval inspection of livestock facility conducted by [*printed name and title of APHIS representative] on [date of inspection*].

(19) Recommend approval:

[*Printed name and signature of State animal health official, date of signature*]

[*Printed name and signature of area veterinarian in charge, date of signature*]

(20) Approval granted:

[*Printed name and signature of the Administrator, Animal and Plant Health Inspection Service, date of signature*]

(b) *Denial and withdrawal of approval.* The Administrator may deny or withdraw the approval of a livestock facility to receive livestock moved interstate under this subchapter upon a determination that the livestock facility is not or has not been maintained and operated in accordance with the agreement set forth in paragraph (a) of this section.

(1) In the case of a denial, the operator of the facility 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 livestock facility was wrongfully denied approval to receive livestock moved interstate under this subchapter. 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 facility will be informed of the reasons for the proposed withdrawal. The operator of the facility 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 approval of the livestock facility to receive livestock moved interstate under this subchapter. 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 facility. 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.

(3) Approval for a livestock facility to handle livestock under this subchapter will be automatically withdrawn by the Administrator when:

(i) The operator of the facility notifies the Administrator, in writing, that the facility no longer handles livestock moved interstate under this subchapter; or

(ii) The person who signed the agreement executed in accordance with paragraph (a) of this section is no longer responsible for the day-to-day operations of the facility.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

15. The authority citation for part 75 continues to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, and 134-134h; 7 CFR 2.22, 2.80, and 371.2(d).

16. Section 75.4 is amended as follows:

a. The section heading is revised to read as set forth below.

b. In paragraph (a), the definition of *Approved stockyard* is amended by removing the words ''this part'' and by adding the words ''§ 71.20 of this chapter'' in their place.

c. In paragraph (c), the paragraph heading is amended by removing the words '', Diagnostic or Research Facilities, and Stockyards'' and by adding the words ''and Diagnostic or Research Facilities'' in their place, and paragraph (c)(3) and the agreement following it are removed.

d. In paragraph (d), the introductory text of the paragraph, including the paragraph heading, and paragraphs (d)(1) and (d)(2) are revised to read as set forth below, and paragraph (d)(5) is removed.

§ 75.4 Interstate movement of equine infectious anemia reactors and approval of laboratories, diagnostic facilities, and research facilities.

* * * * *

(d) *Denial and withdrawal of approval of laboratories and diagnostic or research facilities.* The Administrator may deny or withdraw approval of any laboratory to conduct the official test, or of any diagnostic or research facility to receive reactors moved interstate, upon a determination that the laboratory or diagnostic or research facility does not meet the criteria for approval under paragraph (c) of this section.

(1) In the case of a denial, the operator of the laboratory or facility will be informed of the reasons for 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 laboratory or facility was wrongfully denied approval to conduct the official test or receive reactors moved interstate. 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 laboratory or facility will be informed of the reasons for the proposed withdrawal. The operator of the laboratory or facility 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 approval of the laboratory or facility to conduct the official test or receive reactors moved interstate. 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, the 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 laboratory or facility. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. The withdrawal shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

* * * * *

PART 76—[RESERVED]

17. Part 76 is removed and reserved.

PART 78—BRUCELLOSIS

18. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

19. Section 78.1 is amended as follows:

a. In the definition of *Approved intermediate handling facility,* the reference ''§ 78.44(b)'' is removed and the words ''§ 71.20 of this chapter'' are added in its place.

b. By revising the definition of *Official eartag* to read as set forth below.

c. In the definition of *Originate,* paragraph (c), the reference ''§ 78.44'' is removed and the words ''§ 71.20 of this chapter'' are added in its place.

d. In definition of *Specifically approved stockyard,* the reference ''§ 78.44'' is removed and the words ''§ 71.20 of this chapter'' are added in its place.

§ 78.1 Definitions.

* * * * *

Official eartag. An identification eartag approved by APHIS as being tamper-resistant and as conforming to the alpha-numeric National Uniform Eartagging System, which provides unique identification for each animal, or as bearing a valid premises identification number.

* * * * *

20. Section 78.33 is revised to read as follows:

§ 78.33 Sows and boars.

(a) Sows and boars may be moved in interstate commerce for slaughter or for

sale for slaughter if they are identified in accordance with § 71.19 of this chapter either:

(1) Before being moved in interstate commerce and before being mixed with swine from any other source; or

(2) After being moved in interstate commerce but before being mixed with swine from any other source only if they have been moved directly from their herd of origin to:

(i) A recognized slaughtering establishment; or

(ii) A stockyard, market agency, or dealer operating under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*).

(b) Sows and boars may be moved in interstate commerce for breeding only if they are identified in accordance with § 71.19 of this chapter before being moved in interstate commerce and before being mixed with swine from any other source, and the sows and boars either:

(1) Are from a validated brucellosis-free herd or a validated brucellosis-free State and are accompanied by a certificate that states, in addition to the items specified in § 78.1, that the swine originated in a validated brucellosis-free herd or a validated brucellosis-free State; or

(2) Have tested negative to an official test conducted within 30 days prior to interstate movement and are accompanied by a certificate that states, in addition to the items specified in § 78.1, the dates and results of the official tests.

(c) Sows and boars may be moved in interstate commerce for purposes other than slaughter or breeding without restriction under this subpart if they are identified in accordance with § 71.19 of this chapter.

Subpart E—[Heading Amended]

21. The heading of subpart E is amended by removing the words ‘‘, and Specifically Approved Stockyards’’.

§ 78.44 [Removed]

22. Section 78.44 is removed.

PART 80—PARATUBERCULOSIS IN DOMESTIC ANIMALS

23. The authority citation for part 80 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, and 125; 7 CFR 2.22, 2.80, and 371.2(d).

§ 80.1 [Amended]

24. In § 80.1, paragraph (j) is amended by removing the reference ‘‘§ 78.44’’ and by adding the words ‘‘§ 71.20 of this chapter’’ in its place.

PART 85—PSEUDORABIES

25. The authority citation for part 85 continues to read as follows:

Authority: 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 85.1 [Amended]

26. In § 85.1, in the definition of *Approved livestock market*, the words ‘‘§ 76.18 (9 CFR 76.18)’’ are removed and the words ‘‘§ 71.20 of this chapter’’ are added in their place.

27. In § 85.1, in the definition of *Slaughter market*, the words ‘‘§ 76.18 (9 CFR 76.18)’’ are removed and the words ‘‘§ 71.20 of this chapter’’ are added in their place.

§ 85.12 [Amended]

28. Section 85.12 is amended by removing the reference ‘‘§ 76.30’’ and by adding the reference ‘‘§ 71.7’’ in its place.

§ 85.13 [Amended]

29. Section 85.13 is amended by removing the reference ‘‘§ 76.31’’ and by adding the reference ‘‘§ 71.7’’ in its place.

Done in Washington, DC, this 19th day of May 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–13499 Filed 5–21–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 96–094–1]

Limited Ports; Dayton, OH

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the animal importation regulations by adding Dayton, OH, to the list of limited ports of entry for horses and horse products, such as horse test specimens, that do not appear to require restraint and holding inspection facilities. We have determined that this port has inspection facilities for this purpose and that Animal and Plant Health Inspection Service personnel are available to provide service at this location. This action will provide an additional port of entry for horses and horse products that do not require restraint and holding facilities for inspection at the port of entry.

DATES: This rule will be effective on July 21, 1997 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 23, 1997.

ADDRESSES: Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to Docket No. 96–094–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your submission refers to Docket No. 96–094–1. Submissions received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments and notices are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. David Vogt, Senior Staff Veterinarian, Animal Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–8423; or e-mail: dvogt@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) restrict the importation of specified animals and animal products into the United States to prevent the introduction of communicable animal diseases. Subpart C—Horses, §§ 92.300 through 92.326 of the regulations, covers the importation of horses. Section 92.303 designates ports approved for the importation of horses. Section 92.303, paragraph (d), lists limited ports, which have inspection facilities for the importation of horses and horse products, such as horse test specimens, that do not appear to require restraint and holding facilities for inspection at the port of entry.

This rule will amend § 92.303(d) in accordance with the procedures explained below under **DATES,** by adding Dayton, OH, to the list of limited ports for the entry of horses and horse products. We have determined that this port has inspection facilities for this purpose and that Animal and Plant Health Inspection Service personnel are available to provide service at this location. This action will provide importers with an alternative port of entry for horses and horse products that do not require restraint and holding