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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 51, 71, 75, 78, 85, and 86

[Docket No. APHIS-2014-0018]

RIN 0579-AE02

Livestock Marketing Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing approval of facilities that receive livestock moved in interstate commerce. We are also proposing several amendments to the conditions under which livestock may move to such facilities without official identification or prior issuance of an interstate certificate of veterinary inspection or alternative documentation. These changes are necessary to update the regulations governing livestock marketing facilities, while also helping ensure animal disease traceability of livestock that are moved in interstate commerce to such facilities.

DATES: We will consider all comments that we receive on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0018>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2014-0018, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0018> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Neil Hammerschmidt, Program Manager, Animal Disease Traceability, VS, APHIS, 4700 River Road Unit 200, Riverdale, MD 20737-1236; (301) 851-3539.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR subchapter B contain requirements governing Cooperative State-Federal programs for the control or eradication of diseases of livestock. The regulations in 9 CFR subchapter C contain requirements for the interstate movement of livestock to prevent the dissemination of diseases of livestock within the United States. In the remainder of this document, we refer to these two subchapters collectively as “the regulations.”

The regulations in 9 CFR part 71, “General provisions,” contain general requirements regarding the movement of livestock in interstate commerce within the United States. Section 71.20, “Approval of livestock facilities,” provides that the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) may approve a

livestock facility to receive livestock that are moved interstate under conditions that are afforded only to such approved facilities. As a general condition for approval of a facility, the person legally responsible for the day-to-day operations of the livestock facility must execute an agreement with APHIS regarding the manner in which the facility will operate, if approved. The provisions of the agreement are set forth in the regulations.

However, the agreement set forth in § 71.20 is antiquated, and thus contains provisions that were necessary when diseases of livestock were more prevalent in the United States, but that currently rarely come into play during the day-to-day operations of a particular facility. We have therefore evaluated the agreement in order to determine which provisions are still necessary.

The regulations in 9 CFR part 86, “Animal Disease Traceability,” provide minimum national official identification and recordkeeping requirements for the traceability of livestock moving interstate.

Section 86.4 provides the official identification devices and methods that the Administrator of APHIS has approved for various species of livestock moving interstate, and generally requires livestock to be officially identified prior to moving interstate.

The section also provides a number of exemptions from this general requirement. One of these exemptions, found in paragraph (b)(1)(ii) of the section, allows cattle and bison to be moved interstate without official identification if they are moved directly to no more than one approved livestock marketing facility<sup>1</sup> and then directly to a recognized slaughtering establishment and additionally if they are moved interstate with a USDA-approved backtag or a

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<sup>1</sup> The section currently refers to such facilities as “approved livestock facilities.” However, for reasons that we discuss later in this document, we are proposing to revise this term to “approved livestock marketing facilities.” For the sake of consistency, we refer to the facilities as approved livestock marketing facilities throughout this document.

USDA-approved backtag is applied to them at the approved livestock marketing facility or the recognized slaughtering establishment.

Section 86.5 provides general documentation requirements for livestock moving interstate. The section provides, as a general requirement, that livestock leaving a premises for interstate movement must be accompanied by an interstate certificate of veterinary inspection (ICVI).

The section also provides a number of exemptions from this general requirement. One of these exemptions, found in paragraph (c)(1) of the section, allows cattle and bison to be moved without an ICVI if they are moved directly to an approved livestock marketing facility and then directly to a recognized slaughtering facility and are accompanied by an owner-shipper statement. Another exemption, found in paragraph (c)(2), allows cattle and bison to be moved without an ICVI if they are moved directly to an approved livestock marketing facility under an owner-shipper statement and are not subsequently moved interstate from the facility unless accompanied by an ICVI. We have received several requests to reconsider or clarify aspects of the exemptions.

We are proposing to make a number of changes to the regulations. Below, we discuss the changes that we are proposing to make, by topic.

#### Approved Livestock Marketing Facilities

Currently, the regulations refer, in various instances, to “approved livestock facilities,” “approved stockyards,” and “specifically approved stockyards” in order to describe livestock facilities that have been approved in accordance with § 71.20. We are proposing to replace all such references with the term “approved livestock marketing facilities.” Similarly, we are proposing to replace all references in the regulations to “livestock facilities” with “livestock

marketing facilities.” We believe the term “livestock marketing facility” appropriately describes a variety of different facilities, such as stockyards, auction barns, and buying stations, that share the common distinction of being locations where livestock moving in interstate commerce are marketed. We also believe the term helps differentiate livestock marketing facilities from other locations, such as slaughtering facilities and quarantine lots, that receive livestock moved in interstate commerce but that do not market such animals. Finally, it would also differentiate livestock marketing facilities from private production facilities, such as feed lots, dairies, farms, and ranches.

#### Proposed Revisions To Part 71

We are proposing to revise § 71.20. Paragraph (a) of § 71.20 would contain requirements that apply to all livestock marketing facilities regardless of whether they have sought APHIS approval. All livestock marketing facilities would have to allow APHIS or State representatives to collect blood samples, conduct testing, and carry out operations and measures at the facilities in order to detect, control, and eradicate diseases and pests of livestock. In order to carry out these operations and measures, APHIS or State representatives could request records and receipts retained by the facilities that pertain to these disease and pest detection, control, and eradication efforts, and the facilities would have to provide any records or receipts so requested.

Additionally, all livestock marketing facilities would have to maintain a record of the receipt, distribution, and application of all official identification devices and USDA-approved backtags at the facility.

Under section 8308 of the Animal Health Protection Act (AHPA, 7 U.S.C. 8301 et seq.), APHIS may carry out operations and measures to detect, control, or eradicate any pest or disease

of livestock, including the drawing of blood and diagnostic testing of animals at points of livestock concentration. Paragraph (a) of § 71.20 would, in part, restate this statutory authority.

When APHIS exercises this authority at a livestock marketing facility in order to respond to disease or pest outbreaks, it is usually in order to trace known or potentially infected or infested animals forward or back through their chain of production and determine what other animals may have commingled with the animals under investigation. In order to do that, APHIS reviews records of official identification devices and USDA-approved backtags applied to livestock at a marketing facility, as well as other records retained by the facility as part of common business practices. To the extent that these records are incomplete, or the facility delays in sharing them with APHIS, the possibility of an incomplete trace—and, commensurately, the likelihood of disease or pest spread—increases. Thus it is necessary to require facilities to maintain for a 5 year period a record of the receipt, distribution, and application of all official identification devices and USDA-approved backtags at the facility, and to provide these and any other receipts or records that pertain to disease or pest detection, control, or eradication efforts to APHIS or State officials working in cooperation with APHIS, when requested.

Proposed paragraph (b) of § 71.20 would contain our approval process for livestock marketing facilities. Similar to the existing requirements for livestock facilities, to qualify for approval by APHIS as an approved livestock marketing facility and to retain such designation, the individual legally responsible for the day-to-day operations of the facility, or his or her agent, would have to execute an agreement with APHIS. At the discretion of APHIS, a State animal health official could also be a cosignatory on the agreement.

We would allow the individual legally responsible for the day-to-day operations of the facility to authorize an agent to execute the agreement in case the individual would prefer that his or her legal counsel review and execute the agreement on his or her behalf. We would allow a State animal health official to be a cosignatory on the agreement in order to codify a longstanding operational practice that we instituted out of recognition of the degree of oversight that State animal health authorities exercise over such facilities.

We are proposing to remove the terms of the agreement from the regulations. Instead, the terms would be contained in a document titled the “Approved Livestock Marketing Facility Agreement.” The Approved Livestock Marketing Facility Agreement, a draft of which we are making available for review as a supporting document for this proposed rule, would be added to the Animal Disease Traceability General Standards, found at [http://www.aphis.usda.gov/traceability/downloads/ADT\\_standards.pdf](http://www.aphis.usda.gov/traceability/downloads/ADT_standards.pdf), as an appendix if this proposed rule is finalized. It could also be obtained by writing to APHIS Veterinary Services (VS) headquarters or calling a district APHIS VS office.

We are proposing to add a definition of Approved Livestock Marketing Facility Agreement to § 71.1, which contains definitions of the terms used in the general provisions regulations. We would define Approved Livestock Marketing Facility Agreement as an agreement between a livestock marketing facility and APHIS that is executed in accordance with § 71.20, in which the facility agrees to adhere to the structural and procedural standards specified within the agreement.

The Approved Livestock Marketing Facility Agreement would be similar in structure and content to the existing agreement in § 71.20, with a few substantive revisions:

- We would remove a requirement that an accredited veterinarian, State representative, or APHIS representative must be on the premises at all times on sale days to perform duties in accordance with State and Federal regulations.
- In its place, we would add a requirement specifying that the facility must allow Federal and State representatives to perform duties at the facility in accordance with Federal and State regulations, as requested, and requirements specifying that accredited veterinarians must be available (either physically present or on-call) on sale days in order to provide any inspection of livestock that is required by the regulations before the animals leave the facility and to issue ICVIs, as necessary.
- We would add a provision specifying that APHIS or the State will inspect each approved facility at least twice yearly.

We are proposing to remove the requirement that an accredited veterinarian, State representative, or APHIS representative must be on the premises at all times on sale days to perform duties in accordance with State and Federal regulations because it has presented logistical problems in recent years at some facilities.

When this requirement was established, diseases of livestock were more prevalent in the United States. For this reason, livestock marketing facilities were more likely to receive animals that posed a high risk of spreading diseases of livestock. For example, it was common enough for such facilities to receive cattle that were potentially infected with brucellosis that APHIS' cooperative Federal-State brucellosis eradication program required first-point testing of all susceptible cattle that entered a livestock marketing facility. Therefore, at the time, it was necessary for a Federal or State representative or accredited veterinarian to be present at the

facility on all sale days in order to conduct this required testing and to ensure that any high-risk animals that entered the facility were adequately isolated from other livestock at the facility.

The prevalence of Program diseases has decreased significantly since that time. The brucellosis eradication program no longer requires first-point testing of cattle that enter livestock marketing facilities, and it is rare that livestock marketing facilities receive cattle or bison that are potentially infected with brucellosis or other high-risk animals. Accordingly, the primary function that Federal and State representatives and accredited veterinarians currently fulfill at livestock marketing facilities is issuing ICVIs for livestock that will be moved interstate from the facility. Additionally, while the current regulations provide that Federal or State representatives may issue such ICVIs, in recent years, accredited veterinarians have issued the vast preponderance of such ICVIs.

Depending on what classes of animals are sold, how many are sold, and to whom they are sold, only a few ICVIs may need to be issued at a livestock marketing facility on a sale day. Thus, requiring an accredited veterinarian to be present at the facility all day on every sale day could represent an inefficient use of that veterinarian's services.

However, we recognize that, if certain classes of livestock arrive at an approved livestock marketing facility without an accompanying ICVI and will move interstate from the facility, an ICVI may need to be issued before the livestock leave the facility after sale. Thus, we are proposing to require that all approved livestock marketing facilities must have an accredited veterinarian available (either physically present or on-call) on sale days in order to provide inspection of livestock before the animals leave the facility and to issue ICVIs, as necessary.

In the event that Federal or State personnel require access to the facility in order to perform duties at the facility in accordance with Federal and State regulations, the facility would

have to provide such access. Similarly, APHIS or the State would inspect approved facilities at least twice a year in order to ensure that the facility continues to operate in accordance with the agreement. The results of such inspections would factor into any decision to withdraw approval of the facility.

Currently, § 71.20 contains provisions regarding the denial of approval of a facility. Our proposed revision to § 71.20 would modify these provisions. The provisions are currently written in a manner which could be interpreted to provide that APHIS will enter into an agreement with a livestock marketing facility prior to evaluating the facility's ability to operate in accordance with the agreement. Practically speaking, however, we do not enter into such an agreement unless we have evaluated the facility's ability to adhere to the agreement.

We would retain, with non-substantive editorial changes, the provisions of § 71.20 that pertain to withdrawal of approval for a livestock facility. We would also retain the provisions that pertain to a facility's ability to appeal denial or withdrawal of approval.

We would, however, remove provisions allowing a hearing to be held in certain instances if approval is denied or withdrawn. We would do so in order to reflect current Agency practices. This does not mean that facilities would lose the ability to appeal APHIS' decisions, but rather that the appeal would be made in writing to the Agency itself rather than submitting an appeal through a hearing process.

### Proposed Revisions To Part 86

#### Meaning Of "No More Than One"

As we mentioned earlier in this document, § 86.4 generally requires livestock to be officially identified prior to moving interstate. As we also mentioned, paragraph (b)(1)(ii) of the section allows cattle and bison to be moved interstate without official identification, if they are

moved directly to no more than one approved livestock marketing facility and then directly to a recognized slaughtering establishment and additionally if they are moved interstate with a USDA-approved backtag or a USDA-approved backtag is applied to them at the approved livestock marketing facility or the recognized slaughtering establishment.

Producers, market managers, and State animal health officials have asked us to clarify the meaning of the phrase “no more than one” approved livestock marketing facility in this paragraph of the regulations. In particular, they have asked whether this exemption pertains solely to interstate movement, and whether cattle and bison may move intrastate to a livestock marketing facility and then interstate to another livestock marketing facility under this exemption.

In response to this request from stakeholders to clarify the intent of the phrase, we are proposing to revise paragraph (b)(1)(ii) of § 86.4 to provide that the exemption pertains only to cattle and bison moved interstate from their farm of origin to an approved livestock marketing facility. We are proposing to define farm of origin in § 86.1 as “any farm where livestock are produced, or any farm on which they are maintained for at least 4 consecutive months prior to interstate movement.”

We are proposing this clarification because the exemption in paragraph (b)(1)(ii) is appropriate only for movement directly from the farm of origin. If cattle and bison have moved from their farm of origin intrastate—especially if they have been commingled with animals from different premises after leaving their farm—and are subsequently discovered to be affected with a disease or infested with a pest of livestock after inspection or testing at an approved livestock marketing facility, it is very difficult to conduct thorough and timely trace-back procedures unless the cattle or bison are officially identified.

## Meaning Of “Directly To An Approved Livestock Marketing Facility”

Section 86.5 generally requires that livestock leaving a premises for interstate movement must be accompanied by an ICVI. However, paragraph (c)(1) of the section allows cattle and bison to be moved without an ICVI if they are moved directly to an approved livestock marketing facility and then directly to a recognized slaughtering facility, and are accompanied by an owner-shipper statement. Similarly, paragraph (c)(2) of the section allows cattle and bison to be moved without an ICVI if they are moved directly to an approved livestock marketing facility under an owner-shipper statement and do not move interstate from the facility unless accompanied by an ICVI.

To more clearly state the intent of the regulation, we are proposing to amend paragraphs (c)(1) and (c)(2) of § 86.5 to provide that the exemption pertains only to cattle and bison moved interstate from their farm of origin to an approved livestock marketing facility.

We are proposing the clarification because the exemptions are appropriate only for such movements. If cattle or bison have been commingled with animals from different premises, there is a higher risk of disease introduction and a correspondingly higher risk that the interstate movement of the cattle or bison may contribute to the spread of diseases of livestock. Accordingly, we believe that it is necessary that such animals be accompanied by an ICVI in order to have assurances about their health status.

Regarding the exemption in paragraph (c)(2) of § 86.5 that allows cattle and bison to be moved without an ICVI if they are moved directly to an approved livestock marketing facility with an owner-shipper statement and are not moved interstate from the facility unless accompanied by an ICVI, producers and State animal health officials have stated that, pursuant to § 71.20, approved livestock marketing facilities are required to record and maintain most of

the information that is contained on an owner-shipper statement for all livestock that enter the facility. They have also stated that, operationally, livestock markets often record information equivalent to that contained on an owner-shipper statement. In such instances, producers and State animal health officials have asked whether the records could be used in lieu of an owner-shipper statement.

After reviewing the relevant provisions of the agreement in § 71.20 and how they have been implemented operationally, we agree with producers and State animal health officials that the information maintained by approved livestock marketing facilities for all livestock that enter the facility often includes all categories of information that are required on an owner-shipper statement. Thus, we are proposing to allow cattle and bison to be moved interstate to an approved livestock marketing facility without an accompanying owner-shipper statement, provided a State animal health official has waived the need for the owner-shipper statement and all of the information required for an owner-shipper statement is recorded as soon as the cattle or bison are offloaded at the approved livestock marketing facility and this record is maintained in accordance with the record retention requirements located in § 86.3.

#### Application Of USDA-approved Backtags

Finally, we have received several requests to amend the traceability regulations to specify where USDA-approved backtags must be applied on cattle and bison. (Section 71.18 had contained such information; however, the final rule that established the traceability regulations removed these provisions from the regulations.) Some requests have suggested that we amend the traceability regulations to require that the backtags be applied behind the shoulders of the cattle or bison. They have stated that this facilitates removing the backtags more efficiently at slaughter, when the cattle or bison are suspended from their hind legs. Others have stated that it

is easier to apply the tags closer to the hip, and that retention rates are generally higher in that location, and have asked us to amend the traceability regulations accordingly.

We can see a rationale for both placements, and therefore request public comment regarding whether we should amend the regulations to specify a location for placing the backtags, and, if so, where it should be. We also request public comment whether, instead of a regulatory requirement, preferred placement of the tags should be a guideline or recommendation within the Animal Disease Traceability General Standards.

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

We are proposing to amend the regulations governing approval of facilities that receive livestock moved in interstate commerce. We are also proposing several amendments to the conditions under which livestock may move to such facilities without official identification or prior issuance of an interstate certificate of veterinary inspection or alternative documentation. These changes are necessary to update the regulations governing livestock marketing facilities, while also helping ensure animal disease traceability of livestock that are moved in interstate commerce to such facilities.

APHIS expects the cattle industry would be the livestock sector principally affected by this rule. Livestock marketing facilities would be directly affected and certain cattle production enterprises that move cattle interstate may also be affected.

Most livestock marketing facilities qualify as small according to Small Business Administration guidelines. Most cattle enterprises are small family farms. As is true for other cattle operations, incremental costs of the rule for these facilities will depend on current routine management practices, and whether the enterprise is already receiving cattle interstate.

Livestock marketing facilities could experience cost savings as a result of the proposed rule. We are proposing to remove the requirement that an accredited veterinarian, State representative, or APHIS representative must be on the premises at all times on sale days to perform duties in accordance with State and Federal regulations.

In recent years, this role has most often been fulfilled by accredited veterinarians. The Bureau of Labor Statistics (BLS) reported that veterinarians earned a median wage of \$40.61 per hour in 2012. This likely overestimates the median wages of large animal veterinarians, however BLS statistics do not specify wages by type of veterinary practice.

The proposed rule would relax the requirement to have an accredited veterinarian present. We are proposing to require that the facility must allow Federal and State representative to perform their duties as requested and that all approved livestock marketing facilities must have an accredited veterinarian available (either physically present or on-call) on sale days in order to provide inspection of livestock before the animals leave the facility and to issue ICVIs, as necessary.

Livestock producers also may benefit from the proposed rule. APHIS is proposing to allow cattle and bison to be moved interstate to an approved livestock marketing facility without an accompanying owner-shipper statement, provided a State animal health official has waived the need for the owner-shipper statement and all of the information required for an owner-shipper statement is recorded as soon as the cattle or bison are offloaded at the approved livestock marketing facility and this record is maintained in accordance with the record retention requirements of the regulations. As this provision reduces documentation and recordkeeping requirements, we anticipate that any economic effect on producers would be beneficial.

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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If adopted, this rule: (1) Would preempt State and local laws and regulations that are in conflict with this rule, as provided in § 86.8; (2) would have no retroactive effect; and (3) would not require administrative proceedings before parties may file suit in court challenging this rule.

## Paperwork Reduction Act

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

## 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 78

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

### 9 CFR Part 85

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

### 9 CFR Part 86

Animal diseases, Bison, Cattle, Interstate movement, Livestock, Official identification, Reporting and recordkeeping requirements, Traceability.

Accordingly, we propose to amend 9 CFR parts 51, 71, 75, 78, 85, and 86 as follows:

PART 51--ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

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

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

2. Section 51.1 is amended by adding, in alphabetical order, a definition of Approved livestock marketing facility and by removing the definition of Specifically approved stockyard.

The addition reads as follows:

**§ 51.1 Definitions.**

\* \* \* \* \*

Approved livestock marketing 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 of this chapter.

\* \* \* \* \*

**§ 51.3 [Amended]**

3. In § 51.3, footnotes 3 and 4 are redesignated as footnotes 2 and 3, respectively.

**§ 51.6 [Amended]**

4. Section 51.6 is amended as follows:

a. In paragraph (a), the words “a specifically approved stockyard” are removed and the words “an approved livestock marketing facility” are added in their place, and in paragraph (b), the words “a stockyard approved by the Administrator” are removed and the words “an approved livestock marketing facility” are added in their place.

b. Footnote 5 is redesignated as footnote 4.

**§ 51.29 [Amended]**

5. In § 51.29, in paragraph (a)(2), the words “approved stockyard” are removed and the words “approved livestock marketing facility” are added in their place.

**PART 71--GENERAL PROVISIONS**

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

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

7. Section 71.1 is amended as follows:

a. The definition of Approved livestock facility is removed;

b. The definitions of Approved livestock marketing facility and Approved Livestock Marketing Facility Agreement are added in alphabetical order;

c. The definition of Livestock market is removed;

d. The definition of Livestock marketing facility is added in alphabetical order; and

e. In the definition of Swine production system, the word “markets” is removed and the words “marketing facilities” are added in its place.

The additions read as follows:

§ 71.1 Definitions.

\* \* \* \* \*

Approved livestock marketing 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.

Approved Livestock Marketing Facility Agreement. An agreement between a livestock marketing facility and APHIS that is executed in accordance with § 71.20, in which the facility agrees to adhere to the structural and procedural standards specified within the agreement.

\* \* \* \* \*

Livestock marketing facility. A stockyard, buying station, concentration point, or any other premises where livestock are assembled for sale or sale purposes.

\* \* \* \* \*

**§ 71.19 [Amended]**

8. In § 71.19, in paragraph (a)(1)(ii) and paragraph (g) introductory text, the words “livestock market” are removed and the words “livestock marketing facility” are added in their place.

9. Section 71.20 is revised to read as follows:

**§ 71.20 Livestock marketing facilities.**

(a) Livestock marketing facilities; general requirements. All livestock marketing facilities (even those not approved by APHIS) must allow APHIS or State representatives to collect blood samples, conduct testing, and carry out operations and measures at the facilities in order to detect, control, and eradicate diseases and pests of livestock. In order to carry out these operations and measures, APHIS or State representatives may request records and receipts retained by the facilities that pertain to these disease or pest detection, control, and eradication efforts, and facilities must provide any records or receipts so requested. All livestock marketing facilities must maintain for a 5 year period a record of the receipt, distribution, and application of all official identification devices and USDA-approved backtags at the facility.

(b) Approved livestock marketing facilities—(1) Approval. To qualify for approval by APHIS as an approved livestock marketing facility and to retain such designation, the individual legally responsible for the day-to-day operations of the facility must operate in accordance with the Approved Livestock Marketing Facility Agreement. The Approved Livestock Marketing

Facility Agreement is provided in the Animal Disease Traceability General Standards, found at [http://www.aphis.usda.gov/traceability/downloads/ADT\\_standards.pdf](http://www.aphis.usda.gov/traceability/downloads/ADT_standards.pdf). It may also be obtained by writing to APHIS Veterinary Services, 4700 River Road Unit 200, Riverdale, MD 20737-1231, or by calling a district APHIS Veterinary Services office, phone numbers for which are provided in local telephone directories. The Agreement must be executed by the individual or his or her agent and APHIS. At the discretion of APHIS, a State animal health official may also be a cosignatory on the agreement. While a facility is an approved livestock marketing facility, the provisions in this chapter pertaining to approved livestock marketing facilities apply to the facility.

(2) Denial of approval. The Administrator may deny approval of a livestock marketing facility if he or she determines that the facility is not maintained or will not be maintained in accordance with the Approved Livestock Marketing Facility Agreement.

(3) Withdrawal of approval. The Administrator may withdraw approval of a livestock marketing facility if:

(i) The individual legally responsible for the day-to-day operations of the facility, or his or her agent, notifies the Administrator, in writing, that the facility no longer handles livestock moved interstate under this chapter;

(ii) The individual who executed the Approved Livestock Marketing Facility Agreement pursuant to paragraph (b)(1) of this section is no longer legally responsible for the day-to-day operations of the facility; or

(iii) The Administrator determines that the livestock facility is or has not been maintained and operated in accordance with the Approved Livestock Marketing Facility Agreement executed pursuant to paragraph (b)(1) of this section.

(4) Appeal. The individual legally responsible for the day-to-day operations of the facility or his or her agent will be notified by APHIS of the reasons for any denial or withdrawal, and may appeal the denial or withdrawal in writing to APHIS within 10 days of such notification. The appeal must include all of the facts and reasons on which the facility relies to show that the reasons for the denial or withdrawal are incorrect or do not support denial or withdrawal of approval. APHIS will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for the decision.

(Approved by the Office of Management and Budget under control numbers 0579-0258 and 0579-0342)

**§ 71.21 [Amended]**

10. In § 71.21, footnotes 8 and 9 are redesignated as footnotes 1 and 2.

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

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

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

12. Section 75.4 is amended as follows:

a. In paragraph (a), the definition of Approved stockyard is removed and a definition of Approved livestock marketing facility is added in alphabetical order;

b. In paragraph (a), in the definition of Operator, the words “specifically approved stockyard” are removed and the words “approved livestock marketing facility” are added in their place; and

c. In paragraph (b)(4) introductory text, the words “approved stockyard” are removed each time they appear and the words “approved livestock marketing facility” are added in their place.

The addition reads as follows:

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

(a) \* \* \*

Approved livestock marketing 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 of this chapter.

\* \* \* \* \*

PART 78—BRUCELLOSIS

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

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

14. Section 78.1 is amended as follows:

a. ,The term Approved livestock marketing facility is added to the list of defined terms and a definition of Approved livestock marketing facility is added to the section in alphabetical order;

b. In the definition of Official test, the words “specifically approved stockyards” are removed each time they appear and the words “approved livestock marketing facilities” are added in their place, once at paragraph (a)(1)(i)(C) introductory text, twice at paragraph (a)(1)(i)(C)(I), and once at paragraph (a)(7);

c. In the definition of Originate, in paragraph (c), the words “a specifically approved stockyard” are removed and the words “an approved livestock marketing facility” are added in their place;

d. In the definition of Quarantined feedlot, in paragraph (a), the words “a specifically approved stockyard” are removed both times they appear and the words “an approved livestock marketing facility” are added in their place at paragraphs (a)(4) and (5); and

e. The term Specifically approved stockyard is removed from the list of defined terms, the definition of Specifically approved stockyard is removed from the section

The addition reads as follows:

**§ 78.1 Definitions.**

\* \* \* \* \*

Approved livestock marketing 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 of this chapter.

\* \* \* \* \*

**§ 78.7 [Amended]**

15. In § 78.7, paragraph (a)(3), the words “a specifically approved stockyard” are removed and the words “an approved livestock marketing facility” are added in their place.

**§ 78.8 [Amended]**

16. In § 78.8, the words “a specifically approved stockyard” are removed each time they appear and the words “an approved livestock marketing facility” are added in their place.

**§ 78.9 [Amended]**

17. In § 78.9, the words “a specifically approved stockyard” are removed each time they appear and the words “an approved livestock marketing facility” are added in their place, and the words “the specifically approved stockyard” are removed each time they appear and the words “the approved livestock marketing facility” are added in their place.

**§ 78.10 [Amended]**

18. Section 78.10 is amended as follows:

a. The words “a specifically approved stockyard” are removed each time they appear and the words “an approved livestock marketing facility” are added in their place, and the words “the specifically approved stockyard” are removed each time they appear and the words “the approved livestock marketing facility” are added in their place; and

b. Footnote 4 is redesignated as footnote 2.

**§ 78.11 [Amended]**

19. Section 78.11 introductory text is amended by removing the words “a specifically approved stockyard” and adding the words “an approved livestock marketing facility” in their place, and by removing the words “the specifically approved stockyard” both times they appear and adding the words “the approved livestock marketing facility” in their place.

**§ 78.12 [Amended]**

20. Section 78.12 is amended as follows:

a. In paragraphs (d)(1) and (2), the words “a specifically approved stockyard” are removed each time they appear and the words “an approved livestock marketing facility” are added in their place;

b. In paragraph (d)(3) introductory text, the words “specifically approved stockyard” are removed and the words “approved livestock marketing facility” are added in their place; and

c. Footnote 5 is redesignated as footnote 3.

**§ 78.22 [Amended]**

21. In § 78.22, in paragraph (a)(3) introductory text, the words “a specifically approved stockyard” are removed and the words “an approved livestock marketing facility” are added in their place.

**§ 78.23 [Amended]**

22. In § 78.23, the words “a specifically approved stockyard” are removed each time they appear and the words “an approved livestock marketing facility” are added in their place.

**PART 85--PSEUDORABIES**

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

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

24. Section 85.1 is amended as follows:

a. The definition of Approved livestock market is removed and a definition of Approved livestock marketing facility is added in alphabetic order; and

b. Footnotes 4 through 10 are redesignated as footnotes 2 through 8, respectively.

The addition reads as follows:

**§ 85.1 Definitions.**

\* \* \* \* \*

Approved livestock marketing 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 of this chapter.

\* \* \* \* \*

**§ 85.7 [Amended]**

25. In § 85.7, the words “approved livestock market” are removed each time they appear and the words “approved livestock marketing facility” are added in their place.

**§ 85.8 [Amended]**

26. In § 85.8, the words “approved livestock market” are removed each time they appear and the words “approved livestock marketing facility” are added in their place.

**PART 86--ANIMAL DISEASE TRACEABILITY**

27. The authority citation for part 86 continues to read as follows:

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

28. Section 86.1 is amended as follows:

a. In the term Approved livestock facility, the word “marketing” is added before the word “facility”; and

b. A definition of the term Farm of origin is added in alphabetical order.

The addition reads as follows:

**§ 86.1 Definitions.**

\* \* \* \* \*

Farm of origin. Any farm where livestock are produced, or any farm on which they are maintained for at least 4 consecutive months prior to interstate movement.

\* \* \* \* \*

29. In § 86.4, paragraph (b)(1)(ii) is revised to read as follows:

**§ 86.4 Official identification.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) Cattle and bison may also be moved interstate without official identification if they are moved directly to a recognized slaughtering establishment or are moved directly from their farm of origin to an approved livestock marketing facility and then directly to a recognized slaughtering establishment, where they are harvested within 3 days of arrival; and

(A) They are moved interstate with a USDA-approved backtag; or

(B) A USDA-approved backtag is applied to the cattle or bison at the recognized slaughtering establishment or federally approved livestock marketing facility.

(C) If a determination to hold the cattle or bison for more than 3 days is made after the animals arrive at the slaughter establishment, the animals must be identified in accordance with paragraph (d)(4)(ii) of this section.

\* \* \* \* \*

30. In § 86.5, paragraph (c) is revised to read as follows:

**§ 86.5 Documentation requirements for interstate movement of covered livestock.**

\* \* \* \* \*

(c) Cattle and bison. Cattle and bison moved interstate must be accompanied by an ICVI unless:

(1) They are moved directly from their farm of origin to a recognized slaughtering establishment, or directly from their farm of origin to an approved livestock marketing facility and then directly to a recognized slaughtering establishment, and they are accompanied by an owner-shipper statement.

(2) They are moved directly from their farm of origin to an approved livestock marketing facility with an owner-shipper statement and do not move interstate from the facility unless

accompanied by an ICVI. A State animal health official may waive the requirement for an owner-shipper statement to accompany such cattle and bison, provided that:

(i) All the information required for the owner-shipper statement is recorded as soon as the cattle or bison are offloaded at the approved livestock marketing facility; and

(ii) This record is maintained in accordance with § 86.3(b).

(3) They are moved from the farm of origin for veterinary medical examination or treatment and returned to the farm of origin without change in ownership.

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

(5) They are moved as a commuter herd with a copy of the commuter herd agreement or other document as agreed to by the States or Tribes involved in the movement.

(6) Additionally, cattle and bison may be moved between shipping and receiving States or Tribes with documentation other than an ICVI, e.g., a brand inspection certificate, as agreed upon by animal health officials in the shipping and receiving States or Tribes.

(7) The official identification number of cattle or bison must be recorded on the ICVI or alternate documentation unless:

(i) The cattle or bison are moved from an approved livestock marketing facility directly to a recognized slaughtering establishment; or

(ii) The cattle or bison are sexually intact cattle or bison under 18 months of age or steers or spayed heifers; Except that: This exception does not apply to sexually intact dairy cattle of any age or to cattle or bison used for rodeo, exhibition, or recreational purposes.

\* \* \* \* \*

Done in Washington, DC, this 29<sup>th</sup> day of December 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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