

## §71.19

## 9 CFR Ch. I (1–1–10 Edition)

be accompanied by such an owner-ship-per statement or other document<sup>6</sup> if the following conditions are met: if the cattle are moved to a recognized slaughtering establishment as defined in §78.1 of this chapter or to a stock-yard specifically approved under §71.20; if the cattle are moved from a farm or other premises where the cattle to be moved interstate have been kept for not less than four months prior to the date of movement; and if such farm or other premises has not had on the premises any cattle or bison from any other premises within four months prior to the date of movement.

(b) In lieu of the backtags, eartags, and brands referred to in this section, any other official identification device or method that is approved by the Administrator may also be used.

[38 FR 22768, Aug. 24, 1973, as amended at 47 FR 55656, Dec. 13, 1982; 50 FR 45987, Nov. 6, 1985; 51 FR 32599, Sept. 12, 1986; 52 FR 2987, Jan. 30, 1987; 55 FR 11156, Mar. 27, 1990; 62 FR 27934, May 22, 1997; 68 FR 62226, Nov. 3, 2003; 69 FR 64649, Nov. 8, 2004]

### §71.19 Identification of swine in interstate commerce.

(a)(1) Except as provided in paragraphs (c) and (g) of this section, no swine may be sold, transported, received for transportation, or offered for sale or transportation, in interstate commerce, unless each swine is identified at whichever of the following comes first:

(i) The point of first commingling of the swine in interstate commerce with swine from any other source;

(ii) Upon unloading of the swine in interstate commerce at any livestock market;

(iii) Upon transfer of ownership of the swine in interstate commerce; or

(iv) Upon arrival of the swine in interstate commerce at their final destination.

(2) The identification shall be by means of identification approved by the Administrator and listed in paragraph (b) of this section. All swine

shall remain so identified while they are in interstate commerce.

(3) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, is responsible for the identification of the swine as provided by this section.

(b) Means of swine identification approved by the Administrator are:

(1) Official eartags, when used on any swine;

(2) United States Department of Agriculture backtags, when used on swine moving to slaughter;

(3) Official swine tattoos, when used on swine moving to slaughter, when the use of the official swine tattoo has been requested by a user or the State animal health official, and the Administrator authorizes its use in writing based on a determination that the tattoo will be retained and visible on the carcass of the swine after slaughter, so as to provide identification of the swine;

(4) Tattoos of at least 4-characters when used on swine moving to slaughter, except sows and boars as provided in §78.33 of this chapter;

(5) Ear notching when used on any swine, if the ear notching has been recorded in the book of record of a purebred registry association;

(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;

(7) For slaughter swine and feeder swine, an eartag or tattoo bearing the premises identification number assigned by the State animal health official to the premises on which the swine originated; and

(8) Any other official identification device or method that is approved by the Administrator.

(c) Swine that are kept as a group are not required to be individually identified when in interstate commerce if:

(1) They were born on the same premises;

(2) They were raised on the same premises where they were born;

(3) They are moved in a group directly to a slaughtering establishment from the place where they were raised;

<sup>6</sup>Other document means a shipping permit, an official health certificate, an official brand inspection certificate, a bill of lading, a waybill, or an invoice on which is listed the required information.

(4) They are not mixed with swine from any other premises, between the time they are born and the time they arrive at the slaughtering establishment; and

(5) They are slaughtered one after another, as a group, and not mixed with other swine at slaughter; or approved identification is applied to the swine after entry into the slaughtering establishment.

(d) Serial numbers of United States Department of Agriculture backtags and official swine tattoos will be assigned to each person who applies to the State animal health official or the area veterinarian in charge for the State in which that person maintains his/her or its place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or State or Federal representative who requests official eartags from the State animal health official or the area veterinarian in charge, whoever is responsible for issuing official eartags in that State. Persons assigned serial numbers of United States Department of Agriculture backtags, official swine tattoos, and official eartags must:

(1) Record the following information on a document:

(i) All serial numbers applied to the swine;

(ii) Any other serial numbers and approved identification appearing on the swine that are needed to identify the swine to its previous owner and location;

(iii) The street address, including the city and state, or the township, county, and state, of the premises where the approved means of identification were applied; and

(iv) The telephone number, if available, of the person who owns or possesses the swine.

(2) Maintain these records at the person's place of business for 2 years; and

(3) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(e)(1) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, must keep records relating to the transfer of ownership, shipment, or handling of the swine, such as yarding receipts, sale tickets, invoices, and waybills upon which is recorded:

(i) All serial numbers and other approved means of identification appearing on the swine that are necessary to identify it to the person from whom it was purchased or otherwise obtained; and

(ii) The street address, including city and state, or the township, county, and state, and the telephone number, if available, of the person from whom the swine were purchased or otherwise obtained.

(2) Each person required to keep records under this paragraph must maintain the records at his/her or its place of business for at least 2 years after the person has sold or otherwise disposed of the swine to another person, and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the swine identified in the records. The person shall make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(f) No person may remove or tamper with any approved means of identification required to be on swine pursuant to this section while it is in interstate commerce, except at the time of slaughter as provided in 9 CFR 309.16(e).

(g) *Swine moving interstate within a swine production system.* Swine moving within a swine production system to other than slaughter or a livestock market are not required to be individually identified when moved in interstate commerce under the following conditions:

§71.19

9 CFR Ch. I (1–1–10 Edition)

(1) The swine may be moved interstate only to another premises identified in a valid swine production health plan for that swine production system.

(2) The swine production system must operate under a valid swine production health plan, in which both the sending and receiving States have agreed to allow the movement.

(3) The swine must have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system accredited veterinarian(s) within 30 days prior to movement.

(4) Prior to the movement of any swine, the producer(s) moving swine must deliver the required interstate swine movement report to the following individuals identified in the swine production health plan:

(i) The swine production system accredited veterinarian for the premises from which the swine are to be moved, and

(ii) The State animal health officials for the sending and receiving States, and any other State employees designated by the State animal health officials.

(5) The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine. This may be achieved by use of permanent premises or individual identification marks on animals, by keeping groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means.

(6) Each premises must maintain, for 3 years after their date of creation, records that will allow an APHIS representative or State animal health official to trace any animal on the premises back to its previous premises, and must maintain copies of each swine production health plan signed by the producer, all interstate swine movement reports issued by the producer, and all reports the swine production system accredited veterinarian(s) issue documenting the health status of the swine on the premises.

(7) Each premises must allow APHIS representatives and State animal

health officials access to the premises upon request to inspect animals and review records.

(8) Once a month, each swine production system must send APHIS a written summary based on the interstate swine movement report data that shows how many animals were moved in the past month, the premises from which they were moved, and the premises to which they were moved.

(h) *Cancellation of and withdrawal from a swine production health plan.* The following procedures apply to cancellation of, or withdrawal from, a swine production health plan:

(1) A State animal health official may cancel his or her State's participation in a swine production health plan by giving written notice to all swine producers, APHIS representatives, accredited veterinarians, and other State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the State animal health official in the notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice. Upon withdrawal of a State, the swine production health plan may continue to operate among the other States and parties signatory to the plan.

(2) A swine production system may withdraw one or more of its premises from participation in the plan upon giving written notice to the Administrator, the accredited veterinarian(s), all swine producers listed in the plan, and State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the swine production system in the written notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice.

(3) The Administrator may cancel a swine production health plan by giving written notice to all swine producers, accredited veterinarians, and State animal health officials listed in the plan. The Administrator shall cancel a swine production health plan after determining that swine movements within the swine production system have occurred that were not in compliance with the swine production health plan or with other requirements of this

chapter. Before a swine health production plan is canceled, an APHIS representative will inform a representative of the swine production system of the reasons for the proposed cancellation. The swine production system may appeal the proposed cancellation in writing to the Administrator within 10 days after being informed of the reasons for the proposed cancellation. The appeal must include all of the facts and reasons upon which the swine production system relies to show that the reasons for the proposed cancellation are incorrect or do not support the cancellation. 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, cancellation of the disputed swine production health plan shall become effective pending final determination in the proceeding if the Administrator determines that such action is necessary to protect the public's health, interest, or safety. Such cancellation shall become effective upon oral or written notification, whichever is earlier, to the swine production system representative. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This cancellation shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

[53 FR 40385, Oct. 14, 1988, as amended at 55 FR 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 59 FR 67612, Dec. 30, 1994; 62 FR 27934, May 22, 1997; 62 FR 54758, Oct. 22, 1997; 66 FR 65603, Dec. 20, 2001; 69 FR 64649, Nov. 8, 2004; 74 FR 14709, Apr. 1, 2009]

#### § 71.20 Approval of livestock facilities.

(a) To qualify for approval by the Administrator as an approved livestock facility<sup>7</sup> and to retain such designation, the individual legally responsible

<sup>7</sup> 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.

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, 79, 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, high-risk and scrapie-positive or suspect, or that show signs of possibly being infected, with any infectious, contagious, or communicable disease.

(5) Any reactor, suspect, exposed, high-risk, or scrapie positive livestock shall be held in quarantined pens apart from all other livestock at the facility. This requirement shall not apply to scrapie-exposed sheep that are not also designated high-risk animals or to sheep or goats designated under 9 CFR part 79 as scrapie-exposed or high-risk animals that either are not pregnant based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, or a certificate issued by an accredited veterinarian stating the animals are open; or that the animals are under 12 months of age and are not visibly pregnant and are maintained in the same pen only