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[7] 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, 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

[7] 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.

with other animals that will be moved directly to slaughter or to a terminal feedlot in accordance with 9 CFR parts 71 and 79.

(6) No reactor, suspect, exposed, high-risk, or scrapie-positive livestock, nor any livestock that show signs of being infected with any infectious, contagious, or communicable disease, may be sold at or moved from the facility, except in accordance with 9 CFR parts 71, 75, 78, 79, and 85.

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, or for a period of 5 years in the case of sheep or goats. 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, 79, 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 as well as 9 CFR 54.7(e)(2) if the disease of concern is scrapie and the quarantined animal gave birth or aborted at the facility, before being used to pen livestock that are not reactor, suspect, exposed, high-risk, or scrapie-positive animals.

(12) Quarantined pens shall have adequate drainage, and the floors and those parts of the walls of the quarantined pens with which reactor, suspect, exposed, high-risk, or scrapie-positive 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.

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) Pens, alleys, and sales rings for holding, inspecting, and otherwise handling swine shall be imperviously surfaced.

(iii) 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.

(iv) 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.

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

(vi) 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.

(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.

(17) Sheep and goats:

—This facility will handle breeding sheep or goats: [*Initials of operator, date*]

—This facility will handle slaughter sheep or goats: [*Initials of operator, date*]

—This facility will handle scrapie-exposed goats or high-risk sheep or goats: [*Initials of operator, date*]

—This facility will not handle goats known to be scrapie-exposed or sheep or goats known to be high-risk animals, nor permit such animals to enter the facility: [*Initials of operator, date*]

(i) All sheep and goats must be received, handled, and released by the facility only in accordance with 9 CFR parts 71 and 79.

(ii) All sheep and goats at the facility must be officially identified and relevant records related to those identified animals must be maintained by the facility operator, as required under 9 CFR part 79.

(iii) The identity of sheep and goats from consistent States and inconsistent States must be maintained by the facility operator.

(iv) Sexually intact animals that do not meet the requirements of part 79 to be sold as breeding animals must be maintained in separated enclosures at all times from animals that may be offered for sale as breeding animals unless all animals maintained in an enclosure arrived at the facility as part of the same consignment and are separated prior to sale.

(v) Any sheep or goats that are designated, with regard to scrapie, as high-risk, suspect

or scrapie-positive animals, and goats designated with regard to scrapie as exposed animals, excluding slaughter sheep or goats that are designated as exposed or high-risk animals and are not pregnant, must be held in quarantined pens while at the facility.

Approvals

(18) 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 (17) of this agreement. I acknowledge that I have received a copy of 9 CFR parts 71, 75, 78, 79, 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, 79, and 85 constitutes a basis for the withdrawal of this approval. [*Printed name and signature of operator, date of signature*]

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

(20) 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*]

(21) 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.

(Approved by the Office of Management and Budget under control number 0579–0258)

[62 FR 27934, May 22, 1997, as amended at 62 FR 54758, Oct. 22, 1997; 63 FR 32119, June 12, 1998; 68 FR 62226, Nov. 3, 2003; 74 FR 14709, Apr. 1, 2009]

§ 71.21 Tissue and blood testing at slaughter.

(a) Any person moving livestock or poultry interstate for slaughter or rendering may only move the animals to a slaughtering establishment or a rendering establishment that has been listed by the Administrator[8] for the purposes of this part. Livestock or poultry may not be removed from the premises of a slaughtering establishment or a rendering establishment listed by the Administrator except under a permit issued by APHIS, and in accordance with applicable FSIS regulations in this title. A slaughtering establishment or rendering establishment may receive livestock or poultry in interstate commerce only if the establishment has been listed by the Administrator. The Administrator may list a slaughtering establishment or a rendering establishment after determining that collecting samples for testing from the establishment is not currently necessary for the purposes of APHIS disease surveillance programs and the establishment has agreed to allow testing and to provide the access and facilities required by this section upon future APHIS notification that testing is required at the establishment. The Administrator will list a slaughtering or rendering establishment after determining that it meets the following facility and access requirements:

(1) The establishment provides space and equipment in accordance with paragraph (b) of this section[9] within their facility for blood and tissue sample collection;

(2) The establishment allows APHIS, FSIS, or APHIS contractors to take blood and tissue samples from all livestock or poultry at the facility without cost to the United States, and specifically allows these personnel access to the processing line to collect samples; and

(3) The establishment allows APHIS, FSIS, or APHIS contractors to record the identification of individual animals and retain any external or internal identification devices.

(b) The establishment must provide office and sample collection space, including necessary furnishings, light, heat, and janitor service, rent free, for the use by APHIS, FSIS, or APHIS contractors collecting samples for blood and tissue testing under this section. The Administrator will inform each establishment of the exact amount and type of space required, taking into account whether APHIS will be conducting complete tests at the facility, or only collecting samples and sending them elsewhere for testing. At the discretion of the Administrator, small plants need not furnish facilities as prescribed in this section if adequate facilities exist in a nearby convenient location. In granting or denying listing of an establishment, the Administrator will consider whether the space at the facility:

(1) Is conveniently located, properly ventilated, and provided with lockers suitable for the protection and storage of supplies;

(2) Has sufficient light to be adequate for proper conduct of sample collection and processing;

(3) Includes racks, receptacles, or other suitable devices for retaining such parts as the head, glands, and viscera, and all parts and blood to be collected, until after the post-mortem examination is completed;

(4) Includes tables, benches, and other equipment on which sample collection and processing are to be performed, of such design, material, and construction as to enable sample collection and processing in a safe, ready, efficient, and clean manner;

(5) Has adequate arrangements, including liquid soap and cleansers, for

[8] A list of these slaughtering or rendering establishments may be obtained by writing to National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

[9] FSIS also has equipment and space requirements for official establishments at § 307.2(c) of this title.