

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 70—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

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

SOURCE: 48 FR 30094, June 30, 1983, unless otherwise noted.

Subpart A—General

§ 70.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the following statutory provisions:

Act of May 29, 1884, commonly known as the Animal Industry Act, section 7, as amended (21 U.S.C. 117),

Act of February 2, 1903, commonly known as the Cattle Contagious Diseases Act of 1903, Section 3, as amended (21 U.S.C. 122),

Act of March 3, 1905, Section 6, as amended (21 U.S.C. 127),

Act of July 2, 1962, Section 6(a), as amended (21 U.S.C. 134e).

The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*).

Sections 901-905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

[48 FR 30094, June 30, 1983, as amended at 66 FR 63615, Dec. 7, 2001; 68 FR 6343, Feb. 7, 2003]

Subpart B—Supplemental Rules of Practice

§ 70.10 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under any of the Acts listed in § 70.1, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator or the Administrator's delegate gives notice of an apparent violation of the Act, or the regulations issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and

(3) The Administrator agrees to accept the penalty in settlement of the particular matter involved if the penalty is paid within the designated time.

(b) If the penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

PART 71—GENERAL PROVISIONS

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

SOURCE: 28 FR 5937, June 13, 1963, unless otherwise noted.

§ 71.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section.

Accredited veterinarian. A veterinarian who is approved by the Administrator, in accordance with part 161 of this chapter, to perform official animal health work of the Animal and Plant Health Inspection Service specified in subchapters A, B, C, and D of this chapter; and to perform work required by cooperative state-federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the Inter-

national Committee on Animal Recording.

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.

Area Veterinarian in Charge. The veterinary official of APHIS, who is assigned by the Administrator to supervise and perform the official animal health work of the Animal and Plant Health Inspection Service in the state concerned.

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

Commingleing. The mixing or assembling of swine from one premises with swine from any other premises, including, but not limited to, loading swine from more than one premises on the same truck, trailer, vessel, or railroad car, unless swine from different premises are kept separate on the means of conveyance by dividers.

Department. The United States Department of Agriculture.

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

Food Safety and Inspection Service (FSIS). The Food Safety and Inspection Service, United States Department of Agriculture.

Free area. The States, Territories, or the District of Columbia or portions thereof not quarantined by the Secretary of Agriculture for the specific contagious, infectious, or communicable animal disease mentioned in each part.

Group/lot identification number (GIN). The identification number used to uniquely identify a "unit of animals" of the same species that is managed together as one group throughout the preharvest production chain. The GIN consists of a seven-character premises identification number (PIN), as defined in this section, and a six-digit representation of the date on which the group or lot of animals was assembled (MM/DD/YY).

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

Interstate. From one State into or through any other State.

Interstate commerce. Trade, traffic, transportation, or other commerce between a place in a state and any place outside of that state, or between points within a state but through any place outside of that state.

Interstate swine movement report. A paper or electronic document signed by a producer moving swine giving notice that a group of animals is being moved across State lines in a swine production system. This document must contain the name of the swine production system; the name, location, and premises identification number of the premises from which the swine are to be moved; the name, location, and premises identification number of the premises to which the swine are to be moved; the date of movement; and the number, age, and type of swine to be moved. This document must also contain a description of any individual or group identification associated with the swine, the name of the swine production system accredited veterinarian(s), the health status of the herd from which the swine are to be moved, including any disease of regulatory concern to APHIS or to the States involved, and an accurate statement that swine on the premises from which the swine are to be moved have been inspected by the swine production system accredited veterinarian(s) within 30 days prior to the interstate movement and consistent with the dates specified by the premises' swine production health plan and found free from signs of communicable disease.

Livestock. Horses, cattle, bison, captive cervids, sheep and goats, swine, and other farm-raised animals.

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

Moved (movement) in interstate commerce. Shipped, transported, delivered, or otherwise aided, induced, or caused to be moved from the point of origin of the interstate movement to the animals' final destination, such as a slaughtering establishment or a farm for breeding or raising, and including any temporary stops along the way,

such as at a stockyard or dealer premises for feed, water, rest, or sale.

Official Brand Inspection Agency. The duly constituted body elected, appointed, or delegated or granted authority by a State or governmental subdivision thereof, to administer laws, regulations, ordinances or rules pertaining to the brand identification of livestock.

Official brand inspection certificate. A certificate issued by an official brand inspection agency in any State in which such certificates are required for movement of livestock.

Official eartag. An identification tag providing unique identification for individual animals. An official eartag must bear the U.S. shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users. The official eartag must be tamper-resistant and have a high retention rate in the animal. Official eartags must adhere to one of the following numbering systems:

(1) National Uniform Eartagging System.

(2) Animal identification number (AIN).

(3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Official identification device or method. A means of officially identifying an animal or group of animals using devices or methods approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority.

Official swine tattoo. A tattoo, conforming to the six-character alpha-numeric National Tattoo System, that provides a unique identification for each herd or lot of swine.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

Premises identification number (PIN). A unique number assigned by a State or Federal animal health authority to a premises that is, in the judgment of the State or Federal animal health authority, a geographically distinct location from other livestock production units. The premises identification number is associated with an address or legal land description and may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. It may also be used as a component of a group/lot identification number (GIN). The premises identification number may consist of:

(1) The State's two-letter postal abbreviation followed by the premises' assigned number; or

(2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

Purebred registry association. A swine breed association formed and perpetuated for the maintenance of records of purebreeding of swine species for a specific breed whose characteristics are set forth in constitutions, by-laws, and other rules of the association.

Quarantined area. The States, Territories, or the District of Columbia or portions thereof quarantined by the Secretary of Agriculture for the specific contagious, infectious, or communicable animal disease mentioned in each part.

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

State. Any of the 50 states, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the District of Columbia, and any territories and possessions of the United States.

State animal health official. The state official responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health work by a state or a political subdivision thereof

and authorized by such state or political subdivision to perform the function involved.

Swine production health plan. A written agreement developed for a swine production system designed to maintain the health of the swine and detect signs of communicable disease.

The plan must identify all premises that are part of the swine production system and that receive or send swine in interstate commerce and must provide for health monitoring of all swine within the system. Such health monitoring must include inspections by the swine production system accredited veterinarian(s). Inspections of all identified premises that contain swine that are or will be in the process of moving interstate within the swine production system and of all swine on those premises must be conducted by the accredited veterinarian(s) at intervals of no greater than 30 days. Inspections of all identified receiving premises that contain only swine that have completed their interstate movement within a single swine production system and of all swine on those premises must be conducted in accordance with State regulations. The plan must also describe the recordkeeping system of the swine production system. The plan will not be valid unless it is signed by an official of each swine production system identified in the plan, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. In the plan, the swine production system must acknowledge that it has been informed of and has notified the managers of all its premises listed in the plan that any failure of the participants in the swine production system to abide by the provisions of the plan and the applicable provisions of this part and part 85 of this chapter constitutes a basis for the cancellation of the swine production health plan, as well as other administrative or criminal sanctions, as appropriate.

Swine production system. A swine production enterprise that consists of multiple sites of production; *i.e.*, sow herds, nursery herds, and growing or finishing herds, but not including

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slaughter plants or livestock markets, that are connected by ownership or contractual relationships, between which swine move while remaining under the control of a single owner or a group of contractually connected owners.

Swine production system accredited veterinarian. An accredited veterinarian who is named in a swine production health plan for a premises within a swine production system and who performs inspection of such premises and animals and other duties related to the movement of swine in a swine production system.

Tick infested. Infested with the ticks *Boophilus annulatus* (*Margaropus annulatus*), *Boophilus microplus*, or *Rhipicephalus evertsi evertsi*.

United States Department of Agriculture backtag. A backtag issued by APHIS that provides unique identification for each animal.

[28 FR 5937, June 13, 1963, as amended at 29 FR 14489, Oct. 22, 1964; 35 FR 14197, Sept. 9, 1970; 38 FR 18011, July 6, 1973; 50 FR 45987, Nov. 6, 1985; 51 FR 32599, Sept. 12, 1986; 53 FR 40385, Oct. 14, 1988; 55 FR 11155, 11156, Mar. 27, 1990; 55 FR 15320, Apr. 23, 1990; 62 FR 27933, May 22, 1997; 62 FR 54758, Oct. 22, 1997; 66 FR 65602, Dec. 20, 2001; 68 FR 62226, Nov. 3, 2003; 69 FR 10150, Mar. 4, 2004; 69 FR 64648, Nov. 8, 2004]

§71.2 Secretary to issue rule governing quarantine and interstate movement of diseased animals, including poultry.

When the Secretary of Agriculture shall determine the fact that poultry or other animals in any State, Territory, or the District of Columbia are affected with any contagious, infectious, or communicable disease of livestock or poultry for which, in his opinion, a quarantine should be established or that other basis for a quarantine exists, notice will be given of that fact, and a rule will be issued accordingly, placing in quarantine such State, Territory, or the District of Columbia, or specified portion thereof. This rule will either absolutely forbid the interstate movement of the quarantined animals from the quarantined area or will indicate the regulations under which interstate movements may be made.

[34 FR 15641, Oct. 9, 1969]

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§71.3 Interstate movement of diseased animals and poultry generally prohibited.

(a) Animals or poultry affected with any of the following diseases, which are endemic to the United States: Equine piroplasmosis, bovine piroplasmosis or splenetic fever, scabies in cattle, pseudorabies, acute swine erysipelas, tuberculosis, Johne's disease, brucellosis, scrapie, bluetongue, anthrax, chlamydiosis, and Newcastle disease, or any other communicable disease which is endemic to the United States, or which are cattle fever tick infested, shall not be moved interstate.

(b) Animals or poultry affected with any of the following diseases, not known to exist in the United States: foot-and-mouth disease, rinderpest, African swine fever, classical swine fever, Teschen disease, contagious bovine pleuropneumonia, European fowl pest, dourine, contagious equine metritis, vesicular exanthema, screwworms and glanders, scabies in sheep or any other communicable foreign disease not known to exist in the United States, shall not be moved interstate.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section:

(1) Domestic animals that have reacted to an official test for brucellosis, are not affected with any other disease referred to in this section, and are not tick infested may be moved interstate in accordance with part 78 of this chapter.

(2) Domestic animals that are positive to an official Johne's disease test, are not affected with any other disease referred to in this section, and are not tick infested may be moved interstate in accordance with part 80 of this chapter.

(3) Cattle which have reacted to the tuberculin test, which are not affected with any other disease referred to in this section and are not tick infested, may be moved interstate in accordance with the provisions of §77.17 of this subchapter.

(4) Swine infected with or exposed to pseudorabies may be moved interstate in accordance with part 85 of this chapter.

(d) Notwithstanding the provisions of paragraphs (a) and (b) of this section, livestock which is found to be diseased