

BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71, 77, 78, and 86

[Docket No. APHIS-2009-0091]

RIN 0579-AD24

Traceability for Livestock Moving Interstate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to establish minimum national official identification and documentation requirements for the traceability of livestock moving interstate. Under this rulemaking, unless specifically exempted, livestock belonging to species covered by the regulations that are moved interstate must be officially identified and accompanied by an interstate certificate of veterinary inspection or other documentation. These regulations specify approved forms of official identification for each species but allow the livestock covered under this rulemaking to be moved interstate with another form of identification, as agreed upon by animal health officials in the shipping and receiving States or Tribes. The purpose of this rulemaking is to improve our ability to trace livestock in the event that disease is found.

EFFECTIVE DATE: [Insert date 60 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. Neil Hammerschmidt, Program Manager, Animal Disease Traceability, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737-1231; (301) 851-3539.

SUPPLEMENTARY INFORMATION:

Background

I. Purpose of the Regulatory Action

a. Need for the Regulatory Action

Preventing and controlling animal disease is the cornerstone of protecting American animal agriculture. While ranchers and farmers work hard to protect their animals and their livelihoods, there is never a guarantee that their animals will be spared from disease. To support their efforts, the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) has promulgated regulations to prevent, control, and eradicate disease. Traceability does not prevent disease, but knowing where diseased and at-risk animals are, where they have been, and when, is indispensable in emergency response and in ongoing disease control and eradication programs.

We have clear indications that higher levels of official identification enhance tracing capability. For example, through the National Scrapie Eradication Program, 92 percent of the cull breeding sheep are officially identified at slaughter, primarily using flock identification eartags. This level of official identification made it possible in fiscal year 2010 to achieve traceback from slaughter of scrapie-positive sheep to the flock of origin or birth as part of the scrapie surveillance program 96 percent of the time, typically in a matter of minutes. Other diseases, particularly contagious ones, require that we trace to more than the birth premises, i.e., to other premises where the animal has been after leaving the birth premises but before going to slaughter, so the scrapie model is not a complete solution for such diseases.

APHIS believes that we must improve our tracing capabilities now not only to address current concerns, including the increasing number of cases of bovine tuberculosis, but also to ensure that we are well prepared to respond to new or foreign animal diseases in the future.

On August 11, 2011, we published in the Federal Register (76 FR 50082-50110, Docket No. APHIS-2009-0091) a proposal¹ to amend the regulations by establishing minimum national

livestock species covered by this rulemaking. The requirement will remain 5 years for cattle and bison, sheep and goats, cervids, and equines.

- In addition to eartags, in this final rule, we are recognizing brands, when accompanied by an official brand inspection certificate as means of official identification for cattle when the shipping and receiving States or Tribes are in agreement. We are making this change

representatives of State and Tribal governments, and individuals. They are discussed below by topic.

Rationale for and Scope of the Rulemaking

proposed traceability system was not sufficiently comprehensive in that it would cover only animals moving interstate, would exempt animals being slaughtered for personal consumption from the requirements, and would allow different States to have their own traceability systems. Another commenter emphasized the latter point, stating that an overarching national system would be more beneficial for traceability purposes than would allowing States to enact their own requirements.

We are not making any changes to the final rule in response to these comments. Our statutory authority to regulate livestock movement derives from the Animal Health Protection Act (7 U.S.C. 8305), which authorizes the Secretary “to prohibit or restrict the movement in interstate commerce of any animal, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of dissemination of any pest or disease of livestock.” Interstate commerce is defined in the Act as “trade, traffic, or commerce between a place in a State and a place in another State.” The question of when or where that trade or traffic begins is subject to interpretation, and it is possible that some intrastate livestock movements may be regulated under the authority of the Act. Regulating the intrastate movement of livestock, however, would be contrary to the Secretary's vision, laid out on February 5, 2010, for the animal disease traceability system. The Secretary's approach, which called for the establishment of minimum uniform national traceability standards, was nevertheless intended to be sufficiently flexible to allow State and Tribal animal health officials to implement, with the cooperation of industry, the traceability systems that worked best for them; it was not intended to be a top-down system under Federal control. Additionally, it was not the intent behind the proposed rule to provide for a full-scale farm-to-plate traceability system, which would be beyond the scope of our statutory authority. Regarding the comments

on the need for greater standardization, as we have noted, the proposed rule did provide for a uniform set of minimum national standards for States and Tribes to follow. This rulemaking allows States and tribes to adapt their individual traceability systems to meet local needs, but those systems will need to comply with these traceability regulations and will need to satisfy the traceability performance standards that will be set forth in future rulemaking.

Many commenters expressed concern about the possible impact on small producers of the proposed regulations, suggesting that the traceability requirements could be more burdensome to small entities than to large ones. It was recommended by some commenters that we exempt small producers. Specific recommendations included exempting producers with less than 300 or 500 mature livestock and producers who are sole proprietors of their operations.

We note that the size of the herd or flock is not the only factor contributing to the risk of the spread of animal diseases. Much more important is the degree to which the animals are moved interstate and commingled with other animals. Herds with no movement across State lines are exempt from these traceability requirements, regardless of the size of the operation, though the States and Tribes may have their own requirements. Additionally, wbebi-35he at1(k of)3()JTJ -0.00

Nothing in these regulations would preclude the use of means of identification commonly employed on such animals. Our definition of official identification device or method is broad enough to allow for the use of tattoos and identification methods acceptable to a breed association for registration purposes when accompanied by a breed registration certificate, provided that those methods are determined to be official by the receiving State or Tribal animal health authorities. We do not believe, however, that heritage livestock moving interstate should be categorically exempt from all Federal identification and movement documentation requirements.

A commenter recommended that we exempt horses from the proposed traceability regulations and stated that interstate movements of equines should not have to be reported. According to the commenter, an adequate traceability and notification system, which includes brand inspections, certificates of veterinary inspection, and permits, already exists for equines, rendering additional Federal requirements unnecessary.

We do not agree that horses or other equines should be categorically exempt from traceability requirements; however, we believe that most horse owners are already in compliance with these provisions and need take no further action. A considerable amount of time in the last few years has been related to equine diseases, e.g., contagious equine metritis, equine herpes virus, equine infectious anemia, and equine piroplasmiasis. Additionally, we do not view our traceability requirements as excessively onerous for equine owners, since, under these regulations, methods of identification and movement documentation that are already employed in the equine industry e.g., written descriptions, digital photographs, and electronic identification methods,

It was recommended by commenters that APHIS recognize existing export verification programs as satisfying the requirements of the proposed rule and that livestock in such programs should not be subject to the animal traceability requirements.

While APHIS does support the use of official animal identification methods for various programs, including age and source verification programs used for export purposes, not all systems that verify age, source, or management processes for marketing animal products are necessarily designed to address the needs of animal disease traceability. Official identification methods used in these programs now can be used on animals moving interstate under these regulations if those methods meet our requirements for officially identifying such animals. Options to ensure that export verification programs cover disease traceability requirements more uniformly in the future will be developed in collaboration between APHIS and the USDA's Agricultural Marketing Service (AMS). States and Tribes currently have the flexibility under these traceability regulations to accept the identification and documentation such programs provide in lieu of official identification and ICVIs for animals moving into their jurisdictions.

Our overall justification for the proposed regulations was questioned by some commenters. It was stated that we did not explain or document how the proposed rule would correct problems that have occurred in previous traceback investigations. It was further stated that the lack of identification on individual animals was not the sole source of our problems in conducting tuberculosis traceback investigations in the past.

The Regulatory Impact Analysis (RIA) accompanying the proposed rule provided several actual scenarios where the lack of traceability resulted in significant costs to producers and the public in general. We agree that the lack of identification on individual animals is not the only issue related to tuberculosis traceback investigations, but it is an ongoing and significant issue.

USA or the manufacturer's code. We proposed to phase out those two AIN formats in order to achieve greater standardization of this numbering system, while providing producers with adequate notice of the change to enable them to work through existing inventories of eartags.

Some commenters suggested that phasing out AINs with manufacturers' codes would economically harm many producers and that we should instead continue to recognize such AINs as official under certain circumstances. Specifically, it was suggested that manufacturer-coded AIN tags should be recognized as official if the cattle bearing them have been enrolled in a process verified program (PVP) or a Quality System Assessment (QSA) program recognized by the AMS; if producers provide listings of the AINs to their State or Tribal animal health official;

to animals before the 840 requirement becomes effective will be recognized as official for the remainder of the animal's life. Cattle enrolled in PVP and QSA programs are primarily feeder cattle, and these animals will be exempt from official identification requirements under this rulemaking; therefore, the need for producers of such cattle to transition to 840 AINs and possibly incur additional costs is further minimized.

origin. This requirement ensures that almost all cattle of non-U.S. origin, i.e., cattle ineligible for identification with 840 AIN tags, are clearly identified as such.

Some commenters suggested that we should expand the proposed definition of approved tagging site to include any location in the receiving State where tagging can be completed prior to commingling, as verified by the State animal health official.

The definition contained in the August 2011 proposed rule provides for locations to become tagging sites when authorized by APHIS, State, or Tribal animal health officials. It is important that such locations are approved by animal health officials to ensure that the exemption from official identification requirements at time of movement interstate to an approved tagging site is properly administered. While livestock markets are frequently referenced as being potential approved tagging sites, other locations, such as feedlots, could become approved tagging sites under our definition. Therefore, it is not necessary to make any changes to the definition of approved tagging site in this final rule for the commenters' suggestion to be adopted.

In the August 2011 proposed rule, we defined commuter herd as a herd of cattle or bison moved interstate during the course of normal livestock management operations and without change of ownership directly between two premises, as provided in a commuter herd agreement. Under the proposed rule, cattle or bison moving interstate as part of a commuter herd were to be exempted from both official identification and ICVI requirements.

One commenter recommended that we amend the definition so that shipments of feeder cattle that are infrequently consigned or leased as rodeo stock could be moved interstate as commuter herds. The commenter stated

still be called upon at times to exercise their judgments as to whether the cattle in a shipment are indeed dairy cattle, taking into account such factors as the intended use of the animals.

It was also suggested that we should amend the definition of dairy cattle to exclude dairy steers and spayed heifers, as such animals will not be in the U.S. herd for an extended period and therefore do not pose a major disease risk.

We disagree with this comment. Dairy steers and spayed heifers are part of an industry that has been identified as posing a high risk for disease transmission. Many dairy heifers and bull calves are moved from the dairy to calf-raising facilities, while some calves, mostly bull calves, are marketed privately or through livestock markets. This degree of movement and commingling at young ages and as yearlings makes them “animals of interest” regardless of whether they become herd replacements or feeder cattle. Furthermore, dairy steers typically are in feeding channels longer than beef cattle due to the length of time required for the former to reach finishing weight. Dairy steers and heifers may also undergo more changes of ownership and movements where commingling occurs than beef calves that typically stay with their dams until they are weaned.

Some commenters took issue with our proposed definition of directly as “without unloading en route if moved in a means of conveyance and without being commingled with other animals, or without stopping, except for stops of less than 24 hours that are needed for food,

be unloaded from a conveyance even if they aren't commingled, recommended modifying the definition to address "the real risk factor" of commingling.

After reviewing these comments, we have decided to revise the definition of directly in this final rule to clarify that it will allow for necessary stops while addressing the risk factor of commingling. We are defining directly as "moved in a means of conveyance, without stopping to unload while en route, except for stops of less than 24 hours to feed, water, or rest the animals being moved, and with no commingling of animals at such stops."

A commenter representing an egg producers' association stated that we should clarify the definition of group/lot identification number (GIN) to allow for its use on poultry managed together as a group throughout the production system even if initial placement of birds may occur over a more extended period than a single day. The proposed definition stated that a GIN may be applied to a group of animals managed together as one group throughout the preharvest production chain. The commenter stated that the proposed definition could be interpreted to mean that a group of birds must be assembled in one day in order to be eligible for official identification by means of a GIN. The commenter viewed such a requirement as being problematic for the commercial egg industry because it is a common practice at commercial egg farms to place hens in a laying house over a period of days.

The GIN formatting requirements contained in the Animal Disease Traceability General Standards document do lend some support to the commenter's concerns over the proposed definition. Those formatting standards specify that the GIN must include a six-digit representation of the date on which the group or lot was assembled (MM/DD/YY).

We agree with the commenter on the need to recognize current practices in the commercial egg industry. While we do not judge it to be necessary to amend the definition of

group/lot identification number (GIN) in the regulations, we are amending the GIN formatting standards in the Animal Disease Traceability General Standards document to specify that the six-digit date component of the GIN may represent either the date on which the group or lot of animals was assembled or the date when the assembly of the group was initiated.

Another commenter suggested that we modify the definition of group/lot identification number (GIN) as it applies to cattle to recognize that a GIN may be effectively used for some classes of livestock that may move from one location to another but are not managed as a group throughout the production system.

We do not agree with this comment. The GIN is intended to provide a method of livestock identification that is cost effective without sacrificing traceability. Due to the current gaps in animal disease traceability in the cattle sector, allowing the formation of marketing “groups” using a GIN, meaning that a GIN could, for example, be used when a group of animals is moved from or assembled at one premises but then split and/or commingled in subsequent movements, would be unwise from an epidemiological perspective.

In the August 2011 proposed rule, we defined interstate certiIv.004 T8(I)13(N)2(i)-2(s)-1d3pfCfseas iss7

savings to the producer by supporting timely movement and clear identification of animals involved in interstate transportation.

The proposed definition of the ICVI did not prohibit the issuance of an ICVI at a veterinary clinic. The interstate movement could very well begin at a veterinary clinic, with prior movements to the clinic considered to be “intrastate” and not covered by these regulations. In order to clarify that ICVIs may be issued at veterinary clinics, however, as well as the premises at which they originated and other locations, we are amending the definition of interstate certificate of veterinary inspection (ICVI) in this final rule. The amended definition states that the ICVI is an official document issued by a Federal, State, Tribal, or accredited veterinarian certifying the inspection of animals in preparation for interstate movement.

A commenter stated that our definition of livestock as “all farm-raised animals” is vague and open to problems of interpretation. It was stated that, rather than tying our definition to a farm, we should define livestock by species.

As we noted in the preamble to the August 2011 proposed

(i)-2(ca)4(l)-2(unde)-6(d i)-2(n t)-2(he)4(pr)3(opos)-1(e)4(d)1)-1i-e asrpar32(a)4(t)-12(e)4(de)4(f)3(i)-2(ni)-2(t)-2(i)-2(on of

In the August 2011 proposed rule, we defined official eartag as an identification tag approved by APHIS that bears an official identification number for individual animals. The proposed definition further stated that beginning 1 year after the effective date of the final rule, all official eartags applied to animals would have to bear the U.S. shield. Previously, the definition of official eartag used elsewhere in the regulations, e.g., in § 71.1, required that the U.S. shield be used only on official eartags bearing an 840 AIN. We proposed to broaden the U.S. shield requirement to all official eartags in order to achieve greater standardization of this type of official identification device.

Some commenters objected to the proposed U.S. shield requirement for all official eartags. It was stated that the proposed requirement effectively mandated that private property be identified with a U.S. shield. Some commenters recommended that we allow official eartags to bear a State seal rather than the U.S. shield or that we allow States and Tribes to issue their own official identification tags without the U.S. shield, as long as combining the tag number and State identifier resulted in a unique number. It was claimed that a State code on an eartag actually provides the most important information enabling traceback.

After considering these comments, we have decided to amend the definition of official eartag in this final rule in a way that will allow the imprinting of a State postal abbreviation or Tribal alpha code within the shield in lieu of "US." Instead of a U.S. shield, official eartags will have to bear an official eartag shield. This final rule includes a new definition of official eartag shield in § 86.1, as well as in §§ 71.1, 77.2, and 78.1. We define official eartag shield as the shield-shaped graphic of the U.S. Route Shield,

administ

shipping and receiving States or Tribes." Other commenters took a similar view, though they did not recommend adding that specific definition.

It is our view that recognizing any identification method agreed to by the shipping and receiving States or Tribes as official would expand the range of identification methods that would be so recognized to an unacceptable degree, thereby hindering traceability. However, in keeping with our goal of having a flexible traceability system, we will allow for the use of other options deemed adequate at the local level by retaining in this final rule the provision that the shipping and receiving States or Tribes may agree to accept any other form of identification in lieu of official identification.

We are making a change to the definition of recognized slaughtering establishment in 9 CFR parts 77, 78, and 86 of this final rule. In the proposed rule, recognized slaughtering establishment was defined as any slaughtering facility operating under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or State meat or poultry inspection acts. Under the existing regulations in 9 CFR 71.21, slaughtering establishments may receive animals moved in interstate commerce only if they have been approved for that purpose by the Administrator. The amended definition of recognized slaughtering establishment in this final rule states that, in addition to meeting the requirements listed above, the establishment must be approved in accordance with § 71.21.

Finally, while we are issuing a revised version of the Animal Disease Traceability Standards document concurrently with this final rule, we are removing the definition of that document from the definitions section because it is not used elsewhere in the regulatory text.

Recordkeeping Requirements

In this final rule, however, we are retaining the 5-year requirement for the maintenance of official identification device distribution records. This requirement is warranted, as many of the species typically identified with eartags are those with the longer lifespans, with the exception of swine. Also, many official eartag distribution records do not include a species indicator; thus, having tag distribution records maintained specifically by species would often not be practical. Increasingly, these records will be maintained in electronic information systems, rather than on paper, making the recordkeeping requirement less burdensome.

It was also stated that the records that would be required under the proposed rule are maintained by States already, making our proposed requirements duplicative and burdening States unnecessarily.

Many States and Tribes do already have recordkeeping requirements at the local level. For States and Tribes with requirements that meet or exceed those included in this rule, there would be no additional burden. For States and Tribes that do not meet the minimum requirements, additional administrative processes may be needed or new rules may need to be promulgated at the State or Tribal level. States and Tribes receive Federal assistance through cooperative agreements for data processing and recordkeeping for animal disease traceability, lessening their financial burdens. We have the endorsement of the United States Animal Health Association, which has representation from all State animal health officials, for our recordkeeping requirements and for this rulemaking overall.

Contrary to the sentiments voiced by many of the commenters, a few questioned whether a 5-year recordkeeping requirement was adequate, given the long incubation period of such animal diseases as bovine spongiform encephalopathy (BSE). One commenter stated that movement records should be kept for the entire life span of an individual animal.

We will not be making any changes to this final rule as a result of these comments. As States and Tribes convert from paper-based to electronic recordkeeping systems, the length of time that records need to be stored becomes less of an issue. We believe, in fact, that those electronic records will be maintained well beyond the minimum requirements. At the present time, we believe that the requirements we include in this rulemaking achieve a good balance between what is needed and what is cost effective to achieve.

Official Identification Requirements

Official identification requirements for covered livestock, which were contained in § 90.4 of the August 2011 proposed rule, are contained in § 86.4 of this final rule.

Cattle and bison

The August 2011 proposed rule included a schedule for the phasing in of official identification requirements for cattle and bison. We proposed that, beginning on the effective date of this final rule, the requirements would cover all sexually intact cattle and bison aged 18 months and over; dairy cattle of any age; and cattle and bison of any age used for rodeos, recreational events, shows, or exhibitions. We deemed it essential to apply the official identification requirements immediately to those categories because they tend to live longer than feeder cattle, move around more, and have more opportunities for commingling, thus presenting a great risk of spreading disease via interstate movement. We further proposed to initiate a second implementation phase, in which we would extend the requirements to cover all other classes of cattle and bison, including feeders, after conducting an assessment and determining that the requirements were being implemented effectively throughout the production chain for the cattle and bison covered under the initial phase.

Many commenters objected to our plans to include feeder cattle (cattle under 18 months of age) in the second phase of our implementation of these traceability regulations. It was stated that it was unnecessary to include feeder cattle because most of them are destined for slaughter before the age of 2 years and hence do not pose much risk of spreading disease. Other commenters stated that the sheer number of animals that will be required to be identified and tracked under these regulations will make including feeder cattle very costly for producers, veterinarians, sale barns, and State agencies and that the volume of information that will need to be generated may swamp the whole system, for no significant benefit. The eartagging requirement for feeder cattle was viewed by some commenters as particularly burdensome for producers and others, and it was stated that identifying feeder cattle will not help in disease control.

We view the inclusion of feeder cattle in the traceability regulations as an essential component of an effective traceability system in the long term. Typical cattle management systems do not isolate feeder cattle from exposure to diseases. The epidemiological factors that support a complete, overarching traceability system in the United States require that all ages and classes of cattle be included in the animal disease traceability framework.

Many other commenters, including several representing cattle producers' organizations, recognized the necessity of adding feeder cattle to the traceability system but stated that such cattle should be added in a separate rulemaking for maximum transparency. Some of these commenters stated that they could not support the proposed rule as written if feeder cattle were not added in a separate rulemaking rather than under the notice-based process that we proposed.

After reviewing these comments, we have concluded

alternatives to the official identification requirement for interstate movement of feeder heifers over 18 months of age to feedlots can best be administered by the shipping and receiving State and Tribe. Exempting all heifers over 18 months of age would hinder traceability nationwide; thus, in these regulations, we are maintaining the 18-month age cut-off for the official identification requirement. Under these regulations, however, calves that remain after weaning on pasture or grass until 2 years of age before being sold as feeder cattle will not have to be officially identified before 24 months because they are not moving interstate until then.

Use of brands as official identification for cattle

One aspect of the August 2011 proposed rule that generated many comments was our decision to recognize only official eartags as a means of officially identifying individual cattle. Many commenters expressed the view that brands should continue to be recognized as an official method of identification for cattle and bison when the shipping and receiving States and Tribes agreed. Many of these commenters also maintained that we should continue to recognize tattoos as official. Commenters pointed out that brands have worked effectively in brand States for many years and that they provide a permanent method of identification, whereas eartags can be removed or lost. It was further stated by one commenter that electronic brand inspection certificates are a great aid to traceability, as they can provide traceback to the premises of origin for individual animals in less than 30 minutes. It was also claimed that the delisting of brands as a means of official identification would strip from States and Tribes the option of continuing to rely upon the brand accompanied by a brand certificate. A commenter further claimed that removing brands from the regulations as a means of official identification for cattle would discriminate against producers in States that require brand inspection as a condition of leaving a

brand inspection area because such producers would have to pay for both the brand inspection and for other identification as well, as required by the proposed rule.

APHIS recognizes that brands and brand-certificate information can provide timely information that may enhance disease traceback investigations. The original intent of the proposed official identification requirements was to define as official identification devices and methods those that could easily be administered by all States and Tribes, since all States and Tribes would be required to accept all official identification devices and methods listed in the regulations for each species. As we noted in the preamble to the proposed rule, we did not view brands as suitable for listing as a means of official identification for cattle because 36 States currently do not have brand inspection authorities. The option for States and Tribes to accept other identification methods, such as brands, in lieu of official identification was provided for in the proposed rule.

Some commenters provided recommendations for alternative text that would maintain the initial intent of the proposed requirements, while achieving the recognition of brands as an official identification method under specific conditions. Several commenters suggested that brands be accepted as official identification via bilateral or multilateral agreements or memorandum(s) of understanding between or among agreeing shipping and receiving States or Tribes.

APHIS appreciates and supports the suggested text revisions, and in this final rule, we are modifying § 86.4(a)(1) to add to the list of official identification devices and methods for cattle brands registered with a recognized brand inspection authority and accompanied by an official brand inspection certificate if the shipping and receiving State or Tribal animal health authorities agree to recognize them as such. We are also amending the paragraph to recognize as official

identification tattoos and other identification methods acceptable to a breed association for registration purposes

and are the only means that would enable a traceback of a group/lot that inadvertently becomes separated from a herd and for which the paperwork is lost or destroyed.

The GIN provides a uniform standard for identifying groups of animals that are managed together throughout the preharvest production chain. In such a situation, the group is identified in its entirety as it moves from location to location with the GIN. The Animal Disease Traceability General Standards document provides the format specifications for the GIN. This standard number format is needed to establish and maintain compatibility of information systems.

Animals that are not maintained with the group will need to be identified with an official eartag or as otherwise agreed to by the animal health officials of the shipping and receiving State or Tribe. The revised definition of official identification device or method recognizes brand certificates as official when agreed to by the shipping and receiving State and Tribe. While we will be maintaining the numbering format specification for the GIN, States and Tribes have the option to accept other methods of identification, including those of groups of animals.

Finally, in contrast to the general trend of the comments on branding, one commenter supported the delisting of brands as a means of individual identification because of the cost to producers of brand inspections and health papers in brand-inspection States.

We are not making any changes to this final rule in response to this comment. Health

Identification of direct-to-slaughter cattle

with cattle and bison from other premises. Some commenters favored allowing approved tagging sites to tag cattle moved interstate with a back tag prior to commingling, which then could be correlated with the official eartag once the cattle are sold and sorted and before further movement. It was suggested that such an approach would enable markets that become

Use of multiple eartags

In the August 2011 proposed rule, we prohibited the use of multiple official identification devices on a single animal with the following exceptions:

- A State or Tribal animal health official or an area veterinarian in charge could approve the application of a second official identification device in specific cases when the need to maintain the identity of an animal is intensified, such as for export shipments, quarantined herds, field trials, experiments, or disease surveys, but not merely for convenience in identifying animals.
- An eartag with an AIN beginning with the 840 prefix (either RFID or visual-only tag) may be applied to an animal that is already officially identified with an eartag with a NUES number, as AIN devices are commonly used for herd management purposes.
- A brucellosis vaccination eartag with a NUES number could be applied for management purposes in accordance with the existing brucellosis regulations to an animal that is already officially identified under the traceability regulations.

Many commenters opposed the proposed restrictions, with some questioning our rationale that the use of multiple official identification devices on the same animal can cause confusion and impede efforts to track the movements of that animal. Some of these commenters stated that, contrary to our view, using multiple official identification devices on the same animal can create redundancies and thereby aid traceability. Other commenters requested clarification of the requirements, suggesting that if brands or tattoos were to be allowed as official identification for cattle in the final rule, then the prohibition on multiple official identification devices would seem to preclude the use of eartags on branded or tattooed cattle.

As stated in the preamble of the August 2011 proposed rule, the use of multiple official eartags with multiple official identification numbers for a single animal can cause confusion and impede efforts to track the movements of that animal. This problem has primarily occurred when the same animal had multiple National Uniform Eartagging System (NUES) eartags, sometimes as many as three or more. We acknowledge that having more than one NUES tag may provide additional points of reference for the animal's location. For example, if the animal with multiple NUES tags is the index animal that has tested positive for the disease under investigation, the multiple NUES tag numbers for that animal are all recorded when the traceback investigation is initiated. While applying an additional NUES eartag effectively identifies the cattle in the shipment, however, the animals become difficult to trace when the official number on the new official eartag is not recorded or aligned with the initial or existing NUES tag number. An investigating animal health officer often sees tag numbers on epidemiological reports of suspect animals that need to be located for testing. Without being able to cross-reference the multiple official identification numbers, the animal health official can only assume that each official identification number that becomes part of the investigation represents a different animal that must each be traced. This increases the complexity of the traceback and lengthens the investigation.

After reviewing the comments on this issue, we considered requiring recording the initial number(s) when applying an additional official eartag to align the official identification numbers of the new tag and the tag(s) already attached to the animal and reflect that both the existing eartag(s) and the new eartag are on the same animal. However we determined it was more practical to adhere to the general approach we took in the proposed rule, which was to prohibit the application of additional official identification devices to a single animal unless warranted by

a specific situation. We are, however, clarifying that the restriction applies to official eartags only. As noted above, under the provisions of this final rule, brands, tattoos, and breed registry certificates may be recognized as official by shipping and receiving States and Tribes. Because only the use of multiple official eartags will be restricted, it will be permissible to tag animals already identified with brands or tattoos.

Adjusting for instances where stakeholders have indicated that additional official eartags would provide herd management advantages, we are also clarifying the language of the above-listed exceptions, including information recording requirements, and adding an exception that will allow the use of multiple official eartags with the same official identification number on a single animal. Producers often use AIN

collection and recording of retired tags at slaughter. Such recording and retirement is necessary for a bookend system to function.

We recognize that compliance with all the regulations is important to support traceability and plan to work with FSIS and slaughter plants to ensure the collection of identification devices. A memorandum of understanding (MOU) will be established between APHIS and FSIS regarding the responsibilities of the two agencies for the collection of identification at the slaughter plants. We are also amending § 86.4(d)(2) to state explicitly that collecting identification devices at slaughter and providing them to APHIS and FSIS is the responsibility of the slaughter plant. Additionally, this rulemaking requires that a cross reference of the carcass and the animal's identification be maintained through carcass inspection. Maintaining the identity past that inspection is outside the scope of these regulations, however. When the carcass passes inspection, the collected identification devices are to be provided to APHIS, which will be responsible for the administration of tag and animal termination recording.

Replacement of official eartags

Some commenters stated that our proposed process for replacing lost tags would necessitate additional recordkeeping and place an unrealistic burden on small producers. It was recommended that producers be exempted from the 5-year recordkeeping requirement associated with applying a new device after one has been lost.

The vast majority of the records that support the traceability regulations will be maintained by individuals other than producers. Since producers may retag animals that lose their official eartags, they may be the only ones that have such information. Therefore, these records must be maintained by the producer. While tag loss is expected, the percentage of

animals that lose their eartags is a small percentage of all animals tagged. Therefore, the volume of records any producer will need to maintain for this requirement is expected to be quite low.

Some commenters requested that we amend the final rule to allow producers to obtain a replacement AIN tag with the same 840 AIN when a tag has been lost or is no longer a viable tag. It was stated that because these tags are already used for management purposes in many dairies and some beef operations, allowing producers to replace AIN/840 tags with duplicates would avoid unnecessary confusion that could be caused by assigning an animal more than one number and thus help to maintain the viability and integrity of the national traceability system.

We agree with this comment. In fact, while the proposed rule did not include regulatory text allowing for the issuance of such duplicate tags, it did not expressly prohibit such issuance either. The existing Animal Identification Management System (AIMS) has had a tag reporting option established for AIN device manufacturers for reporting the distribution of duplicate AIN eartags. Additionally, ISO 11784, which AIN radio frequency tags adhere to, provides for the encoding of a portion of the code for the administration of duplicate replacement tags.

Nonetheless, we are amending § 86.4(d)(4) in this final rule to allow for both the retagging of animals with tags imprinted with different official identification numbers from the ones being replaced and retagging of animals with replacement or duplicate tags that have the same official

Other issues pertaining to the use of official eartags on cattle

Some commenters recommended that the final rule should allow the use of owner-shipper tags, for feeder cattle only, at receiving locations for cattle owners or shippers who lack tagging facilities and who sell directly to buyer in another State. A few of these commenters, while supporting the recommendation, stated that this tagging option should be allowed only at an approved tagging site.

While markets are likely to be the most common locations that become approved tagging sites, animal health officials may approve feedlots to tag animals on behalf of the producer that shipped or sold the animals. This exemption from the requirement for official identification prior to interstate movement, however, is limited to locations that are approved tagging sites. Producers that elect to use a tagging site may choose to obtain the official eartags and provide them to the personnel of the tagging site to have those official tags applied to their animals. We consider the option of officially identifying animals at any destination to be too broad, potentially leading to deficiencies in the maintenance of identification records. The approval process for tagging sites allows for oversight of these locations to ensure that necessary records are properly maintained and provides adequate flexibility to allow States and Tribes to determine the extent to which tagging sites are utilized.

Some commenters suggested that we should require a State code to be imprinted on official eartags. It was claimed that a State code provides the most important information needed to enable traceback.

While the numbering system for the NUES utilizes State and Tribal codes, the 840 AIN does not. States that obtain AIN devices may elect to have the State abbreviation imprinted on the AIN eartags, and several States are doing so when they obtain the tags. Unlike NUES tags,

the AIN tags are available in many tag types, currently exceeding 40. The inventorying of multiple tag types by States and Tribes creates significant logistical challenges, and to minimize the options would lessen the flexibility currently provided. While States and/or producers that obtain the tags may have their State or Tribal codes imprinted on them, we determined that requiring it to be imprinted on the tag or to be part of the AIN would cause tag distribution inefficiencies that outweighed the potential advantages. For example, because the distribution of AIN tags is not limited to direct shipment from the manufacturer to the producer's farm at the time of manufacture, the State where the farm receiving the tags is located may be unknown. Additionally, maintaining distribution records of both NUES tags and AIN tags in electronic systems is imperative for timely retrieval of tag distribution data for traceback investigations, as the State designations alone are typically not specific enough for this purpose.

Our reliance on eartags for official identification in the proposed traceability regulations was questioned by some commenters on the grounds that tagging is not necessarily synonymous with effective traceability.

We agree that official identification in itself is not sufficient for an effective traceability system. When combined, however, with the information obtained from the records of tag distribution and the availability of management records and movement documents with nationally unique numbers, eartags have been and will continue to be invaluable to traceback investigations.

In our earlier discussion of the definition of official eartag, we noted that some commenters opposed the U.S. shield requirement, and we amended the definition in response to those comments. Some of those commenters recommended that we allow States and Tribes to

issue their own official identification tags without the U.S. shield, as long as combining the tag number and State identifier resulted in a unique number.

A standardized way of marking all official tags is considered critical to help clarify the confusion that currently exists relative to eartags being official. Standardization will support a more user-friendly system and help increase the level of compliance. We believe it is important to have a simple and standardized means of determining if a tag is official. The standardization of numbers also allows for automated error checking, resulting in greater data integrity in information systems. The addition of the definition of official eartag shield, discussed above, to the regulations allows the States and Tribes to imprint their postal abbreviations or alpha codes instead of “US” on the tag. States and Tribes will be able to administer their own official eartags, provided that those eartags adhere to our definition of official eartag.

A commenter questioned how a producer or organization would request printed AIN tags for a location without a national premises identification number (PIN). The commenter recommended allowing AIN eartags to be ordered with a State location identifier in lieu of a national PIN.

In this rulemaking, while continuing to allow for the use of the PIN, we also provide for the use of a location identification (LID) number, which we define as a nationally unique number issued by a State, Tribal, and/or Federal animal health authority to a location as determined by the State or Tribe in which it is issued. As noted in Section B of the Animal Disease Traceability General Standards document, producers may obtain AIN tags provided they have either a PIN or an LID.

Some commenters recommended that we add language to the final rule to provide a method fo-6(c/t2lhs)1()JTJ Ou()

Under the proposed rule, all dairy cattle were to be subject to the official identification requirements beginning on the effective date of this final rule. Upon further consideration, we have concluded that there would be minimal value in officially identifying for the first time older dairy steers that may have already moved interstate before the effective date of this final rule. While the identification of animals in the dairy sector is important, in particular at young ages, we have determined it to be appropriate, at this point, to apply the official identification requirements only to male dairy animals born after the effective date of this final rule. We have revised the provision pertaining to the official identification of dairy cattle for interstate movement to state that beginning on [INSERT EFFECTIVE DATE OF THIS FINAL RULE], all dairy females, regardless of age, and all male dairy animals that are born after that date will be required to be officially identified prior to interstate movement.

A commenter requested that we include third-party traceability programs, such as the above-mentioned AMS-recognized programs, currently used by numerous cattle producers to verify the age and source of livestock as an official identification method.

The use of the official identification devices or methods allowed for cattle under these regulations can easily support such programs if the eartags used in the programs bear numbers that meet our definition of official identification number. The AMS programs referred to earlier require a unique number only within their certified programs, however. Since there are a number of other systems that verify processes, feeding claims, exports, quality system assessment, or product label claims, relying only on system-specific or proprietary numbers would cause problems in traceability systems that require nationally unique numbers. Therefore, we are not making any changes to the final rule in response to this comment. However, as noted earlier, APHIS will work with AMS to establish greater standardization, in particular for animal

Some commenters stated that what they termed "event cattle," meaning cattle that may be used for a single event, are not a high-risk group like rodeo cattle and, therefore, should not be grouped with the classes of cattle and bison subject to the official identification requirements on that date that this final rule becomes effective. It was further suggested that event cattle should not have to be individually identified and, even if they were, that their identification numbers should not have to be recorded on an ICVI.

We do not agree with these comments. The commingling of cattle with rodeo stock, even for a short period of time, increases the risk of disease exposure. Additionally, due to the frequent movement of such animals, the documentation of individual animal numbers is important.

It was suggested that when commuter herd.3 TdDire approv[(s)-1(houl)-2(d41(hou 17.31 0 Td ()2(i)-2

be devastating for many pastured poultry and backyard poultry owners. It was also maintained that since many pastured poultry operations and backyard poultry owners order day-old chicks

Some commenters also stated that existing poultry numbering systems have been working well and should be recognized in this rulemaking as group or flock identifiers.

This final rule establishes a standard for identifying groups or flocks of poultry by means of the GIN. Shipping and receiving States or Tribes may also agree, however, to recognize alternate methods of identification in lieu of official identification for animals moved from the shipping State or Tribe into the receiving one, thus allowing for the use of other numbering systems that have been working effectively as group or flock identifiers.

Commenters representing the poultry industry also stated that requiring identification of chickens moved to a custom slaughter facility would cause a significant and unwarranted economic burden for producers.

In the proposed rule, we did exempt from the requirements of these regulations any covered livestock moving interstate to a custom slaughter facility in accordance with Federal and State regulations for preparation of meat for personal consumption. To alleviate concerns expressed by the commenters, we are clarifying the intent of the exemption in this final rule by removing the phrase "for personal consumption." Therefore, under § 86.2(e)(2) of this final rule, all livestock moved to a custom slaughter facility will be exempted from the traceability regulations.

Some commenters suggested that commuter herd provisions, which exempt cattle and bison meeting the commuter herd requirements from official identification requirements, should be extended to include commercial poultry flocks as well. One of the commenters stated that the commercial broiler industry should be allowed to form agreements with States to ensure traceability.

Our commuter herd provisions were intended to address a specific need in the cattle industry, where cattle move across State lines under retained ownership for grazing purposes. What the commenter is asking for more closely resembles the provisions in 9 CFR 71.19 that provide for the movement of swine within a production system. We do not believe that changes are necessary in this final rule in regards to expanding the concept of commuter herds to the commercial poultry industry, as the NPIP guidelines, which are well-established in the commercial poultry industry, have provided very good traceability solutions. Additionally, the proposed rule did provide for States and Tribes to use other methods of identification and movement documentation for poultry. That is still the case under this final rule; thus, States and Tribes may enter into agreements with the commercial broiler industry, as suggested by the commenter.

Official identification requirements for equines

Many commenters stated that a physical description of the animal should qualify as official identification for equines without that description having to be approved by an official of the receiving State or Tribe, as provided for in the proposed rule.

That proposed requirement was intended to apply only to those situations where the person examining the equine's identity had questions regarding the description provided. Where such uncertainty existed, an animal health official in the receiving State or Tribe was to determine if the description was sufficient or not. In this final rule, § 86.4(a)(2) has been revised to provide, as an option, that the animal health official at the destination may make the determination when called upon, but the use of the animal health official is not required. For example, the accredited veterinarian or authority at an equine exhibition may elect to make the determination of the equine's identity without review by the animal health official.

We do not agree that it is the role of APHIS to establish industry standards; rather, it is to set minimum standards for States and Tribes that provide flexibility at the local level. If an industry chooses to adopt a specific standard, that is its prerogative as long as the standard meets the minimum guidelines of these regulations or is agreed to by animal health officials involved in the interstate movement.

Pork industry commenters further stated that, to avoid any possible conflicts that might arise between the requirements set out in this rule

These traceability regulations list official identification devices and methods for each species of covered livestock. The diversification of animal agriculture across the United States is tremendous, and, taking into account all the feedback we received over the last few years, we recognized that “one size does not fit all.” Thus we designed these regulations to support the efforts of States and Tribes to work with producers at the local level to implement traceability solutions that work best for all concerned.

A commenter stated that allowing group/lot identification of animals managed together as one group through the production chain would give a competitive advantage to vertically integrated operations over smaller producers.

The group/lot identification option is based on the need to have adequate information available to State, Tribal, and Federal animal health officials to conduct traceback investigations. Requiring there to be individual identification on each animal that moved through the preharvest production chain would not improve the traceability of those animals. Thus, group/lot identification is a justified option in those situations, regardless of the size of the group.

A commenter stated that there should be a uniform requirement, with no exemptions, that all livestock in interstate commerce be individually officially identified before moving interstate, as is now the case with horses, according to the commenter.

We do not agree with this comment. We recognize that there are circumstances where official identification and/or ICVIs for interstate movement of animals are not warranted from a disease-risk perspective or that the traceability of animals moving interstate may be possible without requiring official identification of individual animals. For example, livestock moved interstate to a custom slaughter facility are already identified to the person responsible for

bringing the animal to the facility. An official eartag would not make the animal more traceable;
thus, we

Some commenters took the argument further, stating that paper copies of ICVIs are not needed at all and that electronic copies are not only sufficient for traceability needs but should be required. It was also stated that the regulations need to allow for the use of electronic ICVI addenda.

We agree that electronic ICVIs have inherent benefits in terms of data retrieval, readability, and ease of execution, but disagree that paper ICVIs have no place in our traceability program. Although all States currently have the electronic ICVIs available for use, full implementation by the majority of accredited veterinarians will take time. We have areas of the country where electronic issuance of certificates that are Web-based is not possible at the locations where they are needed. While moving to increased use of electronic ICVIs is important, paper-based ICVIs will have a role in the foreseeable future. Additionally, even as the use of electronic ICVI systems become more widespread, it will still be necessary for enforcement purposes for the printouts of such certificates to accompany the livestock in transit.

Some commenters stated that the proposed ICVI requirements would be burdensome for producers. Because there are not enough veterinarians available in all States to conduct the necessary inspections on animals preparing to move interstate, having to obtain an ICVI would require some producers to pen their calves longer to arrange for those inspections. The result would be greater stress on the animals and reduced profits for the producers.

months of age, which would have been required to be accompanied by an ICVI under the proposed rule.

A number of commenters viewed the proposed requirement for the recording of individual identification numbers on the ICVI as burdensome to producers and market operators, stating that the benefits of such recording would not outweigh the costs. It was suggested that State officials should be allowed to waive the recording of individual identification numbers on ICVIs.

An ICVI is a certification that a veterinarian has inspected specific animals. The requirement for recording the animals' identification numbers on the ICVI ensures that the inspections have actually taken place for those specific animals. State and Tribal animal health officials use the ICVIs to help in animal disease investigations. If the animals' identification numbers are not listed on the ICVI, it is more difficult to determine which animals were moved. To limit any possible burdens resulting from the recording requirements, the only animals we require to be listed on the ICVI are those we have determined to be associated with a higher risk of disease spread.

Some commenters stated that we should allow for the stapling of a printed list of RFID tag numbers to a paper ICVI rather than requiring the writing down of the numbers on the ICVI itself.

We agree with this comment and are amending the ICVI definition in this final rule to allow for State-approved addenda that would include an option for an attached printout of official identification numbers generated by computer or other means. The amended definition will also note, however, that such addenda or attachments may only be used if agreed to by the receiving State or Tribe.

categories were sexually intact cattle and bison under 18 months of age or steers or spayed heifers, excluding sexually intact dairy cattle of any age or cattle or bison used for rodeos, exhibitions, or recreational purposes. Many cattle organizations strongly supported maintaining those exemptions from the ICVI recording requirements rather than phasing them out, as they claimed we proposed to do.

We agree with these comments. The proposed rule did not in fact contain language suggesting that we intended to phase out these exemptions.

Many commenters stated that we should allow the use of other movement documents in lieu of the ICVI for all ages of cattle and bison when the shipping and receiving States or Tribes agree. The potential burden to producers of the ICVI requirement, resulting from a decline in the availability of veterinary coverage around the country, was cited as a reason for this recommended change from the proposed rule, which only allowed such an exemption for cattle and bison under 18 months of age.

We agree with the commenters on the need for flexibility and alternatives in areas of the country where obtaining an ICVI would impose an economic hardship on producers. We are, therefore, amending § 86.5(c)(6) in this final rule to allow for the use of alternative movement documentation for all ages of cattle and bison when agreed to by the animal health officials in the shipping and receiving States or Tribes.

It was recommended that the ICVI exemption contained in the proposed rule for poultry moved directly to a recognized slaughtering establishment should be expanded to cover poultry moved directly to rendering establishments as well.

We agree that the exemption is appropriate for poultry moving directly to either destination and are amending § 86.5(g)(2) of this final rule accordingly.

include an event passport. We have maintained these options in the final rule to support the use of other movement documentation as agreed to by the involved State or Tribe animal health officials. Yet, we do believe that a standard and uniform definition for the ICVI and standard and uniform requirements for its administration are critical, and we have maintained those as proposed.

It was stated by a commenter representing a swine industry association that the ICVI requirements contained in the proposed rule included some data not currently required for swine and could cause some confusion regarding issuance. Specifically, the commenter questioned why it was necessary for an accredited veterinarian to indicate on the ICVI the purpose for which the animals are being moved interstate.

As we explained in the preamble to the August 2011 proposed rule, the information requirements for the ICVI were closely modeled on the requirements for certificates in the brucellosis regulations. The requirement for the accredited veterinarian to state the purpose of the interstate movement is to differentiate between temporary movements (shows, exhibitions, etc.) and permanent movements (sales, retained ownership, etc.). On many existing State-issued ICVIs, there is a box that can be checked indicating the purpose of the movement. In any event, the establishment of these traceability regulations does not affect the documentation requirements for the interstate movement of swine, which will continue to be governed by § 71.19.

A commenter representing the swine industry stated that while swine moved directly to slaughter are not currently required to have an ICVI, under the prhe

The commenter

timeframes are the same as those for approved livestock facilities: Such documents must be retained for 2 years for poultry and swine and 5 years for cattle and bison, equines, cervids, and sheep and goats.

A few commenters expressed the view, contrary to that of most, that t

we did not properly account for the cost of expanding the official identification requirements to cover feeder cattle.

In the RIA, we attempted to estimate the new costs that will be associated with the provisions of the rulemaking. We acknowledged the significant portion of the cattle industry that already uses some method of identification, as reported in the National Animal Health Monitoring System 2007 and 2008 surveys. In the RIA, we noted that two-thirds of the beef operations and 90 percent of dairy operations use some method of identification. Additionally, within beef operations, over 60 percent of the calves had some form of individual identification. Consideration of these existing practices is important when estimating new costs that may be attributed to the new traceability requirements, as we believe that official eartags, in many cases, will likely be applied at the same time at which cattle are already being tagged or worked through chutes for other management purposes. Additionally, with an array of official eartags, producers may choose a single eartag that meets both management and official identification needs. This option would make the additional cost of official eartags quite small. Likewise, we believe that producers will continue to develop tagging practices that minimize the cost of applying official eartags. Producers that are not able to tag their own cattle may find a tagging

Regarding ICVI costs, we noted that most States alre

stated that we also ignored the costs of official tags bearing the required emblem, the costs of replacing existing tag systems with official tags, the costs of equipment to read the tags, the costs of configuring corrals and handling facilities to allow for collection of identification information, and the costs associated with technology problems when tags are not read.

We included information in the RIA about the cost of the tags, the cost of the labor to work the cattle in chutes and apply the tags, and the cost of the ICVI when the official identification information is recorded. Since the U.S. Shield has been imprinted on the NUES tags obtained by APHIS for disease-control programs for many years, we do not agree that the standardized use of the official eartag shield will increase the cost of official eartags. This rulemaking is designed to allow producers to use tags that do not require any electronic or special equipment to read the official eartags.

As described in the RIA, States and Tribes would bear responsibility for the collection, maintenance, and retrieval of data on interstate livestock movements. Federal funding, as available, would be allocated to assist States and Tribes in meeting program goals. Additionally, APHIS continues to provide information systems that States and Tribes may elect to use at no charge.

Some commenters stated that we underestimated the cost to producers of the rulemaking because we did not factor in the costs of buying chutes in calculating the costs of tagging.

As stated previously, in the RIA, we attempted to determine only the costs and benefits that were associated with the provisions of the proposed rule. While we included estimated costs for chute operations for tagging, we did not include the entire costs of buying or renting chutes because we were only trying to determine the costs associated with the rule. If an operation does not currently own equipment needed for tagging, such as chutes, we note that tagging may take

The RIA included information about estimated costs for equines. We estimated the incremental cost of an ICVI for most horses moved interstate to range between \$4.00 and \$7.50, based on the cost of testing for EIA. We estimated that the total additional cost for the equine industry could range from \$8.8 million to \$16.5 million, given the current number of EIA tests per year.

M

It was stated that the proposed rule was unfair in that it would only regulate interstate movement. As a result, producers may choose to take cattle to in-State markets that are farther away, thus incurring increased transportation costs, in order to avoid the cost and burden of the proposed requirements. Producers and markets located in the interiors of States may be given an unfair competitive advantage by not having to comply.

We realize there are many factors that producers will consider when marketing their animals. While the cost of officially identifying animals moved interstate to a market may be considered, there are many other economic factors associated with marketing decisions, including, but not limited to, transportation costs and the availability of local and out-of-State buyers. Therefore, we cannot conclude that this final rule favors livestock markets based on their geographic location or distance from State borders.

Many commenters viewed the proposed traceability program as an unfunded mandate. For example, it was said that State agencies would have to build database storage, management,

H

-0.cat3

It was stated that our proposed traceability system would enhance the bargaining power of packers at the expense of producers.

The commenters who expressed this view did not describe how the proposed rule would alter

We do not agree with these comments, as we believe that it would be premature to enact traceability performance requirements in this rulemaking. As noted in the preamble to the

organizations that would be affected. We made it clear in that discussion that the performance

This rulemaking is not intended to provide methods of disease prevention or establish policy for international trade or wildlife issues. Having these traceability regulations in place will help us to build a uniform infrastructure of animal disease traceability that will aid us in disease response.

This rulemaking is intended to put the recordkeeping responsibility and data in the hands of States and Tribes. States and Tribes may choose to use the data systems already developed by APHIS, but the data contained in those systems are controlled at the local level. Maintenance of distribution records of official identification devices is shared among States/Tribes, APHIS, and the private sector. For instance, the distribution of official AIN eartags purchased by private individuals is recorded in an APHIS system by the tag manufacturers and distributors. Other official eartags purchased with State or Tribe resources are recorded in databases or logs at the discretion of the State or Tribe. While APHIS provides NUES tags to States and Tribes, the States and Tribes also may obtain official identification tags from approved manufacturers.

Many commenters faulted the proposed rule for not addressing potential liabilities to producers and associated individuals and entities under our traceability system. It was stated that under the bookend system we are attempting to implement, the person applying an identification tag would be the primary suspect in any disease traceback investigation, even if the animal was sold by that person well before detection of the disease.

Our animal disease programs are not designed to find fault or assign blame for disease, but to find and control disease. With a bookend system of traceability, the point-of-origin identification merely provides a starting point for an epidemiological investigation to trace an animal forward. The identification collected at slaughter is a starting point for tracing the animal backward. Good identification and recordkeeping at the farm level can actually reduce the

impact of a disease investigation on producers, livestock markets, and other entities. For example, if a producer has a record that the animal of interest in an investigation was tested prior to movement or that a herd test was conducted, the amount of time Federal, State, or Tribal officials may be required to spend at the farm could be minimized, thereby minimizing the effect on the producer's operations.

It was stated by one commenter that our proposed traceability system would eliminate redundancies built into current systems and actually degrade, rather than enhance, traceability. The commenter did not offer any evidence to support that claim, however.

The same commenter also stated that APHIS lacks the constitutional and statutory authority to establish a traceability system. According to the commenter, the language of the Animal Health Protection Act does not confer broad authority to mandate overt action by producers in the form of an animal traceability system. The commenter claimed that our assertion of such broad powers is contrary to Article 1, Section 8 of the U.S. Constitution.

We do not agree with this comment. The Animal Health Protection Act authorizes the Secretary “to prohibit or restrict the movement in interstate commerce of any animal, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of dissemination of any pest or disease of livestock.” The promulgation of regulations establishing an animal disease traceability system is clearly within APHIS' statutory authority.

It was also maintained that the proposed rule represented an unauthorized attempt by APHIS to implement OIE codes and standards domestically.

We do not agree with this comment. In this rulemaking, we are promulgating regulations that improve traceability nationally and yet allow the flexibility at the local level for States and Tribes to implement traceability solutions that work best for them.

One commenter noted that horses are not classified as livestock by the Food and Drug Administration and stated that agencies need to decide on a single classification before traceability requirements for horses go into effect.

We will not be making any changes to the final rule in response to this comment. Horses are classified as livestock under the Animal Health Protection Act, from which we derive our authority to regulate to protect animal health.

A commenter pointed out a possible discrepancy in the regulations regarding cervid herd tuberculosis testing and reaccreditation intervals. In current and proposed §§ 77.25, 77.27, and 77.29, reference is made to requirements for testing within 24 months of interstate movement. In § 77.35, however, there is a reference to a 36-month interval for herd testing for reaccreditation.

While we did not propose any changes to the requirements for testing intervals in these sections, we note that the differing intervals to which the commenter refers are associated with testing for different purposes.

A commenter representing a community of Old Order Amish opposed the proposed rule on religious grounds.

The commenter would only be subject to the traceability regulations if moving livestock interstate, and the availability of alternate tagging sites would make it possible for identification practices to which he might object to be carried out after a change of ownership of the livestock. While we respect the commenter's religious beliefs, we do need to be able to trace animals to

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This final rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

We are establishing general traceability regulations for certain livestock moving interstate. The purpose of this rulemaking is to improve APHIS' ability to trace such livestock in the event disease is found. The benefits of this rulemaking are expected to exceed the costs overall.

While the rule applies to cattle and bison, horses and other equine species, poultry, sheep and goats, swine, and captive cervids, the focus of this analysis is on expected economic effects for the beef and dairy cattle industries. These enterprises are likely to be most affected

operationally by the rule. For the other species, APHIS will largely maintain and build on the identification requirements of existing disease program regulations.

Costs for cattle producers are estimated in terms of activities that will need to be conducted for official animal identification and issuance of an ICVI, or other movement documentation, for livestock moved interstate. Incremental costs incurred are expected to vary depending upon a number of factors, including whether an enterprise does or does not already use eartags to identify individual cattle. For many operators, costs of official animal identification and ICVIs will be similar, respectively, to costs associated with current animal

million. After considering public comments, we have increased the estimated cost of this second scenario. We recognize that all producers may not combine tagging with other management activities and therefore some will continue to incur higher costs.

All States currently require a certificate of veterinary inspection, commonly referred to as a health certificate, for the inshipment from other States of breeder cattle, and 48 States require one for feeder cattle. Annual incremental costs of the rule for ICVI's are estimated to range between \$2 million and \$3.8 million. If States currently requiring documentation other than ICVIs, such as owner-shipper statements or brand certificates, continue to accept these documents in lieu of an ICVI, as permitted by this rule, the ICVI requirement in this rule will not result in any additional costs.

The combined annual costs of the rule for cattle operations of official identification and movement documentation will range between \$14.5 million and \$34.3 million, assuming official identification will be undertaken separately from other routine management practices; or between \$10.9 million and \$23.5 million, assuming that some producers will combine tagging with other routine management practices that require working cattle through a chute.

Currently, States and Tribes bear responsibilities for the collection, maintenance, and retrieval of data on interstate livestock movements. These responsibilities will be maintained under this rulemaking, but the way they are administered will likely change. Based on availability, Federal funding will be allocated to assist States and Tribes as necessary in automating data collection, maintenance, and retrieval to advance animal disease traceability.

Direct benefits of improved traceability include the public and private cost savings expected to be gained under the rule. Case studies for bovine tuberculosis, bovine brucellosis, and BSE illustrate the inefficiencies currently often faced in tracing disease occurrences due to

inadequate animal identification and the potential gains in terms of cost savings that may derive from the rule.

Benefits of the traceability system are for the most part potential benefits that rest on largely unknown probabilities of disease occurrence and reactions by domestic and foreign markets. The primary ben

this final rule allows States and Tribes to use eartags with their State or Tribal code printed inside an official eartag shield. The rule also includes an ICVI-related recordkeeping requirement for accredited veterinarians that was not noted in the proposed rule.

Notwithstanding these additional requirements, the total paperwork burden is reduced from what we determined it to be in the proposed rule because we did not adequately account for the increasing use by States of electronic recordkeeping for ICVIs and, as a result, overestimated the ICVI reporting burden for the States. In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this information collection requirement has been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, we will publish a document in the Federal Register providing notice of the assigned OMB control number or, if approval is denied, providing notice of what action we plan to take.

List of Subjects

9 CFR parts 71, 77, and 78

Animal diseases, Bison, Cattle, Hogs, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

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 chapter I as follows:

PART 71—GENERAL PROVISIONS

2. Section 71.1 is amended by revising the definitions of animal identification number (AIN), group/lot identification number (GIN), livestock, official eartag, official identification device or method, and premises identification number (PIN), removing the definitions of moved (movement) in interstate commerce and United States Department of Agriculture Backtag, and adding definitions of flock-based number system, flock identification number (FIN), move, National Uniform Eartagging System (NUES), official eartag shield, official identification number, and United States Department of Agriculture (USDA) approved backtag in alphabetical order to read as follows:

§ 71.1 Definitions.

* * * * *

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code). The alpha characters USA or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal

Flock-based number system. The flock-based number system combines a flock identification number (FIN) with a producer's unique livestock production numbering system to provide a nationally unique identification number for an animal.

Flock identification number (FIN). A nationally unique number assigned by a State, Tribal, or Federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership.

* * * * *

Group/lot identification number (GIN). The identification number used to uniquely identify a “unit of animals” of the same species that

Official eartag. An identification tag approved by APHIS that bears an official identification number for individual animals. Beginning [Insert date 1 year after effective date of final rule] all official eartags manufactured must bear an official eartag shield. Beginning [Insert date 2 years after effective date of final rule], all official eartags applied to animals must bear an official eartag shield.

Tribal, and/or Federal animal health authority a geographically distinct location from other premises. The PIN may be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It may be used as a component of a group/lot identification number (GIN).

* * * * *

United States Department of Agriculture (USDA) approved backtag. A backtag issued by APHIS that provides a temporary unique identification for each animal.

§ 71.18 [Removed and Reserved]

3. Section 71.18 is removed and reserved.

§ 71.19 [Amended]

4. In § 71.19, in paragraphs (b)(2) and (d) introductory text, by removing the words "United States Department of Agriculture backtags" and adding the words "United States Department of Agriculture (USDA) approved backtag" in their place each time they occur.

§ 71.22 [Removed and Reserved]

5. Section 71.22 is removed and reserved.

PART 77--TUBERCULOSIS

6. The authority citation for part 77 continues to read as follows:

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

7. Section 77.2 is amended by revising the definitions of animal identification number (AIN), livestock, official eartag, and premises identification number (PIN)

based numbering system, location identification (LID) number, move, National Uniform Eartagging System (NUES), official eartag shield, official identification number, recognized slaughtering establishment, and United States Department of Agriculture (USDA) approved backtag in alphabetical order to read as follows:

§ 77.2 Definitions.

* * * * *

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code). The alpha characters USA or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording may be used as an alternative to the 840 or other prefix representing a U.S. territory; however, only the AIN beginning with the 840 or other prefix representing a U.S. territory will be recognized as official for use on AIN tags applied to animals on or after [Insert date 24 months after effective date of final rule]. The AIN beginning with the 840 prefix may not be applied to animals known to have been born outside the United States.

* * * * *

Directly. Moved in a means of conveyance, without stopping to unload while en route, except for stops of less than 24 hours to feed, water, or rest the animals being moved, and with no commingling of animals at such stops.

* * * * *

Interstate certificate of veterinary inspection (ICVI). An official document issued by a Federal, State, Tribal, or accredited veterinarian certifying the inspection of animals in preparation for interstate movement.

(a) The ICVI must show the species of animals covered by the ICVI; the number of animals covered by the ICVI; the purpose for which the animals are to be moved; the address at which the animals were loaded for interstate movement; the address to which the animals are destined; and the names of the consignor and the consignee and their addresses if different from the address at which the animals were loaded or the address to which the animals are destined. Additionally, unless the species-specific requirements for ICVIs provide an exception, the ICVI must list the official identification number of each animal, except as provided in paragraph (b) of this definition, or group of animals moved that is required to be officially identified, or, if an alternative form of identification has been agreed upon by the sending and receiving States, the ICVI must include a record of that identification. If animals moving under a GIN also have individual official identification, only the GIN must be listed on the ICVI. An ICVI may not be

issu no1atottt t freys ttifhytfs ttiftn mq d. d0.13 -2.3 Td 26.53-6(s)-5(s)-5EMC /P <</MCID 2 >>BDC (u)-4 r

(b) As an alternative to typing or writing individual animal identification on an ICVI, if agreed to by the receiving State or Tribe, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals or a printout of official identification numbers generated by computer or other means;

(2) A legible copy of the document must be stapled to the original and each copy of the ICVI;

(3) Each copy of the document must identify each animal to be moved with the ICVI, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be written in ink in the identification column on the original and each copy of the ICVI and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the unique serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

Livestock. All farm-raised animals.

Location-based numbering system. The location-based number system combines a State or Tribal issued location identification (LID) number or a premises identification number (PIN) with a producer's unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal.

Location identification (LID) number. A nationally unique number issued by a State, Tribal, and/or Federal animal health authority to a location as determined by the State or Tribe in which it is issued. The LID number may be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It may also be used as a component of a group/lot identification number (GIN).

Move. To carry, enter, import, mail, ship, or transport; to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import,

Official identification number. A nationally unique number that is permanently associated with an animal or group of animals and that adheres to one of the following systems:

(1) National Uniform Eartagging System (NUES).

(2) Animal identification number (AIN).

(3) Flock-based number system.

(4) Location-based number system.

(5) Any other numbering system approved by the Administrator for the official identification of animals.

* * * * *

Premises identification number (PIN). A nationally unique number assigned by aw 20ep6(a)6(5w 15.01

(b) The cattle or bison are from an accredited herd, are officially identified, and are accompanied by an ICVI stating that the accredited herd completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(c) The cattle or bison are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by an ICVI stating that they were negative to an official tuberculin test conducted within 60 days prior to the date of movement.

(Approved by the Office of Management and Budget under control numbers 0579–0146, 0579–0220, and 0579–0229)

11. Section 77.12 is revised to read as follows:

§ 77.12 Interstate movement from modified accredited States and zones.

Cattle or bison that originate in a modified accredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only in accordance with 9 CFR part 86 and, if moved anywhere other than directly to slaughter at a recognized slaughtering establishment, under one of the following additional conditions:

(a) The cattle or bison are sexually intact heifers moved to an approved feedlot, or are steers or spayed heifers; are officially identified, and are accompanied by an ICVI stating that they were

~~SECRET~~ depaye in ad hei4 T104 Tw 3.2rceIyVe9.6910(a)4(s)-4(r)3(s)-d [(I)19(n)erc, md , mej ()Tj -05(4 Tc 0.004 4(d

animals to be moved were negative to an official tuberculin test conducted within 60 days prior to the date of movement.

(c) The cattle or bison are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by an ICVI stating that the herd from which they originated was negative to a whole herd test conducted within 1 year prior to the date of movement and that the individual animals to be moved were negative to two additional official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement; Except that: The second additional test is not required if the animals are moved interstate within 60 days following the whole herd test.

(Approved by the Office of Management and Budget under control number 0579-0146)

§ 77.16 [Amended]

13. Section 77.16 is amended by removing the words "an approved" and adding the words "a recognized" in their place.

§ 77.17 [Amended]

14. Section 77.17 is amended as follows:

a. In paragraphs (a) introductory text and (b) introductory text, by removing the words "an approved" and adding the words "a recognized" in their place.

b. In paragraph (a)(4), by removing the words "transportation document" and adding the words "VS Form 1-27" in their place.

c. In paragraph (c), by removing the words "to an approved slaughtering establishment" and adding the words "to a recognized slaughtering establishment in accordance with 9 CFR part 86" in their place.

15. Section 77.23 is revised to read as follows:

§ 77.23 Interstate movement from accredited-free States and zones.

Notwithstanding any other provisions of this part, captive cervids that originate in an accredited-free State or zone may be moved interstate in accordance with 9 CFR part 86 and without further restriction under this part.

16. Section 77.25 is revised to read as follows:

§ 77.25 Interstate movement from modified accredited advanced States and zones.

Captive cervids that originate in a modified accredited advanced State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only in accordance with 9 CFR part 86 and, if moved anywhere other than directly to slaughter at a recognized slaughtering establishment, under one of the following additional conditions:

(a) The captive cervids are from an accredited herd, qualified herd, or monitored herd; are officially identified; and are accompanied by an ICVI stating that the herd completed the requirements for accredited herd, qualified herd, or monitored herd status within 24 months prior to the date of movement.

(b) The captive cervids are officially identified and are accompanied by an ICVI stating that they were negative for tuberculosis. The ICVI must state that the cervid was tested for tuberculosis within 60 days prior to the date of movement, and that the cervid was found to be negative for tuberculosis. The ICVI must also state that the cervid was tested for tuberculosis at a laboratory approved by the State or zone of origin, and that the laboratory is accredited by the State or zone of origin. The ICVI must also state that the cervid was tested for tuberculosis at a laboratory approved by the State or zone of origin, and that the laboratory is accredited by the State or zone of origin. The ICVI must also state that the cervid was tested for tuberculosis at a laboratory approved by the State or zone of origin, and that the laboratory is accredited by the State or zone of origin.

zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only in accordance with 9 CFR part 86 and, if moved anywhere other than directly to slaughter at a recognized slaughtering establishment, under one of the following additional conditions:

(a) The captive cervids are from an accredited herd, are officially identified, and are accompanied by an ICVI stating that the accredited herd completed the testing necessary for accredited status with negative results within 24 months prior to the date of movement.

(b) The captive cervids are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by an ICVI stating that the herd from which they originated was negative to a whole herd test conducted within 1 year prior to the date of

(a) The captive cervids are from an accredited herd; are officially identified; and are accompanied by an ICVI stating that

(3) Captive cervids under 1 year of age that are natural additions to the monitored herd or

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code). The alpha characters USA or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording may be used as an alternative to the 840 or other prefix representing a U.S. territory; however, only the AIN beginning with the 840 or other prefix representing a U.S. territory will be recognized as official for use on AIN tags applied to animals on or after [Insert date 24 months after effective date of final rule]. The AIN beginning with the 840 prefix may not be applied to animals known to have been born outside the United States.

* * * * *

Commuter herd. A herd of cattle or bison moved interstate during the course of normal livestock management operations and without change of ownership directly between two premises, as provided in a commuter herd agreement.

Commuter herd agreement. A written agreement between the owner(s

Dairy cattle. A

If the animals are not required by the regulations to be officially identified, the ICVI must state the exemption that applies (e.g., the cattle and bison do not belong to one of the classes of cattle and bison to which the official identification requirements of 9 CFR part 86 apply). If the animals are required to be officially identified but the identification number does not have to be recorded on the ICVI, the ICVI must state that all animals to be moved under the ICVI are officially identified.

(b) As an alternative to typin

(ii) Either the unique serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

Location-based number system. The location-based number system combines a State or Tribal issued location identification (LID) number or a premises identification number (PIN) with a producer's unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal.

Location identification (LID) number. A nationally unique number issued by a State, Tribal, and/or Federal animal health authority to a location as determined by the State or Tribe in which it is issued. The LID number may be used in conjunction with a producer's own unique livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal. It may also be used as a component of a group/lot identification number (GIN).

Market cattle identification test cattle. Cows and bulls 18 months of age or over which
(L

Recognized slaughtering establishment. Any slaughtering facility operating under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq

28. Section 78.5 is revised to read as follows:

§ 78.5 General restrictions.

Cattle may not be moved interstate except in compliance with this subpart and with 9 CFR part 86. Cattle moved interstate under permit in accordance with this subpart are not required to be accompanied by an interstate certificate of veterinary inspection or owner-shipper statement.

29. Section 78.6 is revised to read as follows:

§ 78.6 Steers and spayed heifers.

Steers and spayed heifers may be moved interstate in accordance with 9 CFR part 86 and without further restriction under this subpart.

30. Section 78.9 is amended as follows:

a. In the introductory text, by revising the first sentence to read as set forth below.

b. By revising paragraphs (a)(3)(ii), (a)(3)(iii), (b)(3)(i), (b)(3)(ii), (b)(3)(iv), (c)(1)(i), (c)(1)(ii), (c)(1)(iv)(A), (c)(1)(vi)(A), (c)(2)(ii)(A), (c)(3)(i), (c)(3)(ii), (c)(3)(iv), (d)(1)(i), (d)(1)(ii), (d)(1)(iv)(A), (d)(1)(vi)(A), (d)(2)(ii)(A), and (d)(3) to read as set forth below.

§ 78.9 Cattle from herds not known to be affected.

Male cattle which are not test eligible and are from herds not known to be affected may be moved interstate without further restriction under this subpart. * * *

(a) * * *

(3) * * *

(ii) Such cattle are moved interstate as part of a commuter herd in accordance with a commuter herd agreement or other documents as agreed to by the shipping and receiving States or Tribes..

(iii) Such cattle are moved interstate accompanied by an ICVI which states, in addition to the items specified in § 78.1, that the cattle originated in a Class Free State or area.

(b) * * *

(3) * * *

(i) Such cattle originate in a certified brucellosis-free herd and are accompanied interstate by an ICVI which states, in addition to the items specified in § 78.1, that the cattle originated in a certified brucellosis-free herd; or

(ii) Such cattle are negative to an official test within 30 days prior to such interstate movement and are accompanied interstate by an ICVI which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

* * * * *

(iv) Such cattle are moved as part of a commuter herd in accordance with a commuter of 172(e)-4(2)(a)6(

(A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied to slaughter by an ICVI or “S” brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

* * * * *

(vi) * * *

(A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by an ICVI or “S” brand permit which states, in addition to the items specified in § 78.1, the test dates and results of the official tests; or

* * * * *

(2) * * *

(ii) * * *

(iv) Such cattle are moved interstate as part of a commuter herd in accordance with a commuter herd agreement or other documents as agreed to by the shipping and receiving States or Tribes., * * *

* * * * *

(d) * * *

(1) * * * (i) Such cattle may be moved interstate from a farm of origin or a nonquarantined feedlot directly to a recognized slaughtering establishment without further restriction under this subpart.

(ii) Such cattle may be moved interstate from a farm of origin directly to an approved intermediate handling facility without further restriction under this subpart.

* * * * *

(iv) * * *

(A) They are negative to an official test conducted at the specifically approved stockyard and are accompanied by an ICVI or “S” brand permit which states, in addition to the items specified in §78.1, the test dates and results of the official tests; or

* * * * *

(vi) * * *

(A) They are negative to an official test within 30 days prior to such interstate movement and are accompanied by an ICVI or “S” brand permit which states, in addition to the items specified in §78.1, the test dates and results of the official tests; or

* * * * *

(2) * * *

(ii) * * *

(A) They are negative to an official test within 30 days prior to such movement and are accompanied by an ICVI which states, in addition to the items specified in §78.1, the test dates and results of the official tests; or

* * * * *

(1) They are classified as brucellosis negative based upon an official test conducted less than 365 days before the date of interstate movement: Provided, however, That: The official test is not required for rodeo cattle that are moved only between Class Free States;

(2) The cattle are identified with an official eartag or any other official identification device or method approved by the Administrator in accordance with § 78.5;

(3) There is no change of ownership since the date of the last official test;

part of a herd being depopulated under part 51 of this chapter, may move without further restriction under this subpart if the bison:

* * * * *

§ 78.24 [Amended]

§ 86.1 Definitions.

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code). The alpha characters USA or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording may be used as an alternative to the 840 or other prefix representing a U.S. territory; however, only the AIN beginning with the 840 or other prefix representing a U.S. territory will be recognized as official for use on AIN tags applied to animals on or after [Insert date 24 months after effective date of final rule]. The AIN beginning with the 840 prefix may not be applied to animals known to have been born outside the United States.

Interstate certificate of veterinary inspection (ICVI). An official document issued by a Federal, State, Tribal, or accredited veterinarian certifying the inspection of animals in preparation for interstate movement.

(a) The ICVI must show the species of animals covered by the ICVI; the number of animals covered by the ICVI; the purpose for which the animals are to be moved; the address at which the animals were loaded for interstate movement; the address to which the animals are destined; and the names of the consignor and the consignee and their addresses if different from the address at which the animals were loaded or the address to which the animals are destined. Additionally, unless the species-specific requirements for ICVIs provide an exception, the ICVI must list the official identification number of each animal, except as provided in paragraph (b) of this definition, or group of animals moved that is required to be officially identified, or, if an alternative form of identification has been agreed upon by the sending and receiving States, the ICVI must include a record of that identification. If animals moving under a GIN also have individual official identification, only the GIN must be listed on the ICVI. An ICVI may not be issued for any animal that is not officially identified if official identification is required. If the animals are not required by the regulations to be officially identified, the ICVI must state the exemption that applies (e.g., the cattle and bison do not belong to one of the classes of cattle and bison to which the official identification requirements of this part apply). If the animals are required to be officially identified but the identification number does not have to be recorded on the ICVI, the ICVI must state that all animals to be moved under the ICVI are officially identified.

(b) As an alternative to typing or writing individual animal identification on an ICVI, if agreed to by the receiving State or Tribe, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals or a printout of official identification numbers generated by computer or other means;

(2) A legible copy of the document must be stapled to the original and each copy of the ICVI;

(3) Each copy of the document must identify each animal to be moved with the ICVI, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be written in ink in the identification column on the original and each copy of the ICVI and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the unique serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

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

Livestock. All farm-raised animals.

Location-based numbering system. The location-based number system combines a State or Tribal issued location identification (LID) number or a premises identification number (PIN)

with a producer's unique livestock production numbering system to provide a nationally unique and herd-uniq

Official eartag shield. The shield-

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

Premises identification number (PIN). A

(d) In addition to meeting all applicable requirements of this part, all covered livestock moved interstate must be moved in compliance with all applicable provisions of APHIS program disease regulations (subchapter C of this chapter).

(e) The interstate movement requirements in this part do not apply to the movement of covered livestock if:

may authorize the use of additional devices or methods for a specific species if he or she determines that such additional devices or methods will provide for adequate traceability.

(1) Cattle and bison. Cattle and bison that are required to be officially identified for interstate movement under this part must be identified by means of:

(i) An official eartag; or

(ii) Brands registered with a recognized brand inspection authority and accompanied by an official brand inspection certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or

(iii) Tattoos and other identification methods acceptable to a breed association for registration purposes, accompanied by a breed registration certificate, when agreed to by the shipping and receiving State or Tribal animal health authorities; or

(iv) Group/lot identification when a group/lot identification number (GIN) may be used.

(2) Horses and other equine species. Horses and other equine species that are required to be officially identified for interstate movement under this part must be identified by one of the following methods:

(i) A description sufficient to identify the individual equine including, but not limited to, name, age, breed, color, gender, distinctive markings, and unique and permanent forms of identification when present (e.g., brands, tattoos, scars, cowlicks, blemishes or biometric measurements). When the identity of the equine is in question at the receiving destination, the State or Tribal animal health official in the State or Tribe of destination or APHIS representative may determine if the description provided is sufficient; or

(ii) Electronic identification that complies with ISO 11784/11785; or

(A) The cattle and bison are moved as a commuter herd with a copy of the commuter herd agreement or other documents as agreed to by the shipping and receiving States or Tribes. If any of the cattle or bison are shipped to a State or Tribe not included in the commuter herd agreement or other documentation, then these cattle or bison must be officially identified and documented to the original State of origin.

(B) The cattle and bison are moved directly from a location in one State through another

(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 officially identified in accordance with § 86.4(d)(4)(ii).

(iii) Beginning on [Insert effective date of final rule], all cattle and bison listed below are subject to the official identification requirements of this section:

(A) All sexually intact cattle and bison 18 months of age or over;

(B) All female dairy cattle of any age and all dairy males born after [Insert effective date of final rule];

(C) Cattle and bison of any age used for rodeo or recreational events; and

(D) Cattle and bison of any age used for shows or exhibitions.

(2) Sheep and goats. Sheep and goats moved interstate must be officially identified prior to the interstate movement unless they are exempt from official identification requirements under 9 CFR part 79 or are officially identified after the interstate movement, as provided in 9 CFR part 79.

(3) Swine]; Swine moving interstate must be officially identified in accordance withg2 onD mSwim5, 6a

(iii) They are moved directly from a location in one State through another State to a second location in the original State.

(iv) They are moved between shipping and receiving States or Tribes with another form of identification as agreed upon by animal health officials in the shipping and receiving States or Tribes.

(5)

person applying the additional official eartag must record the following information about the event and maintain the record for 5 years: The date the additional official eartag is added; the reason for the additional official eartag device; and the official identification numbers of both the new official eartag and the one(s) already attached to the animal.

(3) An eartag with an animal identification number (AIN) beginning with the 840 prefix (either radio frequency identification or visual-only tag) may be applied to an animal that is already officially identified with one or more National Uniform Eartagging System tags and/or an official vaccination eartag used for brucellosis. The person applying the AIN eartag must record the date the AIN tag is added and the official identification numbers of both official eartags and must maintain those records for 5 years.

(4) A brucellosis vaccination eartag with a National Uniform Eartagging System number may be applied in accordance with part 78 of this chapter to an animal that is already officially identified with one or more official eartags under this part. The person applying the vaccination eartag must record the date the tag is added and the official identification numbers of both the existing official eartag(s) and the vaccination eartag and must maintain those records for 5 years.

(d) Removal or loss of official identification devices. (1) Official identification devices are intended to provide permanent identification of livestock and to ensure the ability to find the source of animal disease outbreaks. Removal of these devices, including devices applied to imported animals in their countries of origin and recognized by the Administrator as official, is prohibited except at the time of slaughter, at any other location upon the death of the animal, or as otherwise approved by the State or Tribal animal health official or an area veterinarian in charge when a device needs to be replaced.

(2) All man-made identification devices affixed to covered livestock unloaded at slaughter plants after moving interstate must be removed at the slaughter facility by slaughter-facility personnel

(1) Circumstances under which a State or Tribal animal health official or an area veterinarian in charge may authorize replacement of an official identification device include, but are not limited to:

(i) Deterioration of the device such that loss of the device appears likely or the number can no longer be read;

(ii) Infection at the site where the device is attached, necessitating application of a device at another location (e.g., a slightly different location of an eartag in the ear);

(iii) Malfunction of the electronic component of a radio frequency identification (RFID) device; or

(iv) Incompatibility or inoperability of the electronic component of an RFID device with the management system or unacceptable functionality of the management system due to use of an RFID device.

(2) Any time an official identification device is replaced, as authorized by the State or Tribal animal health official or area veterinarian in charge, the person replacing the device must record the following information about the event and maintain the record for 5 years:

(i) The date on which the device was removed;

(ii) Contact information for the location where the device was removed;

(iii) The official identification number (to the extent possible) on the device removed;

(iv) The type of device removed (e.g., metal eartag, RFID eartag);

(v) The reason for the removal of the device;

(vi) The new official identification number on the replacement device; and

(vii) The type of replacement device applied.

(f) Sale or transfer of official identification devices. Official identification devices are not to be sold or otherwise transferred from the premises to which they were originally issued to

(e) Swine. Swine moved interstate must be accompanied by documentation in accordance with § 71.19 of this chapter or, if applicable, with part 85.

(f) Horses and other equines. Horses and other equines moved interstate must be

(3) They are moved from the farm of origin for veterinary medical examination, treatment, or diagnostic purposes and either returned to the farm of origin without change in ownership or euthanized and disposed of at the veterinary facility; or

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

(5) They are moved between shipping and receiving States or Tribes with a VS Form 9-3 or documentation other than an ICVI, as agreed upon by animal health officials in the shipping and receiving States or Tribes.

(6) They are moved under permit in accordance with part 82 of this chapter.

(h) Captive cervids. Captive cervids moved interstate must be accompanied by documentation as required by part 77 of this chapter.

§ 86.6 [Reserved]

§ 86.7 [Reserved]

§ 86.8 Preemption.

State, Tribal, and local laws and regulations

that would otherwise cause the State or Tribe from which the shipments originate to have to develop a particular kind of traceability system or change its existing system in order to meet the requirements of the Stateat