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PART VII



**DEPARTMENT OF
AGRICULTURE**

**Animal and Plant Health
Inspection Service**



**PSEUDORABIES
REGULATIONS**

[3410-34-M]

Title 9—Animals and Animal Products**CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE****SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS****PART 85—PSEUDORABIES****Pseudorabies Regulations**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document promulgates regulations regarding the interstate movement of cattle, sheep, goats, swine, swine semen, and swine embryos based upon the pseudorabies status of such livestock or, in the case of swine semen and swine embryos, the pseudorabies status of the donor swine. This action was made necessary by the rapid spread of pseudorabies. The intent of the regulations is to control and stop the escalating spread of pseudorabies.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This rulemaking is being finalized on the basis of comments received after the publication of two proposed rulemakings, one published in the FEDERAL REGISTER May 27, 1977, (42 FR 27250-27251), and the second published in the FEDERAL REGISTER May 23, 1978 (43 FR 22044-22053). A copy of the impact analysis statement is on file with the Program Services Staff, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8684.

The following alternatives were considered: a. Do nothing to control the interstate movement of pseudorabies infected and exposed livestock. This was rejected as not being consistent with the mandate given the Secretary of Agriculture by Congress to control the interstate movement of diseased livestock; b. Institute a national federally subsidized vaccination program. This was rejected as this would be very costly. Also the efficacy of the vaccines in controlling the spread of the disease is unknown. European experience indicates the virus will cycle in vaccinated herds; c. Institute an in-

dustrial supported vaccination program with little Federal activity. This was rejected as it would also be very costly. Also, the efficacy of the vaccines in controlling the spread of the disease is unknown. European experience indicates the virus will cycle in vaccinated herds; d. Contracting with the States to carry out a pseudorabies program under Federal supervision. This would have had the advantage of being put into place faster and would have required fewer Federal positions. However, it was rejected as there would have been less uniformity from State to State and the States do not have the authority to regulate interstate shipments. Furthermore, Veterinary Services would not develop expertise in pseudorabies; e. Consider pseudorabies as an emergency disease and attempt its immediate eradication. This was rejected as this disease has been in the United States for over 150 years; however, relatively little research has been done with it. We need more information regarding the dynamics of pseudorabies in swine and other species before embarking on an eradication program; f. Propose and promulgate regulations controlling the interstate movement of livestock, swine semen and swine embryos with respect to their pseudorabies status. Alternative "f" was selected as being the most effective and least costly. This alternative is generally the same as many States are instituting to protect their livestock and, therefore, will not impact adversely with their regulations, but complement them.

Thirty-three written comments were received in response to the Notice of Proposed Rulemaking published in the FEDERAL REGISTER, May 23, 1978 (43 FR 22044-22053). Three letters opposed the proposal in its entirety, five fully supported the proposal as published and the remaining 25 letters suggested one or more changes.

One comment suggested vaccinating all swine and permitting shipment only to slaughter. Adoption of this suggestion would cause a complete disruption of the swine industry, since it ignores the necessity of an interchange of breeding stock and the function of the feeder pig industry. Therefore, this suggestion was not adopted.

One comment recommended that all swine over 6 months of age be vaccinated. This suggestion was rejected as being arbitrary, since vaccination is unnecessary in most areas of the United States where the disease does not exist or the incidence of the disease is very low. Also, the Department believes that producers should have the right to make their own decisions regarding vaccination.

Under the proposed regulations, slaughter swine would be required to move through no more than one

market and then directly to a recognized slaughtering establishment. Eleven comments pointed out the necessity for permitting sows, boars and lightweight slaughter swine to move through more than one slaughter market to slaughter, since the numbers of such swine sold at many markets are not sufficient to permit their economical movement through only one market and then direct to establishments that slaughter such swine. APHIS believes this is true, and therefore, §§ 85.1 (u), (v), and (w); 85.5(a)(1); 85.6(a)(1); and 85.7(a) of the proposal were amended to permit swine to move through one or more slaughter markets and then to a recognized slaughtering establishment. It is the intent of this regulation that swine entered into the slaughter market system remain in the system until consigned to a recognized slaughtering establishment and that they not be diverted for feeding or breeding purposes.

Seven comments received pointed out that many markets have completely separate feeder/breeder facilities and slaughter swine facilities on the same premises; and that sales of these classes of swine held on the same day use separate facilities to keep the two classes of swine completely separated. Two comments suggested that these classes of swine be permitted to move through markets approved to handle any class of swine, keeping the classes separate and cleaning and disinfecting after use by slaughter swine as provided for in § 76.18 of the regulations (9 CFR 76.18). It was not the intent of the proposal to prohibit the sale of the two classes of swine on the same day when there are separate facilities for handling feeder/breeder swine separate and apart from slaughter swine. Therefore, the regulation has been clarified in § 85.1(t) to permit the sale of both feeder/breeder and slaughter swine on the same day. These facilities must be adequate to keep such classes of swine physically separated from each other while at the market and feeder and breeder swine must use no facility previously used by slaughter swine on the day both of these classes of swine are at the market.

Six comments suggested that a provision be added to the regulations for use of an owner/shipper statement in lieu of a permit to facilitate the movement of infected, exposed and pseudorabies vaccinated swine from a farm of origin to market for slaughter, or directly to a recognized slaughtering establishment. The use of such an owner/shipper statement would: (1) greatly reduce the workload of State and Federal regulatory agencies; (2) aid the owner in the orderly marketing of his swine; and (3) enable shipments to be traced to their farm of origin should that be necessary.

Therefore, a provision for the use of owner/shipper statements, as suggested, has been provided for in §§ 85.5(a)(2) and (3); and 85.6(a)(2) of the regulations. Also a definition of an owner/shipper statement has been added to the definitions as § 85.1(dd) to require the same information as required on a permit.

Six comments pointed out that identification is now required for feeder and breeder swine sold thorough markets and that identifying such swine going to livestock markets is unnecessary since they are already being tagged and identified back to the farm of origin at the markets. Therefore, since such identification is required, except for vaccinated swine as discussed below, the requirement that swine going to an approved livestock market be identified on the farm of origin was deleted from § 85.7(b)(3)(i) of the proposal.

Four comments suggested that pseudorabies vaccinated swine be uniformly identified so they will be readily recognized. Two comments suggested the use of pink eartags. This suggestion was accepted. Therefore, a provision that official pseudorabies vaccinated swine be identified by a numbered pink eartag approved by the State in which the swine are vaccinated has been added to § 85.1(z)(2) of the regulations.

Two livestock marketing companies suggested that under § 85.7 no discrimination be made between slaughter swine going directly to slaughter and those going to slaughter markets and then to slaughter. Since swine that enter slaughter market channels must stay in such channels until slaughtered at a recognized slaughtering establishment there appears to be no reason to distinguish between these two groups. Therefore, a clarifying statement has been added to paragraph (a) of § 85.7 which specifies the same treatment for both types of movement.

Three comments suggested that the requirement that qualified pseudorabies negative herds have 25 percent of the swine over 6 months of age tested every 90 days is too rigid and suggested that the test period be changed to read, "between 80 and 105 days." This suggestion was adopted and has been incorporated into § 85.1(ee) of the regulations to give herd owners a more reasonable time frame in which to comply with herd monitoring requirements. Allowing the herd owner this flexibility would not appear to increase the disease risk.

Two comments suggested that two negative tests not less than 30 days apart be required before swine may be added to qualified pseudorabies negative herds. This procedure would give added protection to such qualified

pseudorabies negative herds when adding new stock. This suggestion was accepted, and a provision has been added to § 85.1(ee) of the regulations (§ 85.1(dd) of the proposal) whereby additions to qualified pseudorabies negative herds must have passed two negative official pseudorabies tests not less than 30 days nor more than 60 days apart before being added to the herd. The second test would be run between 30 and 60 days after the first test to allow any swine exposed to the disease at the time of the first test to incubate the disease long enough to become positive to the second test. This provision does not apply to swine entering a qualified pseudorabies negative herd from another qualified pseudorabies negative herd.

Under the proposed regulations, qualified pseudorabies negative herd status is attained by subjecting all swine over 6 months of age to an official pseudorabies test and finding all swine so tested negative. One comment suggested that progeny over 5 months of age equal to the number of breeding animals over 6 months of age be tested to qualify and requalify qualified pseudorabies negative herds. This suggestion has some merit in that the breeding swine would not be disturbed by being tested and the 5-month progeny would be smaller and somewhat easier to handle. However, in most swine operations, 5-month swine are kept separate and apart from the breeding herd and do not truly represent the health status of the breeding herd. Another factor is reports from the research community of instances of apparent long periods of latency of the virus where pigs exposed to the virus early in life sometimes remain apparently healthy and serologically negative until 4 to 6 months of age before becoming serologically positive. The breeding herd in most qualified pseudorabies negative herds is the part of the herd to which additions are made, and, since additions are the most likely source of infection, it was decided to retain the proposed method of qualifying the requalifying qualified pseudorabies negative herds.

One comment suggested that it be required that all pseudorabies exposed or vaccinated swine be sold only to slaughter. This suggestion was rejected, since to do so would cause undue hardship on owners of pseudorabies exposed or vaccinated swine who could safely market their swine under the regulations as proposed.

Two comments suggested that the time period for officially vaccinating negative exposed swine for pseudorabies be increased from 10 days after a negative test to 15 days following such test as a more reasonable time period in which to accomplish the vaccina-

tion. This suggestion was accepted and incorporated in § 85.5(b)(2) of the regulations as being a more reasonable time period in which to accomplish the vaccination after the negative test. This would give a herd owner 5 more days to obtain vaccine and the services of a veterinarian without substantially increasing the risk of pseudorabies infection after the negative test, but prior to the vaccination. This suggestion is also applicable to the time period for vaccinating the test negative swine in a herd qualifying as a pseudorabies controlled vaccinated herd; therefore, in § 85.1(ff) the time period to accomplish vaccination after the negative test was extended from 10 days to 15 days.

Three comments requested that the time period for testing 25 percent of the offspring in pseudorabies controlled vaccinated herds be changed from 3 to 4 months of age to 16 weeks of age or older in order to minimize titers due to colostral antibodies. We agreed with these comments and the period for such testing was increased from between 3 and 4 months of age to 16 to 20 weeks of age in § 85.1(ff) of the regulations. One comment suggested that such testing be done at 16 weeks of age or within 30 days of sale. The comment was rejected as the qualification "within 30 days of sale" is indefinite and would not be conducive to regular monitoring of the herd.

As originally written, § 85.1(cc)(2) would have required the certificate to contain a statement that the swine to be moved were not infected with or exposed to pseudorabies and are not pseudorabies vaccinated. Two comments suggest that the terms "known to be" be inserted between the words "not" and "infected". The original intent was that the certificates would be issued for swine not known to be infected with, exposed to or vaccinated for pseudorabies. We have inserted the term "known to be" in § 85.1(cc)(2) to conform with the suggestion and the Department's intent.

One comment suggested deletion of the word "vaccinated" from the definition of certificate in § 85.1(cc). At the present time, it is impossible to readily differentiate serologically pseudorabies infected and pseudorabies vaccinated swine; therefore, the movement of pseudorabies vaccinated swine must be controlled to epidemiologically trace pseudorabies infected swine. The word "vaccinated", in the definition of certificate, is needed to readily determine the vaccination status of the swine being moved. This suggestion was therefore rejected.

Four comments suggested that the requirements for moving vaccinated swine be modified to allow the movement of such swine as noninfected and nonexposed swine. This suggestion

was rejected as not compatible with disease control in that infected and exposed swine could be vaccinated and would then be free to move as noninfected and nonexposed swine. Also, there is no way at the present time to readily differentiate between vaccinal and infection titers; therefore, to allow uncontrolled movement of vaccinates would greatly interfere with tracing diseased swine and conducting serological surveys in any pseudorabies control or eradication program.

One comment stated that there was no way proposed to regain pseudorabies controlled vaccinated herd status once such a herd becomes positive. We have, therefore, provided a procedure in § 85.1(ff) whereby pseudorabies controlled vaccinated herd status can be regained. Such status can be regained by (1) testing of all swine over 6 months of age; (2) removal of all official pseudorabies test positive swine; (3) cleaning and disinfecting the herd premises in accordance with § 85.13; (4) retesting all swine over 6 months of age 30 days after removal of the official pseudorabies test positive swine and finding all swine so tested negative; (5) retesting all swine over 6 months of age 60 days after removal of the official pseudorabies test positive swine and finding all swine so tested negative; and (6) vaccinating all swine over 6 months of age for pseudorabies within 15 days of the second negative test. The Department believes that this procedure is the minimum necessary to reasonably assure that there are no swine affected with pseudorabies in the herd. This procedure will require that all official pseudorabies test positive swine be removed from the herd premises. This removal will assure that no known official pseudorabies test positive swine remain on the herd premises which might infect other swine on the herd premises. The herd premises would also be required to be cleaned and disinfected in accordance with § 85.13. This would minimize the risk that pseudorabies remains on the herd premises. Recertification also would require that all swine over 6 months of age be tested twice, 30 days and 60 days after removal of the official pseudorabies test positive swine. All swine so tested must be found negative to the pseudorabies test. The requirement that only swine over 6 months of age be tested negative for pseudorabies is based on the fact that most swine being fed for slaughter go to market by the time they are 6 months of age and any swine over that age are usually being held separately for breeding purposes. Further, testing of swine younger than 6 months of age would be of minimal value since younger swine can carry the disease and yet test negative for the disease. Two tests

30 days and 60 days after the removal of the official pseudorabies test positive swine are required to insure that the swine remaining on the herd premises did not contract the disease prior to the removal of the official pseudorabies test positive swine. The two tests spaced 30 and 60 days after the removal of official pseudorabies test positive swine will minimize the risk that the swine in the herd incubating the disease will be undetected. The procedure also requires that all swine over 6 months of age be vaccinated within 15 days after the second negative test. The timing of the vaccination requirement is to limit the risk that swine found negative during this procedure will contract pseudorabies prior to vaccination.

Two comments questioned the necessity of having a pseudorabies regulation without an eradication program. The pseudorabies regulation is aimed at stopping the interstate spread of pseudorabies and in itself will not eradicate the disease; however, it is a tool to slow down and stop the escalating spread of the disease until the necessary tools for an eradication program are available.

Two comments expressed the opinion that "lightweight hogs" in slaughter channels should be permitted to go back to farms for further feeding. Producers who place lightweight hogs in slaughter channels usually do so because there is something wrong with the hogs. Usually they are poor "doers" or are "tailenders" from lots of fattening swine. Furthermore, such hogs in slaughter channels may be exposed to diseased hogs outside of feeder and breeder channels, where swine are more carefully screened before being admitted for feeding and breeding purposes. Therefore, this suggestion was rejected and no provision was added to the regulations to permit "lightweight swine" in slaughter market channels to return to farms or feedlots.

One comment suggested that pseudorabies exposed swine going to slaughter should not be required to be identified. Unless such swine are identified, control of their movement would be lost and there would be no way of determining their diversion from slaughter channels should that occur. Therefore, the identification requirement for such swine was retained as proposed.

One comment stated that the proposal does nothing to stop the large-scale movement of 40-50 lb. feeder pigs which are carriers. However, under the regulations exposed feeder pigs may move interstate only to a quarantined feedlot after testing negative to an official pseudorabies test and being officially vaccinated. The regulations, as proposed, permit the movement of

feeder pigs without testing only from herds not known to be infected with or exposed to pseudorabies and then only if the interstate movement is approved in advance by the State animal health official of the State of destination.

One comment stated that the regulations do not recognize the role of wildlife in the spread of pseudorabies. Wildlife may, and probably does, play a limited role in the spread of pseudorabies in an endemic area, but has not been shown to be a factor in the spread of the disease elsewhere. The preponderance of available evidence indicates that swine are the primary reservoirs of pseudorabies and are its chief disseminator.

One comment stated that the regulations do not regulate the movement of inanimate material. It is suspected that in one instance pseudorabies may have been transmitted to cattle via contaminated hay; however, such transmission of the disease appears to be very infrequent and appears not to be a major factor in the transmission of the disease. Therefore, regulation of the movement of inanimate material does not appear to be warranted at this time.

One comment urged that vaccine use be unrestricted. This suggestion was rejected, since the unrestricted use of the vaccines would mask infected herds and complicate any pseudorabies control or eradication program which may be developed.

The definition of Minimum Standards in proposed § 85.1(ff), and all references to the Minimum Standards have been deleted from the regulations. Instead of incorporating the Minimum Standards by reference in the regulations and referring to them as appropriate, all referenced items have been actually included in the regulations.

In order to clarify certain phrases and to explain certain time limitations used in the regulations, the following explanation is added:

1. In § 85.1(x), swine are required to have been kept on a premises for at least 90 consecutive days before that premises would be considered as their farm of origin. This time period was chosen in order to give swine introduced onto a premises reasonable time to become exposed to the disease, incubate it and become positive to the disease should the disease exist on the premises, and to give the swine so introduced a reasonable time to become positive should they be latent carriers of the disease.

2. In § 85.1(ee) "a minimum of 90 percent of the herd must have been on the premises and a part of the herd for at least 90 days prior to a qualifying test," to constitute a "qualified pseudorabies negative herd", for the same reasons as expressed in Item 1

immediately above. The requirement that 90 percent of the herd be on the premises for a minimum of 90 days prior to a qualifying test was considered to be the minimum percentage and time acceptable to safely qualify a herd for the special qualified pseudorabies negative herd status.

3. In § 85.1(ee) and 85.1(ff), the requirement that all swine in the herd over 6 months of age be tested negative for pseudorabies is based on the fact that most swine being fed for slaughter go to market by the time they are 6 months of age and any swine over that age are usually being held for breeding purposes. To qualify for special herd status, all swine in the herd over 6 months of age must be tested negative to an official pseudorabies test.

4. In § 85.5(b), the same reasoning applies as is expressed in Item 3 immediately above. The requirement that the swine be vaccinated within 10 days after a negative test is extended to 15 days following a negative test in order to provide producers additional time in which to vaccinate. The requirement that exposed swine be moved interstate within 30 days after the negative test is to minimize the risk of these swine being infected with pseudorabies prior to movement and spreading the infection.

5. The term "clinical case of pseudorabies" denotes an animal exhibiting the symptoms and course of pseudorabies as distinguished from laboratory and post mortem findings.

6. The term "clinical evidence of pseudorabies" denotes the symptoms and course of pseudorabies as distinguished from laboratory and post mortem findings.

7. The term "common ground" is intended to mean the ground, areas, buildings or equipment communally shared by any specific group of livestock. A definition of "common ground" has been added to § 85.1(ii) of the regulations for the purpose of clarification.

8. Proposed §§ 85.1(u) and (v) referred to "quarantined feedlot" and "quarantined herd" as being "under the supervision and control of the State animal health official * * *" without defining the extent of such supervision and control. It is the intent of the regulation that such a quarantined herd and quarantined feedlot be under the supervision and control of the State animal health official in conformance with the laws, rules and regulations of the State in which such quarantined herd and quarantined feedlot is located.

9. Proposed § 85.1(w) defined "feedlot" as "a premises where swine are fed separate and apart from swine kept for breeding or other purposes * * *". The intent of this defini-

tion is that each class of swine be kept from physical contact with any other class of swine and not share pens, feeders, waterers or housing facilities.

10. Proposed § 85.8 authorized the Deputy Administrator, upon request in specific cases, to permit the interstate movement of livestock not otherwise provided for in the proposed regulation. Veterinary Services intends that such authority be used only in situations and under circumstances presenting problems that could not have been reasonably anticipated in advance and in unique situations. Veterinary Services does not intend that such authority be used repeatedly to cover the same problem, but that the regulation be amended to conform with needed changes as they come to light. This clarification has been incorporated in § 85.8 of the regulations.

The term "official" was deleted from §§ 85.1(cc)(2) and 85.6(b)(2)(iii) of the regulations as it is the intent of the Department to regulate the movement of all vaccinated swine. This intent has been stated previously.

In proposed § 85.1(dd) a "qualified pseudorabies negative herd" was defined as "a herd of swine, none of which has been vaccinated for pseudorabies * * *". The restriction "none of which has been vaccinated" has been deleted from the regulation in this section. No official pseudorabies vaccine on the market is known to cycle in swine herds; therefore, if vaccinated swine test negative they should be no more dangerous than swine testing negative from a previously infected herd.

11. With respect to § 85.1(ff), the requirement that swine must be vaccinated within 10 days following a negative herd test was amended to require their vaccination within 15 days in this regulation, in order to give producers additional time in which to vaccinate their swine. This would give a herd owner 5 more days to obtain vaccine and the services of a veterinarian without substantially increasing the risk of pseudorabies infection after the negative test, but prior to the vaccination. For the same reason, the requirement that herd additions be tested negative and vaccinated within 10 days after the negative test is amended to require vaccination within 15 days following a negative test. The requirement that herd additions be added to the herd within 30 days following the date of a negative test and subsequent vaccination is to minimize the risk of these additions being infected before they are added to the herd.

Other minor and editorial changes were made for the purpose of clarification and ease of reading.

After due consideration of the comments received on the proposed regu-

lations and all relevant information available to the Department, Part 85, Title 9, Code of Federal Regulations, is being adopted as follows:

PART 85—PSEUDORABIES

- Sec.
- 85.1 Definitions.
- 85.2 Notice relating to the existence of the contagion of pseudorabies.
- 85.3 General restriction.
- 85.4 Interstate movement of livestock.
- 85.5 Interstate movement of infected swine or exposed swine.
- 85.6 Interstate movement of pseudorabies vaccinate swine not known to be infected with or exposed to pseudorabies.
- 85.7 Interstate movement of swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies.
- 85.8 Other interstate movements.
- 85.9 Interstate movement of swine semen and swine embryos for insemination of or implantation into swine.
- 85.10 Permits and certificates.
- 85.11 Maintenance of records.
- 85.12 Cleaning and disinfecting means of conveyance.
- 85.13 Cleaning and disinfecting livestock markets and other facilities.

AUTHORITY: Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141).

§ 85.1 Definitions.

For purposes of this part, the following terms mean:

(a) *Administrator*. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other official of the Service to whom authority has been delegated or may be delegated to act in his stead.

(b) *Deputy Administrator*. The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official to whom authority has been delegated or may be delegated to act in his stead.

(c) *Veterinary Services*. Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(d) *Veterinary Services representative*. A person employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

(e) *State animal health official*. The State animal health official who is responsible for the livestock and poultry disease control and eradication programs in the official's State or his designated representative.

(f) *State representative*. A person regularly employed in animal health

work of a State and who is authorized by such State to perform the function involved under a Cooperative Agreement with the United States Department of Agriculture.

(g) *Accredited veterinarian.* A veterinarian approved by the Deputy Administrator in accordance with Part 161 of this Title to perform functions specified in Part 11 of Subchapter A, and Subchapters B, C, and D of this Chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

(h) *State.* Any State or Territory of the United States, the District of Columbia, Puerto Rico, Guam or the Northern Mariana Islands.

(i) *Interstate.* From any State into or through any other State.

(j) *Pseudorabies.* The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

(k) *Herd.* Any group of livestock maintained on common ground for any purpose, or two or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals without regard to whether the animals are infected with or exposed to pseudorabies.

(l) *Known infected herd.* Any herd in which any livestock has been determined to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies. A herd of livestock, other than swine, shall no longer be considered to be a known infected herd after 21 days since the last clinical case of the disease in the herd. A herd of swine which has been released from pseudorabies quarantine in accordance with the following provisions shall no longer be classified as a known infected herd: (1) All swine positive to an official pseudorabies test have been removed from the premises; (2) all exposed swine which remain in the herd are subjected to an official pseudorabies serological test and found negative 30 days or more after removal of swine positive to an official pseudorabies test; and (3) no livestock on the premises have shown clinical signs of pseudorabies after removal of the positive swine; or, (4) all swine have been depopulated for 30 days and the herd premises have been cleaned and disinfected in accordance with the requirements in § 85.13.

(m) *Livestock.* Swine, cattle, sheep or goats.

(n) *Exposed livestock.* Any livestock that has been in contact with an animal infected with pseudorabies, including all livestock in a known infected herd; except that livestock, other than swine, that have not been ex-

posed to a clinical case of the disease for a period of 21 consecutive days shall no longer be considered to be exposed livestock.

(o) *Exposed swine.* Any swine that has been in contact with an animal infected with pseudorabies, including all swine in a known infected herd.

(p) *Infected livestock.* Any livestock determined to be infected with pseudorabies by an official pseudorabies test, or diagnosed by a veterinarian as having pseudorabies.

(q) *Official pseudorabies test.* Any test for the diagnosis of pseudorabies approved by the Deputy Administrator conducted in a laboratory approved by the Deputy Administrator as listed in a Veterinary Services Notice listing such laboratories.¹ The following tests for the diagnosis of pseudorabies have been approved by the Deputy Administrator: 1. Microtitration Serum-Virus Neutralization Test; 2. Virus Isolation and Identification Test; 3. Fluorescent Antibody Tissue Section Test.² State, Federal, and University laboratories will be approved by the Deputy Administrator following the determination by him that the laboratory: (1) Has personnel trained at the Veterinary Services Diagnostic Laboratory, Ames, Iowa, assigned to supervise the test, (2) follows standard test protocol, (3) meets check test proficiency requirements, and (4) will report all test results to State and Federal animal health officials.³

(r) *Moved.* Shipped, transported, or otherwise moved, or delivered or received for movement by land, water, or air.

(s) *Recognized slaughtering establishment.* A slaughtering establishment operated under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or a State inspected slaughtering establishment.

¹Notices containing lists of laboratories approved for the purposes of the regulations in this part are published in the FEDERAL REGISTER Notices Section. The lists are also available upon request from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

²Copies of the test protocols (Recommended Minimum Standards for Diagnostic Tests Employed in the Diagnosis of Pseudorabies (Aujeszky's Disease)) published as a Veterinary Services Notice, May 17, 1978, are available upon request from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

³Before the Deputy Administrator withdraws the approval of any laboratory, the Director of such laboratory shall be given a notice by the Deputy Administrator of the proposed disapproval and the reasons therefor and such Director shall have an opportunity to present his views thereon. In those instances where there are conflicts as to the facts, a hearing shall be held to resolve such conflicts.

(t) *Slaughter market.* A livestock market approved in accordance with § 76.18 (9 CFR 76.18), at which swine for sale and shipment for slaughter are handled only on days when no swine are handled for sale and shipment for feeding or breeding purposes unless facilities are provided to keep slaughter swine physically separated from feeder and breeder swine, and feeder and breeder swine use no facilities previously used by slaughter swine on the day these classes of swine are at the market. The facilities used by slaughter swine shall be cleaned and disinfected in accordance with the requirements of this part before being used for feeding or breeding swine.⁴

(u) *Quarantined feedlot.* A premises where pseudorabies infected or exposed swine are fed under the supervision and control of the State animal health official, and from which such swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment in accordance with the provisions of this part.

(v) *Quarantined herd.* A herd in which pseudorabies infected or exposed swine are bred, reared, and fed under the supervision and control of the State animal health official, and from which such swine are moved interstate directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment, or from which exposed officially vaccinated swine which were negative to an official pseudorabies test may be moved only to a quarantined herd or quarantined feedlot.

(w) *Feedlot.* A premises where swine are fed physically separated from swine kept for breeding or other purposes and from which such swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment, quarantined herd, or quarantined feedlot.

⁴Notices containing lists of slaughter markets approved for the purposes of the regulations in this part are published in the FEDERAL REGISTER. Information concerning slaughter markets can be obtained from the Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, for the State in question.

⁵Before the Deputy Administrator withdraws approval of any slaughter market, the owner of such slaughter market shall be given notice by the Deputy Administrator of the proposed withdrawal of approval and the reasons therefor and such owner shall have an opportunity to present his views thereon. In those instances where there are conflicts as to the facts, a hearing shall be held to resolve such conflicts.

(x) *Farm of origin.* A farm where the swine were born, or on which they have resided for at least 90 consecutive days immediately prior to the interstate shipment.

(y) *Official pseudorabies vaccine.* Any pseudorabies virus vaccine produced under license from the Secretary of Agriculture under the Virus, Serum and Toxin Act of March 4, 1913, and any legislation amendatory thereof (21 U.S.C. 151 *et seq.*).

(z) *Official vaccinate.* Any swine which have been: (1) vaccinated with an official pseudorabies vaccine by an accredited veterinarian or a State or Federal veterinarian in accordance with recommendations on the vaccine label and the laws and regulations of the State in which the swine are vaccinated; (2) identified by a numbered pink eartag approved by the State in which such swine are vaccinated;⁶ and (3) reported as official vaccinates at the time of vaccination to the State animal health official.

(aa) *Pseudorabies vaccinate.* Any swine that have been vaccinated with any product containing antigens for pseudorabies.

(bb) *Permit.* An official document issued for and prior to the interstate movement of pseudorabies infected, exposed or vaccinated swine under this part by a Veterinary Services representative, State representative, or an accredited veterinarian which states: (1) the number of swine to be moved; (2) the purpose for which the swine are to be moved; (3) the points of origin and destination; (4) the consignor and the consignee; and (5) any additional information required by this part.

(cc) *Certificate.* An official document issued for and prior to the interstate movement of swine not known to be infected with, exposed to or vaccinated for pseudorabies under this part by Veterinary Services representative, a State representative, or an accredited veterinarian which states: (1) the number and description of the swine to be moved; (2) that the swine to be moved are not known to be infected with or exposed to pseudorabies and are not pseudorabies vaccinates; (3) the purpose for which the swine are to be moved; (4) the points of origin and destination; (5) the consignor and consignee; and (6) additional information required by this part.

(dd) *Owner-shipper statement.* A statement signed by the owner or shipper of infected, exposed, or pseudorabies vaccinated swine for and prior to an interstate shipment from a farm of origin direct to a recognized slaughter-

ing establishment or to a slaughter market which states: (1) the number of the swine to be moved; (2) that the swine are being moved for slaughter only; (3) the points of origin and destination; (4) the consignor and consignee; and (5) any additional information required by this part.

(ee) *Qualified pseudorabies negative herd.* Qualified pseudorabies negative herd status is attained by subjecting all swine over 6 months of age to an official pseudorabies test and finding all swine so tested negative. If any of the swine so tested are positive, qualified pseudorabies negative herd status is attained by: (1) removing all official pseudorabies test positive swine and cleaning and disinfecting the herd premises in accordance with § 85.13, (2) retesting all swine over 6 months of age 30 days after removal of the official pseudorabies test positive swine and finding all swine so tested negative, and (3) retesting all swine over 6 months of age 60 days after removal of the official pseudorabies test positive swine and finding all swine so tested negative. The status of the herd is maintained by an official pseudorabies test of 25 percent of the swine over 6 months of age every 80-105 days and finding all swine so tested negative. All swine over 6 months of age in the herd shall be subjected to the official pseudorabies test each year. However, no swine over 6 months of age in the herd are to be tested twice in 1 year to comply with the 25 percent requirement. A minimum of 90 percent of the swine must have been on the premises and part of the herd for at least 90 days prior to the qualifying test or have entered directly from another qualified pseudorabies negative herd. All additions to the herd must test negative or two official pseudorabies tests not less than 30 days or more than 60 days apart before being added to the herd or be from another qualified pseudorabies negative herd.

(ff) *Pseudorabies controlled vaccinated herd.* A herd of swine in which all of the swine over 6 months of age are negative to an official pseudorabies test and are vaccinated for pseudorabies within 15 days after such test. The status of the herd is maintained by an official pseudorabies test of 25 percent of the offspring between 16 and 20 weeks of age and finding all swine so tested negative. All additions to the herd must test negative to an official pseudorabies test, be vaccinated for pseudorabies within 15 days after such test, and be added to the herd not more than 30 days after such test. Pseudorabies controlled vaccinated herds that become positive can be reclassified as a pseudorabies controlled vaccinated herd by (1) testing of all swine over 6 months of age; (2)

removal of all swine which are positive to an official pseudorabies test; (3) cleaning and disinfecting the herd premises in accordance with § 85.13; (4) retesting all swine over 6 months of age 30 days after removal of the swine which are positive to an official pseudorabies test and finding all swine so tested negative; (5) retesting all swine over 6 months of age 60 days after removal of the swine which are positive to an official pseudorabies test and finding all swine so tested negative; and (6) vaccinating all swine over 6 months of age for pseudorabies within 15 days of the second negative test.

(gg) *Approved livestock market.* A stockyard, livestock market, buying station, concentration point or any other premises under State or Federal veterinary supervision where swine are assembled for sale or sale purposes, and which has been approved by the Deputy Administrator under § 76.18 (9 CFR 76.18).⁷

(hh) *Swine not known to be infected with or exposed to pseudorabies.* Any swine from a herd of swine in which no animal has been classified as a reactor to an official pseudorabies test, or has been diagnosed as having pseudorabies or suspected of having pseudorabies by a veterinarian; or any swine from a herd of swine which has been released from quarantine or has met the requirements of release from quarantine in accordance with the provisions of § 85.1(1).

(ii) *Common ground.* The ground, areas, buildings or equipment communally shared by any specific group or groups of livestock.

§ 85.2 Notice relating to the existence of the contagion of pseudorabies.

Notice is hereby given that there is reason to believe that the contagion of pseudorabies may exist in each State and that to prevent the spread and dissemination of the contagion thereof, and to protect the livestock of the United States, the regulations in this part are promulgated.

§ 85.3 General restriction.

Livestock shall not be moved interstate except in compliance with the regulations in this part.

⁷Notices containing lists of such approved livestock markets are published in the FEDERAL REGISTER. Information concerning livestock markets can be obtained from the Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture for the State in question.

⁸Before the Deputy Administrator withdraws approval of any livestock market, the owner of such livestock market shall be given notice by the Deputy Administrator of the proposed withdrawal of approval and the reasons therefor and such owner shall have an opportunity to present his views thereon. In those instances where there are conflicts as to the facts, a hearing shall be held to resolve such conflicts.

⁶The numbered pink eartags are available commercially. Should any problem arise regarding the availability of such eartags, contact the appropriate State animal health official.

§ 85.4 Interstate movement of livestock.

(a) Livestock showing clinical evidence of pseudorabies shall not be moved interstate.

(b) Livestock that have been exposed to an animal showing clinical evidence of pseudorabies shall not be moved interstate within 21 days of such exposure.

(c) Except as provided in paragraphs (a) and (b) of this section, livestock other than swine may be moved interstate without restriction under this part.

(d) Except as provided in paragraphs (a) and (b) of this section, swine, swine semen, and swine embryos shall be moved interstate only in compliance with the regulations in this part.

§ 85.5 Interstate movement of infected swine or exposed swine.

Infected swine or exposed swine, other than swine described in § 85.4 (a) or (b), shall only be moved interstate in accordance with the following provisions:

(a) *Movement of infected or exposed swine for slaughter.* Infected or exposed swine shall be moved interstate for slaughter only if:

(1) The swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment;

(2) The swine are accompanied by a permit or owner-shipper statement and such permit or owner-shipper statement is delivered to the consignee;

(3) The permit, in addition to the information described in § 85.1(bb), or the owner-shipper statement, in addition to the information described in § 85.1(dd), lists the identification tag, tattoo, earnotch recognized by a breed association, or similar identification of each animal being moved; and

(4) The swine are moved to destination in one continuous movement without unloading enroute.

(b) *Movement of exposed swine to a quarantined herd or a quarantined feedlot.* Exposed swine shall be moved interstate directly to a quarantined herd or quarantined feedlot only if:

(1) The swine are negative to an official pseudorabies test 21 days or more after last being exposed to any livestock showing clinical evidence of pseudorabies;

(2) The swine are officially vaccinated for pseudorabies within 15 days after the negative test;

(3) The swine are moved interstate within 30 days after the negative test;

(4) The swine are accompanied by a permit and such permit is delivered to the consignee; and

(5) The permit, in addition to the information described in § 85.1(bb), states: (i) The present pseudorabies quarantine status of the farm of origin; (ii) the identification tag, tattoo, earnotch recognized by a breed association, or similar identification of each animal being moved; (iii) the date of the official pseudorabies test and the name of the laboratory where the test was conducted; (iv) the date of the official vaccination for pseudorabies; and (v) that approval for the interstate movement has been issued by the State animal health official of the State of destination prior to the interstate movement of the swine.

§ 85.6 Interstate movement of pseudorabies vaccinate swine not known to be infected with or exposed to pseudorabies.

Pseudorabies vaccinate swine not known to be infected with or exposed to pseudorabies shall only be moved interstate in accordance with the following provisions:

(a) *Movement of pseudorabies vaccinate swine for slaughter.* Pseudorabies vaccinate swine not known to be infected with or exposed to pseudorabies shall be moved interstate for slaughter only if:

(1) The swine are moved directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment;

(2) The swine are accompanied by a permit or owner-shipper statement and such permit or owner-shipper statement is delivered to the consignee; and

(3) The swine are moved to destination in one continuous movement without unloading enroute.

(b) *Movement of pseudorabies vaccinate swine to a quarantined herd or quarantined feedlot.* Pseudorabies vaccinate swine not known to be infected with or exposed to pseudorabies shall be moved interstate directly to a quarantined herd or quarantined feedlot only if:

(1) The swine are accompanied by a permit and such permit is delivered to the consignee; and

(2) The permit in addition to information described in § 85.1(bb) states: (i) The pseudorabies status of the herd; (ii) the identification tag, tattoo, earnotch recognized by a breed association, or similar identification of each animal being moved; (iii) the date of the vaccination for pseudorabies; and (iv) that approval for the interstate movement has been issued by the State animal health official of the State of destination prior to the interstate movement of the swine.

§ 85.7 Interstate movement of swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies.

Swine not vaccinated for/pseudorabies and not known to be infected with or exposed to pseudorabies shall only be moved interstate in accordance with the following provisions:

(a) *Movement for slaughter.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies may be moved interstate for slaughter without further restriction under this part directly to a recognized slaughtering establishment or directly through one or more slaughter markets and then directly to a recognized slaughtering establishment.

(b) *Movement to a feedlot, quarantined feedlot, quarantined herd, or approved livestock market.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies shall be moved interstate directly to a feedlot, quarantined feedlot, or quarantined herd or to an approved livestock market for subsequent movement directly to a feedlot, quarantined feedlot or quarantined herd only if:

(1) The swine are from a qualified pseudorabies negative herd, in which instance such swine may be moved interstate without further restriction under this part; or

(2) The swine are accompanied by a certificate and such certificate is delivered to the consignee; and

(3) The certificate, in addition to the information described in § 85.1(cc), states: (i) The identification of the farm of origin of each animal being moved by an earnotch recognized by a breed association, identification tag, tattoo, or similar identification, except such swine going to an approved livestock market need not be identified until their arrival at the approved livestock market; and (ii) approval for the interstate movement has been issued by the State animal health official of the State of destination prior to the interstate movement of the swine; and

(4) The swine are moved from a State which requires the State animal health official of that State to be immediately notified of any suspected or confirmed case of pseudorabies in that State and which requires that exposed or infected livestock be quarantined, such quarantine to be released only after having met quarantine release standards no less restrictive than those outlined in § 85.1(1) of this part: *Except*, That this provision shall not be effective until July 1, 1980.

(c) *Other movements.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies shall be moved interstate other than for slaughter and

other than directly to a feedlot, quarantined feedlot, quarantined herd or to an approved livestock market for subsequent movement directly to a feedlot, quarantined feedlot or quarantined herd only if:

(1) The swine are accompanied by a certificate and such certificate is delivered to the consignee; and

(2) The certificate, in addition to the information described in § 85.1(cc), states: (i) The identification tag, tattoo, ear notch recognized by a breed association, or similar identification of each animal being moved; and (ii) that each animal to be moved: (a) was subjected to an official pseudorabies test within 30 days prior to the interstate movement and was found negative, the test date and the name of the laboratory conducting the test; or (b) is part of a currently recognized qualified pseudorabies negative herd and the date of the last qualifying test; or, (c) is part of a pseudorabies controlled vaccinated herd and is one of the offspring that was subjected to the official test to achieve or maintain the status of the herd as a pseudorabies controlled vaccinated herd, and the date of the last test to maintain said status.

§ 85.8 Other interstate movements.

The Deputy Administrator may, upon request in specific cases, permit the interstate movement of livestock not otherwise provided for in this part under such conditions as he may prescribe to prevent the spread of pseudorabies. Veterinary Services intends that such authority be used only in situations and under circumstances presenting problems that could not have been reasonably anticipated in advance and in unique situations. Veterinary Services does not intend that such authority be used repeatedly to cover the same problem, but that the regulation be amended to conform with needed changes as they come to light.

§ 85.9 Interstate movement of swine semen and swine embryos for insemination of or implantation into swine.

Swine semen and swine embryos moved interstate for insemination of swine or implantation into swine shall be accompanied by a document issued

by an accredited veterinarian stating that the donor swine are not known to be infected with or exposed to pseudorabies, were negative to an official pseudorabies test within 30 days prior to the collection of the semen or embryos or were members of a qualified pseudorabies negative herd, and had not been exposed to pseudorabies within 30 days prior to the collection of the semen or embryos.

§ 85.10 Permits and certificates

(a) Each permit, certificate or owner-shipper statement required under this part to accompany swine interstate shall be delivered with the swine to the consignee by the person delivering the swine.

(b) A copy of each permit or certificate required under this part to accompany swine interstate shall be mailed or delivered to the State animal health official of the State of destination by the person issuing the document within 3 days of the interstate movement of the swine covered by said document.

§ 85.11 Maintenance of records.

(a) The consignor of swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies which are moved interstate directly to a feedlot, quarantined feedlot, quarantined herd, or to an approved livestock market for subsequent movement directly to a feedlot, quarantined feedlot or quarantined herd shall maintain records whereby individual swine can be traced to the farm of origin.⁹

(b) Such records shall be maintained for two (2) years after the swine are moved interstate by the consignor, and such records shall be made available to the State animal health official or Veterinary Services representative on request.

§ 85.12 Cleaning and disinfecting means of conveyance.

All means of conveyance used in connection with the interstate movement of pseudorabies infected or exposed livestock shall be cleaned and disin-

⁹Such records shall list: (1) the names and addresses of the consignor and consignee; (2) the identification tag, tattoo, ear notch recognized by a breed association, or similar identification of each animal moved; and (3) the date of the shipment.

fectured in accordance with § 76.30 of this chapter using one of the disinfectants registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*) with herpes virucidal claims. These disinfectants shall be used in accordance with directions on their labels accepted in connection with their registration.

§ 85.13 Cleaning and disinfecting livestock markets and other facilities.

Livestock markets and other facilities used in connection with the interstate movement of pseudorabies infected or exposed livestock shall be cleaned and disinfected in compliance with § 76.31 of this chapter using one of the disinfectants registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*) with herpes virucidal claims. These disinfectants shall be used in accordance with directions on their labels accepted in connection with their registration.

These regulations impose certain restrictions on the interstate movement of swine because of the existence of pseudorabies. It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public participation with respect to the regulations are unnecessary and contrary to the public interest. These regulations shall become effective May 17, 1979.

Done at Washington, D.C., this 13th day of February 1979.

NOTE.—This final rulemaking has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations," and has been designated "significant." An approved Final Impact Analysis Statement has been prepared and is available from the Program Services Staff, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

M. T. GOFF,
Acting Deputy Administrator
Veterinary Services.

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