

obligation imposed in connection with such order is not in accordance with law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule in the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has a principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided that a compliant is filed within 20 days after the date of entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

There are an estimated 145 handlers, 510 producer-packers, 8,300 producers, and 350 importers who are currently subject to the provisions of the Order. The majority of these persons may be classified as small agricultural producers and small agricultural service firms. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms, which include importers, are defined as those having annual receipts of less than \$5,000,000.

In accordance with the Paperwork Reduction Act (PRA) of 1980 [44 U.S.C. chapter 35], and OMB regulations [5 CFR Part 1320], the information collection and recordkeeping requirements contained in this action were submitted to the OMB and approved under OMB control numbers 0581-0093 and 0505-0001.

On November 28, 1990, the Act was amended by the Food, Agriculture, Conservation and Trade Act of 1990. One of the amendments to the Act redefined the requirements for honey that is exempted from assessments under the Act.

Prior to the Act's 1990 amendment, a producer or a producer-packer who produced or handled or produced and handled less than 6,000 pounds of honey per year or an importer who imported less than 6,000 pounds of honey per year were exempt from assessment. Such producers, producer-handlers, and importers applied to the Honey Board for a certificate of exemption which would be presented to the handler of the exemptee's honey. Reporting requirements for handlers included listing those producers claiming exemption.

Under the 1990 amendment to the Act, however, producers, producer-packers, and importers who produce or import during any year less than 6,000 pounds of honey are exempt from paying assessments only if that honey is (1) Consumed at home, (2) donated by the producer or importer to a nonprofit, government, or other entity that is determined appropriate by the Secretary, or (3) distributed directly through local retail outlets (e.g., farmers markets and roadside stands).

Since exempted honey may no longer be sold through handlers, handlers are no longer required to provide information to the Board on exempted honey. However, in the amendment to the Order and rules and regulations published as a final rule in the August 7, 1991, **Federal Register** [50 FR 37453], conforming changes to sections 1240.50 and 1240.114 which incorporated these changes to the Act were inadvertently not made. As published, these sections may be confusing and are in conflict with the amended Order and rules and regulations.

Section 13 of the Act provides that whenever the Secretary finds that any provision of any order issued under the Act obstructs or does not tend to effectuate the declared purpose of the Act, the Secretary shall terminate such provisions. Therefore, an interim final rule deleted obsolete and confusing language from paragraph (a) of section 1240.50 of the Order and from paragraph (b) of section 1240.114 of the regulations issued under the Order.

The interim final rule with request for comments was published in the **Federal Register** on May 2, 1994 (59 FR 22492). The interim final rule erroneously stated that comment were due on May 2, 1994. Therefore, the **Federal Register** printed a correction on May 10, 1994 (59 FR 24217) which stated that the comment period ended on June 1, 1994. No comments were received.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant material presented with regard to the termination of provisions in the Order and the rules and regulations as hereinafter set forth, it is found that these provisions no longer effectuate the declared policy of the Act. Accordingly, the interim final rule is finalized, without change, as published in the **Federal Register** (59 FR 22492, May 2, 1994).

#### List of Subjects in 7 CFR Part 1240

Advertising, Agricultural research, Honey, Imports, Reporting and recordkeeping requirements.

#### PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION

Accordingly, the interim final rule amending 7 CFR part 1240, which was published at 59 FR 22492 on May 2, 1994, is adopted as a final rule without change.

Dated: February 13, 1995.

**Patricia Jensen,**

*Acting Assistant Secretary, Marketing and Inspection Services.*

[FR Doc. 95-4175 Filed 2-17-95; 8:45 am]

BILLING CODE 3410-02-P

#### Animal and Plant Health Inspection Service

#### 9 CFR Part 91

[Docket No. 93-122-2]

#### Animal Export Inspection Facilities

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the "Inspection and Handling of Livestock for Exportation" regulations by establishing additional standards for export inspection facilities. This action requires that all export inspection facilities have running water and water drainage systems and a telephone. This action also requires facilities where horses are inspected to have walkways in front of stalls and 12 foot high ceilings in areas where horses are inspected.

We are also requiring that animals intended for export be inspected within 24 hours of embarkation and making a minor language change to the regulations for the sake of clarity.

**EFFECTIVE DATE:** March 23, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. Najam Faizi, Senior Staff Veterinarian, Animal and Plant Health Inspection Service, Veterinary Services, Import-Export Animals Staff, 4700 River Road Unit 39, Riverdale, MD 20737-1231. Telephone: (301) 734-8383.

#### SUPPLEMENTARY INFORMATION:

#### Background

The regulations in 9 CFR part 91, "Inspection and Handling of Livestock for Exportation" (referred to below as the regulations), prescribe conditions for exporting animals from the United

States. The regulations state, among other things, that all animals, except animals being exported to Canada or Mexico, must be exported through designated ports of embarkation.

To receive designation as a port of embarkation, a port must have export inspection facilities available for the inspection, holding, feeding, and watering of animals prior to exportation to ensure that the animals meet certain requirements specified in the regulations. To receive approval as an export inspection facility, the regulations provide that a facility must meet the specified standards in § 91.14(c) concerning materials, size, inspection implements, cleaning and disinfection, feed and water, access, testing and treatment, location, disposal of animal wastes, lighting, and office and rest room facilities.

On June 21, 1994, we published in the **Federal Register** (59 FR 31956-31957, Docket No. 93-122-1) a proposal to amend the regulations to establish additional standards in § 91.14(c) for export inspection facilities. We proposed to require that all export inspection facilities have running water and water drainage systems and a telephone. We also proposed to require that facilities where horses are inspected have walkways in front of stalls and 12 foot high ceilings in areas where horses are inspected. Finally, we proposed to require that animals intended for export be inspected within 24 hours of embarkation.

We solicited comments concerning our proposal for 60 days ending August 22, 1994. We received four comments by that date. They were from animal import/export businesses and from Animal and Plant Health Inspection Service (APHIS) veterinarians.

Three of the commenters generally supported the proposal, but requested that we require that animals intended for export be inspected closer to the time of embarkation than 24 hours. We continue to believe, however, that inspection within 24 hours of embarkation is adequate to prevent unhealthy or infected animals from leaving the United States. Further, this new requirement would not prevent APHIS veterinarians from inspecting animals closer to the time of embarkation, if they preferred.

Also, three commenters objected to the language regarding the new requirement that facilities handling horses have walkways in front of horse stalls. Specifically, commenters objected to language stating that walkways be wide enough that APHIS personnel could "monitor and inspect animals without having to enter animal stalls."

One commenter felt that this language implied that APHIS veterinarians carried out animal health inspections without handling animals. Another commenter stated that, although his facility has walkways in front of horse stalls, a person would be unable to see into the stalls from the walkway, as the stalls have solid doors. A third commented that we should specify a minimum width for the walkways.

By proposing the requirement regarding walkways, we had intended only to ensure that APHIS personnel would be able to inspect a dangerous or wild horse without entering that horse's stall and risking injury. We agree that our proposal implied that APHIS personnel could carry out a health inspection without handling the horse concerned. That was not our intention and, accordingly, we are revising the language regarding the walkway requirement, which we feel is still necessary.

This final rule will require that animal inspection facilities have "walkways in front of horse stalls wide enough to allow APHIS personnel to safely remove horses from the stalls for inspection, if necessary." Like the original requirement proposed, this revised requirement will allow APHIS personnel to inspect horses when they are unable to enter safely into horse stalls.

Also as in the proposal, the revised requirement does not specify a minimum width for walkways. We want to permit facilities to use a variety of walkway sizes and configurations, as long as they are wide enough to allow APHIS personnel to safely remove horses from the stalls for inspection.

Finally, one of the commenters objected to several of the proposed requirements as unnecessary for the operation of an animal export facility. His objections and our responses are as follows:

*Comment:* The 12 foot ceiling height requirement for facilities handling horses is arbitrary. Our ceilings are 10 feet high at some points and we have never encountered any problems.

*Response:* We had proposed to require that ceilings be 12 feet high anywhere horses are kept. However, since horses in export facilities tend to rear up when they are being handled (especially during inspection), but usually not at other times, we will modify the ceiling height standard and require that ceilings only need to be 12 feet high in areas where horses are inspected. Again, we are making this change because we believe that horses are most likely to rear up while being inspected, and,

therefore, this height requirement allows for the safe handling of horses.

*Comment:* Requiring animal export facilities to have storage areas for equipment accompanying animals is beyond the scope of the regulations, which are intended to facilitate the inspection of animals prior to export and to prevent the export of diseased animals.

*Response:* We agree that storage areas are not necessary for these purposes and, therefore, we are removing that requirement from this rule.

*Comment:* The language of the proposed requirement regarding drainage systems is too vague, and compliance, therefore, may be difficult.

*Response:* The language in this requirement is intentionally general. More specific language could limit facilities to using only certain types of drainage systems. We want to permit the use of a variety of drainage systems, so long as they meet the intent of the requirement, "to control surface drainage into or from the facility in a manner that prevents any significant risk of livestock diseases being spread into or from the facility."

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 601 *et seq.*, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the economic impact of this rule on small entities.

This rule establishes additional standards for animal export inspection facilities by requiring all facilities to have adequate running water, water drainage systems, and a telephone. This action also requires facilities where horses are kept to have walkways in front of stalls and ceilings 12 feet high in areas where horses are inspected.

Except for a small number of facilities that do not have water drainage systems and one or two facilities that do not have 12 foot high ceilings, to the best of our knowledge, all of the facilities currently approved for export inspection already meet all of the other additional standards proposed here. We are only codifying, therefore, existing industry practices. We anticipate that

this action will have a negative economic impact on the few existing export inspection facilities without drainage systems or 12 foot high ceilings in inspection areas for horses.

Information was not available to us for determining the economic impact of requiring that water drainage systems be installed in facilities not already so equipped. However, we are trying to minimize any economic impact by allowing these facilities 2 years from the effective date of the final version of this rule to install water drainage systems. Allowing these facilities 2 years to install the water drainage systems will ease the economic impact of this new standard, as affected facilities will have additional time to shop for different drainage system options and will be able to spread out the costs of installation. We did not receive any comments objecting to our requiring a water drainage system.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 91 is amended as follows:

#### PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 continues to read as follows:

**Authority:** 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, and 618; 46 U.S.C. 466a and 466b; 49

U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

#### § 91.3 [Amended]

2. In § 91.3, paragraph (a), the third sentence is amended by removing the phrase "sound, healthy," and adding the word "healthy" in its place.

3. Section 91.14 is amended as follows:

a. Paragraph (c)(2) is amended by adding a new sentence at the end of the paragraph to read as set forth below.

b. Paragraph (c)(4) is amended by adding three new sentences at the end of the paragraph to read as set forth below.

c. Paragraph (c)(5) is amended by adding the word "running," immediately following the phrase "An ample supply of" in the first sentence.

d. Paragraph (c)(11) is amended by adding a new sentence at the end of the paragraph to read as set forth below.

e. A new paragraph (c)(12) is added to read as set forth below.

#### § 91.14 Ports of embarkation and export inspection facilities.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \* Facilities that inspect horses must have ceilings at least 12 feet high in any areas where horses are inspected.

\* \* \* \* \*

(4) \* \* \* All facilities must have running water available to wash and disinfect the facilities. On and after March 23, 1995, facilities to be approved must have a drainage system; and, on and after March 23, 1997, every facility approved before March 23, 1995 must have a drainage system. The drainage system must control surface drainage into or from the facility in a manner that prevents any significant risk of livestock diseases being spread into or from the facility.

\* \* \* \* \*

(11) \* \* \* The facility must have a working telephone.

(12) *Walkways.* Facilities where horses are inspected must have walkways in front of horse stalls wide enough to allow APHIS personnel to safely remove horses from the stalls for inspection, if necessary.

#### § 91.15 [Amended]

8. In § 91.15, paragraph (a), the phrase "within 24 hours of embarkation" is added immediately following the phrase "shall be inspected".

Done in Washington, DC, this 14th day of February 1995.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 95-4177 Filed 2-17-95; 8:45 am]

BILLING CODE 3410-34-P

## 9 CFR Part 92

[Docket No. 94-097-2]

### Horses From Spain; Change in Disease Status

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations concerning the importation of horses to remove Spain from the list of countries in which African horse sickness exists. We have determined that Spain is free of African horse sickness, and that restrictions on the importation of horses from Spain to prevent the spread of African horse sickness into the United States are no longer necessary. This action relieves unnecessary restrictions on the importation of horses from Spain.

**EFFECTIVE DATE:** March 8, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Cougill, Staff Veterinarian, Animal and Plant Health Inspection Service, Veterinary Services, Import/Export Products, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-7834.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 92 (referred to below as the regulations) state the provisions for the importation into the United States of specified animals to prevent the introduction of various animal diseases, including African horse sickness (AHS). AHS, a fatal equine viral disease, is not known to exist in the United States. Section 92.308(a)(2) of the regulations lists countries that the Animal and Plant Health Inspection Service (APHIS) considers affected with AHS, and sets forth specific requirements for horses which are imported from those countries. APHIS requires horses intended for importation from any of the countries listed, including horses that have stopped in or transited those countries, to enter the United States only at the port of New York and be quarantined at the New York Animal Import Center in Newburgh, NY, for at least 60 days.