

Rules and Regulations

Federal Register

Vol. 62, No. 15

Thursday, January 23, 1997

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 96-005-2]

Cattle Exportations; Tuberculosis and Brucellosis Test Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with two changes, an interim rule that amended the regulations by eliminating requirements for pre-export diagnostic tests for tuberculosis and brucellosis in certain cattle being exported from the United States directly to slaughter. As amended by this document, the rule eliminates the tuberculosis and brucellosis test requirements for slaughter cattle exported from States free of brucellosis or tuberculosis and those exported to countries that the Administrator has determined have an acceptable disease surveillance system and that agree to share with the United States any findings of brucellosis or tuberculosis in U.S. origin cattle. We believe that these test requirements can be eliminated without compromising the integrity of our brucellosis and tuberculosis surveillance systems. This rule facilitates the movement of U.S. slaughter cattle to foreign countries.

EFFECTIVE DATE: January 23, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-5034.

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. Section 91.5 requires, among other things, that cattle intended for exportation be tested for tuberculosis and brucellosis.

In an interim rule effective on February 15, 1996, and published in the Federal Register on February 23, 1996 (61 FR 6917-6918, Docket No. 96-005-1), we amended the cattle exportation regulations in 9 CFR part 91 to remove the tuberculosis and brucellosis test requirements for cattle being exported for slaughter. We amended the regulations to remove these testing requirements for cattle exported directly to slaughter in a foreign country, if the receiving country has a disease surveillance system equivalent to that of the United States, as determined by the Administrator of the Animal and Plant Health Inspection Service (APHIS), and if the receiving country agrees to share any findings of brucellosis or tuberculosis in U.S. origin cattle with APHIS. In addition, we amended the regulations to remove these testing requirements for any cattle moving directly to slaughter from a State designated as free of tuberculosis or brucellosis in 9 CFR 77.1 or 78.41, respectively. This action relieved restrictions and facilitated the movement of U.S. slaughter cattle to foreign countries.

We solicited comments concerning the interim rule for 60 days ending April 23, 1996. We received two comments by that date. Both comments were from State Departments of Agriculture. The comments are discussed below.

Both commenters agreed with the economic benefits of the rule and the actions taken by the interim rule. However, both commenters were concerned with the wording about Mexico having a tuberculosis surveillance system equivalent to that of the United States.

We understand and agree with the commenters' concerns. Federal slaughter plants in Mexico have a tuberculosis surveillance system in place. This rule deals with exports to Mexico of slaughter cattle but not other cattle. In the interim rule we should

have specified that the slaughter plants in Mexico, to which the slaughter cattle are being exported, have tuberculosis surveillance systems that are acceptable to the United States. As a result of these comments, we are making changes in this final rule to revise two references to specify that the Administrator has determined that Canada and Mexico have acceptable tuberculosis surveillance systems at slaughter plants for the purposes of receiving cattle exported from the United States for slaughter.

For consistency, we are making the same changes for brucellosis testing. Therefore, two references will be changed to specify that the Administrator has determined that Canada has an acceptable brucellosis surveillance system at slaughter plants for the purposes of receiving cattle exported from the United States for slaughter.

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

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988 and the Paperwork Reduction Act.

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 the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

As stated in the interim rule published in the Federal Register on February 23, 1996, timely compliance with sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) was impracticable to make this rule effective in time for U.S. exporters of slaughter cattle to take advantage of a favorable marketing situation. This final rule includes the analysis of the economic impact of this regulatory change on small entities.

Our interim rule amended the regulations in §91.5 to remove the tuberculosis and brucellosis testing requirements for cattle moving directly to slaughter in a foreign country. Cattle exported directly for slaughter no longer require tuberculosis or brucellosis tests

prior to exportation when the receiving country (1) has a disease surveillance system at slaughter plants that is acceptable to the United States and (2) agrees to share any findings of tuberculosis or brucellosis in U.S. origin cattle with APHIS. Cattle moving directly to slaughter present a negligible risk of transmitting either brucellosis or tuberculosis to other cattle. Monitoring of these cattle by the receiving country will provide information on the source of any affected cattle within the United States. The interim rule also removed these test requirements for cattle moving directly to slaughter when they originate from a Class Free State for brucellosis or an Accredited-Free State for tuberculosis. Cattle exported for slaughter from a State which is free of brucellosis or tuberculosis present a negligible risk of carrying brucellosis or tuberculosis, respectively.

The Regulatory Flexibility Act requires that we specifically consider the economic impact associated with rule changes on small entities. The Small Business Administration's definition of a small entity involved in cattle exportation is one whose total sales is less than \$0.5 million annually. In 1992 there were 1,034,189 cattle and calf farms in the United States, of which 1,011,591, or 97.8 percent, would be considered small entities. The number of these entities exporting cattle for slaughter to Mexico and Canada or exporting cattle for slaughter from a brucellosis or tuberculosis free State is unknown.

There were 148,906 and 71,781 cattle, except breeding cattle, exported from the United States in 1994 and 1995, respectively. In both years, over 99 percent of the cattle were exported to Mexico and Canada. Approximately 50 percent of the cattle exported to Canada moved directly to slaughter and virtually all of the cattle exported to Mexico moved directly to slaughter.

To the extent that the elimination of testing requirements represents a reduction in operating costs, any entity bypassing this testing will benefit economically from the rule change. The degree to which an entity is affected depends on its market power or on the extent to which the cost reduction can be retained by the entity. Without information on either profit margins and operational expenses of the affected entities or the supply responsiveness of the affected industry, the affect cannot be precisely predicted. However, we expect that some exporters will experience a small economic benefit as a result of eliminating the test requirements and their associated costs.

The cost of these tests vary depending upon where and how the tests are performed. Brucellosis tests may be administered along with the tuberculosis test. Brucellosis and tuberculosis tests cost pennies per animal when performed at a market concentration center where a card test is used. At a farm the brucellosis and tuberculosis tests cost as much as \$19.00 per animal including labor, laboratory costs, and miscellaneous charges. This cost would be only slightly lower for performing the tuberculosis test alone. With such a low cost per animal, we do not expect these changes to have a significant impact on any entity, whether small or large.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 91

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

Accordingly, the interim rule amending 9 CFR part 91 which was published at 61 FR 6917-6918 on February 23, 1996, is adopted as a final rule with the following changes:

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 2.22, 2.80, and 371.2(d).

2. Section 91.5 is amended by revising paragraphs (a)(1)(i), (a)(2), (b)(1)(iv) and (b)(2) to read as set forth below.

§91.5 Cattle.

* * * * *

(a) * * *

(1) * * *

(i) Cattle exported directly to slaughter in a country that the Administrator has determined has an acceptable tuberculosis surveillance system at slaughter plants and that agrees to share any findings of

tuberculosis in U.S. origin cattle with APHIS; or

* * * * *

(2) The Administrator has determined that the following countries have an acceptable tuberculosis surveillance system at slaughter plants: Canada and Mexico.

(b) * * *

(1) * * *

(iv) Cattle exported directly to slaughter in a country that the Administrator has determined has an acceptable brucellosis surveillance system at slaughter plants and that agrees to share any findings of brucellosis in U.S. origin cattle with APHIS; or

* * * * *

(2) The Administrator has determined that the following country has an acceptable brucellosis surveillance system at slaughter plants: Canada.

* * * * *

Done in Washington, DC, this 16th day of January 1997.

Donald W. Luchsinger,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-1634 Filed 1-22-97; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-70-AD; Amendment 39-9887; AD 97-02-03]

RIN 2120-AA64

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. It requires a one-time inspection to verify the correct routing and tension of the flight control lock cables and the elevator control cables, and rerouting or adjustment of the tension of these cables, if necessary. This amendment is prompted by a report indicating that an inspection for correct routing and tension of those cables may not have been accomplished during modification of the airplanes at the factory. The actions specified by this AD are intended to prevent incorrect routing and tension of the flight control lock cables and the elevator control cables, which could result in