

# Rules and Regulations

Federal Register

Vol. 65, No. 141

Friday, July 21, 2000

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 74

[Docket No. 00-016-2]

#### Interstate Movement of Certain Land Tortoises

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are allowing the interstate movement of certain land tortoises if they are accompanied by a health certificate signed by a Federal or accredited veterinarian stating that the tortoises have been examined by that veterinarian and found free of ticks. This action is warranted to enable the export, interstate commerce, health care, and adoption of these types of tortoises while providing protection against the spread of exotic ticks known to be vectors of heartwater disease.

**DATES:** This interim rule was effective July 17, 2000. We invite you to comment on this docket. We will consider all comments that we receive by September 19, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 00-016-2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 00-016-2.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except

holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. D. D. Wilson, Senior Staff Entomologist, Emergency Programs, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737-1231; (301) 734-8073.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 22, 2000, we published in the **Federal Register** (65 FR 15216-15218, Docket No. 00-016-1) an interim rule that prohibits, until further notice, the importation of the following tortoises into the United States: All species and subspecies of leopard tortoise (*Geochelone pardalis*), African spurred tortoise (*Geochelone sulcata*), and Bell's hingeback tortoise (*Kinixys belliana*). The interim rule also prohibits the interstate movement of all species and subspecies of these land tortoises. These prohibitions were established in order to prevent the spread of exotic ticks known to be vectors of heartwater disease, an acute infectious disease of ruminants.

We solicited comments on our interim rule for 60 days, ending May 22, 2000. We received 53 comments by that date. They were from tortoise breeders and owners, representatives of the reptile industry, animal advocacy groups, and other interested individuals. Many commenters supported the prohibition on importation of these tortoises, but most expressed concerns about the effect of prohibiting the interstate movement of these tortoises. Because of the prohibition, these tortoises may not be moved interstate for sale, health care, or adoption. In addition, many domestic tortoise breeders who must move their tortoises interstate prior to exporting them can no longer export these tortoises.

Therefore, based on these comments, we are taking immediate action to amend the regulations at 9 CFR part 74 to allow the interstate movement of leopard tortoise, African spurred tortoise, and Bell's hingeback tortoise if

the tortoises are accompanied by a health certificate signed by a Federal or accredited veterinarian stating that the tortoises have been examined by that veterinarian and found free of ticks. The certification will help ensure that the interstate movement of these tortoises will pose no risk of spreading exotic ticks. This action is warranted to enable the export, interstate commerce, health care, and adoption of these types of tortoises while providing protection against the spread of exotic ticks known to be vectors of heartwater disease.

In the future, we will publish another document in the **Federal Register** that addresses all of the issues raised by the commenters.

##### Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. As a result of an interim rule published and effective on March 22, 2000, the importation and interstate movement of leopard tortoise, African spurred tortoise, and Bell's hingeback tortoise has been prohibited. While this action has been effective in preventing the spread of exotic ticks known to be vectors of heartwater disease, it has also resulted in increased health risks for some tortoises that may not be moved interstate for health care or adoption and resulted in financial burdens for owners who have not been able to move to their tortoises interstate sale or for export. The latter problem may also put some tortoises at risk if owners are unable to provide adequate care for those tortoises. This interim rule will allow the interstate movement of leopard tortoise, African spurred tortoise, and Bell's hingeback tortoise if the tortoises are accompanied by a health certificate signed by a Federal or accredited veterinarian stating that the tortoises have been examined by that veterinarian and found free of ticks. Immediate action is warranted to enable the export, interstate commerce, health care, and adoption of leopard tortoise, African spurred tortoise, and Bell's hingeback tortoise.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553

to make this action effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

#### **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.

We are allowing the interstate movement of certain land tortoises if they are accompanied by a health certificate signed by a Federal or accredited veterinarian stating that the tortoises have been examined by that veterinarian and found free of ticks. This action is warranted to enable the export, interstate commerce, health care, and adoption of these types of tortoises.

The United States accounts for about 80 percent of the world's live reptile trade. In 1998, a total of 1,921,272 reptiles were imported, valued at approximately \$6.37 million. Of these, turtles, including tortoises, accounted for about 26.5 percent of imports. Three states, California (48 percent), Florida (33.2 percent), and Louisiana (11.7 percent), accounted for nearly 93 percent of turtle imports.

The United States exports about 9 million live reptiles annually. Red-eared slider turtles make up about 85 percent of these exports every year. South Korea, Japan, and European countries are the major importers of U.S. turtles. However, Canada appears to be the major importer of leopard tortoise, African spurred tortoise, and Bell's hingeback tortoise. In 1995, the United States exported to Canada 32 leopard tortoises, 527 African spurred tortoises, and 2,332 Bell's hingeback tortoises. During the same year, U.S. imports of these species were 2,683, 1,223 and 952, respectively.

In 1996, between 1.5 million and 2.5 million households in the United States owned various reptiles as pets. Of these, about 534,000 households, or about 35 percent, owned a total of 950,000 turtles, including tortoises. Overall, turtles represented about 27 percent of the total reptile pet population. The prices paid for turtles ranged between \$25 and \$750, depending on species, size, and age. Between 1993 and 1996, the average price in the United States

for a leopard tortoise was \$190, for an African spurred tortoise \$578, and for a Bell's hingeback tortoise \$35.

This rule will positively affect individuals involved in the interstate movement of leopard tortoises, African spurred tortoises, and Bell's hingeback tortoises. This rule will require persons wishing to move these tortoises interstate to acquire a health certificate from a Federal or accredited veterinarian. This will cost about \$16 to \$25 dollars per health certificate. These costs are small when compared to the potential losses in revenue and animals that may result from continuing to prohibit the interstate movement of these species of tortoises. Another benefit for U.S. exporters of these tortoises is that a health certificate will help ensure the acceptability of these animals in international markets and prevent the spread of exotic ticks known to be vectors of heartwater disease.

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.

#### **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 12988**

This rule has been reviewed under Executive Order 12988, 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**

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0156 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Docket No. 00-016-2, Regulatory Analysis and Development,

PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. Please state that your comments refer to Docket No. 00-016-2 and send your comments within 60 days of publication of this rule.

This interim rule requires that, prior to interstate movement of certain land tortoises, a Federal or accredited veterinarian must sign a health certificate stating that the tortoises have been examined by that veterinarian and found free of ticks. The health certificate must accompany the tortoises during interstate movement. This certification will help ensure that the interstate movement of these tortoises will pose no risk of spreading exotic ticks. We are soliciting comments from the public concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.083 hours per response.

*Respondents:* Tortoise breeders and owners, and members of tortoise adoption organizations, in the United States.

*Estimated annual number of respondents:* 150.

*Estimated annual number of responses per respondent:* 6.

*Estimated annual number of responses:* 900.

*Estimated total annual burden on respondents:* 75 hours.

Copies of this information collection can be obtained from Ms. Cheryl Groves, APHIS' Information Collection Coordinator, at (301) 734-5086.

**List of Subjects in 9 CFR Part 74**

Animal diseases, Livestock, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are revising 9 CFR part 74 to read as follows:

**PART 74—PROHIBITION OF INTERSTATE MOVEMENT OF LAND TORTOISES**

Sec.

74.1 General prohibition.

**Authority:** 21 U.S.C. 111–113, 114a, 115, 117, 120, 122–126, 134b, 134f; 7 CFR 2.22, 2.80, and 371.2(d).

**§ 74.1 General prohibition.**

The interstate movement of leopard tortoise (*Geochelone pardalis*), African spurred tortoise (*Geochelone sulcata*), and Bell's hingeback tortoise (*Kinixys belliana*) is prohibited except when tortoises are accompanied by a health certificate signed by a Federal or accredited veterinarian stating that the tortoises have been examined by that veterinarian and found free of ticks.

Done in Washington, DC, this 17th day of July 2000.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 00–18566 Filed 7–20–00; 8:45 am]

**BILLING CODE 3410–34–U**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2000–NM–210–AD; Amendment 39–11824; AD 2000–14–14]

**RIN 2120–AA64**

**Airworthiness Directives; BFGoodrich Main Brake Assemblies as Installed on Airbus Model A319 and A320 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain BFGoodrich main brake assemblies as installed on Airbus Model A319 and A320 series airplanes. This action requires repetitive inspections to determine the length of the wear indicator pins of the main brake assemblies of the main landing gear (MLG); follow-on inspections; and corrective actions, if necessary. This

amendment is prompted by reports from several operators that severe oxidation was found on the rotor disk assemblies of the main brake assemblies. This action is necessary to detect and correct thermal oxidation of the main brake assemblies, which could result in deterioration of the MLG brakes, and consequent reduced braking performance.

**DATES:** Effective August 7, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of August 7, 2000.

Comments for inclusion in the Rules Docket must be received on or before August 21, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–210–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain “Docket No. 2000–NM–210–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from BFGoodrich Aerospace Wheel & Brake Systems Division, P.O. Box 340, Troy, Ohio, 45373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** On November 24, 1999, the FAA issued AD 99–25–07, amendment 39–11450 (64 FR 68620, December 8, 1999), which is applicable to certain BFGoodrich main brake assemblies having part number (P/N) 2–1598 or P/N 2–1600 as installed on Airbus Model A319 and A320 series airplanes. That AD requires a one-time

inspection of the wear indicator pins to determine the level of wear of the main brake assemblies of the main landing gear (MLG), and corrective actions, if necessary. That AD also requires modification of the main brake assemblies of the MLG to shorten the wear indicator pins, and change P/N 2–1598 to P/N 2–1598–1 or change P/N 2–1600 to P/N 2–1600–1. In addition, that AD requires incorporation of specified wear limits into the maintenance inspection program.

Since the issuance of AD 99–25–07, the FAA has received reports from several operators of severe oxidation on the carbon heat sinks used on BFGoodrich main brake assemblies, P/N 2–1598–1 and P/N 2–1600–1, installed on Airbus Model A319 and A320 series airplanes. Those reports indicate that the accomplishment of AD 99–25–07 did not adequately address the problem of oxidation on the main brake assemblies in time to correct the identified unsafe condition. Investigation has revealed that deterioration of the BFGoodrich main brake assemblies was caused by thermal oxidation of the carbon material on the heat sinks used in the main brake assemblies, P/N 2–1598–1 and P/N 2–1600–1, due to exposure to elevated temperatures for prolonged periods of time.

Further investigation revealed that the oxidation inhibitor process used by BFGoodrich does not completely prevent oxidation of the carbon brake material. BFGoodrich advises that the carbon brakes, which are susceptible to this oxidation condition, are used only on Airbus Model A319 and A320 series airplanes. Such oxidation first develops on the inner diameter of the rotor disk assemblies when the brake assembly is almost worn-to-limit. This condition, if not corrected, could result in deterioration of the MLG brakes, and consequent reduced braking performance.

**Explanation of Relevant Service Information**

BFGoodrich has issued Service Bulletins 2–1598–32–2 and 2–1600–32–3, both dated June 16, 2000, which describe procedures for an initial inspection to determine the length of the wear indicator pins of the MLG main brake assemblies and repetitive inspections thereafter at certain intervals. Procedures include follow-on inspections if the length of either wear indicator pin measures between 0.60 and 0.70 inches, or if the length of the pin measures between 0.20 and 0.30 inches; and corrective actions, if necessary. Follow-on inspections