

# Rules and Regulations

Federal Register

Vol. 65, No. 243

Monday, December 18, 2000

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 00-115-1]

#### Specifically Approved States Authorized to Receive Mares and Stallions Imported from Regions Where CEM Exists

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

**ACTION:** Direct final rule.

**SUMMARY:** We are amending the animal importation regulations by adding Oregon to the lists of States approved to receive certain mares and stallions imported into the United States from regions affected with contagious equine metritis (CEM). We are taking this action because Oregon has entered into an agreement with the Administrator of the Animal and Plant Health Inspection Service to enforce its State laws and regulations to control CEM and to require inspection, treatment, and testing of horses, as required by Federal regulations, to further ensure the horses' freedom from CEM. This action relieves unnecessary restrictions on the importation of mares and stallions from regions where CEM exists.

**DATES:** This rule will be effective on February 16, 2001, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before January 17, 2001.

**ADDRESSES:** Please send four copies (an original and three copies) of your comments or notice of intent to submit adverse comments to: Docket No. 00-115-1, 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. 00-115-1.

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. Karen James, Assistant Director, National Center for Import and Export, Technical Trade Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-8364.

#### SUPPLEMENTARY INFORMATION

##### Background

The animal importation regulations (contained in 9 CFR part 93 and referred to below as the regulations), among other things, prohibit or restrict the importation of certain animals, including horses, into the United States to protect U.S. livestock from communicable diseases. In § 93.301, paragraph (c)(1) prohibits the importation of horses into the United States from certain regions where contagious equine metritis (CEM) exists. Paragraph (c)(2) lists categories of horses that are excepted from this prohibition, including, in § 93.301(c)(2)(vi), horses over 731 days of age imported for permanent entry if the horses meet the requirements of § 93.301(e).

One of the requirements in § 93.301(e) is that mares and stallions over 731 days old imported for permanent entry from regions where CEM exists must be consigned to States listed in § 93.301(h)(6), for stallions, or in § 93.301(h)(7), for mares. The Administrator of the Animal and Plant Health Inspection Service (APHIS) has approved these States to receive stallions or mares over 731 days of age from regions where CEM exists because each State has entered into a written agreement with the Administrator to

enforce State laws and regulations to control CEM, and each State has agreed to quarantine, test, and treat mares and stallions over 731 days of age from a region where CEM exists in accordance with § 93.301(e).

Oregon has entered into a written agreement with the Administrator of APHIS and has agreed to comply with all of the requirements in § 93.301(e) for importing mares and stallions over 731 days old from regions where CEM exists. Therefore, this direct final rule will add Oregon to the lists of States in § 93.301(h)(6) and (h)(7) approved to receive certain stallions and mares imported into the United States from regions where CEM exists.

##### Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comments. This rule will be effective, as published in this document, February 16, 2001 unless we receive written adverse comments or written notice of intent to submit adverse comments by January 17, 2001.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

As discussed above, if we receive no written adverse comments or written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice in the **Federal Register** before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

*Horse Imports From CEM-Affected Regions*

The share of purebred breeding horse imports coming from CEM-affected regions is a relatively small fraction of the total number of horses imported, ranging between 5 and 10 percent between 1996 and 1999 (table 1). However, horses supplied by CEM-affected countries are generally highly valued. In 1999, for example, the

average value of a purebred breeding horse imported from a CEM-affected region was \$52,300, whereas the average value of a purebred breeding horse imported from anywhere in the world (i.e., from both CEM-affected and CEM-free regions) was \$11,700.

During these same 4 years, the United States imported 28,374 horses classified as "except purebred breeding" from CEM-affected regions (table 2). While it is possible that some of these horses

from CEM-affected regions may be for breeding, it is more likely that they are imported for racing or exhibition.<sup>1</sup> During 1996–1999, about one of every five "except purebred breeding" horses imported into the United States came from CEM-affected countries. Their combined annual value comprised, on average, 60 percent of the value of all "except purebred breeding" horse imports.

TABLE 1.—QUANTITY AND VALUE OF PUREBRED BREEDING HORSES IMPORTED FROM CEM-AFFECTED REGIONS, 1996–1999

Year	Quantity		Value	
	Number	Percent of all purebred breeding imports	Dollars (in millions)	Percent of all purebred breeding imports
1996	69	5.2	\$2.0	26.7
1997	115	7.2	2.7	19.9
1998	200	10.0	31.3	77.8
1999	187	8.1	9.8	36.2

Source: U.S. Department of Agriculture (USDA), Foreign Agricultural Service (FAS), "Global Agricultural Trade System," using data from the United Nations Statistical Office. Harmonized tariff schedule 010111.

TABLE 2.—QUANTITY AND VALUE OF HORSES "EXCEPT PUREBRED BREEDING" IMPORTED FROM CEM-AFFECTED REGIONS, 1996–1999

Year	Quantity		Value	
	Number	Percent of all "except purebred breeding" imports	Dollars (in millions)	Percent of all "except purebred breeding" imports
1996	2,642	8.7	\$93.5	26.7
1997	3,677	15.5	99.9	76.7
1998	17,044	40.7	147.9	83.6
1999	5,011	17.9	170.9	54.8

Source: USDA, FAS, "Global Agricultural Trade System," using data from the United Nations Statistical Office. Harmonized tariff schedule 010119.

*CEM Testing*

To minimize the risk of the CEM organism entering the United States, restrictions are applied to stallions and mares imported from CEM-affected regions, including health certification and preembarkation and postentry testing and treatment. During 1996 through 1999, 21,882 cultures were tested at approved laboratories for CEM and a similar CEM-like organism. Forty of the cultures tested positive, of which at least one-third to one-half were infections by the CEM-like organism

(several of domestic origin). Thus, the likelihood of a specimen testing CEM-positive during this period was roughly about 0.1 percent.

As this small percentage indicates, breeding horses imported from CEM-affected regions rarely test positive for CEM. When they do, they are treated and remain in isolation until examined and subsequent cultures test negative. Nevertheless, the potential consequences of the establishment of CEM in the United States make the risk posed by this disease a serious concern. Besides the health costs associated with

infected horses, establishment of CEM would have a disruptive impact on U.S. horse exports, especially on high-value breeding horses. At a minimum, more extensive testing and extended quarantining would be required of exporters. The addition of Oregon to the list of approved States is explicit recognition of the capability of Oregon facilities to carry out postentry testing and treatment requirements.

*Affected Entities*

Importers of breeding horses in Oregon—owners of horse farms and race

<sup>1</sup> As stated in the Harmonized Tariff Schedule of the United States (2000), "The expression 'purebred breeding animals' covers only animals certified to the U.S. Customs Service by the Department of

Agriculture as being purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed, imported specially for breeding purposes, whether

intended to be used by the importer himself or for sale for such purposes."

horses—are the entities most likely to be affected by this rule. This rule will enable importers in Oregon to import stallions and mares directly from CEM-affected regions, whereas at present, those animals must first be imported into another approved State, the closest of which is California, and undergo postentry testing and treatment before being transported to Oregon.

The Regulatory Flexibility Act requires that agencies consider the impacts of their rules on small entities. Whether affected entities may be considered small depends on their annual gross receipts. Annual receipts of \$500,000 or less is the small entity criterion set by the Small Business Administration for establishments primarily engaged in raising horses and other equines (NAICS code 112920). For operations owning race horses (NAICS code 711219), the small entity criterion is annual gross receipts of \$5 million or less.

Most horse owners in Oregon will be unaffected by this rule, since they do not purchase horses imported from CEM-affected countries. Of those firms that will be affected, it is reasonable to assume that at least some may be small entities. According to the 1997 Census of Agriculture, a total of 13,952 horses were sold by 2,579 farms in Oregon in 1997, implying an average income per farm from horse sales of \$5,410. However, given the generally higher value of breeding horses from CEM-affected countries, larger operations will be the more likely affected entities.

The impact for affected Oregon establishments will be positive in terms of postentry transport cost savings; the horses will be able to be imported directly into Oregon rather than through California or other approved States. However, the savings is not expected to be large when compared to the value of the imported horses, and a substantial number of small entities are not expected to be significantly affected.

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

#### 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

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 93 is amended as follows:

#### PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

#### § 93.301 [Amended]

2. Section 93.301 is amended as follows:

a. In paragraph (h)(6), by adding, in alphabetical order, “The State of Oregon”.

b. In paragraph (h)(7), by adding, in alphabetical order, “The State of Oregon”.

Done in Washington, DC, this 11th day of December 2000.

**Bobby R. Acord,**

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

[FR Doc. 00–31981 Filed 12–15–00; 8:45 am]

**BILLING CODE 3410–34–U**

#### FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 331

#### Removal of Asset and Liability Backup Program

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** On June 9, 1999, the FDIC published an interim final rule (64 FR 30869) requiring asset and liability backup programs (ALBPs) for limited deposit account and loan account information in a small number of institutions. The rule was intended to facilitate timely restoration of key financial records in the event that an

FDIC-insured depository institution experienced a Year 2000 (Y2K) computer problem that required it to be placed in receivership. Because this rule was created to meet a contingency related to Y2K, the FDIC did not contemplate that it would remain effective after the contingency period ended. A sunset provision was therefore included in the rule to the effect that its procedures would not be required after June 30, 2000. This action confirms that the rule is no longer needed, and removes it from the Code of Federal Regulations.

**EFFECTIVE DATE:** December 18, 2000.

**FOR FURTHER INFORMATION CONTACT:** James Crum, Project Manager, Bank Technology Group, (202) 736–0586; or Nancy Schucker Recchia, Counsel, Legal Division (202) 898–8885, Federal Deposit Insurance Corporation, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), the FDIC, the Board of Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) provided extensive Y2K-readiness guidance to the banking industry. Despite best efforts in preparing for Y2K, there remained the possibility that some institutions would not be Y2K ready and might have to be closed. The FDIC planned for a broad range of contingencies and on June 9, 1999, published an interim final rule to ensure that, if an affected institution experienced a Y2K problem and was closed, the FDIC would be able to make federally insured deposits available to depositors expeditiously. The rule also facilitated the quick acquisition or transfer of servicing of assets to help maintain public confidence in, and minimize any related disruption to, the financial system.

The interim final rule, 12 CFR 331, became effective on July 9, 1999, including the provision at 12 CFR 331.6 that the ALBP procedures contained in the rule would not be needed after June 30, 2000. As anticipated, the procedures are no longer needed. Therefore, with this action, the FDIC is rescinding the rule.

For the reasons set out in the preamble and under the authority of 12 U.S.C. 1818 (a) and (b) and 12 U.S.C. 1819(a) (Seventh and Tenth), 12 CFR Part 331 is removed and reserved.

Dated at Washington, D.C., this 13th day of December, 2000.