

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 93**

[Docket No. 00–102–1]

Tuberculosis Testing for Imported Cattle**AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Interim rule and request for comments.

SUMMARY: We are amending our animal import regulations by requiring cattle to undergo additional testing for tuberculosis prior to exportation to the United States, except cattle imported for immediate slaughter. The additional testing requirements will help us to better ensure that imported cattle are free of tuberculosis, thereby protecting against the spread of tuberculosis within the United States.

DATES: This interim rule is effective May 21, 2001. We invite you to comment on this docket. We will consider all comments that we receive by June 19, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–102–1, 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. 00–102–1.

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. Glen I. Garris, Supervisory Staff Officer, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:**Background**

Bovine tuberculosis is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts, causes weight loss and general debilitation, and can be fatal.

At the beginning of this century, bovine tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock.

The Animal and Plant Health Inspection Service (APHIS) recently revised its domestic bovine tuberculosis regulations on the interstate movement of certain cattle, bison, and captive cervids. These regulations are designed to protect against the spread of tuberculosis within the United States and to aid in our domestic tuberculosis eradication effort. However, in order for the domestic eradication program to be successful, APHIS must take appropriate measures to ensure that cattle imported into the United States are free of tuberculosis.

APHIS has been receiving requests to allow the importation of large numbers of cattle from countries known to be affected with tuberculosis. The prevalence of tuberculosis in many countries that export cattle to the United States presents a significant threat to the success of our domestic tuberculosis eradication program. In order to address the risk posed by imported cattle, APHIS is amending its regulations to generally require that cattle be tested twice with negative results for tuberculosis prior to importation into the United States, except for cattle imported for immediate slaughter.

Existing Regulations

The regulations in 9 CFR part 93 prohibit or restrict the importation of certain animals and birds into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart D of part 93 (referred to below as the regulations) governs the importation of ruminants.

Prior to this interim rule, § 93.406 of the regulations contained tuberculosis testing and certification requirements for cattle imported into the United States from all areas of the world except Canada and Mexico. Sections 93.418

and 93.427 contained tuberculosis testing and certification requirements for cattle from Canada and Mexico, respectively.

Cattle From All Areas of the World Except Canada and Mexico

Under the regulations in § 93.406(a) prior to this interim rule, cattle that were imported from all areas of the world except Canada and Mexico, and except cattle imported for immediate slaughter, were required to be tested for tuberculosis with negative results within 30 days of the date of their exportation to the United States. To verify that cattle met these testing requirements, the regulations required that imported cattle be accompanied by a certificate of a salaried veterinary officer of the national government of the region of origin showing that the cattle were tested for tuberculosis as described above. The certificate had to give the dates and places of testing, names of the consignor and consignee, and a description of the cattle, with breed, ages, and markings.

Further, under § 93.406(c), cattle that were tested as prescribed above and that were subject to quarantine at the port of entry as provided in § 93.411,¹ were required to be retested for tuberculosis during the last 10 days of the quarantine period under the supervision of a veterinary inspector by one or more of the methods approved by the Administrator.

Cattle From Canada

Under the regulations in § 93.418(b) prior to this interim rule, cattle imported from Canada, except cattle imported for slaughter in accordance with § 93.420 of the regulations, were required to be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing one of the following:

- The cattle were from a tuberculosis-free herd in Canada; or
- The date and place the cattle were last tested for tuberculosis; that the cattle were found negative for tuberculosis on such test; and that such test was performed within 60 days preceding the arrival of the cattle at the port of entry; or
- That the cattle were at least 5 days but not more than 4 weeks of age and, therefore, were exempt from the tuberculosis testing requirement; or
- For a calf imported with its dam, the date and place the calf's dam was

¹ Cattle from all areas of the world except Central America, the West Indies, Canada, and Mexico are required to be quarantined for not less than 30 days upon arrival in the United States.

last tested for tuberculosis; that the dam was found negative for tuberculosis on such test; that such test was performed within 60 days preceding the arrival of the calf and dam at the port of entry; and that the calf was born after such test was performed.

If cattle met one of the above conditions, they were eligible for entry into the United States without quarantine and were not required to be held at the border for additional testing. Cattle that did not meet any of these conditions were refused entry into the United States.

Cattle From Mexico

Under the regulations in § 93.427(c) prior to this interim rule, cattle imported from Mexico, except cattle imported for immediate slaughter under § 93.429 of the regulations, had to be accompanied by a satisfactory certificate of a salaried veterinary officer of the national government of Mexico, or a certificate issued by a veterinarian accredited by the National Government of Mexico and endorsed by a full-time salaried veterinary officer of the National Government of Mexico, thereby representing that the veterinarian issuing the certificate was authorized to do so, showing:

- That a review of the available herd history, including any tuberculin test results, traceback slaughter reports and post-mortem record, and any other available records or information did not indicate evidence of tuberculosis or exposure to tuberculosis during the preceding 60 days;

- *Except for cattle certified for importation into the United States for immediate slaughter in accordance with § 93.429 and steers*, that the herd or herds that the cattle originated from were tuberculin tested with negative results not more than 12 months nor less than 3 months before the date the animals were offered for entry into the United States and that the animals presented for entry, excepting only the natural increase in the herd, were included in the herd or herds of origin at the time of the herd test;

- For steers, except those certified in accordance with § 93.429, that each animal had been tested with negative results either by a salaried veterinarian of the National Government of Mexico or by a veterinarian accredited by the National Government of Mexico, not more than 60 days before the date the animals were offered for entry into the United States: Provided, that for steers not so tested and certified, the importer could elect to have the tuberculin test completed at the port of entry under the supervision of the port veterinarian; and

- The date and place of inspection, the date and place and results of the tuberculin test if applicable, the name of the herd owner, the name of the consignor and consignee, and an individual description of each animal including breed, age, sex, and tattoo and official Mexican Ministry of Agriculture and Water Resources (SARH) blue eartag numbers.

However, cattle, including steers, that originated in herds declared to be tuberculosis-accredited by the National Government of Mexico in accordance with that region's standards did not have to comply with the above provisions if they were moved directly to the U.S. port of entry from their herd of origin without having been commingled with cattle from any herd not so accredited enroute to the port of entry. They had to be accompanied by a health certificate issued in accordance with § 93.405(a) stating that the cattle originated in a tuberculosis-accredited herd and identifying the animals by official Mexican Ministry of Agriculture and Water Resources (SARH) blue eartag and tattoo numbers.

Further, cattle from a herd or herds in which one or more reactors to the tuberculin test had been disclosed were not eligible for importation until the herd or herds reached full tuberculosis-free status under Mexican Government regulations.

All bulls and female cattle accompanied by the certificate described above were to be detained at the port of entry under the supervision of the port veterinarian until tested for tuberculosis with negative results, provided that if any reactor was disclosed in any lot when so tested at the port of entry, the entire lot was refused entry and the entire lot or any portion of it was not eligible for importation until the lot had reached full tuberculosis-free status under Mexican Government regulations and the animals offered for entry had met the other applicable requirements of § 93.427.

Changes Made by This Interim Rule

In this document, we are amending the regulations described above by requiring all cattle imported into the United States, except cattle imported for immediate slaughter, and except cattle from Canada,² to generally be tested twice with negative results for tuberculosis as described below. These new requirements are located in an amended § 93.406, and all previous

tuberculosis testing requirements for imported cattle, except cattle from Canada, are removed.

Steers or Spayed Heifers

Steers and spayed heifers must originate from a herd that tested negative to a whole herd test for tuberculosis within 1 year prior to the date of exportation to the United States. For the purposes of this rule, a herd is defined as a group of one or more animals maintained for at least 4 months on common ground or two or more groups of animals under common ownership or supervision on two or more premises that are geographically separated, but among which there is an interchange or movement of animals. We are requiring that animals be maintained as such for 4 months in order to ensure that the animals are tested as a unit, and to allow time for signs of disease, if present, to become apparent.

For a group of one or more animals to qualify as a herd for the purposes of § 93.406, animals may be moved directly into the herd during or after the 4-month qualifying period only if they (1) originated from a tuberculosis-free herd; or (2) originated from a tuberculosis-accredited herd or a herd that tested negative to a whole herd test, and the individual cattle to be added to the herd also tested negative to any additional individual tests for tuberculosis required by the Administrator.

A "whole herd test" is defined as an official tuberculin test of all cattle in a herd that are 6 months of age or older, and of all cattle in the herd that are less than 6 months of age and were not born into the herd, except those cattle that are less than 6 months of age and (1) were born in and originated from a tuberculosis-free herd; or (2) were born in and originated from a tuberculosis-accredited herd or originated from a herd that has tested negative to a whole herd test, and the individual cattle have tested negative to any additional individual tests for tuberculosis required by the Administrator.

Further, the animals must have each tested negative to an additional official tuberculin test conducted within 60 days prior to the date of exportation to the United States. For the purposes of this rule, an "official tuberculin test" is defined as a test for bovine tuberculosis that is approved by the APHIS Administrator as equivalent to the international standard test described in the Manual of Standards for Diagnostic Tests and Vaccines, Office International des Epizooties, and that is applied and

² Canada would have the option of following the new requirements or the existing requirements in § 93.418.

reported by a salaried official of the government of the exporting region.

Cattle that have been tested for tuberculosis in accordance with these requirements will not be subject to any additional tests for tuberculosis during quarantine, if quarantine is required under § 93.411. Further, such cattle from Mexico will not be detained at land border ports with Mexico for further testing.

Sexually Intact Cattle From an Accredited Herd

Such cattle must originate from a herd that has been certified by the government of the region of origin as an accredited herd within 1 year prior to the date of exportation to the United States.

For the purposes of this rule, an accredited herd is defined as one that has passed at least two consecutive annual official tuberculin tests and has no evidence of bovine tuberculosis. All animals in an accredited herd must be free from tuberculosis.

Such cattle, if required to be quarantined under the regulations in § 93.411, must also be tested for tuberculosis with negative results during the last 10 days of quarantine. Further, such cattle from Mexico must be detained at the port of entry under the supervision of the port veterinarian until tested for tuberculosis with negative results.

Sexually Intact Cattle not From an Accredited Herd

Such cattle must have originated from a herd that has tested negative to a whole herd test as described above under the heading "Steers and Spayed Heifers" within 1 year prior to the date of exportation to the United States. Further, the animals must each have tested negative to one additional official tuberculin test conducted no more than 6 months and no less than 60 days prior to the date of exportation to the United States, except that the additional test is not required if the animals are exported within 6 months of the whole herd test.

Such cattle, if required to be quarantined under the regulations in § 93.411, must also be tested for tuberculosis with negative results during the last 10 days of quarantine. Further, such cattle from Mexico must be detained at the port of entry under the supervision of the port veterinarian until tested for tuberculosis with negative results.

Cattle From Mexico

Under this interim rule, cattle from a herd or herds in Mexico in which one or more reactors to the tuberculin test

have been disclosed are not eligible for importation until the herd to which the animals in the lot belong achieves accredited herd status as defined in § 93.400 of the regulations, and provided that the animals offered for entry have met the other applicable requirements of this section.

Further, as stated above, sexually intact cattle from Mexico must be detained at the port of entry under the supervision of the port veterinarian until tested for tuberculosis with negative results. Under this interim rule, in the event that any reactor is disclosed in any lot when tested at the port of entry, the entire lot will be refused entry and the entire lot or any portion thereof will not be eligible for importation until the herd to which the animals in the lot belong achieves accredited herd status as defined in § 93.400 of the regulations, and provided that the animals offered for entry have met the other applicable requirements of this section.

Cattle From Canada

Under this interim rule, cattle from Canada are eligible for importation into the United States if accompanied by a certificate stating that the animals have been tested for tuberculosis in accordance with the new requirements described above. They also remain eligible for importation under the requirements in § 93.418, which is not amended by this interim rule.

Immediate Action

Immediate action is necessary to protect against the spread of tuberculosis within the United States. The prevalence of tuberculosis in many countries that export cattle to the United States, combined with the potential importation of increasingly large numbers of cattle from certain of these countries, presents a significant threat to the success of the tuberculosis eradication program in the United States, unless action is taken to reduce the risk of tuberculosis-affected cattle being imported into this country. In order to address the risk posed by imported cattle, APHIS is amending its regulations to require additional testing of cattle for tuberculosis prior to importation into the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest.

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.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

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 new 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, we are amending 9 CFR part 93 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.

2. Section 93.400 is amended by revising the definition for "Herd" and

by adding, in alphabetical order, new definitions to read as follows:

§ 93.400 Definitions.

* * * * *

Accredited herd. An accredited herd is one that has passed at least two consecutive annual official tuberculin tests and has no evidence of bovine tuberculosis. All animals in a herd must be free from tuberculosis.

* * * * *

Herd. Any group of one or more animals maintained for at least 4 months on common ground or two or more groups of animals under common ownership or supervision on two or more premises that are geographically separated, but among which there is an interchange or movement of animals. For a group of one or more animals to qualify as a herd for the purposes of § 93.406, animals may be moved into the herd during or after the 4-month qualifying period only if they:

(1) Originated from a tuberculosis-free herd; or

(2) Originated from an accredited herd or a herd that tested negative to a whole herd test, and the individual cattle to be added to the herd also tested negative to any additional individual tests for tuberculosis required by the Administrator.

* * * * *

Official tuberculin test. A test for bovine tuberculosis that is approved by the Administrator as equivalent to the international standard test described in the Manual of Standards for Diagnostic Tests and Vaccines, Office International des Epizooties, and that is applied and reported by a salaried official of the government of the exporting region.

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Whole herd test. An official tuberculin test of all cattle in a herd that are 6 months of age or older, and of all cattle in the herd that are less than 6 months of age and were not born into the herd, except those cattle that are less than 6 months of age and:

(1) Were born in and originated from a tuberculosis-free herd; or

(2) Were born in and originated from an accredited herd or originated from a herd that has tested negative to a whole herd test, and the individual cattle have tested negative to any additional individual tests for tuberculosis required by the Administrator.

* * * * *

3. In § 93.406, paragraphs (a) and (c) are revised to read as follows:

§ 93.406 Diagnostic tests.

(a) Tuberculosis and brucellosis tests of cattle. Except as provided in

§§ 93.418, 93.427(d), and 93.432, all cattle imported from any part of the world, except for immediate slaughter, must be accompanied by a certificate of a salaried veterinary officer of the national government of the region of origin, or if exported from Mexico, must be accompanied either by such a certificate or by a certificate issued by a veterinarian accredited by the National Government of Mexico and endorsed by a full-time salaried veterinary officer of the National Government of Mexico, thereby representing that the veterinarian issuing the certificate was authorized to do so, stating that:

(1) Brucellosis. The cattle have been tested for brucellosis with negative results within 30 days prior to the date of their exportation to the United States; Provided, that the brucellosis test will not be required for steers, spayed heifers, or any cattle less than 6 months old. The certificate must give the dates and places of testing, names of the consignor and consignee, and a description of the cattle, with breed, ages, and markings; and

(2) Tuberculosis. (i) For steers and spayed heifers, the cattle originated from a herd that tested negative to a whole herd test for tuberculosis within 1 year prior to the date of exportation to the United States, and the animals each tested negative to an additional official tuberculin test conducted within 60 days prior to the date of exportation to the United States; or

(ii) For sexually intact cattle that are from an accredited herd, the herd was certified as an accredited herd for tuberculosis within 1 year prior to the date of exportation to the United States; or

(iii) For sexually intact cattle that are not from an accredited herd, the cattle originated from a herd that tested negative to a whole herd test for tuberculosis within 1 year prior to the date of exportation to the United States, and the animals each tested negative to one additional official tuberculin test conducted no more than 6 months and no less than 60 days prior to the date of exportation to the United States, except that the additional test is not required if the animals are exported within 6 months of the whole herd test.

* * * * *

(c) Further tests during quarantine. Ruminants that have been tested as prescribed in paragraphs (a) and (b) of this section and that are subject to quarantine at the port of entry, as provided in § 93.411, must be retested during the last 10 days of the quarantine period under the supervision of a

veterinary inspector by one or more of the methods approved by the Administrator, except that cattle tested in accordance with paragraph (a)(2)(i) of this section are not required to be retested for tuberculosis.

4. In § 93.427, paragraph (c) is amended as follows:

a. By removing paragraph (c)(1).

b. By redesignating paragraphs (c)(2), (c)(3), (c)(4), and (c)(5) as paragraphs (c)(1), (c)(2), (c)(3), and (c)(4), respectively.

c. By revising newly designated paragraphs (c)(2) and (c)(3) to read as follows:

§ 93.427 Cattle from Mexico.

* * * * *

(c) * * *

(2) Cattle from a herd or herds in which one or more reactors to the tuberculin test have been disclosed shall not be eligible for importation until the herd to which the animals in the lot belong achieve accredited herd status as defined in § 93.400, and provided that the animals offered for entry have met the other applicable requirements of this section.

(3) All sexually intact cattle accompanied by the certificate required by § 93.405(a) will be detained at the port of entry under the supervision of the port veterinarian until tested for tuberculosis with negative results: Provided, That if any reactor is disclosed in any lot when so tested at the port of entry, the entire lot will be refused entry and the entire lot or any portion of it will not be eligible for importation until the herd to which the animals in the lot belong achieve accredited herd status as defined in § 93.400, and provided that the animals offered for entry have met the other applicable requirements of this section.

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Done in Washington, DC, this 16th day of April 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-9795 Filed 4-19-01; 8:45 am]

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