Within the quarantined area there are approximately 20 small entities that may be affected by this rule. These include two grocery stores, three fruit stands, four citrus producers, six truck vendors, four nurseries, and one recycling center. These 20 entities comprise less than 1 percent of the total number of similar entities operating in the State of Texas. Additionally, these small entities sell regulated articles primarily for local intrastate, not interstate movement, so the effect, if any, of this regulation on these entities appears to be minimal.

The effect on those few entities that do move regulated articles interstate will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost.

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

This interim 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 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.64–3, paragraph (c) is amended by adding, in alphabetical order, under the heading ''Texas,'' an entry for Willacy County to read as follows:

§ 301.64–3 Quarantined areas.

* * * * *

(c) * * *

Texas

* * * * *

Willacy County. That portion of the county in the Raymondville/Lasara area bounded by a line as follows: Beginning at the intersection of FM 498 and FM 2845; then east on FM 498 to FM 2099; then north on FM 2099 to FM 490; then east on FM 490 to a point described as latitude 26.45360 and longitude −97.69919; then north from that point along an imaginary line to CR 3796; then west on CR 3796 to Santa Margarita Road; then north on Santa Margarita Road to Riggin Road; then west on Riggin Road to Cantu Road; then northwest along an imaginary line to a point described as latitude 26.57423 and longitude −97.70461; then west from that point along an imaginary line to the Willacy County line; then south, east, and south along the Willacy County line to FM 1921; then east on FM 1921 to FM 2845; then south on FM 2845 to the point of beginning.

Done in Washington, DC, this 29th day of May 2008.

Cindy J. Smith,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–12542 Filed 6–4–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. APHIS–2006–0164]

RIN 0579–AC35

Temporary Importation of Horses; Noncompetitive Entertainment Horses From Countries Affected With Contagious Equine Metritis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to allow noncompetitive entertainment horses from countries affected with contagious equine metritis to be temporarily imported into the United States under certain conditions. The regulations currently provide for the temporary importation of horses from countries affected with contagious equine metritis to compete in specified events. In recent years it has become evident that similar provisions are needed for noncompetitive entertainment horses. This action will allow the temporary importation of horses into the United States solely for public exhibition and entertainment purposes while continuing to protect against the introduction and dissemination of contagious equine metritis.

DATES: *Effective Date:* July 7, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. Ellen M. Buck, Veterinary Medical Officer, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart C—Horses, §§ 93.300 through 92.326 of the regulations, pertains to the importation of horses into the United States.

Section 93.301 of the regulations contains specific provisions for the quarantine and testing of horses from regions affected with contagious equine metritis (CEM), a highly contagious bacterial venereal disease that affects breeding and fertility. This section also identifies regions where CEM exists and regions that trade horses freely with those where CEM exists without testing for CEM.

To prevent the introduction of CEM into the United States, § 93.301(c)(1) prohibits the importation of horses into the United States from listed regions unless the horses are imported in accordance with certain requirements. To be eligible for importation, the horses must fall into one of the following categories:

• Wild (non-domesticated) species of equidae if captured in the wild or imported from a zoo or other facility where it would be unlikely that the animal would come in contact with domesticated horses used for breeding;

- Geldings;
- Weanlings or yearlings whose age is certified on the import health certificate required under § 93.314(a);
- Horses imported in accordance with conditions prescribed by the Administrator as provided in § 93.301(a);
- Spanish Pure Breed horses imported for permanent entry from Spain or thoroughbred horses imported for permanent entry from France, Germany, Ireland, or the United Kingdom as provided in § 93.301(d);
- Stallions or mares over 731 days of age imported for permanent entry as provided in § 93.301(e);
- Horses over 731 days of age imported into the United States for no more than 90 days to compete in specified events as provided in § 93.301(f); and
- U.S. horses returning to the United States as provided in § 93.301(g).

The Animal and Plant Health Inspection Service (APHIS) has used the provisions in § 93.301(f), relating to the temporary importation of horses for competition, to allow the temporary importation of noncompetitive entertainment horses into the United States. Several performance horse groups have asked APHIS to extend the 90-day limit provided for in § 93.301(f) so that they may exhibit and show their horses in the United States for longer periods of time. In addition, the United States Animal Health Association has recommended that APHIS amend the regulations to establish a category for noncompetitive entertainment horses.

Accordingly, on August 2, 2007, we published in the **Federal Register** (72 FR 42318–42326, Docket No. APHIS–2006–0164) a proposal[1] to amend the regulations in § 93.301 to establish conditions under which noncompetitive entertainment horses from CEM-affected regions may be imported into the United States for longer than 90 days solely for public exhibition and entertainment purposes. Because the conditions are very similar to the conditions in § 93.301(f), which provides for the temporary importation of horses to compete in specified events, we proposed that § 93.301(f) apply to both types of imported horses. We also proposed to amend the regulations pertaining to import permits in § 93.304 to require the submission of additional information with the application for an import permit.

We solicited comments concerning our proposal for 60 days ending October 1, 2007. We received four comments by that date. The comments were from a private citizen, State animal health department, horse industry group, and a horse entertainment company. These comments are discussed below.

In the proposed rule we stated that, ''[b]ecause CEM is a venereal disease transmitted by sexual contact, there is virtually no risk that a horse will transmit the disease through casual contact with other horses during a performance, exhibition, or exercise.'' One commenter stated that APHIS should not lift the CEM restrictions unless there is absolutely no risk of spreading the disease. This commenter suggested that APHIS reconsider the proposed rule and tighten the CEM restrictions instead.

We disagree. As discussed in the proposed rule, APHIS has conducted a risk assessment to evaluate the risk of allowing the extended importation of noncompetitive entertainment horses from countries affected with CEM without requiring CEM testing, and the risk of the U.S. Department of Agriculture (USDA) losing track of these horses during extended importation. The risk assessment, titled ''Assessment of the Risk of Introduction of Contagious Equine Metritis (CEM) through the Extended Importation of Noncompetitive Entertainment Horses from CEM-affected countries,'' concluded that the risk posed by allowing the extended importation of noncompetitive entertainment horses from CEM-affected countries would be extremely low, with the application of the restrictions described in the rule. In addition, the risk assessment concluded that the risk of USDA losing track of the animals was extremely low due to the extensive supervision and involvement of APHIS personnel and the accredited veterinarian. The risk assessment is supported by our experiences with the importation of horses to compete in specified events under conditions very similar to those proposed for noncompetitive entertainment horses. Accordingly, we are making no changes based on this comment.

Another commenter stated that the regulations should protect the health of U.S. horses from imported horses regardless of the reason for their importation. Therefore, the commenter recommended that the health certificate and testing requirements set forth in proposed § 93.301(f)(3) for noncompetitive entertainment horses also be required for horses temporarily imported for competition.

In the proposed rule, we proposed to amend the regulations to require that, at the time of importation, each horse imported for competition or public exhibition and entertainment purposes be accompanied by an import permit in accordance with § 93.304 and a health certificate in accordance with § 93.314. However, for noncompetitive entertainment horses, we also proposed to require that the health certificate certify that cultures negative for CEM have been collected on three separate occasions within a 7-day period, with the last within 30 days of exportation. We proposed more stringent CEM testing requirements for noncompetitive entertainment horses because these horses could be imported for long periods of time, compared to horses imported for competition. Currently, § 93.301(f) provides that horses may be imported for competition for no more than 90 days under certain conditions. The requirement for CEM testing prior to importation for noncompetitive entertainment horses will help to ensure that horses infected with CEM do not enter this country and jeopardize the health of the U.S. horse population. For these reasons, we are making no change in response to this comment.

The commenter also requested that APHIS clarify that the average salary used in the trust fund/costs is the salary for APHIS personnel. Proposed § 93.301(f)(10) provides that the costs associated with the supervision and maintenance of the horse by an APHIS representative be reimbursed by the horse's owner or importer through user fees payable under 9 CFR part 130, which lists the hourly rate and minimum user fee for certain import-related services provided by APHIS. Proposed § 93.301(f)(11) set out the requirements for trust fund agreements. More specifically, that paragraph provided that the horse's owner or importer deposit with APHIS an amount equal to the estimated cost, as determined by APHIS, for the APHIS representative to inspect the premises at which the horse will compete, perform, or be exhibited and to conduct the monitoring and supervision required by the regulations. We do not believe that additional clarification is needed. We are making no change based on this comment.

One commenter supported the proposed rule but was concerned that USDA may not be able to provide the monitoring required by the regulations over extended periods of time.

APHIS is committed to providing the services specified in the proposed rule and this final rule to prevent the introduction of CEM into the United States by noncompetitive entertainment horses. As discussed in the proposed rule, we would require noncompetitive

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0164.*

entertainment horses to be imported and maintained in the United States in accordance with a trust fund agreement executed by the horse's owner or importer. Such an agreement would ensure that the government is reimbursed for the services it provides while the horses are in the United States. We are making no change based on this comment.

A commenter stated that proposed § 93.301(f)(5)(iv)(B), which provides that horses must be kept on a premises that is or contains a building, is too restrictive. The commenter noted that entertainment horse shows often use stable installations, such as tents, that may be set up and taken down in each city. Thus, the commenter recommended that the regulations be amended to define the term ''building'' to include tent structures.

We agree that the regulations should be flexible enough to cover buildings as well as tent stables or other temporary structures for housing horses. Therefore, in this final rule, we are amending § 93.301(f)(5)(iv)(B) to provide that the horse must be kept on a premises that is or contains a building or temporary structure in which the horse can be kept in a stall that is separated from other stalls that contain horses that are not listed on the import permit, either by an empty stall, by an open area across which horses cannot touch each other, or by a solid wall that is at least 8 feet (2.4 meters) high. The horse may be kept only on premises that have been approved by an APHIS representative.

The commenter also recommended amending § 93.301(f)(5)(iv)(B) to allow APHIS to approve isolation measures other than those set out in that paragraph. Specifically, the commenter recommended revising that paragraph to read as follows: ''Must be or contain a building in which the horse can be kept in a stall that is separated from other stalls that contain horses that are not listed on the import permit, either by an empty stall, by an open area across from which horses cannot touch each other, by a solid wall that is at least 8 feet (2.4 meters) high, or by such other means deemed appropriate by APHIS in the circumstances.''

As noted in the proposed rule, one of the primary safeguards against the horses transmitting CEM while in the United States is the stringent measures in the regulations to ensure that the horses are kept apart from horses that are not listed on the import permit. This final rule provides several means by which the necessary isolation from horses that are not listed on the import permit could be accomplished. We do not believe that additional flexibility is needed. Accordingly, we are making no change in response to this comment.

The same commenter recommended that proposed § 93.301(f)(6) be amended to allow last-minute changes to the itinerary in an emergency. Section 93.301(f)(6) provides that, if an owner or importer wishes to change the horse's itinerary or the methods by which the horse is transported from those specified on the import permit, the owner or importer must make the request for change in writing to the Administrator at least 15 days before the proposed date of change. The commenter noted that touring inevitably entails unforeseen changes of plans, venues, dates, etc.

We agree that the regulations should allow for changes to the itinerary or methods of transportation in an emergency. In this final rule, we are adding a new paragraph to provide that the horse's itinerary or methods of transportation may be changed, with the prior approval of an APHIS representative, in order to respond to an emergency or other unforeseen circumstances or events (e.g., weather-related transportation delays, vehicle breakdown, medical emergencies, etc.). Requests for such a change may be submitted to APHIS by telephone, postal mail, commercial delivery service, fax, or e-mail. We may approve the request for change orally or in writing. If the approval is oral, it will be confirmed in writing by the Administrator as soon as possible. These changes will provide greater flexibility for a horse's owner or importer to respond to emergencies or other unforeseen circumstances or events.

In this final rule, we are also amending paragraph (f)(6) to make it clear that written requests for change may be submitted via postal mail, commercial delivery service, fax, or e-mail. APHIS has always allowed such written requests for change; however, we are adding that provision to the regulations to make it clear to the public.

The commenter also recommended that APHIS amend proposed § 93.301(f)(8) to provide the Administrator the discretion to allow horses to perform pending resolution of an appeal of the cancellation of an import permit, provided that such performances would not pose a risk to U.S. horses and the owner or importer could demonstrate material harm from the interruption of performances.

Proposed § 93.301(f)(7) provides that the Administrator may cancel an import permit whenever the Administrator finds that the owner or importer of the horse has not complied with certain provisions in the regulations or any conditions imposed under those provisions. Proposed § 93.301(f)(8) provides that the horse is not permitted to enter competition, perform, or be exhibited from the date the owner or importer receives the notice of cancellation until the horse is moved out of the United States or until resolution of an appeal in favor of the owner or importer. The potential cancellation of an import permit for noncompliance with the regulations provides an incentive for a horse owner or importer to remain in compliance with the regulations; allowing the horse to continue to perform or be exhibited pending the resolution of an appeal would be counterproductive. Accordingly, we are making no change based on this comment.

Finally, the commenter recommended that proposed § 93.304(a)(1)(iii)(D) through (H), relating to the proposed length of stay and itinerary, be amended to allow the applicant for an import permit to provide some of this information to APHIS at the time of application and the rest at intervals to be set by APHIS and the applicant.

In the proposed rule, we listed the information that must be supplied to APHIS by the owner or importer with the application for an import permit. We noted that the specified information would allow APHIS to monitor the location of the horse while it is in the United States and to confirm compliance with the required isolation and handling procedures to ensure that the horse does not transmit CEM to any other horse while in this country. Given the potential for long stays in the United States for noncompetitive entertainment horses and our need for current information to monitor compliance with the regulations, we also proposed to require that, while in the United States, the owner or importer apply for and obtain from APHIS an import permit each year prior to the anniversary date of the horse's arrival in the United States. To accommodate changes to the itinerary following importation, in proposed § 93.301(f)(6), we also established provisions by which a horse owner or importer could request APHIS approval of a change to the horse's itinerary or the methods of transportation from those specified in the application for an import permit. We believe these provisions, in combination, provide the flexibility that the commenter is seeking. Accordingly, we are making no change in response to this comment.

Therefore, for the reasons given in the proposed rule and in this document, we

are adopting the proposed rule as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This final 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 amending the regulations to establish conditions under which noncompetitive entertainment horses (stallions and mares) over 731 days of age from CEM-affected countries could remain in the United States for longer than 90 days for public exhibition and entertainment purposes without undergoing the CEM quarantine and testing prescribed in the regulations.

The horse industry plays an important role in the U.S. economy. According to the 2002 Census of Agriculture, there were 542,223 farms with 3.644 million horses valued at $9.9 billion in the United States in 2002. According to a recent study done for the American Horse Council, the number and value of horses are much larger than those reported in the 2002 Census of Agriculture: 2 million people owning 9.2 million horses with direct value of about $39 billion.[1] Both sets of data underscore the importance of the equine industry. In addition, other agricultural and nonagricultural sectors are dependent on the horse industry for their economic activity. Horses are a highly valued asset, especially those with a specific pedigree. Horses also play an important role in U.S. international trade. The value of U.S. horse exports ($449 million) was more than the combined export value of cattle, hogs and sheep and goats ($65 million) between 2003 and 2005.[2]

The United States imported a total of 31,198 horses in 2005. Nearly 67 percent of horses imported were from Canada and 7.6 percent were from Mexico. Of the total imports, 25,564 were from non-CEM countries and the remaining 5,634 were from CEM countries. The proportion of horse imports that are pure breeding horses is small. Of the above total, 2,341 were purebred breeding horses. Only 340 purebred breeding horses were imported from CEM countries.[3] However, horses supplied by CEM-affected countries are generally highly valued. In 2005, for example, the average value of purebred breeding horses imported from CEM-affected regions was $41,220, whereas the average value of purebred breeding horses imported from countries not affected by CEM was $17,180.

Although the disease does not result in death, CEM can be economically costly. The direct consequence may include the closing of breeding operations, production losses as a result of abortion, and costs of disease control. A CEM outbreak would result in the quarantine of affected horse farms, temporary cessation of breeding operations, and restriction of both intrastate and interstate movement. For some breeders, this could mean the loss of thousands or even millions of dollars in stud fees and breeding losses. Other consequences include trade restrictions that may be imposed by international trading partners.

The noncompetitive entertainment horses that will be affected by this rule will not be allowed to have direct contact with horses outside those listed on their permit and may not be used for breeding purposes at any time while in the United States, including breeding with horses in the same show. Additionally, these horses may not undergo any genital examinations (unless required for diagnosis and treatment of a medical condition with prior approval of an APHIS representative), semen collection, or artificial insemination. Furthermore, since these are very specialized performance animals, domestic breeders will not be affected if this rule were to increase the amount of time the imported horses are in the United States.

Horses arriving in the United States from abroad are quarantined at a USDA animal import center, generally for 3 days. Horses temporarily imported are required to exit the United States and be readmitted, following quarantine and testing, every 90 days. Each entry after 90 days is considered a new entry into the United States. The USDA charges a minimum of $810 for the 3-day quarantine. In addition to this facility charge, user fees of $80 are charged for blood testing, resulting in a total quarantine and testing cost per horse of $890. The final rule will allow imported performance horses to stay in the United States longer than 90 days without their owners having again to pay USDA import quarantine and testing costs. This is a savings that accrues to the importing entities and likely to counterbalance their costs associated with supervisory activities of APHIS and/or an accredited veterinarian.

The number of entities and horses expected to be directly affected by this rule is not large. We anticipate that between 1 and 10 performing groups varying in size from 5 to 40 horses (or a total of between 5 and 400 horses) will utilize the proposed exception each year. Given that there are over 1 million domestic show horses, even the upper quantity represents a very small fraction of the total supply (0.04 percent).

The Small Business Administration (SBA) has established guidelines for determining which types of firms are to be considered small entities under the Regulatory Flexibility Act. This rule may affect operations such as zoological parks (North American Industry Classification System [NAICS] code 712130), and animal performances including circuses, carnivals, and amusement parks (NAICS code 711190). SBA classifies these operations as small entities if their annual receipts are not more than $6.5 million. Of the approximately 850 such establishments, about 12.5 percent are considered to be large. The subset of these entities that temporarily import noncompetitive entertainment horses from CEM countries will benefit from the forgone costs associated with the horses having to exit and reenter the United States every 90 days. On the other hand, they will bear the cost of supervisory activities by APHIS and/or an accredited veterinarian. The overall impact is expected to be insignificant, given the relatively small number of noncompetitive entertainment horses imported from CEM countries.

Other operations that may remotely be affected are domestic suppliers of similar horses (NAICS code 112920). According to the 2002 Census of Agriculture, that year there were 542,223 horse farms with 3,644,278 horses in the United States, of which 124,596 farms sold 470,423 horses that had a total value of over $1.13 billion.[4] An unknown share of these farms supply show horses that could be comparable to the noncompetitive entertainment horses imported temporarily from CEM-affected countries. SBA classifies horse farms as small entities if their annual receipts are

[1] Deloitte Consulting LLP for American Horse Council, National Economic Impact of the U.S. Horse Industry, 2005.

[2] Global Trade Information Services, World Trade Atlas.

[3] Id.

[4] As stated above, the census total is much less than the total reported by the American Horse Council Foundation. According to that report, there were 9,222,847 horses in 2005 (Deloitte Consulting LLP, National Economic Impact of the U.S. Horse Industry). Of this total, 9 percent were racing, 30 percent showing, 42 percent recreation, and 19 percent other (*http://www.horsecouncil.org/statistics.htm*).

not more than $750,000;[5] over 99 percent are considered to be small.

Entities that may be affected by the rule are principally small businesses, but the impact of the rule is not expected to be significant. Because the pool of noncompetitive entertainment horses that are temporarily imported is a small fraction of the total number of show horses in the United States, any effects of the rule on U.S. entities will be very small.

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 final 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 the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0324.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

[5] SBA, Small Business Size Standards matched to NAICS, Effective July 31, 2006; and U.S. Census Bureau, 2002 Economic Census: Manufacturing-Industries Series, Wholesale Trade-Subject Series and Transportation and Warehousing-Subject Series, Issued August, 2006.

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, FISH, 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 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 93.301 is amended as follows:

■ a. In paragraph (c)(2)(vii), by removing the words ''paragraph (f)'' and adding the words ''paragraph (f)(1)'' in their place, and by removing the word ''and'' at the end of the sentence.

■ b. By redesignating paragraph (c)(2)(viii) as paragraph (c)(2)(ix) and adding a new paragraph (c)(2)(viii) to read as set forth below.

■ c. In footnote 6, by removing the words ''Jefatura de Cria Caballar Registro Matricula for Spain'' and adding the words ''Asociacion National de Criadores de Caballos de Pura Raza Espanola for Spain'' in their place.

■ d. By revising paragraph (f) and the Office of Management and Budget citation at the end of the section to read as set forth below.

§ 93.301 General prohibitions; exceptions.

* * * * *

(c) *Specific prohibitions regarding contagious equine metritis; exceptions*—

* * *

(2) * * *

(viii) Horses over 731 days of age imported into the United States for noncompetitive public exhibition and entertainment purposes if the horses meet the requirements of paragraph (f)(2) of this section; and

* * * * *

(f) *Special provisions for temporary importation for competition or entertainment purposes.*

(1) Horses over 731 days of age may be imported into the United States for no more than 90 days to compete in specified events provided that the conditions in paragraphs (f)(3) through (f)(12) of this section are met.

(2) Horses over 731 days of age may be temporarily imported into the United States solely for noncompetitive public exhibition and entertainment purposes provided that the conditions in paragraphs (f)(3) through (f)(12) of this section are met.

(3) At the time of importation, each horse must be accompanied by an import permit in accordance with § 93.304 and a health certificate issued in accordance with § 93.314. For horses imported in accordance with paragraph (f)(2) of this section, the health certificate must also certify that cultures negative for CEM were obtained from sets of specimens collected on three separate occasions within a 7-day period from the mucosal surfaces of the clitoral fossa and the clitoral sinuses of any female horses and from the surfaces of the prepuce, the urethral sinus, and the fossa glandis, including the diverticulum of the fossa glandis, of any male horses. For both female and male horses, the sets of specimens must be collected on days 1, 4, and 7 of the 7-day period, and the last of these sets of specimens must be collected within 30 days of exportation. All specimens required by this paragraph must be collected by a licensed veterinarian who either is, or is acting in the presence of, the veterinarian signing the certificate.

(4) Following the horse's arrival in the United States:

(i) A horse imported in accordance with paragraph (f)(1) of this section may remain in the United States for not more than 90 days, except as provided in paragraph (f)(9) of this section.

(ii) A horse imported in accordance with paragraph (f)(2) of this section may remain in the United States indefinitely, except as provided in paragraph (f)(9) of this section, as long as the conditions of paragraphs (f)(3) through (f)(12) of this section are met and the horse's owner or importer applies for and obtains from APHIS an import permit, as provided for in § 93.304, each year prior to the anniversary date of the horse's arrival in the United States.

(5) While the horse is in the United States, the following conditions must be met:

(i) A horse imported in accordance with paragraph (f)(2) of this section:

(A) Must not be entered in competitions.

(B) Must be regularly used in performances or exhibitions, unless sick or injured. A horse that is no longer performing or being exhibited must be exported or made eligible for permanent entry in accordance with paragraph (f)(9) of this section.

(C) Must be kept with the other horses listed on the import permit, unless otherwise approved by an APHIS representative.

(ii) Except as provided in paragraph (f)(5)(viii) of this section, the horse must be moved according to the itinerary and methods of transport specified in the import permit provided for in § 93.304.

(iii) The horse must be monitored by an accredited veterinarian or APHIS representative to ensure that the provisions of paragraphs (f)(5)(ii), (f)(5)(vi), and (f)(5)(vii) of this section are met. If the monitoring is performed by an accredited veterinarian, the Veterinarian in Charge will ensure that the accredited veterinarian is familiar with the requirements of this section and spot checks will be conducted by an APHIS representative to ensure that the requirements of this section are being met. If an APHIS representative finds that requirements are not being met, the Administrator may require that all remaining monitoring be conducted by APHIS representatives to ensure compliance.

(iv) Except when in transit, the horse must be kept on a premises that has been approved by an APHIS representative. For horses imported in accordance with paragraph (f)(1) of this section, such approval may be oral or in writing. If the approval is oral, it will be confirmed in writing by the Administrator as soon as circumstances permit. For horses imported in accordance with paragraph (f)(2) of this section, the approval will be in writing. To receive approval, the premises:

(A) Must not be a breeding premises; and

(B) Must be or contain a building or temporary structure in which the horse can be kept in a stall that is separated from other stalls that contain horses that are not listed on the import permit, either by an empty stall, by an open area across which horses cannot touch each other, or by a solid wall that is at least 8 feet (2.4 meters) high.

(v) While in transit, the horse must be moved in either an aircraft or a sealed van or trailer. If the horse is moved in a sealed van or trailer, the seal may be broken only by an APHIS representative at the horse's destination, except in situations where the horse's life is in danger.

(vi) Except when actually competing, performing, or being exhibited or exercised, the horse must be kept in a pasture approved by APHIS or in a stall that is separated from other stalls containing horses that are not listed on the import permit, either by an empty stall, by an open area across which horses cannot touch each other, or by a solid wall that is at least 8 feet (2.4 meters) high.

(vii) The horse may not be used for breeding purposes (including artificial insemination or semen collection) and may not have any other sexual contact with other horses. The horse may not undergo any genital examinations, except that a horse imported in accordance with paragraph (f)(2) of this section may undergo genital examinations for diagnosis or treatment of a medical condition with the prior approval of an APHIS representative.

(viii) The horse may be moved for diagnosis or treatment of a medical condition with the prior approval of an APHIS representative.

(ix) After the horse is transported anywhere in the United States, any vehicle in which the horse was transported must be cleaned and disinfected in the presence of an APHIS representative, according to the procedures specified in §§ 71.7 through 71.12 of this chapter, before any other horse is transported in the vehicle.

(x) The cleaning and disinfection specified in paragraph (f)(5)(ix) of this section must be completed before the vehicle is moved from the place where the horse is unloaded. In those cases where the facilities or equipment for cleaning and disinfection are inadequate at the place where the horse is unloaded, the Administrator may allow the vehicle to be moved to another location for cleaning and disinfection when the move will not pose a disease risk to other horses in the United States.

(xi) The owner or importer of the horse must comply with any other provisions of this part applicable to him or her.

(6) Except as provided in paragraph (f)(7) of this section, if the owner or importer wishes to change the horse's itinerary or the methods by which the horse is transported from that which he or she specified in the application for the import permit, the owner or importer must make the request for change in writing to the Administrator. Requests for change must be submitted to APHIS no less than 15 days before the proposed date of the change. Requests may be submitted to APHIS by postal mail, commercial delivery service, fax, or e-mail. The change in itinerary or method of transport may not be made without the written approval of the Administrator, who may grant the request for change when he or she determines that granting the request will not endanger other horses in the United States and that sufficient APHIS personnel are available to provide the services required by the owner or importer.

(7) In response to an emergency or other unforeseen circumstances or events (e.g., weather-related transportation delays, vehicle breakdown, medical emergencies, etc.), the horse's itinerary or methods of transportation may be changed, with the prior approval of an APHIS representative, from that which is specified in the application for an import permit. Requests for such a change may be submitted to APHIS by telephone, postal mail, commercial delivery service, fax, or e-mail. Approval may be oral or in writing. If the approval is oral, it will be confirmed in writing by the Administrator as soon as circumstances permit.

(8) The Administrator may cancel, orally or in writing, the import permit provided for under § 93.304 whenever the Administrator finds that the owner or importer of the horse has not complied with the provisions of paragraphs (f)(3) through (f)(7) of this section or any conditions imposed under those provisions. If the cancellation is oral, the Administrator will confirm the cancellation and the reasons for the cancellation in writing as soon as circumstances permit. Any person whose import permit is canceled may appeal the decision in writing to the Administrator within 10 days after receiving oral or written notification of the cancellation, whichever is earlier. If the appeal is sent by mail, it must be postmarked within 10 days after the owner or importer receives oral or written notification of the cancellation, whichever is earlier. The appeal must include all of the facts and reasons upon which the person relies to show that the import permit was wrongfully canceled. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(9) Except in those cases where an appeal is in process, any person whose import permit is canceled must move the horse identified in the import permit out of the United States within 10 days after receiving oral or written notification of cancellation, whichever is earlier. The horse is not permitted to enter competition, perform, or be exhibited from the date the owner or importer receives the notice of cancellation until the horse is moved out of the United States or until resolution of an appeal in favor of the owner or importer. Except when being exercised, the horse must be kept, at the expense of the owner or importer, in a stall on the premises where the horse is located when the notice of cancellation is received or, if the horse is in transit when the notice of cancellation is

received, on the premises where it is next scheduled to compete, perform, or be exhibited according to the import permit. The stall in which the horse is kept must be separated from other stalls containing horses that are not listed on the import permit, either by an empty stall, by an open area across which horses cannot touch each other, or by a solid wall that is at least 8 feet (2.4 meters) high. In cases where the owners of the above specified premises do not permit the horse to be kept on those premises, or when the Administrator determines that keeping the horse on the above specified premises will pose a disease risk to horses in the United States, the horse must be kept, at the expense of the owner or importer, on an alternative premises approved by the Administrator.

(10) Stallions or mares over 731 days of age that are imported in accordance with paragraphs (f)(1) or (f)(2) of this section may be eligible to remain in the United States if the following is completed:

(i) Following completion of the itinerary specified in the import permit provided for in § 93.304, the horse's owner or importer applies for and receives a new import permit that specifies that the stallion or mare will be moved to an approved State listed in paragraph (h)(6) or (h)(7) of this section; and

(ii) The stallion or mare is transported in a sealed vehicle that has been cleaned and disinfected to an approved facility in an approved State where it is quarantined under State or Federal supervision until the stallion or mare has met the testing and treatment requirements of paragraph (e)(3) or (e)(5) of this section.

(11) All costs and charges associated with the supervision and maintenance of a horse imported under paragraphs (f)(1) or (f)(2) of this section will be borne by the horse's owner or importer. The costs associated with the supervision and maintenance of the horse by an APHIS representative at his or her usual places of duty will be reimbursed by the horse's owner or importer through user fees payable under part 130 of this chapter.

(12) In the event that an APHIS representative must be temporarily detailed from his or her usual place of duty in connection with the supervision and maintenance of a horse imported under this paragraph (f), the owner or importer of the horse must execute a trust fund agreement with APHIS to reimburse all expenses (including travel costs, salary, per diem or subsistence, administrative expenses, and incidental expenses) incurred by the Department in connection with the temporary detail. Under the trust fund agreement, the horse's owner or importer must deposit with APHIS an amount equal to the estimated cost, as determined by APHIS, for the APHIS representative to inspect the premises at which the horse will compete, perform, or be exhibited; to conduct the monitoring required by paragraph (f)(5)(iii) of this section; and to supervise the cleaning and disinfection required by paragraph (f)(5)(ix) of this section. The estimated costs will be based on the following factors:

(i) Number of hours needed for an APHIS representative to conduct the required inspection and monitoring;

(ii) For services provided during regular business hours (8 a.m. to 4:30 p.m., Monday through Saturday, except holidays), the average salary, per hour, for an APHIS representative;

(iii) For services provided outside regular business hours, the applicable rate for overtime, night differential, or Sunday or holiday pay, based on the average salary, per hour, for an APHIS representative;

(iv) Number of miles from the premises at which the horse competes, performs, or is exhibited to the APHIS office or facility that is monitoring the activities;

(v) Government rate per mile for automobile travel or, if appropriate, cost of other means of transportation between the premises at which the horse competes, performs, or is exhibited and the APHIS office or facility;

(vi) Number of trips between the premises at which the horse competes, performs, or is exhibited and the APHIS office or facility that APHIS representatives are required to make in order to conduct the required inspection and monitoring;

(vii) Number of days the APHIS representative conducting the inspection and monitoring must be in ''travel status'';

(viii) Applicable Government per diem rate; and

(ix) Cost of related administrative support services.

(13) If a trust fund agreement with APHIS has been executed by the owner or importer of a horse in accordance with paragraph (f)(12) of this section and APHIS determines, during the horse's stay in the United States, that the amount deposited will be insufficient to cover the services APHIS is scheduled to provide during the remainder of the horse's stay, APHIS will issue to the horse's owner or importer a bill to restore the deposited amount to a level sufficient to cover the estimated cost to APHIS for the remainder of the horse's stay in the United States. The horse's owner or importer must pay the amount billed within 14 days after receiving the bill. If the bill is not paid within 14 days after its receipt, APHIS will cease to perform the services provided for in paragraph (f)(5) of this section until the bill is paid. The Administrator will inform the owner or importer of the cessation of services orally or in writing. If the notice of cessation is oral, the Administrator will confirm, in writing, the notice of cessation and the reason for the cessation of services as soon as circumstances permit. In such a case, the horse must be kept, at the expense of the owner or importer and until the bill is paid, in a stall either on the premises at which the horse is located when the notice of cessation of services is received or, if the horse is in transit when the notice of cessation of services is received, on the premises at which it is next scheduled to compete, perform, or be exhibited according to the import permit. The stall in which the horse is kept must be separated from other stalls containing horses that are not listed on the import permit, either by an empty stall, by an open area across which horses cannot touch each other, or by a solid wall that is at least 8 feet (2.4 meters) high. In cases where the owners of the premises where the horse would be kept following a cessation of services do not permit the horse to be kept on those premises, or when the Administrator determines that keeping the horse on the premises will pose a disease risk to other horses in the United States, the horse must be kept, at the expense of the owner or importer, on an alternative premises approved by the Administrator. Until the bill is paid, the horse is not permitted to enter competition, perform, or be exhibited. Any amount deposited in excess of the costs to APHIS to provide the required services will be refunded to the horse's owner or importer.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0579–0040, 0579–0165, and 0579–0324).

■ 3. Section 93.304 is amended as follows:

■ a. In paragraph (a)(1)(ii), by removing the citation ''§ 93.301(f)'' both times it occurs and adding the citation ''§ 93.301(f)(1)'' in its place.

■ b. By redesignating paragraph (a)(1)(iii) as paragraph (a)(1)(iv) and adding a new paragraph (a)(1)(iii) to read as set forth below.

■ c. By adding an Office of Management and Budget citation at the end of the section to read as set forth below.

§ 93.304 Import permits for horses from regions affected with CEM and for horse specimens for diagnostic purposes; reservation fees for space at quarantine facilities maintained by APHIS.

(a) *Application for permit; reservation required.* (1) * * *

(iii) Horses intended for importation under § 93.301(f)(2) must meet the permit requirements of paragraph (a)(1)(i) of this section. Additionally, for horses intended for importation under § 93.301(f)(2), the horse's owner or importer must include the following information with the application for permit that is required by paragraph (a)(1)(i) of this section:

(A) The individual identifying information required in paragraph (a)(1)(i) of this section for all horses to be imported.

(B) The permanent electronic identification of each horse to be imported, if applicable. In the event that a horse has permanent electronic identification, the horse must be accompanied by a compatible reader.

(C) Photographs (head and lateral views) that are sufficient to identify each horse on an electronic medium approved by APHIS.

(D) The proposed total length of stay in the United States.

(E) A description of the shows or events in which the horse will perform while in the United States.

(F) The names, dates, and locations of the venues in which the horse will perform while in the United States.

(G) The names and locations of the premises on which the horse will be kept while in the United States, and the dates the horse will be kept on each premises.

(H) The methods and routes by which the horse will be transported while in the United States.

(I) A written plan for handling sick or injured horses that includes:

(*1*) The name, address, and phone number of each accredited veterinarian who will provide veterinary services in the United States;

(*2*) The name, address, and phone number of medical facilities to be used to diagnose or treat sick or injured horses while in the United States; and

(*3*) A plan to return sick or injured horses to performance condition.

(J) An application for a trust fund or escrow account agreement with APHIS in accordance with § 93.301(f)(12).

* * * * *

(Approved by the Office of Management and Budget under control numbers 0579–0040 and 0579–0324).

Done in Washington, DC, this 29th day of May 2008.

Cindy J. Smith,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–12543 Filed 6–4–08; 8:45 am]

BILLING CODE 3410–34–P

FARM CREDIT ADMINISTRATION

12 CFR Part 652

RIN 3052–AC36

Federal Agricultural Mortgage Corporation Funding and Fiscal Affairs; Risk-Based Capital Requirements

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, Agency, or we) adopts a final rule that amends capital regulations governing the Federal Agricultural Mortgage Corporation (Farmer Mac or the Corporation). The final rule updates the Risk-Based Capital Stress Test (RBCST, RBC model, model) in response to recent changes in Farmer Mac's operations that are not addressed in the current version (Version 2.0). The final rule also amends the current model's assumption regarding the carrying costs of nonperforming loans to better reflect Farmer Mac's actual business practices. In addition, the final rule adds a new component to the model to recognize counterparty risk on nonprogram investments through application of discounts or ''haircuts'' to the yields of those investments and makes technical amendments to the layout of the model's Credit Loss Module. The effect of the rule is to update the model so that it continues to appropriately reflect risk in a manner consistent with statutory requirements for calculating Farmer Mac's regulatory minimum capital level under a risk-based capital stress test.

DATES: *Effective Date:* This regulation will be effective the later of 30 days after publication in the **Federal Register** during which time either or both Houses of Congress are in session, or June 30, 2008. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Connor, Associate Director for Policy and Analysis, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TTY (703) 883–4434;

or

Rebecca S. Orlich, Senior Counsel, Office of the General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4420, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 8.32 of the Farm Credit Act of 1971, as amended,[1] the FCA established the RBCST for Farmer Mac in 2001. It is the Agency's objective that the RBCST continues to determine regulatory capital requirements in a manner consistent with statutory requirements and constraints. The purpose of this final rule is to revise the risk-based capital regulations that apply to Farmer Mac to more accurately reflect changes in Farmer Mac's operations and business practices. The substantive issues addressed in this final rule include the treatment of program loan volume with certain credit enhancement features (e.g., Off-Balance Sheet AgVantage volume, subordinated interests, and program loan collateral pledged in excess of Farmer Mac's guarantee obligation (hereafter, ''overcollateral'')), counterparty risk on nonprogram investments, and the carrying costs associated with the funding of nonperforming loans. We also describe minor formatting changes to the structure of the Credit Loss Module and the RBC model that are in the nature of technical changes. The preamble to the proposed rule, which was published in the **Federal Register** on September 13, 2007, contains a full description of the proposed changes. The proposed rule provided for a 45-day comment period that ended on October 29, 2007.[2] Below we discuss only those provisions on which we received comments.

The final rule (Version 3.0 of the RBC model) is adopted with one revision from the proposed rule. The revision permits the Director of the Office of Secondary Market Oversight to reduce the haircut level applied to unrated investments.

II. Background

Our analysis of the RBCST has identified a need to update the model in response to changing financial markets, new business practices and the evolution of the loan portfolio at Farmer Mac, as well as continuing development of industry best practices among leading financial institutions. Our goal is to ensure that the RBCST reflects changes in the Corporation's business structure and loan portfolio that have occurred

[1] 12 U.S.C. 2279bb–1.

[2] 72 FR 52301 (Sept. 13, 2007).