

Proposed Rules

Federal Register

Vol. 65, No. 64

Monday, April 3, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 99-054-1]

Spanish Pure Breed Horses from Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations that govern the importation of Spanish Pure Breed horses from Spain, a country in which contagious equine metritis, a venereal disease of horses, may exist. We would allow Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from certain other regions in which contagious equine metritis either exists or may exist. We are proposing this action because Spanish Pure Breed horses, like thoroughbred horses from those other regions, are less likely to be infected with contagious equine metritis than other horses, largely because the life history and medical records of each horse is known and can be certified by a veterinarian of the national government of the region of origin. This action would relieve some restrictions on the importation of Spanish Pure Breed horses into the United States.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by June 2, 2000.

ADDRESSES: Please send your comment and three copies to:

Docket No. 99-054-1, 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. 99-054-1.

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 rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Morley Cook, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-6479.

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, including contagious equine metritis (CEM). CEM is a contagious venereal disease of horses and other equidae that affects breeding and fertility.

To prevent the introduction of CEM, § 93.301(c)(1) lists regions in which CEM exists or in which CEM may exist because those regions have traded horses freely with regions in which CEM exists without testing for CEM. These regions are referred to below as listed regions. Paragraph (c)(1) prohibits the importation of horses into the United States from listed regions unless the horses are imported in accordance with certain requirements. The horses must be:

- Wild 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;
- Horses imported in specific cases under conditions prescribed by the Administrator of APHIS as provided in § 93.301(a);
- 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 for permanent entry as provided in § 93.301(e) (which requires pre-export testing, Federal quarantine upon arrival, and post-entry quarantine in a State approved to receive horses from listed regions);

- Horses over 731 days of age imported for no more than 90 days to compete in specified events as provided in § 93.301(f); or

- U.S. horses returning to the United States as provided in § 93.301(g).

The Equine Breeding Service of the Spanish Government has requested that we amend the regulations to allow Spanish Pure Breed horses to be imported into the United States from Spain under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. Currently, Spanish Pure Breed horses other than weanlings and yearlings may be imported for permanent entry into the United States only in accordance with § 93.301(e). France, Germany, Ireland, and the United Kingdom are listed regions, as is Spain. However, the requirements in § 93.301(d) for importing thoroughbred horses from France, Germany, Ireland, and the United Kingdom are less restrictive than the requirements in § 93.301(e) because the life history and medical records of each thoroughbred horse imported from these countries is known and can be certified by a veterinarian of the national government of the region of origin.

Under § 93.301(d), each thoroughbred horse from France, Germany, Ireland, and the United Kingdom must be accompanied at the time of importation by an import permit and an import health certificate. The requirements related to import permits are contained in § 93.304 of the regulations. The requirements related to import health certificates are contained in § 93.314 of the regulations.

According to § 93.314, an import health certificate must be issued by a salaried veterinary officer of the national government of the region of origin, and it must certify that each horse has been in that region for the 60 days preceding exportation; that each horse has been inspected on the premises of origin and has been found free of evidence of communicable disease, and exposure to communicable disease, during the 60 days preceding exportation; and that each horse has not

been vaccinated with a live, attenuated, or inactivated vaccine for the 14 days preceding exportation, unless authorized by the Administrator of APHIS.

Paragraph (d) of § 93.301 requires that the veterinarian signing and issuing the import health certificate also certify that he or she has examined the daily records of the horse's activities maintained by the trainer and the records of the horse's activities maintained by a breed association that is specifically approved by the U.S. Department of Agriculture. The veterinarian must certify that the information in these records is consistent and current.

For thoroughbred horses over 731 days of age, the import health certificate must also certify that cultures negative for CEM have been obtained from sets of specimens collected from each horse on 3 separate occasions within a 7-day period. The last set of specimens must have been collected within 30 days of exportation. All specimens must have been received within 48 hours of collection by a laboratory approved to culture for CEM by the national veterinary service of the region of export. All specimens must have been accompanied by a statement indicating the time and date of their collection.

Under § 93.301(d), if any specimen is found positive for CEM, the horse it was collected from must be treated for CEM in a manner approved by the national veterinary service of the region of export. After the treatment is completed, at least 21 days must pass before the horse is eligible to be tested again.

Additionally, § 93.301(d) requires that thoroughbred horses imported from France, Germany, Ireland, and the United Kingdom complete the Federal quarantine required under § 93.308 before they can be released in the United States. Thoroughbred horses that were found positive for, and were treated for, CEM in the region of export must be further quarantined under State or Federal supervision until they have met the additional testing and treatment requirements in § 93.301(e)(3) for stallions or § 93.301(e)(5) for mares.

Under § 93.301(e)(3), specimens must be collected from each stallion's prepuce, urethral sinus, and fossa glandis, including the diverticulum of the fossa glandis, and must be cultured for CEM. If the results are negative, the stallion must be test bred to two mares, after which the stallion must undergo the following treatment for 5 consecutive days: the prepuce, the penis, including the fossa glandis, and the unretrethral sinus of the stallion must be thoroughly cleaned and scrubbed

with a solution of not less than 2 percent surgical scrub chlorhexidine, while the stallion is in full erection, and then thoroughly coated with an ointment effective against the CEM organism.

Cultures must be made from sets of specimens collected from the mucosal surfaces of the clitoral fossa and clitoral sinuses of each test mare on the third, sixth, and ninth days after test breeding. A complement fixation test for CEM must be performed on each test mare on the fifteenth day after the test breeding. If the result of any culture taken from either of the test mares or from the stallion is positive for CEM, the stallion must undergo the treatment described above and then be test bred again to two mares no sooner than 21 days after the last day of the treatment. Treatment and test breeding must be repeated until all tests are negative for CEM.

Under § 93.301(e)(5), sets of specimens must be taken from mares on days 1, 4, and 7 of a 7-day period. The specimens must be taken from the mucosal surfaces of the clitoral fossa and the clitoral sinuses and cultures must be made. After the three sets of specimens have been taken, organic debris must be manually removed from the clitoral sinuses of each mare and the sinuses must be flushed with a cerumalytic agent. For 5 consecutive days after the sinuses of the mare have been cleaned, the external genitalia and vaginal vestibule, including the clitoral fossa, must be aseptically cleaned and washed with a solution of not less than 2 percent chlorhexidine in a detergent base, and then the clitoral fossa and the clitoral sinuses must be filled and the external genitalia and vaginal vestibule must be coated with an antibiotic ointment effective against the CEM organism. All test results must be negative for CEM before the mare may be released from quarantine. If any test is positive, the mare must be treated again and then tested no less than 21 days after the last day of the treatment described above. Treatment and testing must be repeated until all tests are negative for CEM.

All specimen collections, test breeding, and treatments required under § 93.301(e)(3) and § 93.301(e)(5) must be performed by an accredited veterinarian. All specimens must be submitted to the National Veterinary Services Laboratories, Ames, IA, or to a laboratory approved by the Administrator to conduct CEM cultures and tests. All test results must be negative for CEM before the horses may be released from quarantine.

These conditions ensure that thoroughbred horses imported into the

United States from France, Germany, Ireland, and the United Kingdom are free of CEM.

At the request of the Equine Breeding Service of the Spanish Government, we are proposing to allow Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. We would add the Servicio de Cria Caballar y Remonta as the breed association that is specifically approved by the U.S. Department of Agriculture for the purposes of § 93.301(d).

The Spanish Pure Breed horse is only one of seven or eight breeds of purebred horses originating in Spain, but current and accurate historical and medical information is not readily available for the other breeds, so they are not included in this proposed rule. This action would relieve some restrictions on the importation of Spanish Pure Breed horses from Spain (i.e., the horses would not have to undergo the testing and treatment requirements in § 93.301(e)(3) and § 93.301(e)(5) unless they were found positive for, and were treated for, CEM prior to exportation).

We have conducted a risk assessment for this proposed rule to ensure that this action would pose a negligible risk of introducing CEM into the United States. The risk assessment contains a qualitative analysis of 11 risk factors, which are listed in 9 CFR part 92, "Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions," and a quantitative analysis that evaluates the frequency with which a Spanish Pure Breed horse infected with CEM might be imported from Spain into the United States if this proposed rule were adopted.

According to the qualitative analysis of the risk assessment, Spain is likely to be free of CEM. Additionally, Spanish veterinary authorities have the capabilities needed to culture and diagnose CEM. Routine breeding soundness examinations and investigations of reproductive diseases and reproductive failures conducted by the Spanish Government and military veterinarians would detect CEM if it were to occur in Spanish Pure Breed horses. There has never been a reported case of CEM in Spain. However, even if CEM were introduced into Spain, there is very little chance that it would affect the Spanish Pure Breed population since Spain does not import Spanish Pure Breed horses and Spanish Pure Breed horses are not bred with other breeds.

The quantitative analysis evaluates the number of Spanish Pure Breed horses that are likely to be imported from Spain, the probability that a randomly selected horse would be infected with CEM, and the probability that the infection would be detected by the testing required under this proposed rule.

According to the quantitative analysis, the predicted average frequency, with a 95 percent confidence level, with which a Spanish Pure Breed horse infected with CEM would be released into the United States is once every 700 years or less often. With a 50 percent confidence level, the predicted average frequency is one release every 2,300 years or less often.

Thus, based on the risk assessment, we have determined that this action would pose a negligible risk of introducing CEM into the United States.

The complete risk assessment for this proposed rule may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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 proposed rule would allow Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. We are considering this action in response to a request we have received from Spain's Equine Breeding Service to relieve some of the restrictions on the importation of Spanish Pure Breed horses from Spain since the life histories and medical records of these horses can be certified by Spanish Government veterinarians.

The following analysis addresses the economic effect the proposed rule would have on small entities, as required by the Regulatory Flexibility Act.

In 1997, there were 375,218 farms in the United States keeping 2,427,277 horses of all kinds. Approximately 79,516 farms sold 325,306 horses, receiving \$1.03 billion in sale revenues. Approximately 98 percent of the farms that sold horses have less than \$500,000 in annual revenue and, therefore, are considered small entities by the U.S. Small Business Administration.

U.S. importers and breeders of Spanish Pure Breed horses would be

affected by this rule. This rule would make it less expensive for importers to import Spanish Pure Breed horses from Spain.

There are approximately 270 domestic breeders of Spanish Pure Breed horses in the United States, most of which are likely to be small entities. In 1998, there were approximately 2,500 Spanish Pure Breed horses in the United States and only 225 foals were registered that year.

In 1995 and 1996, 4 horses (not all of which were Spanish Pure Breed horses) were imported into the United States from Spain; there were 21 horses in 1997, 39 in 1998, and 46 in 1999. If the proposed rule is adopted, we estimate that the number of Spanish Pure Breed horses imported into the United States from Spain will most likely increase to an average of about 60 per year, for the next 3 to 5 years, with a maximum of 100 in any given year.

Currently, the demand for Spanish Pure Breed horses in the United States is greater than can be supplied by domestic breeders and the small number of these horses imported from Costa Rica, Mexico, and Spain. In 1997, 225 Spanish Pure Breed foals were registered in the United States, while a total of 50 were imported into the United States from all over the world, despite the high costs of shipping (approximately \$5000 per horse for air freight plus insurance against mortality, figured at 1 percent of the horse's declared value), quarantine, and testing. Because domestic Spanish Pure Breed horses are less expensive than imports, the demand for domestic Spanish Pure Breed horses would not decrease as a result of this rule. This rule would help satisfy the growing demand for the horses in the United States, and make it less expensive for U.S. breeders and importers to obtain them from Spain.

We do not expect domestic breeders of Spanish Pure Breed horses to be affected by this rule if it is adopted, since the demand in the United States for Spanish Pure Breed horses is greater than the domestic supply and since domestic Spanish Pure Breed horses will still be less expensive than imported ones.

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with

this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 99-054-1. Please send a copy of your comments to: (1) Docket No. 99-054-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule may increase the number of import permits and import health certificates that will be issued for the importation of thoroughbred horses into the United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

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

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

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

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

Estimate of burden: Public reporting burden for this collection of information is estimated to average .78947 hours per response.

Respondents: Salaried veterinary officers of the Spanish Government and U.S. importers of Spanish Pure Breed horses.

Estimated annual number of respondents: 15.

Estimated annual number of responses per respondent: 6.333.

Estimated annual number of responses: 95.

Estimated total annual burden on respondents: 75 hours.

(Due to rounding, the total annual burden may not equal the product of the annual responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 93

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

Accordingly, we propose to amend 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, 11, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.301 [Amended]

2. In § 93.301, footnote 6 would be amended by adding the words “Servicio de Cria Caballar y Remonta for Spain;” immediately after the word “Department.”.

3. In § 93.301, paragraph (c)(2)(v), the heading to paragraph (d), and the introductory text in paragraph (d)(1) would be revised to read as follows:

§ 93.301 General prohibitions; exceptions.

* * * * *

(c) * * *

(2) * * *

(v) 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 if the horses meet the requirements of paragraph (d) of this section;

* * * * *

(d) *Spanish Pure Breed horses from Spain and thoroughbred horses from France, Germany, Ireland, and the United Kingdom.* (1) Spanish Pure Breed horses from Spain and thoroughbred horses from France, Germany, Ireland, and the United Kingdom may be imported for permanent entry if the horses meet the following requirements:

* * * * *

4. In § 93.301, in paragraph (d)(1)(ii)(D), the first sentence, the words “For thoroughbred horses” would be removed and the words “For Spanish Pure Breed horses and thoroughbred horses” would be added in their place.

5. In § 93.301, in paragraph (d)(3), the words “Thoroughbred horses” would be removed and the words “Spanish Pure Breed horses and thoroughbred horses” would be added in their place each time they appear.

Done in Washington, DC, this 28th day of March 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–8123 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–34–U

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 915

[No. 2000–12]

RIN 3069–AB00

Election of Federal Home Loan Bank Directors

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulations to address the status of the 1999 and 2000 elections of directors at each Federal Home Loan Bank (Bank), and to provide standards regarding the manner in which the Banks must stagger their boards. The proposed rule also would address the consequences to an incumbent director whose directorship is eliminated or is redesignated as representing Bank members located in a different state before the end of his or her term.

EFFECTIVE DATE: The Finance Board will accept written comments on the rule until May 3, 2000.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley, Deputy General Counsel, (202) 408–2990, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

During 1999, each Bank conducted elections in which the members voted to elect approximately one-half of the elected directors of the Bank. The directors-elect were to have assumed office for two-year terms, commencing on January 1, 2000. On November 12, 1999, the Gramm-Leach-Bliley Act, Pub. Law No. 106–102, 133 Stat. 1338, 1453 (Nov. 12, 1999) (GLB Act), became law, amending Section 7(d) of the Federal Home Loan Bank Act (Bank Act) to establish 3-year terms for all Bank directors. 12 U.S.C. 1427(d), as amended. Because the GLB Act amendments became law upon enactment, they had the effect of extending the two-year terms of all incumbent elected directors by one year.¹ Thus, on January 1, 2000, there were no open directorships for the directors-elect to fill, and those individuals did not assume office on that date.

In previously addressing the effect of the GLB Act on the terms of Bank directorships, the Finance Board expressed its intent to authorize the board of directors of each Bank to decide whether to conduct new elections in 2000 or to adopt the tabulation of votes cast in the 1999 elections for use in the 2000 elections. Finance Board Resolution No. 99–65 (Dec. 14, 1999). The Finance Board indicated that it subsequently would establish the criteria by which the board of each Bank could make that decision, which is one issue addressed in this proposed rulemaking.

The GLB Act also provides that the Finance Board and the board of directors of each Bank shall adjust the term of any director first appointed or elected after enactment of the GLB Act, as necessary to cause the board of each Bank to be staggered into three approximately equal classes. 12 U.S.C. 1427(d), as amended. The GLB Act, however, imposed the staggering requirement without amending existing law, under which the directorships of the Banks are allocated among the states based in part on the amount of Bank stock held by the members located in each state and in part on the number of directorships designated to each state in

¹ See Finance Board Resolution No. 99–65 (Dec. 14, 1999). The GLB Act also had the effect of shortening the terms of all sitting appointed directors from four years to three years. An express transition provision in an earlier version of H.R. 10, which would have mandated that the new 3-year terms take effect with the first post-enactment elections, was not carried over into the GLB Act. H.R. 10, § 164(d), 105th Cong., 2d Sess. (May 13, 1998) (as passed by the House of Representatives).