

Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulations adopted herein will not have substantial different effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rules does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 8 CFR Part 274a

Administrative practice and procedure, Alien employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, part 274a of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

1. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

2. In § 274a.2 paragraph, (a) is amended by revising the fifth and sixth sentences to read as follows:

§ 274a.2 Verification of employment eligibility.

(a) *General.* * * * Employers may electronically generate blank Forms I-9, provided that: the resulting form is legible; there is no change to the name, content, or sequence of the data elements and instructions; no additional data elements or language are inserted; and the paper used meets the standards for retention and production for inspection specified under § 274a.2(b). When copying or printing the Form I-9, the text of the two-sided form may be reproduced by making either double-sided or single-sided copies. * * *

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3. Section 274a.9 is amended by:

- a. Revising the third sentence of paragraph (b);
- b. Redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e) and (f) respectively; and
- c. Adding a new paragraph (c), to read as follows:

§ 274a.9 Enforcement procedures.

* * * * *

(b) *Investigation.* * * * If it is determined after investigation that the person or entity has violated section 274A of the Act, the Service may issue

and serve a Notice of Intent to Fine or a Warning Notice upon the alleged violator. * * *

(c) *Warning notice.* The Service and/or the Department of Labor may in their discretion issue a Warning Notice to a person or entity alleged to have violated section 274A of the Act. This Warning Notice will contain a statement of the basis for the violations and the statutory provisions alleged to have been violated.

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Dated: August 8, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96-25659 Filed 10-4-96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 95-054-2]

Importation of Horses from CEM Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations regarding the importation of horses from countries affected with contagious equine metritis by incorporating new testing and treatment protocols for mares and stallions, providing for the use of accredited veterinarians to monitor horses temporarily imported into the United States for competition purposes, incorporating a new testing protocol for thoroughbred horses in training in their country of origin, and removing the requirements for endometrial cultures and clitoral sinusectomies in mares. These changes will update, clarify, and streamline the existing regulations and will simplify the requirements for importing horses from countries affected with contagious equine metritis without increasing the risk of the disease being introduced into or disseminated within the United States.

EFFECTIVE DATE: November 6, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Bowling, Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-6479; or E-mail: jbowling@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (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, §§ 92.300 through 92.326 of the regulations, pertains to the importation of horses into the United States. Sections 92.301 and 92.304 of the regulations contain specific provisions for the importation and post-entry handling of horses from countries affected with contagious equine metritis (CEM), a highly contagious bacterial venereal disease.

On June 4, 1996, we published in the Federal Register (61 FR 28073-28085, Docket No. 95-054-1) a proposal to amend the regulations by:

- Reorganizing the CEM regulations to eliminate duplication and to make their provisions easier to find and use;
- Removing the requirements for clitoral sinusectomies and endometrial cultures in female horses and establishing new protocols for the collection of specimens for culturing;
- Incorporating new testing and treatment protocols for stallions and test mares;
- Incorporating a new testing protocol for thoroughbred horses in training in their country of origin; and
- Providing for the use of accredited veterinarians to monitor horses from CEM-affected countries that are temporarily in the United States for competition purposes.

We solicited comments concerning our proposal for 60 days ending August 5, 1996. We received eight comments by that date. They were from a horse transporter/customs house broker, a State veterinarian, two private practice veterinarians, two thoroughbred owners/breeders associations, a horse industry council, and the director of a CEM quarantine facility. All of the commenters supported the proposed rule, although six of them offered suggestions or sought clarification regarding the changes proposed in the proposed rule. Those comments are discussed below.

Collection of Specimens

In the proposed rule, we proposed that for all mares over 731 days of age offered for importation or in quarantine in an approved State, specimens would be collected from the mucosal surfaces of the urethra, clitoral sinuses, and cervix. Six of the commenters disagreed with those proposed collection sites for two main reasons: (1) The commenters

pointed out that experience in Europe and the United States has shown the clitoral fossa, including the clitoral sinuses, to be the site from which the CEM organism is most likely to be located, and (2) the commenters all expressed reservations about the collection of specimens from the cervix of pregnant mares, given the risk of infection or even abortion that could result from swabbing that site. Based on those considerations, the commenters suggested that the urethra and cervix be eliminated as collection sites and that the clitoral fossa be added as a collection site. We agree with the reasoning and suggestions of the commenters and have, therefore, changed the collection sites for samples from female horses in this final rule. Specifically, we have changed the testing requirements for female thoroughbred horses in § 92.301(d)(1)(ii)(D), mares over 731 days of age in § 92.301(e)(1)(iii), and test mares in §§ 92.301(e)(3)(i)(B), 92.301(e)(4)(ii), and 92.301(e)(5)(i) to require that specimens for culturing be collected from the clitoral fossa and clitoral sinuses.

Treatment in Country of Origin

We had proposed to remove certain specific treatment instructions for stallions diagnosed with CEM in their country of origin and replace them with the requirement that the stallion be treated for CEM in a manner approved by the national veterinary service of the country of origin. One commenter was concerned that the treatment protocols used in a stallion's country of origin may not be as demanding as those that would be required by the Animal and Plant Health Inspection Service (APHIS) and thus may not eliminate the CEM organism; rather, the commenter suggested, the stallions should be treated in a manner approved in the country of destination, i.e., the United States.

As noted in the proposed rule, the treatments performed in the country of origin and the dates of the treatments will have to be recorded on the horse's health certificate, so APHIS will have the opportunity to consider the treatments used when the stallion is offered for importation into the United States. Further, we will continue to require that the stallion be retested no less than 21 days following the completion of treatment and found free of CEM before it will be eligible to enter the United States. Because that retesting requirement will be in place, we believe that allowing the national veterinary service of the country of origin to use its discretion in deciding the appropriate

treatment for stallions that have been found to be positive for CEM will not result in an increased risk of CEM-infected stallions entering the United States. We have not, therefore, made any changes in response to that comment.

Treatment and Cleaning Protocol

The proposed rule also included a proposed protocol for the treatment and cleaning of the clitoral sinuses of mares over 731 days of age imported into an approved State. The protocol involved the flushing of the clitoral sinuses with a cerumalytic agent, followed by 5 days of cleaning the external genitalia and vaginal vestibule, including the clitoral fossa, with a solution of not less than 2 percent chlorhexidine in a detergent base and then filling the clitoral fossa and sinuses, and coating the external genitalia and vaginal vestibule, with an antibiotic ointment effective against the CEM organism. Three of the commenters were concerned that the 5 consecutive days of cleaning and coating would be irritating and even painful to a mare and would likely result in the mare violently resisting the treatment, which would pose a risk of injury to both the mare and the person doing the cleaning and possibly result in the procedure not being completed properly. Two commenters suggested that if the cleaning procedure were conducted properly and thoroughly, the period of treatment could be reduced to 3 or even 2 days.

The researchers who developed the cleaning and treatment procedure described above concluded that the cleaning and flushing of the clitoral sinuses should be followed by 5 consecutive days of washing and application of ointment to ensure that the treatment is effective. We will, therefore, retain the requirement for 5 days of post-flush treatment. We acknowledge that a mare undergoing the treatment may well become anxious or irritated as a result of the repeated handling of the genitalia and thus require restraint or anesthesia; if that is the case, the quarantine center personnel would be able to note the change in the mare's disposition and take whatever precautions they deem necessary to prevent any harm coming to them and to the mare. If subsequent research indicates that the procedure should be modified to reduce the length of treatment or increase its effectiveness, we will publish a new proposed rule in the Federal Register to modify the procedure. We have not, however, made any changes to the procedure in this final rule.

Clitoral Sinusectomy

We had proposed to eliminate the requirement that certain mares undergo a clitoral sinusectomy because the availability of procedures for the cleaning and treatment of the clitoral sinuses to eliminate the CEM organism had rendered clitoral sinusectomies unnecessary. One commenter did not agree and recommended that the clitoral sinusectomy be retained for use on mares that had tested positive for CEM, rather than depending on the cleaning and treatment procedure to eliminate the CEM organism. The cleaning and treatment procedure, the commenter suggested, could be retained for use on mares that had tested negative for CEM.

We have full confidence in the efficacy of the procedures described in the proposed rule for flushing and cleaning the clitoral sinuses, cleaning and washing the external genitalia and vaginal vestibule, and filling the clitoral fossa and sinuses and coating the external genitalia and vaginal vestibule with an antibiotic ointment effective against the CEM organism. This procedure has been shown to effectively eliminate debris that could harbor the CEM organism, which we believe renders clitoral sinusectomies in all mares, whether they have been diagnosed with CEM or not, unnecessary. We have, therefore, made no changes in response to that comment.

High-Risk Mares

Two commenters suggested that mares that had been diagnosed with and treated for CEM in their country of origin prior to importation into the United States should be classified as "high-risk mares." The commenters did not recommend that any additional restrictions be placed on such mares, but only that APHIS notify the animal health authorities in the approved State to which a high-risk mare has been consigned when the mare is released from CEM quarantine.

Under the provisions of the regulations, a mare cannot be imported into the United States from a CEM country until a set of specimens has been collected from the mare and cultured negative for CEM. Once the mare has been imported into the United States and released from Federal port-of-entry quarantine, specimens must be collected from that mare three more times over a 7-day period and cultured, all with negative results. The mare must then undergo the cleaning and treatment procedure described in the previous paragraphs. Only after the mare has satisfied all those requirements may it

be released from quarantine. With these requirements in place, we are confident that any mare released from quarantine will be free from CEM; in that case, one mare would not present a higher risk than another. We do not believe, therefore, that it is necessary to differentiate between mares that have not been diagnosed with CEM and mares that were diagnosed with and effectively treated for CEM prior to their importation into the United States, so we have made no changes to this rule in response to that comment.

Use of Accredited Veterinarians

Two commenters supported the idea of allowing accredited veterinarians to conduct the monitoring required for horses imported for no more than 90 days to compete in specified events, but the commenters suggested that the accredited veterinarians be required to undergo some type of additional training to ensure that they are fully versed in the regulations regarding such temporary importations.

The monitoring required by § 92.301(f)(2)(ii) is to ensure that the horse is kept on a premises approved by an APHIS representative; is kept, except when actually competing or being exercised, in a stall that prevents any contact with other horses; and has no sexual contact with other horses and does not undergo any genital examinations. As noted in the proposed rule, an accredited veterinarian must be familiar with APHIS' animal health programs and regulations in order to be approved by the Administrator to perform the functions associated with those programs, and any accredited veterinarian monitoring temporarily imported horses would be subject to spot checks by an APHIS representative. Although we do not believe that accredited veterinarians will need to receive any additional training, as suggested by the commenter, we believe it would be useful for the APHIS Veterinarian in Charge in the State where the monitoring would take place to check with the accredited veterinarian to make sure that he or she is conversant in the duties and responsibilities associated with the monitoring of temporarily imported horses. We have, therefore, modified § 92.301(f)(2)(ii) in this final rule to state that the Veterinarian in Charge will ensure that the accredited veterinarian is familiar with the requirements of the regulations with regard to monitoring temporarily imported horses.

Release from Quarantine

One commenter sought clarification in three areas regarding the timing or

sequence of certain testing and treatment requirements for stallions and mares in quarantine. First, the commenter asked whether the release of a stallion from quarantine would be a set number of days after it entered quarantine or if the release would be contingent upon the receipt of the results of the complement fixation test conducted 15 days after breeding on the two test mares. The regulations in § 92.301(e)(3)(iii) state that a stallion may be released from quarantine only if all cultures and tests of specimens from the mares used for test breeding are negative for CEM and all cultures performed on specimens taken from the stallion are negative for CEM. Because the results of all tests and cultures must be negative before the stallion can be released from quarantine, the release of a stallion from quarantine would indeed be contingent upon the receipt of the results of the complement fixation tests.

The commenter also noted that because many imported stallions have no previous breeding experience, it often takes several days to train them to safely breed a mare. Under the provisions described in the proposed rule, the stallion is test bred to two mares after it has been cultured negative for CEM, which the commenter speculated could be as soon as the stallion's first day in quarantine. The commenter recommended, therefore, that some flexibility should be built into the regulations to allow the quarantine facility staff sufficient time to train imported stallions to safely breed the test mares. Because there is no set time limit in the regulations for the completion of the test breeding, the flexibility sought by the commenter is, in fact, already present. The regulations in § 92.301(e)(3)(i) require only that the test breeding take place after negative results have been obtained from the stallion's CEM cultures, which is usually at least 2 or 3 days after the collection of specimens. If an imported stallion requires training to safely breed a mare, there is nothing in the regulations to prevent a quarantine facility's staff from taking the time necessary to conduct that training.

Finally, the commenter asked that we clarify the sequence of the actions described in the proposed rule under § 92.301(e)(5), "Testing and treatment requirements for mares." The commenter was uncertain as to whether the washing and packing of the mare's external genitalia and vaginal vestibule was to be conducted prior to, or concurrent with, the collection of specimens from the mare on days one, four, and seven of quarantine. Actually, the washing and packing is to be after

the three sets of specimens have been collected. The required actions are listed sequentially in § 92.301(e)(5): Collect three sets of specimens over 7 days, then clean and flush the sinuses, then wash and pack for 5 consecutive days. The commenter's confusion could be due to a lack of clarity at the start of § 92.301(e)(5)(ii), which begins "Following the collections of specimens * * *" without specifying that all three sets of specimens must be collected before the cleaning and flushing of the clitoral sinuses begins. In order to eliminate that potential source of confusion, we have modified the language in § 92.301(e)(5) in this final rule to make it clear that the collection of specimens is to be completed prior to the cleaning and flushing.

Another instance where a lack of clarity could lead to confusion is in § 92.301(d)(3). That paragraph states that thoroughbred horses found free from CEM and imported under § 92.301(d)(1) may be released after completing the Federal quarantine required under § 92.308; the paragraph does not, however, specify the post-entry requirements for thoroughbred horses over 731 days of age that were found positive for CEM and subsequently treated and retested for CEM as provided by § 92.301(d)(2). It was our intent when drafting the proposed rule that such thoroughbred horses, as is required for all other horses over 731 days of age that have been found positive for CEM and subsequently treated and retested for CEM, should be consigned to an approved State for post-entry testing and treatment. We have, therefore, modified the language in § 92.301(d)(3) to make it clear that thoroughbred horses over 731 days of age that have been treated and retested for CEM in accordance with § 92.301(d)(2) must undergo post-entry quarantine in an approved State.

In addition to the changes discussed above, we have also made several nonsubstantive editorial changes for the sake of clarity or consistency.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

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 rule amends the regulations regarding the importation of horses from countries affected with CEM by incorporating new testing and treatment protocols for mares and stallions, providing for the use of accredited veterinarians to monitor horses temporarily imported into the United States for competition purposes, incorporating a new testing protocol for thoroughbred horses in training in their country of origin, and removing the requirements for endometrial cultures and clitoral sinusectomies in mares. These changes will update, clarify, and streamline the existing regulations and simplify the requirements for importing horses from countries affected with CEM without increasing the risk of the disease being introduced into or disseminated within the United States.

The United States is a net exporter of horses, exporting approximately two horses for every one imported, and unit values for imports and exports slightly favored the United States during fiscal year (FY) 1994 and FY 1995. The unit value of exports was \$3,762 per head in FY 1994, while the unit import value was \$3,336 per head; in FY 1995, these values shifted to \$2,742 per head (export) and \$2,674 per head (import).

In FY 1994, U.S. exports of horses totaled 62,064 head valued at \$233.4 million; in FY 1995, the total was 81,487 head valued at \$223.4 million. Most of those horses were exported to Canada, Mexico, and Western Europe (especially the United Kingdom and Ireland). U.S. imports of horses, on the other hand, are small relative to total inventory and equal about half of U.S. horse exports. In FY 1994, U.S. horse imports totaled 17,881 head valued at \$59.6 million; in FY 1995, the total was 43,545 head valued at \$116.4 million. Canada and Mexico were the source of over 90 percent of all U.S. horse imports in those years. In each year, those imports equaled approximately 1 percent of the domestic horse inventory (USDA, Economic Research Service, "Foreign Agricultural Trade of the United States," Fiscal Year 1995 Supplement). Small entities maintain almost 95 percent of the domestic horse inventory.

The new testing and treatment protocols presented in this document are the only aspects of this rule that are expected to have an economic impact. In each case, the changes will reduce the time required to collect samples, conduct tests, and administer treatments, which will shorten the period that an imported horse will have to spend in quarantine. Because the importer or owner of an imported horse must bear the cost of providing care,

feeding, and handling of the horse during the time it is quarantined for CEM testing and treatment in an approved State, a shorter quarantine period will clearly reduce an owner's or importer's boarding costs. The current course of testing and treatment runs, on average, from 4 to 6 weeks; the testing and treatment protocols in this rule are expected to cut that time frame to 2 to 3 weeks.

We do not expect, however, that these changes will result in an increase of horse imports into the United States. Those countries that can already profitably ship horses to the United States and meet the current requirements of the regulations will not be significantly affected, and those countries that do not currently meet those requirements are not expected to meet the new requirements either.

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

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 92

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

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 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, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 92.300, the definition of *Weanling or yearling* is revised to read as follows:

§ 92.300 Definitions.

* * * * *

Weanling or yearling. Any horse, weaned from its dam, that was foaled not more than 731 days prior to its being offered for entry into the United States. A horse will not be considered to be a weanling or yearling if its first permanent incisors have erupted.

§§ 92.303 and 92.304 [Amended]

3. Sections 92.303 and 92.304 are amended as follows:

a. In § 92.304, footnote 12 and its reference in the section heading are removed.

b. In § 92.303(e), footnote 11 and its reference are redesignated as footnote 12.

4. In § 92.301, paragraph (c) is revised and new paragraphs (d) through (i) are added to read as follows:

§ 92.301 General prohibitions; exceptions.

* * * * *

(c) *Specific prohibitions regarding contagious equine metritis; exceptions—*
(1) *Importation prohibited.* Except as provided in paragraph (c)(2) of this section, notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from any of the following listed countries and the importation of all horses that have been in any listed country within the 12 months immediately preceding their being offered for entry into the United States is prohibited, either because contagious equine metritis (CEM) exists in the listed country or because the listed country trades horses freely with a country in which CEM exists without testing for CEM: Austria, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, France, Germany, Guinea-Bissau, Ireland, Italy,

Japan, the Member States of the European Union, The Netherlands, Norway, Slovakia, Slovenia, Sweden, Switzerland, The Former Yugoslav Republic of Macedonia, the United Kingdom (England, Northern Ireland, Scotland, Wales, and the Isle of Man), and the nonrecognized areas of the former Yugoslavia (Montenegro and Serbia).

Note: Montenegro and Serbia have asserted the formation of a joint independent State entitled "The Federal Republic of Yugoslavia," but this entity has not been formally recognized by the United States.

(2) *Exceptions.* The provisions of paragraph (c)(1) of this section shall not apply to the following:

(i) 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;

(ii) Geldings;

(iii) Weanlings or yearlings whose age is certified on the import health certificate required under § 92.314(a);

(iv) Horses imported in accordance with conditions prescribed by the Administrator as provided in § 92.301(a);

(v) 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;

(vi) Stallions or mares over 731 days of age imported for permanent entry if the horses meet the requirements of paragraph (e) of this section;

(vii) Horses over 731 days of age imported into the United States for no more than 90 days to compete in specified events if the horses meet the requirements of paragraph (f) of this section; and

(viii) Horses temporarily exported from the United States or from another country not known to be affected with CEM to a country listed in paragraph (c)(1) of this section within the 12 months immediately preceding their being offered for entry into the United States if the horses meet the requirements of paragraph (g) of this section.

(d) *Thoroughbred horses from France, Germany, Ireland, and the United Kingdom.* (1) Thoroughbred horses may be imported for permanent entry from France, Germany, Ireland, or the United Kingdom if the horses meet the following requirements:

(i) Each horse is accompanied at the time of importation by an import permit in accordance with § 92.304;

(ii) Each horse is accompanied at the time of importation by an import health

certificate issued in accordance with § 92.314(a). In addition to the information required by § 92.314(a), the veterinarian signing and issuing the certificate shall certify that:

(A) He or she has examined the daily records of the horse's activities maintained by the trainer and certified to be current, true, and factual by the veterinarian in charge of the training or racing stable;

(B) He or she has examined the records of the horse's activities maintained by a breed association specifically approved by the Department⁶ and certified by the breed association to be current, true, and factual for the following information: Identification of the horse by name, sex, age, breed, and all identifying marks; identification of all premises where the horse has been since reaching 731 days of age and the dates that the horse was at such premises; and that none of the premises are breeding premises;

(C) He or she has compared the records maintained by the approved breed association with the records kept by the trainer and has found the information in those two sets of records to be consistent and current;

(D) For thoroughbred horses over 731 days of age, cultures negative for CEM were obtained from sets of specimens collected on 3 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; and

(E) All specimens required by paragraph (d)(1)(ii)(D) of this section were received within 48 hours of collection by a laboratory approved to culture for CEM by the national veterinary service of the country of export and were accompanied by a statement indicating the date and time of their collection.

(2) If any specimen collected in accordance with paragraph (d)(1)(ii)(D)

of this section is found to be positive for CEM, the horse must be treated for CEM in a manner approved by the national veterinary service of the country of export. After the treatment is completed, at least 21 days must pass before the horse will be eligible to be tested again in accordance with paragraph (d)(1)(ii)(D) of this section. All treatments performed, and the dates of the treatments, must be recorded on the health certificate.

(3) Thoroughbred horses imported under paragraph (d)(1) of this section may be released upon completion of the Federal quarantine required under § 92.308. Thoroughbred horses found positive for CEM that have been treated and retested as provided in paragraph (d)(2) of this section shall, upon completion of the Federal quarantine required under § 92.308, be consigned to an approved State listed in paragraph (h)(6) or (h)(7) of this section, where they shall be quarantined under State or Federal supervision until the stallions have met the testing and treatment requirements of paragraph (e)(3) of this section and the mares have met the testing and treatment requirements of paragraph (e)(5) of this section.

(e) *Stallions and mares over 731 days of age from CEM-affected countries.* (1) Stallions or mares over 731 days of age may be imported for permanent entry from a country listed in paragraph (c)(1) of this section if the horses meet the following requirements:

(i) Each horse is accompanied at the time of importation by an import permit issued in accordance with § 92.304. The import permit must indicate that, after completion of the Federal quarantine required in § 92.308, the stallion or mare will be consigned to a State that the Administrator has approved to receive such horses in accordance with paragraph (h) of this section;

(ii) The horses are accompanied at the time of importation by an import health certificate issued in accordance with § 92.314(a);

(iii) A set of specimens must be collected from each horse within 30 days prior to the date of export by a licensed veterinarian who either is, or is acting in the presence of, the veterinarian signing the certificate. For stallions, the specimens must be collected from the prepuce, urethral sinus, and fossa glandis, including the diverticulum of the fossa glandis; for mares, the specimens must be collected from the mucosal surfaces of the clitoral fossa and the clitoral sinuses. All of the specimens collected must be cultured for CEM with negative results in a laboratory approved to culture for CEM

⁶The following breed associations and their record systems have been approved by the Department: Weatherby's Ltd. for the United Kingdom and Ireland; Haras du Pain for France; and Direktorium für Vollblutzucht und Rennen e.v. for Germany.

by the national veterinary service of the country of origin;

(iv) The horses described on the certificate must not have been used for natural breeding, for the collection of semen for artificial insemination in the case of stallions, or for artificial insemination in the case of mares, from the time the specimens were collected through the date of export;

(v) All specimens required by paragraph (e)(1)(iii) of this section must be received within 48 hours of collection by a laboratory approved to culture for CEM by the national veterinary service of the country of export and must be accompanied by a statement indicating the date and time of their collection; and

(vi) If any specimen collected in accordance with paragraph (e)(1)(iii) of this section is found to be positive for CEM, the stallion or mare must be treated for CEM in a manner approved by the national veterinary service of the country of export. After the treatment is completed, at least 21 days must pass before the horse will be eligible to be tested again in accordance with paragraph (e)(1)(ii) of this section. All treatments performed, and the dates of the treatments, must be recorded on the health certificate.

(2) *Post-entry.* (i) Stallions and mares imported under paragraph (e)(1) of this section must complete the Federal quarantine required under § 92.308. Upon completion of the Federal quarantine, stallions must be sent to an approved State listed in paragraph (h)(6) of this section, and mares must be sent to an approved State listed in paragraph (h)(7) of this section.

(ii) Once in the approved State, the stallions or mares shall be quarantined under State or Federal supervision until the stallions have met the testing and treatment requirements of paragraph (e)(3) of this section and the mares have met the testing and treatment requirements of paragraph (e)(5) of this section.

(iii) All tests and cultures required by paragraphs (e)(3) through (e)(5) of this section shall be conducted at the National Veterinary Services Laboratories, Ames, IA, or at a laboratory approved by the Administrator in accordance with paragraph (i) of this section to conduct CEM cultures and tests.

(iv) To be eligible for CEM culture or testing, all specimens collected in accordance with paragraphs (e)(3) through (e)(5) of this section must be received by the National Veterinary Services Laboratories or the approved laboratory within 48 hours of collection and must be accompanied by a

statement indicating the date and time of their collection.

(3) *Testing and treatment requirements for stallions.* (i) Once the stallion is in the approved State, one specimen each shall be taken from the prepuce, the urethral sinus, and the fossa glandis, including the diverticulum of the fossa glandis, of the stallion and be cultured for CEM. After negative results have been obtained, the stallion must be test bred to two test mares that meet the requirements of paragraph (e)(4) of this section. Upon completion of the test breeding:

(A) The stallion must be treated for 5 consecutive days by thoroughly cleaning and washing (scrubbing) its prepuce, penis, including the fossa glandis, and urethral sinus while the stallion is in full erection with a solution of not less than 2 percent surgical scrub chlorhexidine and then thoroughly coating (packing) the stallion's prepuce, penis, including the fossa glandis, and urethral sinus with an ointment effective against the CEM organism.⁷ The treatment shall be performed by an accredited veterinarian and monitored by a State or Federal veterinarian.

(B) Each mare to which the stallion has been test bred shall be cultured for CEM from sets of specimens that are collected from the mucosal surfaces of the clitoral fossa and clitoral sinuses on the third, sixth, and ninth days after the breeding, with negative results. A complement fixation test for CEM must be done with negative results on the fifteenth day after the breeding.

(ii) If any culture or test required by this paragraph is positive for CEM, the stallion shall be treated as described in paragraph (e)(3)(i)(A) of this section and retested by being test bred to two mares no less than 21 days after the last day of treatment.

(iii) A stallion may be released from State quarantine only if all cultures and tests of specimens from the mares used for test breeding are negative for CEM and all cultures performed on specimens taken from the stallion are negative for CEM.

(4) *Requirements for test mares.* (i) Mares to be used to test stallions for CEM shall be permanently identified before the mares are used for such testing with the letter "T." The marking shall be permanently applied by an inspector, a State inspector, or an accredited veterinarian who shall use a hot iron, freezemarking, or a lip tattoo.

If a hot iron or freezemarking is used, the marking shall not be less than 2 inches (5.08 cm) high and shall be applied to the left shoulder or left side of the neck of the mare. If a lip tattoo is used, the marking shall not be less than 1 inch (2.54 cm) high and 0.75 inch (1.9 cm) wide and shall be applied to the inside surface of the upper lip of the test mare.

(ii) The test mares must be qualified prior to breeding as apparently free from CEM and may not be used for breeding from the time specimens are taken to qualify the mares as free from CEM. To qualify, each mare shall be tested with negative results by a complement fixation test for CEM, and specimens taken from each mare shall be cultured negative for CEM. For culture, sets of specimens shall be collected on the first, fourth, and seventh days of a 7-day period from the mucosal surfaces of the clitoral fossa and clitoral sinuses.

(iii) A test mare that has been used to test stallions for CEM may be released from quarantine only if:

(A) The test mare is found negative for CEM on all cultures and tests required under paragraph (e)(3)(ii) of this section; or

(B) The test mare is subjected to an ovariectomy by an accredited veterinarian under the direct supervision of a State or Federal veterinarian; or

(C) The test mare is treated and handled in accordance with paragraph (e)(5) of this section; or

(D) The test mare is moved directly to slaughter without unloading en route, is euthanized, or dies.

(5) *Testing and treatment requirements for mares.* (i) Once the mare is in the approved State, sets of specimens shall be collected from the mare on three separate occasions within a 7-day period. On days 1, 4, and 7, an accredited veterinarian shall collect specimens from the mucosal surfaces of the clitoral fossa and clitoral sinuses and shall submit each set of specimens to the National Veterinary Services Laboratories, Ames, IA, or to a laboratory approved by the Administrator in accordance with paragraph (i) of this section to conduct CEM cultures and tests.

(ii) After the three sets of specimens required by paragraph (e)(5)(i) of this section have been collected, an accredited veterinarian shall manually remove organic debris from the sinuses of each mare and then flush the sinuses with a cerumalytic agent.⁸

⁷ A list of ointments effective against the CEM organism may be obtained from the National Center for Import and Export, Import/Export Animals, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231.

⁸ Recommended protocols for the flushing of sinuses may be obtained from the National Center

(iii) For 5 consecutive days after the sinuses have been cleaned, an accredited veterinarian shall aseptically clean and wash (scrub) the external genitalia and vaginal vestibule, including the clitoral fossa, with a solution of not less than 2 percent chlorhexidine in a detergent base and then fill the clitoral fossa and sinuses, and coat the external genitalia and vaginal vestibule with an antibiotic ointment effective against the CEM organism.⁹

(iv) A mare may be released from State quarantine only if all cultures performed on specimens taken from the mare are negative for CEM.

(v) If any culture required by this paragraph is positive for CEM, the mare shall be treated as described in paragraphs (e)(5)(ii) and (e)(5)(iii) of this section. No less than 21 days after the last day of treatment, the mare shall be tested again in accordance with paragraph (e)(5)(i) of this section. If all specimens are negative for CEM, the mare may be released from quarantine.

(f) *Special provisions for temporary importation.* Horses over 731 days of age may be imported into the United States for no more than 90 days to compete in specified events if the following conditions are met:

(1) The horse may remain in the United States for not more than 90 days following the horse's arrival in the United States, except as provided in paragraph (f)(6) of this section and, while in the United States, the horse must be moved according to the itinerary and methods of transport specified in the import permit provided for in § 92.304 of this part;

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

(i) Except when in transit, the horse must be kept on a premises that has been approved, orally or in writing, by an APHIS representative. If the approval is oral, it will be confirmed in writing by the Administrator as soon as circumstances permit. To receive approval, the premises:

(A) Must not be a breeding premises; and

(B) Must be or contain a building in which the horse can be kept in a stall that is separated from other stalls containing horses, 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 m) high.

(ii) While at the premises at which the horse competes, the horse must be monitored by an accredited veterinarian or APHIS representative to ensure that the provisions of paragraphs (f)(2)(i), (f)(2)(iv), and (f)(2)(v) 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 for the event be conducted by APHIS representatives to ensure compliance.

(iii) 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.

(iv) Except when actually competing or being exercised, the horse must be kept in a stall that is separated from other stalls containing horses, 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 m) high.

(v) The horse may not be used for breeding purposes (including artificial insemination), may not have any other sexual contact with other horses, and may not undergo any genital examinations.

(vi) 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.

(vii) The cleaning and disinfection specified in paragraph (f)(2)(vi) 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.

(viii) The owner or importer of the horse must comply with any other

provisions of this part applicable to him or her.

(3) 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 should be sent to the Administrator, c/o Import-Export Animals Staff, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231. 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. If more than one application for an import permit is received, APHIS personnel will be assigned in the order that the applications that otherwise meet the requirements of this section are received.

(4) The Administrator may cancel, orally or in writing, the import permit provided for under § 92.304 of this part whenever the Administrator finds that the owner or importer of the horse has not complied with the provisions of paragraphs (f)(1) through (f)(3) 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.

(5) 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

for Import and Export, Import/Export Animals, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231.

⁹ A list of ointments effective against the CEM organism may be obtained from the National Center for Import and Export, Import/Export Animals, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231.

notification of cancellation, whichever is earlier. The horse is not permitted to enter competition 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 according to the import permit. The stall in which the horse is kept must be separated from other stalls containing horses, either by an empty stall, by an open area across which horses cannot touch each other, or a by solid wall that is at least 8 feet (2.4 m) 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.

(6) Stallions or mares over 731 days of age that are imported for no more than 90 days in accordance with paragraphs (f)(1) through (f)(3) 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 § 92.304 of this part, 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.

(7) All costs and charges associated with the supervision and maintenance of a horse imported under paragraphs (f)(1) through (f)(3) 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.

(8) 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 paragraphs (f)(1) through (f)(3) of this section, 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, to conduct the monitoring required by paragraph (f)(2)(ii) of this section, and to supervise the cleaning and disinfection required by paragraph (f)(2)(vi) 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 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 and the APHIS office or facility;

(vi) Number of trips between the premises at which the horse competes 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.

(9) If a trust fund agreement with APHIS has been executed by the owner

or importer of a horse in accordance with paragraph (f)(8) 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)(2) 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 according to the import permit. The stall in which the horse is kept must be separated from other stalls containing horses either by an empty stall, an open area across which horses cannot touch each other, or a solid wall that is at least 8 feet (2.4 m) 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 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. 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.

(g) *Special provisions for the importation of horses that have been temporarily exported to a CEM-affected country.* If a horse has been temporarily exported for not more than 60 days from the United States to a CEM-affected country listed in paragraph (c)(1) of this section, or if a horse has been temporarily exported for not more than 60 days from another country not

known to be affected with CEM to a CEM-affected country during the 12 months preceding its exportation to the United States, the horse may be eligible for return or importation into the United States without meeting the requirements of paragraphs (d) through (f) of this section under the following conditions:

(1) The horse must be accompanied by a certificate that meets the requirements of § 92.314(a) of this part issued by each CEM-affected country that the horse has visited during the term of its temporary exportation, and each certificate must contain the following additional declarations:

(i) That the horse was held separate and apart from all other horses except for the time it was actually participating in an event or was being exercised by its trainer;

(ii) That the premises on which the horse was held were not used for any equine breeding purpose;

(iii) That the horse was not bred to or bred by any animal, nor did it have any other sexual contact or genital examination while in such country; and

(iv) That all transport while in such country was carried out in cleaned and disinfected vehicles in which no other horses were transported since such cleaning and disinfection;

(2) The horse is accompanied by an import permit issued in accordance with § 92.304 of this part at the time of exportation;

(3) If the horse was temporarily exported from the United States and is being returned to the United States, the horse must be accompanied by a copy of the United States health certificate issued for its exportation from the United States and endorsed in accordance with the export regulations in part 91 of this chapter;

(4) The horse must be examined by an inspector at the U.S. port of entry and found by the inspector to be the identical horse covered by the documents required by paragraphs (a) through (c) of this section and found by the inspector to be free of communicable disease and exposure thereto; and

(5) The horse must be quarantined and tested at the U.S. port of entry as provided in § 92.308 of this part prior to release.

(h) *Approval of States.* In order for a State to be approved to receive stallions or mares over 731 days of age from a CEM-affected country listed in paragraph (c)(1) of this section that are imported under paragraph (e) of this section, the State must meet the following conditions:

(1) The State must enter into a written agreement with the Administrator,

whereby the State agrees to enforce its laws and regulations to control CEM and to abide by the conditions of approval established by the regulations in this part.

(2) The State must agree to quarantine all stallions and mares over 731 days of age imported under the provisions of paragraph (e) of this section until the stallions have been treated in accordance with paragraph (e)(3) of this section and the mares have been treated in accordance with paragraph (e)(5) of this section.

(3) The State must agree to quarantine all mares used to test stallions for CEM until the mares have been released from quarantine in accordance with paragraph (e)(4) of this section.

(4) The State must have laws or regulations requiring that stallions over 731 days of age imported under paragraph (e) of this section be treated in the manner specified in paragraph (e)(3) of this section, and that mares over 731 days of age imported under paragraph (e) of this section be treated in the manner specified in paragraph (e)(5) of this section.

(5) Approval of any State to receive stallions or mares imported from countries affected with CEM may be suspended by the Administrator upon his or her determination that any requirements of this section are not being met. After such action is taken, the animal health authorities of the approved State will be informed of the reasons for the action and afforded an opportunity to present their views thereon before such suspension is finalized; however, such suspension of approval shall continue in effect unless otherwise ordered by the Administrator. In those instances where there is a conflict as to the facts, a hearing shall be held to resolve such conflict.

(6) The following States have been approved to receive stallions over 731 days of age imported under paragraph (e) of this section:

The State of Alabama
The State of California
The State of Colorado
The State of Florida
The State of Kentucky
The State of Louisiana
The State of Maryland
The State of Montana
The State of New Hampshire
The State of New Jersey
The State of New York
The State of North Carolina
The State of Ohio
The State of South Carolina
The State of Tennessee
The State of Texas
The State of Virginia

The State of Wisconsin

(7) The following States have been approved to receive mares over 731 days of age imported under paragraph (e) of this section:

The State of Alabama
The State of California
The State of Colorado
The State of Kentucky
The State of Louisiana
The State of Maryland
The State of Montana
The State of New Hampshire
The State of New Jersey
The State of New York
The State of North Carolina
The State of Ohio
The State of South Carolina
The State of Tennessee
The State of Texas
The State of Virginia
The State of Wisconsin

(i) *Approval of laboratories.* (1) The Administrator will approve a laboratory to conduct CEM cultures and tests only after consulting with the State animal health official in the State in which the laboratory is located and after determining that the laboratory:

(i) Has technical personnel assigned to conduct the CEM culturing and testing who possess the following minimum qualifications:

(A) A bachelor's degree in microbiology;

(B) A minimum of 2 years experience working in a bacteriology laboratory; and

(C) Experience working with the CEM organism, including knowledge of the specific media requirements, atmospheric requirements, and procedures for the isolation and identification of the CEM organism.¹⁰

(ii) Follows standard test protocols that will reliably and consistently provide for the isolation and identification of the CEM organism;¹¹ and

(iii) Reports all official test results to the State animal health official and the Veterinarian in Charge.

(2) To retain approval, the laboratory must meet the requirements prescribed in paragraph (i)(1) of this section, and shall test with the CEM organism each lot of media it prepares to ensure that the media will support growth of the laboratory's reference culture. Media that will not support growth of the reference culture must be discarded.

¹⁰ When training regarding CEM culturing and testing is necessary, it may be obtained at the National Veterinary Services Laboratories, Ames, IA 50010.

¹¹ Standard test protocols recommended by the National Veterinary Services Laboratories and a list of approved laboratories can be obtained from the National Veterinary Services Laboratories, Ames, IA 50010.

(3) The Administrator may deny or withdraw approval of any laboratory to conduct CEM culturing or testing upon a determination that the laboratory does not meet the criteria for approval or maintenance of approval under paragraphs (i)(1) and (i)(2) of this section.

(i) In the case of a denial of approval, the operator of the laboratory will be informed of the reasons for denial and, upon request, will be afforded an opportunity for a hearing with respect to the merits or validity of the denial in accordance with rules of practice that will be adopted for the hearing.

(ii) In the case of a withdrawal of approval, before such action is taken, the operator of the laboratory will be informed of the reasons for the proposed withdrawal and, upon request, will be afforded an opportunity for a hearing with respect to the merits or validity of the proposed withdrawal in accordance with rules of practice that will be adopted for the hearing. However, the withdrawal will become effective pending a final determination in the hearing when the Administrator determines that such action is necessary to protect the public health, interest, or safety. The withdrawal will be effective upon oral or written notification, whichever is earlier, to the operator of the laboratory. In the event of oral notification, written confirmation will be given as promptly as circumstances allow. The withdrawal will continue in effect pending completion of the hearing and any judicial review of the hearing, unless otherwise ordered by the Administrator.

(iii) Approval for a laboratory to conduct CEM culturing or testing will be automatically withdrawn by the Administrator when the operator of the approved laboratory notifies the National Veterinary Services Laboratories, Ames, IA 50010, in writing, that the laboratory no longer conducts CEM culturing and testing.

(Approved by the Office of Management and Budget under control number 0579-0040)

5. Section 92.304 is amended as follows:

a. The section heading is revised to read as set forth below.

b. In the introductory text of paragraph (a)(1)(ii), the reference “§ 92.301(c)(2)(viii)” is removed both times it appears and the reference “§ 92.301(f)” added in its place.

c. In paragraph (a)(1)(iii), in the first sentence, the reference “§ 92.301(c)(2)(viii)” is removed and the reference “§ 92.301(f)” added in its place.

d. Paragraphs (a)(4) through (a)(12) are removed.

e. Paragraph (b) is revised to read as set forth below.

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

* * * * *

(b) *Permit.* (1) When a permit is issued, the original and two copies will be sent to the importer. It shall be the responsibility of the importer to forward the original permit and one copy to the shipper in the country of origin, and it shall also be the responsibility of the importer to ensure that the shipper presents the copy of the permit to the carrier and makes the necessary arrangements for the original permit to accompany the shipment to the specified U.S. port of entry for presentation to the collector of customs.

(2) Horses and horse test specimens for which a permit is required under paragraph (a) of this section will be received at the port of entry specified on the permit within the time prescribed in the permit, which shall not exceed 14 days from the first day that the permit is effective.

(3) Horses and horse test specimens for which a permit is required under paragraph (a) of this section will not be eligible for entry if:

(i) A permit has not been issued for the importation of the horse or horse test specimen;

(ii) If the horse or horse test specimen is unaccompanied by the permit issued for its importation;

(iii) If the horse or horse test specimen is shipped from any port other than the one designated in the permit;

(iv) If the horse or horse test specimen arrives in the United States at any port other than the one designated in the permit;

(v) If the horse or horse test specimen offered for entry differs from that described in the permit; or

(vi) If the horse or horse test specimen is not handled as outlined in the application for the permit and as specified in the permit issued.

§ 92.308 [Amended]

6. In § 92.308(a)(3), footnote 16 and its reference in the text are redesignated as footnote 14.

7. In § 92.308(c)(1), footnote 17 and its reference in the text are redesignated as footnote 15.

8. Section 92.314 is revised to read as follows:

§ 92.314 Horses, certification, and accompanying equipment.

(a) Horses offered for importation from any part of the world shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin, or if exported from Mexico, shall 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, showing that:

(1) The horses described in the certificate have been in said country during the 60 days preceding exportation;

(2) That each horse has been inspected on the premises of origin and found free of evidence of communicable disease and, insofar as can be determined, exposure thereto during the 60 days preceding exportation;

(3) That each horse has not been vaccinated with a live or attenuated or inactivated vaccine during the 14 days preceding exportation: *Provided, however,* that in specific cases the Administrator may authorize horses that have been vaccinated with an inactivated vaccine to enter the United States when he or she determines that in such cases and under such conditions as he or she may prescribe such importation will not endanger the livestock in the United States, and such horses comply with all other applicable requirements of this part;

(4) That, insofar as can be determined, no case of African horse sickness, dourine, glanders, surra, epizootic lymphangitis, ulcerative lymphangitis, equine piroplasmiasis, Venezuelan equine encephalomyelitis, or equine infectious anemia has occurred on the premises of origin or on adjoining premises during the 60 days preceding exportation; and

(5) That, except as provided in § 92.301(g):

(i) The horses have not been in any country listed in § 92.301(c)(1) as affected with CEM during the 12 months immediately prior to their importation into the United States;

(ii) The horses have not been on any premises at any time during which time such premises were found by an official of the veterinary services of the national government of the country where such premises are located, to be affected with CEM;

(iii) The horses have not been bred by or bred to any horses from an affected premises; and

(iv) The horses have had no other contact with horses that have been found to be affected with CEM or with horses that were imported from countries affected with CEM.

(b) If a horse is presented for importation from a country where it has been for less than 60 days, the horse must be accompanied by a certificate that meets the requirements of paragraph (a) of this section that has been issued by a salaried veterinary officer of the national government of each country in which the horse has been during the 60 days immediately preceding its shipment to the United States. The dates during which the horse was in each country during the 60 days immediately preceding its exportation to the United States shall be included as a part of the certification.

(c) Following the port-of-entry inspection required by § 92.306 of this part, and before a horse offered for importation from any part of the world is released from the port of entry, an inspector may require the horse and its accompanying equipment to be disinfected as a precautionary measure against the introduction of foot-and-mouth disease or any other disease dangerous to the livestock of the United States.

9. Preceding § 92.315, in the undesignated center heading "CANADA¹⁸", footnote 18 and its reference are redesignated as footnote 16.

10. Preceding § 92.319, in the undesignated center heading "COUNTRIES OF CENTRAL AMERICA AND WEST INDIES¹⁹", footnote 19 and its reference are redesignated as footnote 17.

11. Preceding § 92.321, in the undesignated center heading "MEXICO²⁰", footnote 20 and its reference are redesignated as footnote 18.

§ 92.324 [Amended]

12. In § 92.324, in the third sentence, footnote 21 and its reference in the text are redesignated as footnote 19.

Done in Washington, DC, this 2nd day of October 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-25639 Filed 10-04-96; 8:45 am]

BILLING CODE 3410-34-P

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Regulation M; Docket No. R-0892]

Consumer Leasing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule to amend Regulation M, which implements the Consumer Leasing Act. The Act requires lessors to provide uniform cost and other disclosures about consumer lease transactions. The Board has reviewed Regulation M, pursuant to its policy of periodically reviewing its regulations, and has revised the regulation to carry out more effectively the purposes of the Act. The final rule adds disclosures, primarily in connection with motor vehicle leasing, including, for example, disclosures about early termination charges and how scheduled payments are derived (which requires disclosure of such items as the gross capitalized cost of a lease, the vehicle's residual value, the rent charge, and depreciation). General changes in the format of the disclosures require that certain leasing disclosures be segregated from other information. Revisions to the advertising provisions implement a statutory amendment, allowing a toll-free number to substitute for certain disclosures in radio and television advertisements, and make other changes to the advertising rules. A lessor is not required to disclose the cost of a lease expressed as a percentage rate; however, if a rate is disclosed or advertised, a special notice must accompany the rate. Further, a rate in an advertisement cannot be more prominent than any other Regulation M disclosure.

DATES: Effective date, October 31, 1996. *Compliance date.* Compliance is optional until October 1, 1997.

FOR FURTHER INFORMATION CONTACT:

Kyung H. Cho-Miller, Obrea O. Poindexter, or W. Kurt Schumacher, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412 or 452-3667. For matters concerning the Regulatory Flexibility Analysis, in appendix I, contact Thomas A. Durkin, Office of the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2326. Users of Telecommunications Device for the Deaf *only* may contact Dorothea Thompson, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background on the Consumer Leasing Act and Regulation M

The Consumer Leasing Act (CLA), 15 U.S.C. 1667-1667e, was enacted into law in 1976 as an amendment to the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.* The Board was given rulewriting authority, and its Regulation M (12 CFR Part 213) implements the CLA. An official staff commentary interprets the regulation. (Supplement I to 12 CFR 213).

The CLA generally applies to consumer leases of personal property in which the contractual obligation does not exceed \$25,000 and has a term of more than four months. An automobile lease is the most common type of consumer lease covered by the act. Leases accounted for about one-third of all passenger car deliveries to consumers in 1995. Leasing in the luxury-car market is estimated to account for more than 70 percent for some models. Used cars are also now being leased, although to date they account for a relatively small segment of the market.

Under the statute, prior to entering into a lease agreement, lessors must give consumers 15 to 20 disclosures, including the amount of initial, end-of-lease, and other charges to be paid by the consumer (such as security deposits, insurance premiums, disposition fees, and taxes); an identification of the leased property; a payment schedule; the responsibilities for maintaining the leased property; and the liability for terminating a lease early. Special provisions apply to open-end leases. These provisions regulate balloon payments by limiting liability at the end of a lease term to no more than three times the monthly payment, and also require several disclosures unique to open-end leases (in §§ 213.4 (k) and (m)).

Open-end leases are a very small segment of the consumer leasing market. In open-end leases, the consumer's liability at the end of the lease term is based on the difference between the residual value of the leased property and its realized value. The consumer—not the lessor—assumes the risk that the realized value may be less than what was initially estimated. Closed-end leases are the most common type of lease covered under the CLA and Regulation M. These leases are sometimes referred to as "walk-away" leases because the consumer is not liable for the difference between the residual and the realized values at the end of the lease term.