§ 71.6 [Amended]

6. In § 71.6, paragraph (a) would be amended by removing the words ‘‘, or carrying the infection of,’’.

7. In § 71.13, the undesignated regulatory text would be revised to read as follows:

§ 71.13 Inspection of shipments in transit by APHIS inspector.

All persons having control of the interstate transportation of animals shall, when directed by an APHIS inspector, stop the same in transit for inspection, and if any of such animals are found upon such inspection to be affected with any contagious, infectious, or communicable disease of livestock or poultry, the person having control of the transportation of such animals shall, upon receipt of an order from an APHIS inspector, cease the transportation of such animals unless such transportation can be accomplished in accordance with the regulations in this subchapter governing the interstate movement of animals affected with such disease, and in all cases after the discovery of such infection or exposure thereto such animals shall be handled in accordance with such regulations.

8. In § 71.14, the section heading and the undesignated regulatory text would be revised to read as follows:

§ 71.14 Slaughter of animals to prevent spread of disease; ascertainment of value and compensation.

When, in order to prevent the spread of any contagious, infectious, or communicable disease of livestock or poultry, it becomes necessary to slaughter any animals affected with the disease and the purchase of such animals by the United States is authorized by law and an appropriation is available therefor, the value of the animals shall be ascertained and compensation made therefor in accordance with the orders or regulations of the Secretary of Agriculture.

Done in Washington, DC, this 4th day of August, 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–20995 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 96–052–2]

Horses From Mexico; Quarantine Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations regarding the importation of horses from Mexico to remove the requirement that such horses be quarantined for not less than 7 days in vector-proof quarantine facilities before being imported into the United States. We believe that this action is warranted because Mexico has reported no cases of Venezuelan equine encephalomyelitis (VEE) in the past year, and it appears that horses imported into the United States from Mexico without a 7-day quarantine would not pose a risk of transmitting VEE to horses in the United States.

DATES: Consideration will be given only to comments received on or before October 7, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–052–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–052–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as ‘‘the regulations’’) govern the importation into the United States of specified animals and animal products, including horses from Mexico, to prevent the introduction into the United States of various animal diseases.

On July 31, 1996, we published an interim rule in the **Federal Register** (61 FR 39852–39853, Docket No. 96–052–1) in which we required that horses imported into the United States from Mexico be quarantined for not less than 7 days in a vector-free facility. Prior to our interim rule, horses from Mexico were not required to be held in quarantine for any specified number of days, but were required, instead, to be quarantined only long enough to complete the testing required by the regulations.

A 7-day quarantine became necessary when the government of Mexico reported that Venezuelan equine encephalomyelitis (VEE) had been detected in horses in that country. VEE is an equine viral disease, transmitted primarily by mosquitoes and other hematophagous (blood-feeding) insects, particularly flying insects, and results in a high mortality rate in animals infected with the disease. Although tests exist for the presence of VEE in horses, the tests currently available may yield positive results for horses that have been vaccinated for VEE but are not otherwise infected with the disease. The most efficient method for initial identification of horses that may be infected with VEE is observation of the horses for clinical signs of the disease. The clinical signs most commonly exhibited by horses infected by VEE are marked fever, depression, and incoordination, followed by death. A horse will usually exhibit signs of VEE within 2–5 days after contracting the disease. Seven days is considered the length of time necessary to ensure that any clinical signs of VEE manifest themselves.

In this document, we are proposing to remove the requirement that horses from Mexico be quarantined for not less than 7 days. We believe that the removal of this requirement is warranted because Mexico appears to be free of VEE. Horses imported from Mexico would still be required to be held in quarantine until it has been determined that the animals are free of exotic pests and diseases.

The last case of VEE in Mexico was reported in July 1996. Following the initial outbreak of VEE in the Mexican State of Oaxaca in June 1996, the Government of Mexico instituted emergency measures to locate, contain, and eradicate the disease. These emergency measures included the following: activation of the country’s animal health emergency group; organization of groups such as regional livestock associations and State authorities; establishment of quarantines in areas in which the

disease was known to exist; vaccinations of horses in affected areas; traceback of horses that might have been moved from affected areas before quarantine measures were established; and increased surveillance in States surrounding the affected areas. Based on these considerations, the Government of Mexico has requested that the U.S. Department of Agriculture consider Mexico to be free of VEE.

Based on the documentation submitted by the Government of Mexico, it appears that no horses in that country are infected with VEE. (This documentation is available, upon written request, from the person listed under **FOR FURTHER INFORMATION CONTACT**.) Therefore, we are proposing to amend § 92.324 of the regulations to remove the requirement that horses intended for importation from Mexico be quarantined for not less than 7 days before being imported into the United States.

We are also proposing to remove the requirement in § 92.324 that horses from Mexico intended for importation into the United States through land border ports be quarantined in Mexico at a facility approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) and constructed so as to prevent the entry of mosquitoes and other hematophagous insects. This requirement was necessary when VEE was known to exist in horses in Mexico, but we believe that it is unnecessary now that Mexico appears to be free of VEE.

Executive Order 12866 and Regulatory Flexibility Act

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

We are proposing to amend the regulations regarding the importation of horses from Mexico to remove the requirement that such horses be quarantined for not less than 7 days in vector-proof quarantine facilities before being imported into the United States. We believe that this action is warranted because Mexico has reported no cases of VEE in the past year, and it appears that horses imported into the United States from Mexico without a 7-day quarantine would not pose a risk of transmitting VEE to horses in the United States. Horses imported from Mexico would still be required to be held in quarantine until it has been determined that the animals are free of exotic pests and diseases.

Horses enter the United States from Mexico for a variety of reasons, including for breeding, competition, racing, research, and slaughter. During fiscal year 1996, about 7,359 horses were imported into the United States from Mexico. In fiscal year 1995, there were about 15,317 horses imported from Mexico.

Under current restrictions placed on imported Mexican horses due to an outbreak of VEE in that country in 1996, horses intended for importation into the United States from Mexico must be held in a vector-proof quarantine facility for seven days prior to entering the United States. Because Mexico has been determined to be free of VEE, this rule proposes to eliminate the requirement for a 7-day quarantine at a facility approved by the Administrator of APHIS and constructed so as to prevent the entry of mosquitoes and other hematophagous insects. Horses imported from Mexico would continue to be required to be held in quarantine until it has been determined that the animal is free of exotic pests and diseases. This quarantine period generally lasts three or four days, based on the turnaround time at the laboratory where blood tests are performed.

Horses intended for importation into the United States from Mexico are quarantined in Mexican facilities operated by the Mexican Cattleman's Association. Different fees are assessed by the six State chapters which operate facilities along the United States/Mexico border. We estimate that the quarantine charge at vector-proof facilities is between $5.00 and $35.00 per head per day for the current 7-day quarantine, or $35 to $250 per animal imported. Quarantine charges at the other facilities, which are not vector-proof, that would again be eligible to quarantine horses intended for importation into the United States if Mexico is recognized as free of VEE average $3.00 per head per day. A 4-day quarantine would cost importers $12.00 per animal imported. Therefore, importers could potentially save between $23 and $238 per animal imported in quarantine charges. Of course, there are other amenities at some of the vector-proof facilities that could still draw some importers to those facilities. At fiscal year 1996 import levels, the elimination of the VEE quarantine could decrease the quarantine costs of domestic importers by between $169,257 and $1.75 million annually.

In addition, the removal of the VEE restriction would eliminate the need for daily visits during the quarantine period to the quarantine facility by APHIS' veterinary medical officers (VMOs) and animal health technicians (AHTs) to conduct temperature checks of the animals to be imported. APHIS charges hourly user fees for inspection services conducted outside the United States. The published hourly fee for VMOs and AHTs is $56.00. The agency estimates that it takes 3 hours for APHIS personnel to travel to Mexican quarantine facilities and complete the temperature checks. The elimination of these checks would save the importer about $1,176 per shipment. Since slaughter horse imports from Mexico average about 40 head per shipment, this is a savings of about $29.40 per head. Other types of imported horses from Mexico average about two head per shipment, for a savings of $588 per head. At fiscal year 1996 import levels, the elimination of the user fees for horse inspection for VEE in Mexico would decrease the cost of importation by about $2.5 million annually.

The Regulatory Flexibility Act requires that the Agency specifically consider the economic impact associated with rule changes on small entities. The Small Business Administration (SBA) has set forth size criteria by Standard Industrial Classification (SIC) which can be used as a guide in determining which economic entities meet the definition of a small business. The SBA's definition of a small business engaged in the wholesale trading of livestock is one that employs no more than 100 persons. Currently, there are 1,992 domestic entities that trade livestock wholesale. About 1,965 of these entities are classified as small by the SBA. The exact number of domestic wholesale livestock traders currently importing Mexican horses cannot be determined. However, entities, whether large or small, engaged in importing Mexican horses would be positively impacted by this rule change.

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

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

List of Subjects in 9 CFR Part 92

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

Accordingly, 9 CFR part 92 would be amended as follows:

PART 92—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 92 would continue 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).

§ 92.308 [Amended]

2. In § 92.308, paragraph (a)(1) would be amended by removing the reference to ''§ 92.317'' and adding in its place the reference to ''§§ 92.317 and 92.324''.

§ 92.324 [Amended]

3. Section 92.324 would be amended by removing the words '', for not less than 7 days and'' and by removing the words ''approved by the Administrator and constructed so as to prevent the entry of mosquitoes and other hematophagous insects''.

§ 92.326 [Amended]

4. In § 92.326, the first sentence would be amended by removing the words ''92.323, and 92.324'' and adding in their place the words ''and 92.323''.

Done in Washington, DC, this 4th day of August 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–20994 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Medical Use of Byproduct Material; Working Group for Revision

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Establishment of working group and notice of meeting.

SUMMARY: A working group consisting of representatives from the U.S. Nuclear Regulatory Commission, the Organization of Agreement States (OAS), and the Conference of Radiation Control Program Directors (CRCPD) has been established in response to Commission approval of the staff's proposed plan for revising 10 CFR part 35, associated guidance documents, and the Commission's 1979 ''Medical Policy Statement,'' if necessary. With this approval, the NRC staff has begun developing draft rule language and alternatives, using an entirely modality-based approach, to help focus the public input and the discussions during facilitated public meetings. During this process, the staff is examining the applicability of risk-informed, performance-based regulations and less prescriptive approaches to regulation of nuclear material used for medical purposes. The working group will meet at NRC Headquarters in Rockville, Maryland, on August 19 and August 20, 1997, to review the early draft staff documents and to discuss the major regulatory issues associated with the medical use of byproduct material.

DATES: The Working Group will meet on August 19 and 20, 1997, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: U.S. Nuclear Regulatory Commission, One White Flint North, Auditorium, 11555 Rockville Pike, Rockville, MD, 20852–2738.

FOR FURTHER INFORMATION CONTACT: Cathy Haney, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, telephone (301) 415–6825, e-mail cxh@nrc.gov.

SUPPLEMENTARY INFORMATION: NRC has examined the issues surrounding its medical use program in great detail during the last four years. This process started with NRC's 1993 internal senior management review report; continued with the 1996 independent external review report by the National Academy of Sciences, Institute of Medicine; and culminated in NRC's Strategic Assessment and Rebaselining Project (SA). In particular, medical oversight was addressed in the SA Direction-Setting Issue Paper Number 7 (DSI 7) (released September 16, 1996). In its ''Staff Requirements Memorandum (SRM)—COMSECY–96–057, Materials/Medical Oversight (DSI 7),'' dated March 20, 1997, the Commission directed staff to revise Part 35, associated guidance documents, and, if necessary, the Commission's 1979 ''Medical Policy Statement.'' The Commission SRM specifically directed the restructuring of Part 35 into a risk-informed, more performance-based regulation.

A June 30, 1997, SRM informed the staff of the Commission's approval, with comments, of the staff's proposed program in SECY–97–131, Supplemental Information on SECY–97–115, ''Program for Revision of 10 CFR Part 35, 'Medical Uses of Byproduct Material,' and Associated **Federal Register** Notice,'' dated June 20, 1997. After this approval, the NRC staff initiated development of draft rule language, using an entirely modality-based approach. The modality approach places all requirements for a given type of treatment into a single section of the regulation, including: (a) Who or what organization is licensed; (b) what type of license is issued; (c) the necessary technical requirements, such as surveys and calibration; (d) the training and experience requirements; (e) the event recording and reporting requirements; and (f) the quality improvement and management objectives.

Per NRC Management Directive 6.3, ''The Rulemaking Process,'' the rulemaking will be conducted using a group approach. A governmental working group consisting of representatives of NRC, OAS, and CRCPD has been established to develop rule text alternatives, including draft guidance documents. State participation in the process will enhance development of corresponding rules in State regulations, and provide an opportunity for early State input and will allow the State staff to assess potential impacts of NRC draft language on the regulation of non-Atomic Energy Act materials used in medical diagnosis, treatment, or research, in the States.

At the initial meeting of the working group, on August 19–20, 1997, the group will review the initial draft input developed by the NRC staff, focusing its discussion on the major regulatory issues associated with the medical use of byproduct material.

Committee Organization and Operations

Cathy Haney, NRC, Office of Nuclear Material Safety and Safeguards, will serve as chairman. Other members are from the NRC's Office of Nuclear Material Safety and Safeguards; Office of Nuclear Regulatory Research; Office of the General Counsel, and Office of State Programs; and from OAS and CRCPD.