

Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 95-054-1]

Importation of Horses From CEM Countries

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 countries affected with contagious equine metritis to incorporate new testing and treatment protocols for mares and stallions, provide for the use of accredited veterinarians to monitor horses temporarily imported into the United States for competition purposes, incorporate a new testing protocol for thoroughbred horses in training in their country of origin, and remove the requirements for endometrial cultures and clitoral sinusectomies in mares. These proposed changes are intended to update, clarify, and streamline the existing regulations. The proposed changes would 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.

DATES: Consideration will be given only to comments received on or before August 5, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95-054-1, 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. 95-054-1. 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. 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.

Currently, the regulations in § 92.301(c)(1) identify countries where CEM exists and countries that trade horses freely with countries where CEM exists without testing for CEM and prohibit, with certain exceptions, the importation of horses into the United States from those countries (hereafter referred to as CEM-affected countries). The specific conditions under which certain horses may be imported into the United States from CEM-affected countries are set forth in § 92.301(c)(2). The regulations in § 92.304 (a)(4) through (a)(12) provide for the approval of States to receive stallions and mares from CEM-affected countries, list the States that have received such approval from the Administrator of the Animal and Plant Health Inspection Service (APHIS), and provide for the approval of laboratories to conduct CEM cultures and tests.

We have determined that our CEM regulations can be changed to make horse importations easier without increasing the risk of introducing CEM into the United States. Therefore, we are proposing 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.

These proposed changes, along with several more minor proposed changes, are discussed in greater detail below.

Reorganization of Provisions

We are proposing to reorganize § 92.301(c) and § 92.304 (a)(4) through (a)(12) to eliminate duplication and make the provisions directly related to CEM easier to find and use. The proposed new structure would be as follows:

The prohibition on the importation of horses from CEM-affected countries and the list of countries affected with CEM would remain in § 92.301(c)(1). The exceptions to that prohibition would remain in § 92.301(c)(2), but only as categories of horses that may be imported into the United States from countries affected with CEM under certain conditions; we are proposing to set out the specific conditions applicable to importation of horses from each category in new paragraphs § 92.301 (d), (e), (f), and (g). In this way, rather than having the categories and conditions spread across many pages of regulatory text as is currently the case, the reader would be presented with a single list of all the categories of eligible horses, and then directed to a specific paragraph to find the conditions that apply to the importation of a particular category of horses.

The conditions that apply to the importation of horses in one of the categories that would be listed in § 92.301(c)(2) are brief and require little elaboration. Specifically, current § 92.301(c)(2)(ii) provides for the importation of geldings, weanlings, or yearlings whose age is certified on the import health certificate prescribed in

§ 92.314. In short, the category defines the conditions, so there is no need to list the conditions in a separate paragraph. We are proposing, however, to make geldings a separate category, distinct from weanlings and yearlings, because the age certification required for weanlings and yearlings is not necessary for geldings.

With regard to weanlings and yearlings, we are also proposing to amend the definition in § 92.300 of the term *weanling or yearling*, which is currently defined as "any horse, weaned from its dam, which was foaled not more than 731 days prior to its offer for entry into the United States." There have been instances in which an individual certified that a horse being offered for entry was younger than 731 days of age, but the horse, upon examination by APHIS, was found to have erupted first permanent incisors. Those teeth are not expected to erupt until a horse has reached 2½ years of age, and subsequent investigation disclosed that the horse was indeed older than 731 days of age and had been fraudulently certified. We are, therefore, proposing to include the eruption of the first permanent incisors in the definition of *weanling or yearling* as a benchmark; specifically, a sentence would be added to the definition to make it clear that if a horse's first permanent incisors have erupted, the horse will not be considered to be a weanling or yearling.

We are also proposing to add a new category of exceptions in § 92.301(c)(2) for wild (non-domesticated) species of equidae, such as zebras and wild asses. These animals would be allowed to be imported without additional restrictions for CEM if the animal had been captured in the wild or was to be imported from a zoo or other facility where it would be unlikely that the animal would have had contact with domesticated horses used for breeding. That lack of contact minimizes the risk of such an animal contracting CEM and spreading the disease to horses in the United States. The wild or non-domesticated equine would still have to meet the inspection and certification requirements of § 92.314 with regard to CEM and other diseases, as well as all the applicable permit, port-of-entry inspection, and other applicable requirements of the regulations, so the general health and movement issues associated with its importation would continue to be addressed.

The specific provisions for importing horses in the remaining categories would be moved to four proposed new paragraphs:

- Thoroughbred horses imported for permanent entry from France, Germany, Ireland, or the United Kingdom (current § 92.301(c)(2)(iii)) would become new § 92.301(d);

- Stallions and mares over 731 days of age imported for permanent entry (current § 92.301(c)(2) (iv) through (vii)) would become new § 92.301(e). The post-entry testing and treatment requirements for those stallions and mares (current § 92.304 (a)(4) to (a)(5) and (a)(7) to (a)(8), respectively) would also be incorporated into new § 92.301(e);

- Horses over 731 days of age imported for no more than 90 days to compete in specified events (current § 92.301(c)(2) (viii) through (x)) would become new § 92.301(f); and

- Horses that have been temporarily exported from the United States or another country not known to be affected with CEM to a country affected with CEM (current § 92.301(c)(2)(xi)) would become new § 92.301(g).

We are also proposing to establish two more new paragraphs in § 92.301 into which we would move the remaining CEM-specific provisions of § 92.304. First, we are proposing to move the provisions of paragraphs § 92.304 (a)(4) through (a)(9) to proposed new paragraph § 92.301(h). Those paragraphs provide for the approval of States to accept stallions and mares from CEM-affected countries and list the States that have received such approval. Second, the provisions of § 92.304 (a)(10) through (a)(12), which pertain to the approval of laboratories to conduct CEM cultures and tests, would become new § 92.301(i).

We are also proposing to make nonsubstantive organizational changes to §§ 92.304(b) and 92.314 to improve their readability. Current § 92.304(b) consists of four sentences, the last of which contains six clauses, that can logically be divided into three subordinate paragraphs. Similarly, current § 92.314 consists of three sentences of regulatory text, the first of which takes up over a half a page in the Code of Federal Regulations and contains numerous clauses and two provisos. To make those portions of the regulations easier to read and use, we are proposing to amend § 92.304(b) by organizing its regulatory text into paragraphs (b)(1) through (b)(3) and to amend § 92.314 by organizing its regulatory text into paragraphs (a) through (c).

As part of our proposed reorganization of the regulations, we would also make several nonsubstantive editorial changes to improve the clarity of the regulations.

Elimination of Duplication

There are places in the current regulations where provisions found in one section are unnecessarily duplicated in another. Specifically, the regulations pertaining to the importation of thoroughbred horses (§ 92.301(c)(2)(iii)), stallions over 731 days of age (§ 92.301(c)(2)(iv)), mares over 731 days of age (§ 92.301(c)(2) (v), (vi), and (vii)), and horses that have been temporarily exported to a CEM-affected country from the United States or another country not known to be affected with CEM (§ 92.301(c)(2)(xi)) all require a horse offered for importation to be accompanied by a certificate that confirms certain facts regarding the horse's health.

The certificate referred to in those paragraphs is the same certificate required by § 92.314 for all horses offered for importation, and § 92.314 clearly describes the information that the certificate must contain and who may sign the certificate. Two of the criteria found in § 92.314—the description of who may sign the certificate and a requirement that the certificate confirm that each horse has been found free of evidence of communicable disease—are repeated in those paragraphs of § 92.301(c)(2) cited in the preceding paragraph. Because those signature and confirmation criteria are clearly described in § 92.314, we do not believe that it is necessary to repeat them in other sections of the regulations. Therefore, proposed new § 92.301 (d), (e), and (g), which would contain the requirements for the importation of thoroughbred horses, stallions and mares over 731 days of age, and horses temporarily exported to a CEM-affected country, would simply state that the horses must be accompanied by a certificate issued in accordance with § 92.314.

We are proposing to eliminate duplication in several other places in the regulations by combining, where appropriate, separate provisions for mares and stallions. We believe that combining separate provisions is possible in those parts of the regulations dealing with the collection of specimens because the requirements as to when and by whom the specimens are to be collected are the same for both stallions and mares; it is only the sites from which the specimens are to be collected that differ. Therefore, in proposed new § 92.301 (d), (e), and (h), we would combine those provisions that are common to both male and female horses, while keeping separate those provisions that must necessarily be gender-specific.

Similarly, where there are now three different sets of provisions for importing female horses over 731 days of age for permanent entry (§ 92.301 (c)(2)(v), (c)(2)(vi), and (c)(2)(vii)), proposed new § 92.301(e) would contain a single set of provisions. The proposed consolidation of those three sets of provisions would be made possible, in large part, by other proposed changes, discussed below, that would remove the clitoral sinusectomy requirement and standardize testing protocols.

Use of Nitrofurazone

The regulations require, as a pre-import treatment for certain stallions and a post-entry treatment for certain stallions and mares, that a nitrofurazone ointment be used to coat or pack the animals' genitalia as a means of killing the CEM organism. However, many countries now prohibit the use of nitrofurazone on horses due to concerns about its residues in horse meat, so we are proposing to amend those portions of the regulations that specifically require the use of nitrofurazone.

Under the regulations in current § 92.301(c)(2)(iv)(E), if a specimen taken from a stallion prior to export to the United States is found positive for CEM, the stallion's prepuce, urethral sinus, and fossa glandis must be scrubbed with a solution of chlorhexidine and then packed with an ointment of nitrofurazone for 5 consecutive days in order to kill the CEM organism. We are proposing to remove those specific instructions for scrubbing and packing 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. We would require that the treatments performed and the dates of the treatments be recorded on the horse's health certificate, so APHIS would have the opportunity to consider the treatments used when the stallion is offered for importation into the United States. We would 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 could enter the United States. Because the requirement for retesting would 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 would not result in an increased risk of CEM-infected stallions entering the United States.

As part of these proposed changes, we are also proposing to amend § 92.301(c)(2)(iv)(B) by removing footnote 7, which is referenced at the

end of the paragraph. Footnote 7 states: "Except for stallions that test positive for CEM, treatment in the country of origin is optional." We are proposing to remove that footnote because we believe that the regulatory text of proposed new § 92.301(e) clearly describes the testing and treatment requirements for stallions and spells out which stallions must be treated to be eligible for importation into the United States. Subsequent footnotes in the regulations that refer the reader to "footnote 7 to subpart C" would also be removed.

Once the stallion has been imported into the United States and has been sent to an approved State for quarantine, the regulations in current § 92.304(a)(5)(iii)(A) require, among other things, that the prepuce, penis, and urethral sinus of the stallion be scrubbed with a solution of chlorhexidine and packed with an ointment of nitrofurazone for 5 consecutive days. Similarly, the regulations in § 92.304(a)(8)(iii)(B) regarding the treatment and handling of imported mares in quarantine in approved States require that the mare's external genitalia, vaginal vestibule, and, if present, clitoral sinuses, must be scrubbed with a solution of chlorhexidine and then coated with an ointment of not less than 0.2 percent nitrofurazone; the clitoral fossa and, if present, the clitoral sinuses, must also be packed with an ointment of not less than 0.2 percent nitrofurazone. We are proposing to modify those requirements by removing the reference to nitrofurazone and requiring only that an ointment effective against the CEM organism be used. Because the availability of such ointments can vary over time and from place to place, and because the treatments must be performed by an accredited veterinarian and monitored by a State or Federal veterinarian, we do not believe it is necessary to maintain a list of specific ointments in the regulations. Rather, the accredited veterinarian, State veterinarian, and Federal veterinarian, or any other interested person, could obtain a list of ointments recognized as being effective against the CEM organism from APHIS. A footnote to that effect would be added to the regulations regarding the post-entry treatment and handling of stallions and mares.

Clitoral Sinusectomy

We are proposing to eliminate the requirement that certain mares undergo a clitoral sinusectomy. Currently, clitoral sinusectomies are required for female horses over 731 days of age imported for permanent entry (§ 92.301 (c)(2)(v)(C), (c)(2)(v)(G), and

(c)(2)(vi)(G)), certain mares over 731 days of age that had originally been imported for no more than 90 days and that are moved to an approved State for permanent entry (§ 92.301(c)(2)(x)), and mares that were not required to undergo a clitoral sinusectomy as a condition of importation but that have been cultured for CEM with positive results in an approved State prior to release from State quarantine (§ 92.304(a)(8)(iii)(E)).

We believe that the clitoral sinusectomy requirement can be eliminated completely because the procedure is no longer necessary to ensure that imported mares do not introduce CEM into the United States. A new procedure has been developed that allows veterinarians to clean and treat the clitoral sinuses to eliminate the CEM organism, thus rendering clitoral sinusectomies unnecessary. Therefore, the clitoral sinusectomy requirement and any provisions related to that requirement would be removed from the regulations. Proposed new § 92.301(e)(5), which contains the testing and treatment requirements for mares, would spell out the proposed new cleaning and treatment procedure. In that procedure, an accredited veterinarian would manually remove organic debris from the clitoral sinuses of a mare, then flush the sinuses with a cerumolytic agent. For 5 consecutive days after the cleaning, the accredited veterinarian would aseptically clean and wash the mare's 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. This procedure has been shown to effectively eliminate debris that could harbor the CEM organism and can be carried out without the use of the restraints, anesthesia, or tranquilizers needed for the clitoral sinusectomy surgery, which would clearly be to the mare's benefit.

Endometrial Cultures

We are proposing to remove the requirement for the collection and culturing of endometrial specimens from mares. Currently, the regulations require that endometrial specimens be collected during estrus from female thoroughbred horses (§ 92.301(c)(2)(iii)(B)), female horses over 731 days of age (§ 92.301 (c)(2)(v)(F) and (c)(2)(vi)(D)), test mares used for testing stallions in an approved State (§ 92.304 (a)(5)(iii)(B)(2) and (a)(5)(iii)(C)(2)), pregnant mares over 731 days of age (§ 92.304(a)(8)(iii)(C)(1)),

nonpregnant mares over 731 days of age (§ 92.304(a)(8)(iii)(C)(2)), and mares over 731 days of age that have been found to be positive for CEM (§ 92.304(a)(8)(iii)(D) and (a)(8)(iii)(E)). We believe that the required collection and culturing of endometrial specimens can be eliminated completely because over the last 10 to 12 years we have cultured over 900 pregnant mares offered for importation and have never found a positive endometrial culture in specimens collected from mares that were negative on cultures of the clitoral sinuses. Because we would continue to require the collection of specimens from the clitoral sinuses, and because additional specimens would be drawn from the urethra and cervix, we believe that the requirement for endometrial cultures could be removed without increasing the risk of CEM being introduced into or disseminated within the United States.

As part of this proposed change, we are also proposing to remove the requirement for testing the foals of mares that had been pregnant at the time they were received in quarantine in an approved State. The regulations in § 92.304(a)(8)(iii)(C)(1) require that 7 days after the mare foals, three endometrial specimens be collected from the mare and another specimen be collected from the vaginal vestibule or prepuce of her foal, depending on its sex. We believe that the accuracy of the cultures of specimens collected from the clitoral sinuses, which we cited in the previous paragraph as rendering endometrial cultures unnecessary, also makes it unnecessary to test foals. If cultures of specimens collected from a pregnant mare indicated she was free from CEM infection, there would be no cause to test her foal, since the foal could only contract the disease from its dam during birth. This proposed change would also mean that a pregnant mare would no longer have to remain under quarantine in the approved State until 7 days after foaling, since endometrial cultures from the mare and cultures from the foal would no longer be required.

Collecting Specimens From Mares Over 731 Days of Age

The current regulations contain three different pre-import test protocols for mares over 731 days of age; a protocol for testing pregnant mares and, later, their foals, in quarantine in an approved State after importation; and yet another protocol for testing nonpregnant mares in quarantine in an approved State. Those protocols differ in terms of their timing and sites from which specimens are to be collected for culturing because

some mares require endometrial cultures while others do not, and some mares must undergo a clitoral sinusectomy, some do not, and others would have already undergone the surgery before a particular test. With the requirements for endometrial cultures and clitoral sinusectomies removed as proposed above, we believe that we can simplify matters by standardizing the sites from which specimens would be collected from mares and the timing of those collections when multiple sets of specimens are needed for culturing.

We are proposing 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 surface of the urethra, the mucosal surface of the clitoral sinuses, and the mucosal surface of the cervix. Using the mucosal surfaces of the urethra, clitoral sinuses, and cervix as sites for the collection of specimens for culturing is in keeping with current codes of practice for the diagnosis of CEM and would allow us to accurately assess the CEM status of mares over 731 days of age that are offered for importation or that are quarantined in an approved State.

The regulations currently require that three sets of specimens be collected from mares over 731 days of age in quarantine in an approved State; those specimens are to be drawn at intervals of no less than 7 days. We are proposing to decrease the time over which specimens are to be drawn by requiring that all three sets of specimens be collected over a single 7-day period, with the collections taking place on the first, fourth, and seventh days. When collecting multiple sets of specimens from a horse for culturing, it is prudent to collect sets of specimens on different days in order to increase the likelihood that any infection will be detected. However, we believe the current 7-day minimum interval between collections is unnecessarily long; the proposed 7-day collection period would simplify and shorten the testing process for mares while continuing to provide for a sufficient amount of time between the collection of sets of specimens.

Testing and Treatment for Stallions Over 731 days of Age

Once a stallion over 731 days of age has been imported into the United States and has been sent to quarantine in an approved State, the regulations currently require that a set of specimens be collected from the stallion and cultured for CEM, after which the stallion's genitalia are to be washed with a surgical scrub and packed with an antibiotic ointment for 5 consecutive

days; 7 days after the fifth day of cleaning and packing, the stallion must be test bred to two qualified test mares. In order to increase the likelihood that testing will detect the presence of CEM, we are proposing to reverse the order of the latter two items, i.e., we would require that the test breeding take place before the cleaning and packing. If the stallion was infected with CEM, the two test mares would most likely contract the disease as a result of the test breeding, so there would be, in effect, three chances to detect the disease—one through the tests conducted on the stallion and two through the tests conducted on each test mare. The cleaning and packing, when conducted first, may reduce the chance that an infected stallion would transmit the disease to the test mares by reducing the presence of the CEM organism to a low level.

Test Mares

The current regulations require that a test mare must qualify as apparently free from CEM. To qualify, the mare must be tested with negative results by a complement fixation test for CEM, and specimens taken from the mare must be cultured negative for CEM. Currently, one set of specimens must be drawn from the endometrium, clitoral sinuses, and clitoral fossa; then, no less than 7 days later, another set of specimens must be drawn from the cervix, clitoral sinuses, and clitoral fossa. As previously explained, we are proposing to remove the requirement for the collection and culturing of endometrial specimens from imported mares. We are proposing to remove that requirement for test mares, for the same reasons. We are also proposing that test mares would have specimens collected from the mucosal surface of the urethra, clitoral sinuses, and cervix, as proposed for all mares over 731 days of age offered for importation. This would be in keeping with current codes of practice for the diagnosis of CEM and would allow us to accurately assess the CEM status of test mares. We are also proposing that three sets of specimens be collected, and that all sets of specimens be collected within a 7-day period, on days 1, 4, and 7. This would be consistent with proposed CEM tests for mares offered for importation.

After being test bred by the stallion, the regulations currently require that specimens be collected from the test mares on the second, fourth, and seventh days after breeding and cultured for CEM; endometrial specimens must be collected and cultured during the next estrus; and two blood serum samples must be drawn

from the test mares 15 to 40 days after breeding and tested for CEM using the complement fixation test. As discussed above, we have proposed to remove the requirement for endometrial cultures, so that step would be eliminated. We are proposing to further amend those requirements by shifting the collection of specimens to the third, sixth, and ninth days after breeding, which means that any CEM infection would have an additional day to manifest itself in the test mares, followed by a full 2 days between the collection of each additional set of samples. By delaying and slightly lengthening the period over which specimens are collected from bred test mares, we would increase the likelihood that the presence of CEM infection will be detected in the test mares. We are also proposing to reduce the number of required complement fixation tests to a single test conducted 15 days after breeding. We believe that the second complement fixation test is unnecessary because the multiple cultures conducted on the specimens drawn during the 9 days after breeding would provide, in nearly all cases, an accurate indication of the test mare's CEM status; a single complement fixation test would be adequate to confirm the findings of the culturing.

New Testing Protocol for Thoroughbred Horses

We are proposing to simplify the pre-export testing protocols for thoroughbred horses from France, Germany, Ireland, and the United Kingdom. Under the current regulations, three sets of specimens must be collected and cultured from thoroughbred horses at intervals of no less than 7 days, with the final collection and culturing being completed within 30 days of export. We are proposing to shorten the time frame for collections and culturing from over 2 weeks to 1, with specimens being collected on the first, fourth, and seventh days of the 7-day period. We would, however, retain the requirement that the last set of specimens must be collected and cultured within 30 days of export. As noted above with regard to test mares and mares over 731 days of age quarantined in an approved State, we believe the current 7-day interval between collections is unnecessarily long; the proposed 2-day interval simplifies and shortens the pre-export testing process for thoroughbred horses while continuing to provide for a sufficient amount of time between the collection of sets of specimens.

We are also proposing to modify the collection sites for specimens drawn from female thoroughbred horses to

make those sites consistent with the proposed changes regarding collection sites for test mares and mares over 731 days of age and to reflect the proposed discontinuation of the collection and culturing of endometrial specimens. As was proposed for the other two categories of female horses, and for the same reasons, the collection sites for specimens from female thoroughbred horses would be the mucosal surfaces of the urethra, clitoral sinuses, and cervix.

The regulations regarding the importation of thoroughbred horses currently contain no specific provisions for the treatment and retesting of thoroughbred horses that test positive for CEM during pre-export testing. We are proposing to add provisions that would allow the thoroughbred horse to be treated for CEM in a manner approved by the national veterinary service of the country of origin. We would require that the treatments performed and the dates of the treatments be recorded on the horse's health certificate, so APHIS would have the opportunity to consider the treatments used when the thoroughbred horse is offered for importation into the United States. We would require that the retesting of the thoroughbred horse take place no less than 21 days following the completion of treatment. The horse would have to be found free of CEM on the retest before it could enter the United States. These proposed provisions for retesting thoroughbred horses are consistent with the retest provisions for stallions and mares over 731 days of age and would serve the same purpose. Because the thoroughbred horses would not be allowed entry into the United States until they had been found free of CEM, we believe that allowing thoroughbred horses that have tested positive for CEM to be treated and retested would not result in an increased risk of CEM-infected horses entering the United States.

We are also proposing to make two minor changes in the regulations regarding the importation of thoroughbred horses. First, we are proposing to remove two references to the "Federal Republic of Germany" and replace them with references simply to "Germany," because the reunification of East Germany and West Germany has removed the need to differentiate between the two. Second, footnote 6 in current § 92.301(c)(2)(iii)(A), which lists specifically approved recordkeeping associations in those countries from which thoroughbred horses may be imported, contains an out-of-date reference to such associations in Australia. We are proposing to remove

that reference because Australia is no longer on the list of CEM-affected countries in § 92.301(c)(1).

Use of Accredited Veterinarians

The regulations in § 92.301(c)(2)(viii)(B)(2) require that horses imported for no more than 90 days to compete in specified events must be monitored by an APHIS representative—i.e., an APHIS veterinarian or other authorized APHIS employee—while the horse is on the premises at which it is competing. The regulations pertaining to import permits in § 92.304(a)(1)(iii) state that the approval of a permit application to temporarily import a horse is contingent upon APHIS' determination that a sufficient number of APHIS personnel are available to provide the required services. In order to increase the number of qualified veterinarians available to perform the required activities and decrease the costs associated with the temporary importation of horses for competition, we are proposing to allow the required monitoring to be conducted by an accredited veterinarian. An accredited veterinarian is, by definition, already familiar with APHIS' animal health programs and regulations and is approved by the Administrator to perform the functions associated with those programs, so we believe that accredited veterinarians would be fully capable of monitoring temporarily imported horses at the premises on which they are competing. We would, however, provide for an APHIS representative to conduct spot checks to ensure compliance with the regulations. If the APHIS representative found that the requirements of the regulations were not being met, APHIS would have the option of requiring that all remaining monitoring for a particular event be conducted by APHIS representatives. The proposed spot checks and the option for APHIS to take over monitoring duties would act as additional safeguards against the spread of disease and would help to ensure compliance with the regulations.

Other Proposed Changes

The regulations in § 92.301(c)(2)(viii)(G) currently require the owner or importer of a temporarily imported horse to enter into a trust fund agreement with APHIS to ensure that he or she pays all costs associated with APHIS' supervision and maintenance of the horse during the time it is in the United States. When the required supervision and maintenance services can be provided by an APHIS representative operating out of his or her usual place of duty, however,

APHIS' costs can be recovered through user fees payable under 9 CFR part 130, so it would not be necessary for the owner or importer to enter into a trust fund agreement. There are still cases, though, in which a trust fund agreement would be necessary, such as when an APHIS representative is not available to provide the necessary services in a given area, or there is an insufficient number of APHIS representatives to meet the needs of a large event, and an APHIS representative must be temporarily detailed from his or her usual place of duty to the site of a particular event. Therefore, we are proposing to amend the regulations to differentiate between those cases where user fees would be sufficient to recover APHIS' costs and those cases where the owner or importer of a horse would have to enter into a trust fund agreement with APHIS.

Miscellaneous Changes

Several of the proposed changes discussed above would result in footnotes being added, deleted, or moved; therefore, we are proposing to redesignate the footnotes that follow those that would be affected by the proposed changes to maintain numerical order.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would amend the regulations regarding the importation of horses from countries affected with contagious equine metritis to incorporate new testing and treatment protocols for mares and stallions, provide for the use of accredited veterinarians to monitor horses temporarily imported into the United States for competition purposes, incorporate a new testing protocol for thoroughbred horses in training in their country of origin, and remove the requirements for endometrial cultures and clitoral sinusectomies in mares. These proposed changes are intended to update, clarify, and streamline the existing regulations. The proposed changes would 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.

The United States is a net exporter of horses, exporting three to four horses for every one imported, and unit values for imports and exports favored the United States until 1994. The unit value of exports was \$3,197 per head in 1993, while the unit import value was \$2,944 per head; in 1994, these values shifted to \$2,458 per head (export) and \$4,032 per head (import).

In 1993, U.S. exports of horses totaled 64,478 head valued at \$206.1 million; in 1994, the total was 85,299 head valued at \$209.7 million. Most of those horses were exported to Canada, Mexico, Western Europe (especially the United Kingdom and Ireland), the Middle East, or Asia. U.S. imports of horses, on the other hand, are small relative to total inventory and U.S. horse exports. In 1993, U.S. horse imports totaled 20,715 head valued at \$61 million; in 1994, the total was 23,186 head valued at \$93.5 million. Canada and Mexico were the source of almost 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," January/February 1995). Small entities maintain almost 95 percent of the domestic horse inventory.

The proposed new testing and treatment protocols presented in this document are the only aspects of this proposed rule that are expected to have an economic impact. In each case, the proposed changes would reduce the time required to collect samples, conduct tests, and administer treatments, which would shorten the period that an imported horse would 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 would 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 proposed in this document are expected to cut that time frame to 2 to 3 weeks.

We do not expect, however, that the proposed 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 would not be significantly affected, and those countries that do not currently meet those requirements are not expected to

meet the proposed new requirements either.

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 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 12778

This proposed rule has been reviewed under Executive Order 12778, 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 diseases, 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 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 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).

2. In § 92.300, the definition of *Weanling or yearling* would be 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 would be amended as follows:

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

b. In § 92.303(e), footnote 11 and its reference in the text would be redesignated as footnote 12.

4. In § 92.301, paragraph (c) would be revised and new paragraphs (d) through (i) would be 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 as a State 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

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.

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 surface of the urethra, the mucosal surface of the clitoral sinuses, and the mucosal surface of the cervix 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 must complete the Federal quarantine required under § 92.308. Upon completion of the Federal quarantine, the horses may be released.

(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 surface of the urethra, the mucosal surface of the clitoral sinuses, and the mucosal surface of the cervix. All of the specimens collected must be cultured for CEM with negative results in a laboratory approved to culture for CEM 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.

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.

(B) Each mare to which the stallion has been test bred shall be cultured for CEM from sets of specimens that are collected from each of the mucosal surfaces of the cervix, urethra, 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 urethra, clitoral sinuses, and cervix.

(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;

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

(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 each mare on three separate occasions within a 7-day period. On days 1, 4, and 7, an accredited veterinarian shall collect a specimen from the mucosal surfaces of the urethra, clitoral sinuses, and cervix, and shall submit each specimen or set of specimens to 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.

(ii) Following the collection of specimens in accordance with paragraph (e)(5)(i) of the section, an accredited veterinarian shall manually remove organic debris from the sinuses of each mare and then flush the sinuses with a cerumalytic agent.⁸

(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, 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

⁸Recommended protocols for the flushing of sinuses 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.

⁹A 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.

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 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 by 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 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 hours, 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 or horse 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 protocol prescribed by the National Veterinary Services Laboratories;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.

(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 would be amended as follows:

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

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

d. Paragraphs (a)(4) through (a)(12) would be removed.

e. Paragraph (b) would be 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.

(a) * * *

(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 would be redesignated as footnote 14.

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

8. Section 92.314 would be 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,

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 prescribed by the National Veterinary Services Laboratories and a list of approved laboratories can be obtained from the National Veterinary Services Laboratories, Ames, IA 50010.

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.

§ 92.315 [Amended]

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

§ 92.319 [Amended]

10. In § 92.319, in the undesignated center heading "COUNTRIES OF CENTRAL AMERICA AND WEST INDIES¹⁹", footnote 19 and its reference

in the center heading would be redesignated as footnote 17.

§ 92.321 [Amended]

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

§ 92.324 [Amended]

12. In § 92.324, in the second sentence, footnote 21 and its reference in the text would be redesignated as footnote 19.

Done in Washington, DC, this 30th day of May 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-13897 Filed 6-03-96; 8:45 am]

BILLING CODE 3410-34-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 704, 709, and 741

Corporate Credit Unions; Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally Insured Credit Unions in Liquidation; Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA is issuing proposed revisions to the rules governing corporate credit unions. As the credit union industry has become more complex and competitive, the demands on corporate credit unions have become greater. Corporate credit unions are providing a greater variety of more sophisticated services. The proposed rule is intended to strengthen corporate credit union capital and ensure that the risk on corporate credit union balance sheets is adequately managed and controlled.

DATES: Comments must be received on or before September 3, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518-6480. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Robert F. Schafer, Acting Director,

Office of Corporate Credit Unions, at the above address or telephone (703) 518-6640; or Edward Dupcak, Director, Office of Investment Services, at the above address or telephone (703) 518-6620.

SUPPLEMENTARY INFORMATION:

A. Background

Part 704 was amended in 1992 to address a broad array of corporate credit union matters. See 57 FR 22626 (May 28, 1992). The regulation has been in effect for several years, during a time of great change in the credit union industry. NCUA has had an opportunity to see how the regulation has worked and to consider how it could be improved. Section 704.12, governing representation issues, was revised in 1994. See 59 FR 59357 (Nov. 17, 1994). In April 1995, NCUA issued a proposed regulation to revise most of the sections of Part 704. See 60 FR 20438 (Apr. 26, 1995). Comments were due by June 26, 1995. On May 17, 1995, NCUA extended the comment period an additional 60 days to August 25, 1995. See 60 FR 27240 (May 23, 1995). The supplementary information section noted that NCUA had been working with an outside firm to provide risk-profile assessments of corporate credit unions, using simulated modeling techniques, and that the process had proven to be more time-consuming than envisioned.

In response to the comments received and results of the modeling, NCUA determined to issue this revised proposed rule for another round of public comment. In developing this revised proposal, NCUA considered all of the written comments, the results of further modeling, and the input provided by corporate credit union representatives in a number of dialogue meetings conducted by NCUA.

It should be noted that the background section of the initial proposed rule observed that NCUA supervises all corporate credit unions but that only those that are federally chartered pay an operating fee to the agency. Questions were raised as to whether this put federally chartered corporate credit unions at a competitive disadvantage and whether all corporate credit unions should pay for NCUA's corporate credit union supervision program. NCUA asked for comment on whether it would be appropriate to assess all corporate credit unions an examination fee or to abolish corporate credit union fees altogether and require natural person credit unions, since they benefit from the existence of corporate credit unions, to make up the difference.