

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 98-059-1]

#### Specifically Approved States Authorized to Receive Mares and Stallions Imported From Regions Where CEM Exists

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Direct final rule.

**SUMMARY:** We are amending the animal importation regulations by adding Georgia to the lists of States approved to receive certain mares and stallions imported into the United States from regions affected with contagious equine metritis (CEM). We are taking this action because Georgia has entered into an agreement with the Administrator of the Animal and Plant Health Inspection Service to enforce its State laws and regulations to control CEM and to require inspection, treatment, and testing of horses, as required by Federal regulations, to further ensure the horses' freedom from CEM. This action relieves unnecessary restrictions on the importation of mares and stallions from regions where CEM exists.

**DATES:** This rule will be effective on September 25, 1998, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before August 26, 1998.

**ADDRESSES:** Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to Docket No. 98-059-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your submission refers to Docket No. 98-059-1. Submissions 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 and notices are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. David Vogt, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-8423; or e-mail: [dvogt@aphis.usda.gov](mailto:dvogt@aphis.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The animal importation regulations (contained in 9 CFR part 93 and referred to below as the regulations), among other things, prohibit or restrict the importation of certain animals, including horses, into the United States to protect U.S. livestock from communicable diseases. In § 93.301, paragraph (c)(1) prohibits the importation of horses into the United States from certain regions where contagious equine metritis (CEM) exists. Paragraph (c)(2) lists categories of horses that are excepted from this prohibition, including, in § 93.301(c)(2)(vi), horses over 731 days of age imported for permanent entry if the horses meet the requirements of § 93.301(e).

One of the requirements in § 93.301(e) is that mares and stallions over 731 days old imported from regions where CEM exists for permanent entry must be consigned to States listed in § 93.301(h)(6), for stallions, or in § 93.301(h)(7), for mares. These States have been approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) to receive stallions or mares over 731 days of age from a region where CEM exists because the States have entered into a written agreement with the Administrator, APHIS, to enforce State laws and regulations to control CEM, and the States have agreed to quarantine, test, and treat mares and stallions over 731 days of age from a region where CEM exists in accordance with § 93.301(e) of the regulations.

Georgia has entered into a written agreement with the Administrator of APHIS and has agreed to comply with all the requirements in § 93.301(e) for

importing mares and stallions over 731 days old from regions where CEM exists. This direct final rule will, therefore, add Georgia to the lists of States in §§ 93.301(h)(6) and (h)(7) approved to receive certain stallions and mares imported into the United States from regions where CEM exists.

##### Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

#### Executive Order 12866 and Regulatory Flexibility Act

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

We anticipate that fewer than 20 mares and stallions over 731 days old will be imported into the State of Georgia annually from regions where CEM exists. Approximately 200-300 mares and stallions over 731 days old

from regions where CEM exists were imported into approved States in fiscal year 1996. During this same period, approximately 3,243 horses of all classes were imported into the United States from countries other than Canada and Mexico through air and ocean ports; approximately 18,223 horses were imported from Canada; and, approximately 10,079 horses were imported from Mexico.

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

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no 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 93

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

Accordingly, 9 CFR part 93 is amended as follows:

#### PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622; 19 U.S.C. 1305; 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).

#### § 93.301 [Amended]

2. Section 93.301 is amended as follows:

a. In paragraph (h)(6), by adding, in alphabetical order, “The State of Georgia”.

b. In paragraph (h)(7), by adding, in alphabetical order, “The State of Georgia”.

Done in Washington, DC, this 22 day of July, 1998.

**Charles P. Schwable,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 98–19995 Filed 7–24–98; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 9 CFR Part 145

[Docket No. 97–043–2]

#### National Poultry Improvement Plan; Special Provisions for Ostrich Breeding Flocks and Products

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the National Poultry Improvement Plan (the Plan) to provide for the participation of ostrich breeding flocks in the provisions of the Plan. The addition of provisions for ostrich breeding flocks to the Plan was voted on and approved by the voting delegates at the Plan's 1996 National Plan Conference. Adding provisions for ostriches to the Plan will make it possible for the owners of ostrich flocks to voluntarily participate in the Plan's programs for the prevention and control of egg-transmitted, hatchery-disseminated poultry diseases.

**EFFECTIVE DATE:** August 26, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 200, Conyers, GA 30094–5104; (770) 922–3496; E-mail: arhorer@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

#### Background

The National Poultry Improvement Plan (referred to below as “the Plan”) is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-

disseminated poultry diseases.

Participation in all Plan programs is voluntary, but flocks, hatcheries, and dealers must qualify as U.S. Pullorum-Typhoid Clean before participating in any other Plan program. Also, the regulations in 9 CFR part 82, subpart C, which provide for certain testing, restrictions on movement, and other restrictions on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis*, require that no hatching eggs or newly hatched chicks from egg-type chicken breeding flocks may be moved interstate unless they are classified U.S. S. Enteritidis Monitored under the Plan, or they meet the requirements of a State classification plan that the Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined to be equivalent to the Plan, in accordance with 9 CFR 145.23(d).

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR part 145 (referred to below as the regulations) contain the general provisions of the Plan (subpart A, §§ 145.1 through 145.14) and special provisions regarding the participation of breeding flocks of egg-type chickens (subpart B, §§ 145.21 through 145.24), meat-type chickens (subpart C, §§ 145.31 through 145.34), turkeys (subpart D, §§ 145.41 through 145.44), and waterfowl, exhibition poultry, and game birds (subpart E, §§ 145.51 through 145.54).

On March 12, 1998, we published in the **Federal Register** (63 FR 12036–12040, Docket No. 97–043–1) a proposal to amend the regulations to add a new subpart F to provide for the participation of ostrich breeding flocks and their products. That proposed amendment had been recommended by the voting delegates to the National Plan Conference that was held from June 30 to July 2, 1996.

We solicited comments concerning our proposal for 60 days ending May 11, 1998. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule without change.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866