

adjustment to temporary resident status was the result of fraud or willful misrepresentation as provided in section 212(a)(19) of the Act;

(ii) The alien commits an act which renders him or her inadmissible as an immigrant, unless a waiver is secured pursuant to § 210.3(e)(2) of this part;

(iii) The alien is convicted of any felony, or three or more misdemeanors in the United States.

(3) *Procedure.* (i) Termination of an alien's status under paragraph (d)(2) of this section will be made only on notice to the alien sent by certified mail directed to his or her last known address, and to his or her representative. The alien must be given an opportunity to offer evidence in opposition to the grounds alleged for termination of his or her status. Evidence in opposition must be submitted within thirty (30) days after the service of the Notice of Intent to Terminate. If the alien's status is terminated, the director of the regional processing facility shall notify the alien of the decision and the reasons for the termination, and further notify the alien that any Service Form I-94, Arrival-Departure Record or other official Service document issued to the alien authorizing employment and/or travel abroad, or any Form I-688, Temporary Resident Card previously issued to the alien will be declared void by the director of the regional processing facility within thirty (30) days if no appeal of the termination decision is filed within that period. The alien may appeal the decision to the Associate Commissioner, Examinations (Administrative Appeals Unit) using Form I-694. Any appeal with the required fee shall be filed with the regional processing facility within thirty (30) days after the service of the notice of termination. If no appeal is filed within that period, the Forms I-94, I-688 or other official Service document shall be deemed void, and must be surrendered without delay to an immigration officer or to the issuing office of the Service.

(ii) Termination proceedings must be commenced before the alien becomes eligible for adjustment of status under § 210.5 of this part. The timely commencement of termination proceedings will preclude the alien from becoming a lawful permanent resident until a final determination is made in the proceedings, including any appeal.

Dated: March 16, 1990.

James A. Puleo,
*Acting Associate Commissioner,
Examinations, Immigration and
Naturalization Service.*

[FR Doc. 90-7787 Filed 4-4-90; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 1

[Docket No. 89-223]

Intent To Regulate Horses and Other Farm Animals Under the Animal Welfare Act; Technical Amendment of Definition

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Determination to regulate and technical amendment.

SUMMARY: This document gives notice that we intend to begin regulating the handling, care, treatment, and transportation of horses and other farm animals under the Animal Welfare Act (the Act). We intend to include horses used for biomedical or other nonagricultural research, and other farm animals used for biomedical or other nonagricultural research, or for nonagricultural exhibition, as regulated animals under the Act. This action is necessary to promote the humane care of these animals. We are also making a technical amendment of the definition of "animal" in the Animal Welfare regulations to add several words that were inadvertently omitted when the definition was published in the *Federal Register*. This change is necessary to clarify the intent of the definition.

EFFECTIVE DATE: June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Dr. R.L. Crawford, Director, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, Room 269, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8790.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*), enacted in 1966 and amended in 1970, 1976, and 1985, authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers.

Regulations established under the Act are contained in 9 CFR parts 1, 2, and 3.

From the time the Act was amended in 1970 (Pub. L. 91-579), the definition of the term "animal" has included "any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or such other warmblooded animal, as the Secretary may determine is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes, or as a pet; * * * (7 U.S.C. 2132(g)). The following animals are excluded from the term and therefore are not covered by the Act:

"* * * horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. * * * (7 U.S.C. 2132(g)).

We are therefore authorized by the Act to regulate horses when used for biomedical or other nonagricultural research, and are authorized to regulate other farm animals when the animals are used for biomedical or other nonagricultural research, nonagricultural exhibition, or as pets. An example of agricultural exhibition would be a livestock show at a State or county fair.

To date, as a matter of policy, we have not generally enforced the Animal Welfare regulations with respect to horses and other farm animals, although the handling and care of these animals is subject to regulation under the Act. However, we have reevaluated our policy in light of the increasing use of horses and other farm animals in biomedical research and nonagricultural exhibition, and in light of comments and inquiries received from members of the public, including members of industries regulated under the Act, regarding the need to extend enforcement of the regulations to include these animals. Following our proposal to amend part 1 of the regulations, published in the *Federal Register* on March 31, 1987 (52 FR 10292-10298, Docket No. 84-010), we received more than 1,000 comments stating that the proposed definition of "animal" should encompass all warmblooded animals, including farm animals. Based on information supplied by the commenters, on information supplied by members of the public prior to publication of the proposed rule, and on our own experience enforcing the Animal Welfare regulations, we believe it is appropriate to extend our enforcement of the Animal Welfare Act

to those horses and other farm animals covered by the Act.

By so extending our enforcement, we will make our policy and that of the United States Department of Health and Human Services (HHS) more uniform. HHS provides specific instructions for the care of horses and other farm animals. They are contained in the "NIH Guide for the Care and Use of Laboratory Animals," which is issued by the Public Health Service, National Institutes of Health, to all institutions receiving funds under the Health Research Extension Act of 1985.

Therefore, in order to ensure the humane handling, care, treatment, and transportation of horses used for biomedical or other nonagricultural research, and of other farm animals used for biomedical or other nonagricultural research, nonagricultural exhibition, or as pets, we are giving notice of our intent to regulate such animals under the Act, and to regulate persons subject to the Act who maintain these animals.

Horses and other farm animals will be regulated in accordance with the standards set forth in 9 CFR part 3, subpart F—"Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Marine Mammals"—until standards designed specifically for horses and other farm animals are added to the regulations.

Request for Comments

Elsewhere in this issue of the *Federal Register*, we are publishing a document entitled "Animal Welfare—Standards for Horses and Other Farm Animals" (Docket No. 90-006), in which we give notice that we are considering establishing standards designed specifically for the humane care of horses and other farm animals under the Act. In that document, we request comments on the development of standards for the regulation of horses used for biomedical or other nonagricultural research, and of other farm animals, such as cattle, sheep, pigs, and goats, when used for biomedical or other nonagricultural research, or for nonagricultural exhibition purposes.

Technical Amendment of Definition

Because of the inadvertent omission of several words, the definition of "animal" in part 1 of the regulations does not make it clear that horses not used for research purposes are excluded from regulation. However, such exclusion is mandated by the Animal Welfare Act. Therefore, in this

document we are making a technical amendment of the definition of "animal" to make it clear that horses not used for research purposes are not covered by the regulations.

List of Subjects in 9 CFR Part 1

Animal welfare, Animal housing, Dealers, Exhibitors, Research facilities, Humane animal handling.

Accordingly, 9 CFR part 1 is amended as follows:

PART 1—DEFINITION OF TERMS

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

Authority: 7 U.S.C. 2131-2157; 7 CFR 2.17, 2.51, and 371.2(g).

2. In § 1.1, the definition of "animal" is revised to read as follows:

§ 1.1 Definitions.

* * * * *

Animal means any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit, or any other warmblooded animal, which is being used, or is intended for use for research, teaching, testing, experimentation, or exhibition purposes, or as a pet. This term excludes: Birds, rats of the genus *Rattus* and mice of the genus *Mus* bred for use in research, and horses not used for research purposes and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs, including those used for hunting, security, or breeding purposes.

* * * * *

Done in Washington, DC, this 30th day of March 1990.

James W. Glosser,
Administrator, Animal and Plant Health
Inspection Service.

[FR Doc. 90-7863 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Parts 71 and 82

[Docket No. 90-047]

Poultry Affected by *Salmonella* Enteritidis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: We are extending the comment period for an interim rule that amended our regulations concerning

poultry and avian diseases by declaring *Salmonella enteritidis* serotype enteritidis to be an endemic disease and by imposing certain testing, movement, and other restrictions on certain chickens, eggs, and other articles from egg-type chicken flocks. This extension will provide interested persons with additional time to prepare comments on the interim rule.

DATES: Consideration will be given only to comments received on or before May 2, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 88-161. Comments may be inspected at Room 1141 of the South Building, 14th and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT:

Dr. I. L. Peterson, Staff Veterinarian, Sheep, Goat, Equine, and Poultry Diseases Staff, VS, APHIS, USDA, Room 771, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8646.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the *Federal Register* and effective on February 16, 1990 (55 FR 5576-5584, Docket No. 88-161) we amended our regulations concerning avian and poultry diseases by declaring *Salmonella enteritidis* serotype enteritidis to be an endemic disease and by imposing certain testing, movement, and other restrictions on certain chickens, eggs, and other articles from egg-type chicken flocks. On March 30, 1990, we published a technical amendment to the interim rule in the *Federal Register* (55 FR 11887, Docket No. 90-043), adding a sentence concerning test procedures that was inadvertently left out of the interim rule.

Both the interim rule and the technical amendment requested the submission of written comments on or before April 17, 1990. We have received a request from United Egg Producers for an extension of the comment period, to allow more time for review of the interim rule and preparation of comments concerning it.

In response to this request, we are extending the comment period for Docket No. 88-161 for 15 additional days. We will consider all written

comments received on or before May 2, 1990. This action will allow the requestor and all other interested persons additional time to prepare comments.

Authority: 21 U.S.C. 111-113, 114a, 114a-1, 115-117, 120-126, 134a, 134b, 134f; 7 CFR 2.17, 2.51 and 371.2(d).

Done in Washington, DC, this 28th day of March 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-7864 Filed 4-4-90; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Parts 91 and 92

[Docket No. 90-035]

Temporary Entry of Cattle From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations regarding importation of cattle to facilitate the temporary entry under United States Customs bond of certain cattle from Mexico that will be held temporarily in quarantined feedlots in the United States and then returned to Mexico for slaughter. These cattle will be exempted from requirements for herd testing in Mexico for tuberculosis and brucellosis that normally apply to cattle imported from Mexico. Steers from Mexico imported for temporary feeding and return to Mexico will also be exempted from the "M" brand requirement normally applied to steers imported from Mexico. Brucellosis-vaccinated cattle under 24 months of age imported from Mexico for temporary feeding and return to Mexico will also be exempted from undergoing brucellosis testing normally required for all cattle imported from Mexico. The cattle will be required to be removed from the quarantined feedlot only for direct return to Mexico for slaughter. All the cattle will be exempted from certain certification and testing requirements normally applied to cattle exported to Mexico from the United States. This action is considered necessary to mitigate the effects of a severe drought in Mexico that has caused loss of cattle pasture and feed to the extent that a large number of Mexican cattle are threatened with starvation. This action will facilitate the expedited safe entry into the United States of Mexican cattle for temporary stay and feeding.

DATES: Interim rule effective on March 30, 1990. Consideration will be given only to comments received on or before June 4, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 90-035. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Sam Richeson, Senior Staff Veterinarian, IEAS, VS, APHIS, USDA, room 759, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8144.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92, referred to below as the regulations, govern the importation into the United States of specified animals and animal products, to prevent the introduction into the United States of various diseases, including tuberculosis, brucellosis, and splenetic, southern and tick fevers.

All cattle imported from Mexico must be presented to a veterinary inspector at the port of entry for inspection, and generally must be accompanied by certificates of a full time salaried veterinarian of the national government of Mexico containing declarations regarding the animals' status under the following provisions of the regulations for various pests and diseases: (1) Cattle fever ticks, in accordance with § 92.35(b); (2) tuberculosis, in accordance with § 92.35(c); and (3) brucellosis, in accordance with § 92.35(d). There are certain exceptions to these certification requirements for steers, spayed heifers, animals under six months of age, and animals imported for immediate slaughter. Also, except for animals imported in bond for transit and immediate return to Mexico as well as animals imported for immediate slaughter, any cattle imported from Mexico may be detained at the port of entry and subjected to disinfection, blood or other tests, and dipping required by the regulations to determine their freedom from communicable disease and ticks.

We are adding provisions to the regulations to allow cattle from Mexico to enter the United States for temporary

feeding and return to Mexico under the following conditions. The cattle may enter the United States if they enter under United States Customs bond, are moved directly from the port of entry to a quarantined feedlot approved by the United States Department of Agriculture (USDA) and the State in which the quarantined feedlot is located, and leave the feedlot only for direct return to Mexico. Movement of the cattle from the port of entry to the quarantined feedlot, and return movement to Mexico, must be by railway cars or trucks sealed by a USDA official. Cattle from Mexico entering the United States under these conditions must be presented to a veterinary inspector at the port of entry for inspection, and must meet the certification and dipping requirements for fever ticks contained in § 92.35(b) and the certification and testing requirements of § 92.35(c) for tuberculosis and § 92.35(d) for brucellosis, with the exception that the cattle need not meet the herd test requirements of §§ 92.35 (c)(1) and (d)(1). These herd test requirements normally require that the herds from which imported Mexican cattle originate must test negative for tuberculosis not more than 12 months nor less than 3 months before the date the animals are offered for entry, and must test negative for brucellosis not more than 90 days nor less than 30 days before the date the animals are offered for entry.

We are also exempting steers and brucellosis-vaccinated cattle imported from Mexico for temporary feeding and return to Mexico from certain other requirements of the regulations. Steers are exempted from the requirement of § 92.35(c)(2) that Mexican steers be "M" branded. We are waiving the requirement for "M" branding of steers, because this brand only serves to identify the Mexican origin of steers that enter U.S. market channels. Since all Mexican cattle will be returned to Mexico, there is no need to identify the animals not entering U.S. market channels.

We are also exempting cattle from Mexico that have been vaccinated for brucellosis and are under 24 months of age at the time of importation into the United States from the requirements of § 92.35(d)(2) for brucellosis testing at the port of entry. We are waiving the requirement for brucellosis testing for Mexican cattle under 24 months of age that have been vaccinated for brucellosis, because vaccinated cattle under this age may show false positives to the brucellosis test. The former regulations required brucellosis testing for all cattle from Mexico except steers