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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. APHIS-2012-0049]

RIN 0579-AE00

Exportation of Live Animals, Hatching Eggs, and Animal Germplasm From the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to revise the regulations pertaining to the exportation of livestock from the United States. Among other things, we propose to remove most of the requirements for export health certifications, tests, and treatments from the regulations, and instead would direct exporters to follow the requirements of the importing country regarding such processes and procedures. We propose to retain only those export health certification, testing, and treatment requirements that we consider necessary to have assurances regarding the health and welfare of livestock exported from the United States. We also propose to allow pre-export inspection of livestock to occur at facilities other than an export inspection facility associated with the port of embarkation, under certain circumstances, and propose to replace specific standards for export inspection facilities and ocean vessels with performance standards. These changes would provide exporters and the Animal and Plant Health Inspection Service with more flexibility in arranging for the export of livestock from the United States while continuing to ensure the health and welfare of the livestock. Additionally, if a country is known to require

an export health certificate for any animal other than livestock, including pets, or for any hatching eggs or animal germplasm, we propose to require that the animal, hatching eggs, or animal germplasm have an export health certificate to be eligible for export from the United States. This change would help ensure that all animals, hatching eggs, and animal germplasm exported from the United States meet the health requirements of the countries to which they are destined. Finally, we are proposing editorial amendments to the regulations to make them easier to understand and comply with.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0049>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0049, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0049> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Jack Taniewski, Director for Animal Export, National Import Export Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 851-3300.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Health Protection Act (AHPA, 7 U.S.C. 8301 et seq.), the Secretary of Agriculture may prohibit or restrict the exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of any pest or disease of livestock from or within the United States. The AHPA also authorizes the Secretary to prohibit: (1) The exportation of any livestock if the Secretary determines that the livestock is unfit to be moved; (2) the use of any means of conveyance or facility in connection with the exportation of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of any pest or disease of livestock from or within the United States; and (3) the use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock.

The Secretary has delegated this authority to the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA). Pursuant to this authority, APHIS has issued the regulations in 9 CFR part 91, “Inspection and Handling of Livestock for Exportation” (“the regulations”).

The regulations contain requirements for the inspection and handling of cattle (including American bison), horses, captive cervids, sheep, goats, and swine (referred to below collectively as livestock) intended for export from the United States. Among other things:

- The livestock must be accompanied to a port of embarkation or land border port by an export health certificate.
- The export health certificate must contain test results and certifications required by the country to which the animals are destined, as well as certain test results and certifications required by APHIS, regardless of the destination country.
- If tests for brucellosis are required, the tests must be conducted in a cooperating State-Federal laboratory in accordance with the Brucellosis Uniform Methods and Rules.
- Except for livestock exported through land border ports, the livestock must be inspected within 24 hours of embarkation by an APHIS veterinarian at an export inspection facility associated with the port of embarkation.
- Except for livestock exported through land border ports, the livestock must be allowed to rest at least 5 hours at an export inspection facility at the port of embarkation prior to embarkation. The livestock must be given food and water during this time unless they had food and water in the carrier that transported them to the export inspection facility and they will reach the destination country within 36 hours after they were last fed and watered in the United States, or, if they are under 30 days of age, within 24 hours after they were last fed and watered in the United States.
- Ports of embarkation for animals to be exported by air or sea must meet standards set out in the regulations for construction, space, equipment, access, feed, and water.

- Ocean vessels used to export livestock must meet standards specified in the regulations for construction, ventilation, space, fittings, equipment, attendants, cleaning, and disinfection.

We have not substantively amended these regulations for many years. Some provisions, such as those that require pre-export inspection of livestock at an export inspection facility associated with the port of embarkation and those that set forth specific construction and maintenance standards for export inspection facilities and ocean vessels, sometimes interfere with exports. Other requirements, particularly those that require certain tests and certifications for all livestock intended for export from the United States, are not always required by importing countries or necessary for us to have assurances regarding the health and welfare of the livestock at the time of export.

For these reasons, we are proposing to remove requirements that we have determined to be unnecessary or overly prescriptive from the regulations in order to provide exporters and APHIS with more options for inspecting and handling livestock intended for export. The proposed changes would continue to ensure that livestock intended for export are humanely transported and that all livestock exported from the United States meet the import health requirements of the countries to which they are destined.

Additionally, although our authority under the AHPA allows us to issue export health certificates for animals other than livestock, as well as for hatching eggs and germplasm, the regulations currently do not contain provisions for such issuance.

However, as a signatory on the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), the United States has agreed to respect the measures that other countries impose on the importation of animals other than livestock, hatching eggs, or animal germplasm from the United States, when these countries demonstrate the need to impose

the measures in order to protect animal health. Several countries have entered into export protocols with the United States in which they demonstrate such a need and require export health certificates to be issued in order for animals other than livestock, hatching eggs, or animal germplasm to be exported to their country.

Accordingly, we would revise part 91 so that, when an importing country is known to require an export health certificate for any animal other than livestock or for any animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes intended for export to that country, the animal or other commodity must have an export health certificate in order to be eligible for export from the United States.

Finally, in order to make the regulations easier to follow, we are proposing to group certain provisions that are currently located in disparate sections of the regulations, and to make certain other editorial changes to make the regulations easier to read.

We discuss our proposed revision to the regulations, by section, below.

Definitions (§ 91.1)

The regulations in current § 91.1 contain definitions of the following terms: Accredited veterinarian, Administrator, Animal and Plant Health Inspection Service, animals, APHIS representative, Department, horses, inspector, miniature swine, official brucellosis vaccinate, origin health certificate, premises of origin, roofing paper, State of origin, and Veterinary Services.

In proposed § 91.1, we would omit the definitions of Department, miniature swine, official brucellosis vaccinate, and Veterinary Services, as the terms would not be used in the revised regulations. We would also remove the definitions of origin health certificate and

premises of origin and replace these terms with two other terms, export health certificate and premises of export, respectively.

We would replace origin health certificate with export health certificate because the latter term is more commonly used. We would define the term export health certificate as “an official document issued in the United States that certifies that animals or other commodities listed on the certificate meet the export requirements of this part and the importing country.” Whereas the definition of origin health certificate contains provisions regarding the content and issuance of origin health certificates, the definition of export health certificate would not. This is because we have determined that these provisions are more accurately characterized as regulatory requirements, and would thus place them in proposed § 91.3. That section would contain requirements regarding the information that must be contained on an export health certificate and the manner in which the certificate must be issued in order for us to consider it valid.

We would replace premises of origin with premises of export for a different reason. The term premises of origin is often used in common speech to mean the premises where animals were born and/or raised. We mean, instead, the premises where the animals are assembled for pre-export isolation (if such isolation is required by the importing country) or, if the importing country does not require pre-export isolation, the premises where the animals are assembled for pre-export inspection and/or testing, or the germplasm is collected and stored, before being moved to a port of embarkation or land border port. This could be the premises where the animals were born and/or raised, but could also be another location where the animals were assembled for isolation, testing, and/or inspection prior to movement. This nuance is currently reflected in the definition of premises of origin, which is defined in a manner that includes the premises where animals are assembled immediately before movement for export. However, the

term premises of origin itself does not necessarily capture the nuance. We think the term premises of export better expresses our intent.

By replacing the term premises of origin with the term premises of export, we would also revise the definition of State of origin, which currently uses the term premises of origin.

We would also revise the definitions of Animal and Plant Health Inspection Service, animal, APHIS representative, and inspector.

We currently define Animal and Plant Health Inspection Service as “The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).” The revised regulations would no longer use the term “Service” as a synonym for APHIS; thus, we would remove a reference to “Service” from this definition.

As we mentioned above, the regulations currently apply only to horses, cattle (including American bison), captive cervids, sheep, swine, and goats. As a result, the definition of animal in current § 91.1 only includes those species. However, because this proposed rule would contain provisions for export certification of animals other than those six species, when we use the term animal in this preamble and proposed rule, it has the common meaning of any member of the animal kingdom, except a human. (This revised definition would be identical to the definition of animal within the AHPA itself.)

Certain provisions of the revised regulations would only pertain to horses, cattle (including American bison), captive cervids, sheep, swine, and goats, however. To differentiate between those provisions that would be generally applicable to all animals, and those that would pertain only to those species, we would refer to horses, cattle (including American bison), captive cervids, sheep, swine, and goats collectively as livestock within the revised regulations, and would include such a definition of livestock within proposed § 91.1.

Currently, we define APHIS representative as “an individual employed by APHIS who is authorized to perform the function involved” and inspector as “an inspector of the Animal and Plant Health Inspection Service.” However, as we have expanded our export certification services to animals other than livestock, we have occasionally authorized individuals who are not employed by APHIS to serve as APHIS representatives and inspectors. This usually occurs when we do not have the specialized expertise necessary to assess the disease status of a particular animal intended for export. For example, APHIS sometimes authorizes employees of the United States Fish and Wildlife Service of the Department of the Interior to provide inspection and/or certification of certain species of aquaculture intended for export. To reflect these operational practices, we would revise the definition of APHIS representative to “an individual who is authorized by APHIS to perform the function involved” and the definition of inspector to “an individual authorized by APHIS to inspect animals and/or animal products intended for export from the United States.”

Finally, we would add definitions of the following terms to the regulations: Date of export, export inspection facility, export isolation facility, program diseases, and Program Handbook.

We would define date of export as “the date animals intended for export are loaded onto an ocean vessel or aircraft or, if moved by land to Canada or Mexico, the date the animals cross the border.” We would include such a definition within the revised regulations because, as in the current regulations, we would require animals to be inspected in order for their export to be authorized, and this inspection would have to occur within a set period of time prior to the date of export.

We would define export isolation facility as “a facility where animals intended for export are isolated from other animals for a period of time immediately before being moved for export,” and would define export inspection facility as “a facility that is affiliated with a port of embarkation and that has been approved by the Administrator as the location where APHIS will conduct health inspections of livestock before they are loaded onto ocean vessels or aircraft for export from the United States.” We would include a definition of export isolation facility because we would authorize pre-export inspection of livestock at export isolation facilities, under certain conditions. We would include a definition of export inspection facility in order to clarify how such facilities differ from export isolation facilities.

We would define program diseases to mean diseases for which there are cooperative State-Federal programs and domestic regulations in subchapter C of the APHIS’ regulations in 9 CFR. As we mentioned earlier in this document, we are proposing to remove most testing requirements from the regulations, and instead would direct exporters to follow the testing requirements of the importing country. However, many countries require tests for diseases for which we have established domestic State-Federal quarantine programs, such as tuberculosis, brucellosis, and pseudorabies. Such diseases are commonly referred to as program diseases. We would require testing for such program diseases to occur according to the standards and protocols established domestically for these diseases.

We would define Program Handbook to mean a document that contains guidance and other information related to the regulations. The definition would provide that the Program Handbook is available on APHIS’ import-export Web site, and would provide the address for that Web site. We discuss the role that the Program Handbook would play in relation to the

proposed regulations at greater length in the discussion of subsequent sections of the proposed regulations.

Applicability (§ 91.2)

Current § 91.2 requires livestock to be exported from the United States in accordance with the regulations. We would retain this requirement. However, since the revised regulations would also pertain to the export of animals other than livestock and to animal germplasm, proposed § 91.2 would specify that such animals and animal germplasm must also be exported in accordance with the regulations.

General Requirements (§ 91.3)

Proposed § 91.3 would provide general requirements for the export of livestock, animals other than livestock, and animal germplasm.

Proposed paragraph (a)(1) of § 91.3 would provide that livestock must have an export health certificate in order to be eligible for export from the United States. We recognize that a country could elect to allow livestock to be imported into that country without an export health certificate. However, even in such instances, pursuant to our authority under the AHPA, we would need assurances that the livestock were fit to be moved for export from their premises of export at the time that movement occurred. The export health certificate would provide such assurances.

The current regulations do not contain export health certification or other export-health requirements for animals other than livestock or for animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes. However, as we mentioned above, some foreign countries have entered into export protocols with the United States for species of animals other than livestock, including dogs, cats, and aquatic animals in which these countries require export

health certificates to be issued in order for the animal to be exported from the United States to their country. Likewise, some foreign countries require export health certificates for animal germplasm, hatching eggs, other embryonated eggs, and gametes exported from the United States. Consistent with the SPS Agreement and our authority under the AHPA, it is APHIS policy to require export health certificates for the export of such animals and germplasm from the United States to such countries.

Accordingly, proposed paragraph (a)(2) of § 91.3 would provide that, if an importing country is known to require an export health certificate for any animal other than livestock or for any animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes intended for export to that country, the animal or other commodity must have an export health certificate in order to be eligible for export from the United States.

Proposed paragraph (b) of § 91.3 would contain minimum requirements regarding the information that must be contained on an export health certificate. Proposed paragraph (b)(1) of § 91.3 would specify that regardless of the requirements of the importing country, an export health certificate for livestock must contain:

- The species of each animal.
- The breed of each animal.
- The sex of each animal.
- The age of each animal.
- The individual identification used to identify the animals. (Identification requirements would be contained in proposed § 91.5.)

- The importing country.
- The consignor.
- The consignee.
- A certification that an accredited veterinarian inspected the livestock and found them to be fit for export.
- A signature and date by an accredited veterinarian.
- An endorsement by the APHIS veterinarian responsible for the State of origin.

These information requirements, many of which are included in the current definition of origin health certificate, represent the minimal categories of information that we require in order for us to consider an export health certificate to have been validly issued.

Proposed paragraph (b)(2) of § 91.3 would also require export certificates for livestock to meet any other information or issuance requirements specified by the importing country. This provision would be substantively similar to an existing provision in current § 91.3 that requires origin health certificates for livestock to include all test results, certifications, or other statements required by the country of destination.

Proposed paragraph (b)(3) of § 91.3 would set forth requirements for export health certificates for animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes. For such animals and commodities, we propose to require that their export health certificates meet any information requirements specified by the importing country.

As we mentioned above, we issue export health certificates for animals other than livestock and animal germplasm when such certificates are required by the importing country. For these reasons, we consider it reasonable to require that such certificates meet the information requirements specified by the importing country.

Current paragraph (a) of § 91.3 requires the origin health certificate to certify that the livestock were inspected within 30 days prior to the date of export, with certain exceptions. The Administrator may allow inspection to be done more than 30 days prior to the date of export if required or allowed by the importing country. Proposed paragraph (c) of § 91.3 would require that livestock be inspected within the timeframe required by the importing country. If the importing country does not specify a timeframe, we propose to require that the livestock be inspected within 30 days prior to the date of export. These requirements would be similar to the current requirements, but would place a greater emphasis on meeting the requirements of the importing country.

Current paragraph (c) of § 91.3 sets forth general requirements for sampling and testing for livestock intended for export. It requires species-specific samples and tests, which are currently listed in § 91.5 through § 91.9, to be taken by an inspector or accredited veterinarian in the State of origin. It further requires the samples to be taken and tests made within 30 days prior to the date of export, except when the importing country requires or allows such sampling and testing to be conducted more than 30 days prior to the date of export and the Administrator agrees to this different timeframe. It further allows tuberculin tests to be conducted 90 days prior to export. Finally, it requires tests for brucellosis to be conducted in a cooperative State-Federal laboratory in accordance with the Brucellosis Uniform Methods and Rules.

We consider substantial revisions to these testing requirements to be necessary. First, although most testing is conducted by accredited veterinarians or APHIS inspectors, on certain occasions the samples and tests are administered by APHIS employees, such as animal health technicians, who are neither inspectors nor accredited veterinarians, but who have been trained by APHIS to conduct such sampling and testing. Such individuals function as APHIS representatives, as we are proposing to define that term.

Second, while the intent of §§ 91.3 through 91.9 is to require that, if an importing country requires livestock intended for export to be tested for a program disease, the livestock are tested for the disease, and are tested in the same manner and under the same conditions as domestic livestock are tested for that disease prior to interstate movement, this intent is not readily apparent. Similarly, current § 91.3 could be construed to suggest that brucellosis is the only program disease for which approved laboratories exist; this is not the case.

Finally, consistent with other changes that we are proposing to the regulations, we believe that greater emphasis must be put on meeting the requirements of the importing country.

Accordingly, proposed paragraph (d) of § 91.3 would set forth revised testing requirements for livestock intended for export. All samples for tests of livestock that are required by the importing country would have to be taken by an APHIS representative or accredited veterinarian. The samples would have to be taken and tests made within the timeframe allowed by the importing country, and, if specified, at the location required by the importing country. Consistent with the current regulations, if the importing country does not specify a timeframe, the samples would have to be taken and tests made within 30 days prior to the date of export, except that tuberculin tests could be conducted within 90 days prior to the date of export. All tests for program diseases would have to be made in laboratories and using

methods approved by the Administrator for those diseases. The Program Handbook would provide access to a list of approved laboratories; approved methods would be those specified or otherwise incorporated within the domestic regulations in subchapter C of 9 CFR chapter I.

These proposed requirements, in conjunction with our proposed general requirement that all certification requirements of the importing country be met, would eliminate the need to specify species-specific testing requirements in part 91. Thus we would not retain the provisions contained in current §§ 91.5 through 91.9.

Proposed paragraph (e) of § 91.3 would set forth conditions for movement from the premises of export for livestock, animals other than livestock, and animal germplasm with an export health certificate.

Proposed paragraph (e)(1) of § 91.3 would set forth movement requirements for livestock moving from the premises of export under an export health certificate. It would require that an export health certificate be issued and endorsed before the livestock move from the premises of export. Additionally, except when the certificate has been issued and endorsed electronically, the original signed export health certificate would have to accompany the livestock for the entire duration of movement from the premises of export to the port of embarkation or land border port.

Proposed paragraph (e)(2) of § 91.3 would set forth movement requirements for animals other than livestock and animal germplasm moving from a premises of export under an export health certificate. (It would pertain to animals other than livestock and animal germplasm only when export health certificates are required for such animals or commodities.) It would require that, when an export health certificate is required by the importing country for any animal other than livestock or for animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes, it must be issued and, if required by the importing country, endorsed by an APHIS

representative prior to the arrival of the animal or other commodity at the port of embarkation or land border port.

When presented for endorsement, the health certificate would have to be accompanied by reports for all laboratory tests specifically identified on the certificate. To preclude tampering, we would require either the original reports prepared by the laboratory that performed the tests to accompany the certificate or a copy of the reports that is annotated by the laboratory to indicate how the originals may be obtained.

Finally, except when an export health certificate has been issued and endorsed electronically, the original signed export health certificate would have to accompany the animals or animal germplasm to the port of embarkation or land border port.

Proposed paragraph (f)(1) of § 91.3 would provide that, unless specified by the importing country, an export health certificate for livestock is valid for 30 days from the date of issuance, provided that the inspection and tests results under paragraphs (c) and (d) of § 91.3 are still valid. Similarly, proposed paragraph (f)(2) of § 91.3 would provide that, unless specified by the importing country, an export health certificate for animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes is valid for 30 days from the date of issuance.

Prohibited Exports (§ 91.4)

We are proposing to prohibit the export of any animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes under Federal, State, or local government quarantine or movement restrictions for animal health reasons unless the importing country issues an import permit or other written instruction allowing that animal or other commodity to enter its country and APHIS concurs with the export of the animal, animal semen, animal

embryos, hatching eggs, other embryonated eggs, or gametes. This restriction, together with any export health certifications required by an importing country, would ensure that animals, hatching eggs, and animal germplasm exported from the United States meet the health requirements of importing countries and are free from serious diseases.

Identification of Livestock Intended for Export (§ 91.5)

Proposed § 91.5 would contain identification requirements for livestock intended for export. With one exception, we would require such livestock to be identified in accordance with 9 CFR part 86. That part contains national identification standards for livestock moving in interstate commerce. We consider this requirement to be necessary in order to align our export requirements with our domestic regulations, and to facilitate the interstate movement of animals intended for export from their premises of export to an export inspection facility, port of embarkation, or land border port.

We would also require the livestock to bear any additional form of identification required by the importing country.

Finally, while part 86 requires that, if a horse is identified by an individual animal tattoo, the horse must be accompanied by a written description of the horse, we would allow horses intended for export to be identified by individual animal tattoos alone, if allowed by the importing country. The United States has long-standing export protocols with several countries that allow horses to be identified solely by an animal tattoo, and we have not encountered problems with the orderly export of horses to those countries that would suggest the need to modify the protocols to specify an alternate means of identification.

Cleaning and Disinfection of Means of Conveyance, Containers, and Facilities Used During Movement; Approved Disinfectants (§ 91.6)

Current paragraph (d) of § 91.3 requires export health certificates to certify that the means of conveyance or container used to move livestock from their premises of export has been cleaned and disinfected since last used for animals with a disinfectant approved under § 71.10 of 9 CFR prior to loading, or to certify that the carrier or container has not previously been used in transporting animals. Similarly, current paragraph (e) of § 91.3 requires that facilities where animals are unloaded during movement to ports of embarkation or border ports be cleaned and disinfected with a disinfectant approved under § 71.10 before the animals are unloaded into that facility.

Section 71.10 lists disinfectants permitted for use on means of conveyance, containers, and facilities associated with the movement of livestock in commerce. However, the list of permitted disinfectants in § 71.10 has not been updated in many years. Additionally, § 71.10 does not provide for a mechanism to add or remove disinfectants from the list, as warranted.

Therefore, while proposed § 91.6 would substantively retain the regulatory provisions currently located in paragraphs (d) and (e) of § 91.3, it would no longer require use of a disinfectant listed in § 71.10. Instead, disinfectants approved by the Administrator for the purposes of fulfilling these regulatory requirements would be listed online, at a Web address provided in the Program Handbook.

We would also provide a mechanism for additional disinfectants to be added to the list of approved disinfectants. The Administrator would approve a disinfectant upon determining that the disinfectant is effective against pathogens that may be spread by the animals intended for export. Additionally, if the disinfectant is a chemical disinfectant, it would have to be registered or exempted for the specified use by the U.S. Environmental Protection Agency (EPA).

Under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq., FIFRA), EPA requires chemical disinfectants used for animal pathogens to be registered with their Agency, unless they have granted an exemption from such registration for the specified use. Criteria for exemptions are specified in sections 18, 24, and 25 of FIFRA.

There would also be a mechanism for removing disinfectants from the list of approved disinfectants. The Administrator would remove a disinfectant from the list if it no longer meets the conditions for approval specified above.

Pre-export Inspection (§ 91.7)

Currently, paragraph (a) of § 91.15 requires animals offered for exportation to any country other than Mexico or Canada to be inspected by an APHIS veterinarian within 24 hours of embarkation of the animals at an export inspection facility associated with a port designated as a port of embarkation by the Administrator. Current paragraph (b) of § 91.17 requires that owners, masters, or operators of ocean vessels must refuse for transportation any livestock that are unfit to withstand the rigors of such transportation. This paragraph also provides that an APHIS veterinarian must make this determination.

The paragraphs are intended to work in tandem to describe APHIS' usual processes regarding pre-export inspection of livestock destined for export aboard an ocean vessel: The animals are moved to an export inspection facility and an APHIS veterinarian examines the livestock to determine whether they are fit to travel. If any of the livestock are deemed unfit to travel, the veterinarian requires them to be segregated from the rest of the livestock intended for export, and prohibits them from being loaded onto the ocean vessel at the point of embarkation.

This intent, however, is not readily apparent. Nor do the current regulations in part 91 specify that APHIS has in place parallel processes for livestock intended for export via aircraft.

Finally, exporters have from time to time requested the criteria that lead a veterinarian to determine an animal is unfit for travel.

To clarify both the nature and intent of the pre-export inspection, proposed paragraph (a) of § 91.7 would require all livestock intended for export by air or sea to receive a visual health inspection from an APHIS veterinarian within 48 hours prior to embarkation. (We discuss why we are proposing to increase the allowed duration between this inspection and the embarkation of the animals from 24 to 48 hours later in this document). Paragraph (a) would also provide that the purpose of the inspection is to determine whether the livestock are sound, healthy, and fit to travel. The paragraph would further state that an APHIS veterinarian will reject for export any livestock that he or she finds to be unfit to travel.

The paragraph would specify that it is the responsibility of the owner of the animals or his or her agent to make arrangements for any livestock found unfit to travel. The purpose of this requirement, which is not found in the current regulations, would be to give notice to owners and their agents that it is their responsibility to take appropriate, effective, and humane care of animals that are judged unfit to travel.

Finally, proposed paragraph (a) of § 91.7 would provide a list of conditions that make an animal unfit to travel. The list is not intended to be exhaustive or all-inclusive, but would cover the most common situations that we encounter. The list would include:

- Livestock that are sick, injured, weak, disabled, or fatigued.
- Livestock that are unable to stand unaided or bear weight on each leg.
- Livestock that are blind in both eyes.
- Livestock that cannot be moved without causing additional suffering.

- Newborn livestock with an unhealed navel.
- Livestock that have given birth within the previous 48 hours and are traveling without their offspring.
- Pregnant livestock that would be in the final 10 percent of their gestation period at the planned time of unloading in the importing country.
- Livestock with unhealed wounds from recent surgical procedures, such as dehorning.

As we mentioned earlier in this document, the regulations currently require pre-export inspection to occur at an export inspection facility associated with a port that has been designated as a port of embarkation by the Administrator.

Currently, many countries require livestock intended for export to be kept isolated from other animals for a period of time immediately prior to movement for export. This isolation usually occurs at the premises of export, although, in certain instances, it occurs at another facility specifically designed for isolation of livestock. After the period of isolation ends, if the livestock will be exported by air or sea, they are shipped from the export isolation facility to an export inspection facility at a designated port of embarkation for pre-export inspection.

In recent years, APHIS has received several requests from exporters to allow pre-export inspection of livestock at export isolation facilities. These requests have usually been made when the export isolation facility was closer to the nearest designated port of embarkation than it was to the export inspection facility, or when the exporter expressed concern that moving the livestock to the export inspection facility would cause undue hardship to the animals.

Similarly, from time to time, we also have received requests from exporters to allow

pre-export inspection of livestock at an export inspection facility other than the facility associated with the port of embarkation for the livestock. These usually have occurred when the export inspection facility requested by the exporter can more easily accommodate the lot of animals to be inspected, or has additional resources or personnel to conduct inspections.

As a result, proposed paragraph (b) of § 91.7 would provide that an APHIS veterinarian must conduct pre-export inspection at either an export inspection facility associated with the port of embarkation, or, when authorized by the Administrator, at an export isolation facility or another export inspection facility. The conditions under which the Administrator would authorize inspection of the livestock at an export isolation facility or an export inspection facility not associated with the port of embarkation would be described in paragraphs (c) and (d) of § 91.7.

Proposed paragraph (b) of § 91.7 would also provide that, unless APHIS has authorized otherwise, any sorting, grouping, identification, or other handling of the livestock by the exporter must be done before the inspection. It would further provide that the APHIS veterinarian may also conduct clinical examination of any of the livestock during or after this inspection if he or she deems it necessary in order to determine the animal's health. Any testing or treatment related to this clinical examination would have to be performed by an APHIS veterinarian or an accredited veterinarian. (In this context, testing refers to discretionary tests performed on animals exhibiting signs or symptoms of illness, not to tests required by APHIS or the importing country.) Finally, the paragraph would specify that if the facility used to conduct the inspection is a facility other than the export inspection facility associated with the port of embarkation, it must be located within 28 hours driving distance under normal driving conditions from the port of embarkation. While we have determined that there are certain instances where it makes sense

to authorize pre-export inspection of livestock at export isolation facilities or export inspection facilities other than the export inspection facility associated with the port of embarkation, none of these instances would suggest authorizing inspections at an export isolation facility or export inspection facility located more than 28 hours driving distance from the port of embarkation. We are proposing a maximum driving distance of 28 hours because, pursuant to the 28 hour law (49 U.S.C. 80502), the maximum time that livestock may be transported in interstate commerce without rest, feed, and water is 28 hours.

To help ensure that livestock moved from a facility located a significant distance from the port of embarkation are well-rested and fit for travel, we would require livestock to be afforded at least 48 hours rest, with sufficient feed and water during that time period, prior to movement from the facility. Inspection of the livestock would occur during this rest period, which could also be concurrent with any isolation period required by the exporting country.

As we mentioned above, proposed paragraph (c) of § 91.7 would contain conditions under which the Administrator would authorize pre-export inspection of the livestock at an export isolation facility, rather than the export inspection facility associated with the port of embarkation. Proposed paragraph (c)(1) would state that the Administrator may allow pre-export inspection of livestock to be conducted at an export isolation facility, rather than at an export inspection facility, when the exporter can show to the satisfaction of the Administrator that the livestock would suffer undue hardship if they had to be inspected at the export inspection facility, when the distance from the export isolation facility to the port of embarkation is significantly less than the distance from the export isolation facility to the export inspection facility associated with the port of embarkation, when inspection at the export isolation facility would be a more efficient use of APHIS resources, or for other reasons acceptable to the

Administrator. In other words, generally speaking, we would authorize pre-export inspection of livestock at an export isolation facility when we determine that it would further our goal under the AHPA to ensure the health and humane treatment of animals exported from the United States, or when it would be more practical for the parties involved in the inspection to have it at the export isolation facility as long as the livestock would not suffer any undue hardship.

Proposed paragraph (c)(2) of § 91.7 would specify that the Administrator's approval of an export isolation facility as the location where pre-export inspection takes place is contingent upon APHIS having personnel available to provide services at that location. It would further specify that approval is also contingent upon the Administrator determining that the facility has space, lighting, and humane means of handling livestock sufficient for the APHIS personnel to safely conduct required inspections.

The Program Handbook would provide guidance for isolation facilities regarding ways to meet these performance standards. Isolation facility owners or operators who follow the guidance set forth in the Program Handbook would be assured of APHIS approval of their facilities as locations for pre-export inspection. Owners and operators could submit alternate plans for meeting the performance standards to APHIS for evaluation and approval. In order for us to approve these alternate plans, however, they would have to be at least as effective in meeting the performance standards as those described in the Program Handbook. We would have to approve these alternate plans before the facility could be used for purposes of proposed § 91.7.

Proposed paragraph (d) of § 91.7 would contain conditions under which the Administrator would authorize inspection of livestock at an export inspection facility other than the export inspection facility associated with the port of embarkation. It would state that the

Administrator may allow pre-export inspection of livestock to be conducted at an export inspection facility other than the export inspection facility associated with the port of embarkation when the exporter can show to the satisfaction of the Administrator that the livestock would suffer undue hardship if they had to be inspected at the export inspection facility associated with the port of embarkation, when inspection at this different export inspection facility would be a more efficient use of APHIS resources, or for other reasons acceptable to the Administrator.

These conditions would be very similar to the conditions under which we would allow pre-export inspection at an export isolation facility. However, while we can foresee instances when an export isolation facility may be closer to the port of embarkation from which the livestock will be shipped than the export inspection facility associated with the port of embarkation, we cannot foresee instances when the export inspection facility associated with a different port would be closer to the port of embarkation than the export inspection facility associated with that port.

If this rule is finalized, we anticipate approving several export isolation facilities and authorizing pre-export inspection of livestock at those facilities pursuant to paragraphs (c)(1) and (c)(2) of § 91.7. We also anticipate authorizing pre-export inspection of livestock at export inspection facilities other than those associated with the port of embarkation pursuant to paragraph (d) of § 91.7 from time to time.

If such authorization occurs, there could be certain instances when it would be difficult, if not impossible, for an animal to be inspected within 24 hours prior to embarkation. Even when pre-export inspection of livestock is conducted at an export inspection facility located at the port of embarkation, it can take more than 24 hours to load a large lot of animals safely into an ocean

vessel. If pre-export inspection were to occur at an export isolation facility or an export inspection facility other than the facility associated with the port of embarkation, the time spent en route to the port of embarkation would count towards the 24 hour period. This could result in hastened loading of the animals and increased likelihood of their injury or distress. For these reasons, as we mentioned above, we are proposing to allow pre-export inspections to occur up to 48 hours prior to embarkation. Allowing the inspection to occur up to 48 hours in advance would provide additional time for thorough inspections and orderly loading of the livestock, while still keeping the final inspection close to the time of departure.

That being said, we recognize that some countries have import requirements that specify that livestock must be inspected within a shorter period of time prior to export. In such instances, the inspection would have to take place within the timeframe specified by the importing country.

Paragraph (e) of § 91.7 would provide that the APHIS veterinarian will maintain an inspection record that includes the date and place of the pre-export inspection, species and number of animals inspected, the number of animals rejected, a description of those animals, and the reasons for rejection. In the event of a dispute regarding whether a particular animal was considered fit for travel during pre-export inspection, we would have recourse to these records to help resolve the dispute.

For similar reasons, proposed paragraph (f) of § 91.7 would provide that, at the request of the importing country or an exporter, the APHIS veterinarian who inspects the livestock will issue a certificate of inspection for livestock he or she finds to be sound, healthy, and fit for travel.

Rest, Feed, and Water Prior to Export (§ 91.8)

Currently, paragraph (c) of § 91.15 requires all livestock intended for export from the United States by sea or air to be allowed a period of at least 5 hours for rest at the export inspection facility associated with the port of embarkation, with adequate feed and water available, before movement to an ocean vessel or aircraft for loading for export. The paragraph allows this rest period to occur during pre-export inspection, and provides that feed and water is not required if the animals were transported to the export inspection facility in a carrier in which adequate feed and water was provided and if sufficient evidence is presented to an APHIS veterinarian that the animals, if under 30 days of age, will arrive in the import country within 24 hours after they were last fed and watered in the United States, or in the case of other animals, within 36 hours after they were last fed and watered in the United States.

Proposed § 91.8 would revise these requirements. We are proposing to eliminate any exemptions from the rest, feed, and water requirement for livestock intended for export by sea or air. We are proposing to do so because, once an animal leaves the territorial limits of the United States, it is no longer subject to our oversight, and because it is not uncommon for travel to a foreign region to take significantly longer than expected because of adverse climatic conditions and other reasons.

We are, however, proposing to reduce the rest period that must be afforded to livestock intended for export from 5 hours to 2 hours. In our experience, livestock moved for export are usually not taxed by such movement to the extent that would warrant a 5 hour rest period.

However, they do tend to stiffen as a result of such movement. Based on our experience, it takes the animals 2 hours to become limber once again and prepared for the rigors of sea or air travel.

Out of recognition that there could be circumstances where 2 hours would be an insufficient period of time for such rest, however, we would allow an inspector to extend the duration of the rest period up to 5 hours, at his or her discretion and based on a determination that more rest is necessary in order to have assurances that the animals are fit to travel prior to loading.

Finally, we are proposing to remove the provision from the current regulations allowing this rest period to be concurrent with pre-export inspection. Based on our experience, it is difficult for an animal to rest during pre-export inspection. However, if pre-export inspection has occurred at a facility other than the export inspection facility associated at the port of embarkation, we are proposing to require that the livestock be visually observed at the end of the rest period for fitness to travel.

Ports (§ 91.9)

In accordance with current paragraph (a) of § 91.14, all livestock intended for export from the United States by air or sea must be exported through designated ports of embarkation. As provided in § 91.14(a) and (b), the Administrator will not designate a port of embarkation for livestock—even temporarily—unless the port has an approved export inspection facility permanently associated with it.

We are proposing to allow the Administrator to temporarily approve ports without export inspection facilities under certain circumstances. Specifically, proposed § 91.9 would provide that such ports could be approved on a temporary basis for a specific shipment of livestock when pre-export inspection of that shipment has occurred at an export isolation facility or an export inspection facility not associated with the port of embarkation, as provided in proposed § 91.7. This change would allow temporary use of ports that do not have export inspection facilities

permanently associated with them for specific shipments of livestock. Unlike ports of embarkation with export inspection facilities permanently associated with them, which would be listed in the Program Handbook, these ports would not be listed in the Program Handbook. Their use would be limited to the specific shipment(s) for which they were approved by the Administrator.

Export Inspection Facilities (§ 91.10)

Currently, § 91.14 sets out standards that facilities have to meet in order to be approved as export inspection facilities. The standards are often very prescriptive. For example, paragraph (c)(10), lighting, states that: “The facility shall be equipped with artificial lighting to provide not less than 70 foot candle power in the inspection area and not less than 40 foot candle power in the remainder of the facility.”

Proposed § 91.10 would remove the prescriptive standards for export inspection facilities that are currently in § 91.14 from the regulations. Instead, proposed § 91.10 would require the export inspection facilities to be constructed, equipped, and managed in a manner that: (1) Prevents transmission of disease to and from livestock in the facilities; (2) provides for the safe and humane handling and restraint of livestock; and (3) provides sufficient offices, space, and lighting for APHIS veterinarians to safely conduct required health inspections of livestock and related business.

The Program Handbook that accompanies this proposed rule provides guidance on ways to comply with these requirements. This guidance is substantively similar to the requirements currently in the regulations in § 91.14. Owners and operators of facilities that follow the guidance provided in the Program Handbook are assured of meeting our proposed requirements.

That said, while the Program Handbook provides one way of meeting the requirements in proposed § 91.10, we recognize that there could also be other ways of meeting the requirements. To that end, owners and operators could submit alternative plans for meeting the requirements to APHIS for our evaluation and approval. Any alternatives submitted would have to be at least as effective in meeting the requirements as the methods described in the Program Handbook in order to be approved. APHIS approval would be required before alternatives could be used for the purpose described in the regulations.

We would retain in proposed § 91.10(b) the requirements currently in the regulations in § 91.14(c)(6) and (c)(9) that facilities allow APHIS representatives access to all parts of the facility, and that applications for approval of an export inspection facility be accompanied by a certification that the facility meets all applicable environmental laws and regulations. However, we would limit the current scope of § 91.14(c)(6) somewhat in proposed § 91.10(b)(2). While we currently require facilities to provide access to all parts of the facility at all times for the purpose of assessing compliance with the regulations, we only exercise this authority during the facility's business hours, that is, while the facility is in operation. To reflect this, we would require access to the facility during the facility's business hours. Additionally, while the current requirement does not specify why APHIS needs such broad access to the facility, our proposed requirement would clarify that the access is needed in order for us to evaluate whether the facility is in compliance with the requirements of the regulations for the purposes of approval or a subsequent audit.

We also propose to substantively retain in proposed paragraph (c) of § 91.10 the provisions currently in the regulations in § 91.14(d) regarding approval and denial or revocation of approval of export inspection facilities. We do, however, propose to add two conditions that

would trigger the need for reapproval of an export inspection facility that we have previously approved: Change of ownership of the facility or significant damage or structural changes to the facility. In these instances, we would need assurances that the facility continues to meet the standards under which it was approved in light of these changes.

Export Isolation Facilities (§ 91.11)

As we mentioned earlier in this document, many countries currently require livestock intended for export to be kept isolated from other animals for a period of time immediately prior to movement for export. Often, the importing countries require this period of isolation to be “officially approved” or “APHIS-approved.” Proposed § 91.11 would contain standards for APHIS approval of such facilities. In those instances, APHIS inspects the facility prior to any isolation in order to ensure that the facility has measures in place that will protect the animals there from exposure to diseased livestock during the isolation period.

We are proposing to add to the regulations requirements pertaining to APHIS approval of export isolation facilities. Specifically, proposed § 91.11 requires that, if an importing country requires livestock to undergo USDA-approved export isolation, APHIS must approve the export isolation facility used for the livestock prior to each isolation. APHIS would approve the facility only if the Administrator determines, upon APHIS inspection of the facility, that the facility meets the standards identified by the importing country. If the importing country does not identify specific standards, APHIS would approve the facility only if the Administrator determines, upon inspection of the facility, that the facility has adequate measures in place to protect the livestock in the facility from exposure to animals of different health status and fomites in order to prevent transmission of disease of livestock during the isolation period.

Additionally, export isolation conducted at the facility would have to be supervised by an accredited veterinarian or, if requested by the importing country, by an APHIS veterinarian.

The Program Handbook that accompanies this proposed rule provides guidance on measures that a facility can implement in order to comply with the proposed requirement that the facility have adequate measures in place to protect livestock at the facility from exposure to animals of different disease status during the isolation period. Owners and operators that follow the guidance provided in the Program Handbook are assured of meeting this proposed requirement.

That said, while the Program Handbook provides one way of adequately meeting the requirement, we recognize that there could also be other ways of adequately meeting the requirement. To that end, owners and operators could submit alternate measures to APHIS for evaluation and approval. Alternatives would have to be at least as effective in meeting the requirement as those described in the Program Handbook in order to be approved. Alternatives would have to be approved by APHIS before being used for purposes of meeting the regulations.

Ocean Vessels (§ 91.12)

Current subpart D of part 91 (§§ 91.17-91.30) applies to the ocean vessels on which livestock are exported from the United States, and sets forth requirements that the vessels must meet with regard to construction, ventilation, space, fittings, equipment, and attendants. In a similar manner to the standards for export inspection facilities that are currently in the regulations, these standards are often very detailed and prescriptive. For example, current § 91.23 requires ramps connecting one deck of an ocean vessel to another to “have a clear width of 3 feet and a clear height of not less than 6 feet 6 inches. The incline of the ramps shall not exceed 1:2 (26½°) between the ramps and the horizontal plane. The ramps shall be fitted with

footlocks of approximately 2" X 2" lumber and spaced no more than one foot apart. The ramps shall have side fencing not less than 5 feet in height. Side doors in ship's shell plating through which livestock are to be loaded shall have a height of not less than 6 feet for cattle and 6 feet 6 inches for horses."

These requirements are based on performance standards that are sometimes articulated, but more often implied, in the current regulations. At the time the regulations were issued, we considered the requirements to be the only means of meeting those performance standards. However, since that time, alternate means of meeting certain of the standards have arisen. Accordingly, proposed § 91.12 would require ocean vessels used to transport livestock intended for export to be designed, constructed, and managed to reasonably assure the livestock are protected from injury and remain healthy during loading and transport to the importing country.

To meet this overall performance standard for ocean vessels, we propose the following requirements for ocean vessels:

- Pens. All pens, including gates and portable rails used to close access ways, would have to be designed and constructed of a material of sufficient strength to securely contain the livestock. They would have to be properly formed, closely fitted, and rigidly secured in place. They would also have to have smooth finished surfaces free from sharp protrusions, and not have worn, decayed, unsound, or otherwise defective parts. Flooring would have to be strong enough to support the livestock to be transported and provide a satisfactory non-slip foothold. Pens on exposed upper decks would have to protect the livestock from the weather. Boiler rooms or similar sources of heat next to pens would have to be fitted to protect the livestock from injury due to transfer of heat. Any fittings or protrusions from the vessel's sides that abut pens would have to be covered in order to protect the livestock from injury. Finally, pens would have to be

of appropriate size for the species, size, weight, and condition of the livestock being transported and take into consideration the vessel's route.

We recognize that a number of these requirements are themselves performance-based, and potentially allow for a variety of means or methods in order to meet them. To that end, we provide guidance in the Program Handbook regarding means that may be used to meet the requirements. Owners and operators of ocean vessels who follow the guidance provided in the Program Handbook would be assured of meeting these and other performance-based requirements regarding ocean vessels. Owners and operators could submit alternate means and methods for meeting the requirements to APHIS for evaluation and approval. All alternate means and methods would have to be approved by APHIS before being used for purposes of complying with the regulations.

- Positioning. Livestock would have to be positioned during transport so that an animal handler or other responsible person can observe each animal regularly and clearly to ensure the livestock's safety and welfare.
- Resources for sick or injured animals. The vessel would have to have an adequate number of appropriately sized and located pens set aside to segregate livestock that become sick or injured from other animals. It would also have to have adequate veterinary medical supplies, including medicines, for the species, condition, and number of livestock transported.
- Ramps, doors, and passageways. Ramps, doors, and passageways used for livestock would have to be of sufficient width and height for their use and allow the safe passage of the species transported. They would have to have secure, smooth fittings free from sharp protrusions and non-slip flooring, and could not have worn, decayed, unsound, or otherwise defective parts.

Ramps could not have an incline that is excessive for the species of livestock transported and would have to be fitted with foot battens to prevent slippage at intervals suitable for the species. The sides of ramps would have to be of sufficient height and strength to prevent escape of the species of livestock that is transported.

- Feed and water. The feeding and watering system would have to be designed to permit all livestock in each pen adequate access to feed and water. The system would also have to be designed to minimize soiling of pens and to prevent animal waste from contaminating feed and water. Similarly, feed would have to be loaded and stored aboard the vessel in a manner that protects it from weather and sea water and, if kept under animal transport spaces, protects it from spillage from animal watering and feeding and from animal waste. If the normal means of tending, feeding, and watering of livestock on board the ocean vessel is wholly or partially by automatic means, the vessel would have to have alternate arrangements for the satisfactory tending, feeding, and watering of the animals in the event of a malfunction of the automatic means.
- Ventilation. Ventilation during loading, unloading, and transport must provide fresh air and remove excessive heat, humidity, and noxious fumes (such as ammonia and carbon dioxide). Ventilation would have to be adequate for variations in climate and weather and to meet the needs of the livestock being transported. Ventilation would have to be effective both when the vessel is stationary and when it is moving and would have to be turned on when the first animal is loaded. The vessel would be required to have on board a back-up ventilation system (including emergency power supply) in good working order or replacement parts and the means, including qualified personnel, to make the repairs or replacements.

- Waste management. The vessel would have to have a system or arrangements, including a backup system in working order or alternate arrangements, for managing waste to prevent excessive buildup in livestock transport spaces during the voyage.
- Lighting. The vessel would have to have adequate illumination to allow clear observation of livestock during loading, unloading, and transport.
- Bedding. Bedding would have to be loaded and stored aboard the vessel in a manner that protects it from weather and sea water and, if kept under animal transport spaces, protects it from spillage from animal watering and feeding and from animal waste.
- Cleaning. The vessel would have to be designed and constructed to allow thorough cleaning and disinfection and to prevent feces and urine from livestock on upper levels from soiling livestock or their feed or water on lower levels.
- Halters and ropes. Halters, ropes, or other equipment provided for the handling and tying of horses or other livestock would have to be satisfactory to ensure the humane treatment of the livestock.
- Personnel. The owner or operator of the ocean vessel would be required to have on board during loading, transport, and unloading at least 3 persons (or at least 1 person if fewer than 800 head of livestock will be transported) with previous experience with ocean vessels that have handled the kind(s) of livestock to be carried, as well as a sufficient number of attendants with the appropriate experience to be able to ensure proper care of the livestock.
- Vessel stability. The vessel would be required to have adequate stability, taking into consideration the weight and distribution of livestock and fodder, as well as effects of high

winds and seas. If requested by APHIS, the owner or operator of the vessel would have to present stability calculations for the voyage that have been independently verified for accuracy.

- Additional conditions. The vessel would have to meet any other condition the Administrator determines is necessary for approval, as dictated by specific circumstances and communicated to the owner and operator of the vessel, to protect the livestock and keep them healthy during loading, unloading, and transport to the importing country.

These performance standards have the same goal of ensuring the humane transport of livestock as stated in current § 91.17 and, with the exception of a few proposed new standards, discussed immediately below, cover the same aspects of ocean vessels as addressed by current § 91.17 and §§ 91.20 through 91.30.

The proposed requirement that livestock must be positioned during transport so that an animal handler or other responsible person can observe each animal regularly and clearly to ensure the livestock's safety and welfare is new. This is needed, since, if animals are positioned in a manner that consistently obscures them from view, their handler or responsible person may not be able to detect signs or symptoms of distress or illness in a timely manner. For a similar reason, we are requiring ocean vessels to have sufficient illumination to allow clear observation of the animals during loading, unloading, and transport.

The proposed requirement for animal waste systems is also new. This is necessary, along with adequate ventilation, to ensure livestock are not harmed by build-up of waste in transport spaces. There is a similar rationale for the proposed new requirement that the vessel be designed and constructed to allow thorough cleaning and disinfection and to prevent feces and urine from livestock on upper levels from soiling livestock on lower levels or their feed or water, as well as for the requirement that water and feeding systems be designed to minimize the soiling of pens.

The proposed requirements that ventilation be effective when the vessel is stationary as well as when it is moving, and that it be turned on when the first animal is loaded, are also new. As we mentioned earlier in this document, it can take a day or longer to load and unload a large shipment of livestock destined for export, and these requirements would ensure that the livestock have adequate fresh air during loading and unloading.

Additionally, we are proposing that the vessel have adequate stability, taking into consideration the weight and distribution of the livestock and fodder, and effects of high winds and seas. One of the factors that APHIS needs to consider in approving a vessel for the transport of livestock is stability, particularly as the vessel's stability may be affected by the way feed and livestock will be arranged on the vessel. A vessel arranged to carry large animals on upper decks and small animals on lower decks, for instance, would be top heavy and more prone to capsize, resulting in likely loss of life. If APHIS has questions about a vessel's stability for a particular voyage, independently verified stability calculations would help resolve them, so APHIS would request such calculations as needed.

Lastly, we are proposing that the vessel meet any other condition the Administrator determines is necessary for approval, as dictated by specific circumstances and communicated to the owner or operator of the vessel, to protect the livestock and keep them healthy during loading, unloading, and transport to the importing country. We propose to include this provision in the event that unforeseen circumstances make it necessary to require additional safeguards to protect the health of the livestock.

In many instances, ocean vessels that transport livestock for export from the United States are constructed specifically for that purpose. On occasion, however, livestock are transported in shipping containers on ocean vessels that are not constructed specifically to

transport livestock. In those instances, while some of the above requirements would almost always be applicable—for example, we would still want to know whether the vessel has adequate stability to transport the livestock without risk of capsizing—others, such as those pertaining to pen size, construction, and placement on the vessel, as well as positioning of livestock within a pen, would almost always not be applicable. Additionally, other standards, such as those pertaining to cleaning, could be applicable in certain instances, but not in others, depending on the construction and location of the container.

Accordingly, proposed § 91.12 would provide that an inspector may exempt an ocean vessel that uses shipping containers to transport livestock to an importing country from any of the above requirements that he or she specifies, if the inspector determines that the containers themselves are designed, constructed, and managed in a manner to reasonably assure the livestock are protected from injury and remain healthy during loading, unloading, and transport to the importing country. The Program Handbook provides guidance regarding the considerations that may lead an inspector to exempt a vessel from a specific requirement.

Inspection of vessels would occur in a manner very similar to the existing requirements. Currently, § 91.19, headed “Inspection of ocean vessels prior to loading,” directs owners or masters of ocean vessels intended for use in exporting livestock to present the vessel to an inspector at a U.S. port of embarkation or, in some cases, at a foreign port, for an inspection to determine if the fittings aboard the vessel comply with the regulations. We propose to require inspection of an ocean vessel to determine whether it meets the above standards for ocean vessels only prior to initial use to transport any livestock from the United States. If we determine that the ocean vessel meets the standards, we would certify the vessel to transport livestock from the United States. (As an exception, if a vessel that would use shipping containers to transport

livestock has been granted an exemption from certain requirements pursuant to proposed paragraph (e) of § 91.12, we would not require the vessel to meet those particular requirements in order to be certified or recertified.) This initial certification would specify the species of livestock for which the vessel is approved.

Thereafter, in most instances, the vessel would only need to be recertified every 3 years. The only other occasions when the vessel would need to be recertified would be when circumstances dictate that a recertification occur before the vessel is again used to transport livestock. These circumstances would be when significant changes are made to the vessel, including to livestock transport spaces or life support systems; when there is a failure of any major life support system; when species of livestock not covered by the existing certification are to be transported; and when the owner or operator of the ocean vessel changes.

To aid us in determining whether the vessel meets the above standards and can be certified to transport livestock from the United States, we would request the following information prior to the initial certification inspection of the vessel (as well as prior to subsequent inspections for recertification, upon our request):

- General information about the vessel, including the year built, length and breadth, vessel name history, port of registry, call sign, maximum and average speed, fresh water tank capacity and fresh water generation rate, and feed silo capacity (if the vessel has a silo).
- A notarized statement from an engineer concerning the rate of air exchange in each compartment of the vessel.
- The species of livestock that the vessel would transport.

- Scale drawings that provide details of the design, materials, and methods of construction and arrangement of fittings for the containment and movement of livestock; provisions for the storage and distribution of feed and water; drainage arrangements; primary and secondary sources of power; and lighting.
- A photograph of the rails and gates of any pens.
- A description of the flooring surface on livestock decks.
- The following measurements: Width of the ramps; the clear height from the ramps to the lowest overhead structures; the incline between the ramps and the horizontal plane; the distance between footlocks on the ramps; the height of side fencing on the ramps; the height of the vessel's side doors through which livestock are loaded; the width of alleyways running fore and aft between livestock pens; and the distance from the floor of the livestock pens to the beams of lowest structures overhead.

We recognize that, if a vessel intends to use shipping containers to transport livestock to an importing country, some of this information may not be applicable. The Program Handbook provides guidance for owners and operators of ocean vessels regarding how to indicate this non-applicability on their submission in a manner that is clear to APHIS, and that triggers an evaluation of the shipping containers themselves pursuant to proposed paragraph (e) of § 91.12.

We propose to modify the current requirement for providing feed and water to livestock aboard ocean vessels. The regulations currently require ocean vessels to provide livestock with feed and water immediately after the livestock are loaded onto the vessel unless an APHIS representative determines that all of the livestock are 30 days of age or older and the vessel will arrive in the country of destination within 36 hours after the livestock were last fed and watered

within the United States, or, if any of the livestock in the shipment are younger than 30 days, that the vessel will arrive in the country of destination within 24 hours after the livestock were last fed and watered within the United States.

We issued these provisions on the presupposition that 36 hours is the maximum amount of time that livestock 30 days of age or older can go without feed and water before suffering duress, and 24 hours is the maximum amount of time that livestock younger than 30 days can go without feed and water before suffering duress.

We have since determined that, in certain instances, with adequate food, water, and rest beforehand, livestock can go a longer period without food and water before suffering duress. On the other hand, we have also encountered several occasions since the regulations were issued where allowing livestock aboard an ocean vessel to go 36 hours without food and water adversely impacted the well-being of the animals. These situations usually arose when the ocean vessel carrying the livestock was subject to particularly adverse climatic conditions, such as high winds, heavy seas, or driving precipitation; the livestock were unaccustomed to eating and drinking while under duress; and the amount of feed and water aboard the vessel did not take into sufficient consideration the livestock's species, body weight, and eating and watering tendencies.

As a result, instead of providing a maximum time period at sea that livestock may go without feed and water, proposed paragraph (c) of § 91.12 would require the ocean vessel to provide sufficient feed and water to the livestock aboard the vessel, taking into consideration the livestock's species, body weight, the expected duration of the voyage, and the likelihood of adverse climatic conditions during export. Guidance regarding this proposed requirement is found in the Program Handbook.

We propose to retain the current requirements in § 91.18 for cleaning and disinfection of ocean vessels, with some clarifications. Current § 91.18 requires that all fittings, utensils, and equipment, unless new, to be used in the loading, stowing, or handling of animals aboard ocean vessels be cleaned and disinfected under the supervision of an inspector before being used for, or in conjunction with, the transportation of any animals from any U.S. port. In proposed paragraph (b) of § 91.12, we propose to require cleaning and disinfection of any vessel intended for use in exporting livestock, and all fittings, utensils, containers, and equipment (unless new) used for loading, stowing, or other handling of livestock aboard the vessel, and provide guidance regarding which surfaces need to be cleaned in the Program Handbook. Our intent is to ensure that all surfaces where livestock are kept are cleaned and disinfected prior to loading, as well as any other surface where the crew walks in the same footwear that is worn in the livestock cargo areas. Likewise, all rails, gates, water troughs, and other equipment and utensils used for livestock would have to be cleaned and disinfected prior to the loading of the livestock.

Additionally, we propose that this cleaning and disinfection be done to the satisfaction of an APHIS representative, rather than under the supervision of an APHIS inspector. We also propose to remove the list of approved disinfectants from the regulations and to instead use the Program Handbook to provide access to the list, which we would maintain online. Similar to other provisions regarding approval of disinfectants in this proposed rule, the Administrator would approve a disinfectant for use to disinfect ocean vessels upon determining that the disinfectant is effective against pathogens that may be spread by the animals and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the EPA. Proposed paragraph (b) of § 91.12 would also contain provisions for approving additional disinfectants, as well as withdrawing approval.

We would also add a new requirement that all ocean vessels, upon docking at a U.S. port to load livestock, have disinfectant foot baths at entryways where persons board and exit the ship, and require such baths before allowing any person to disembark. Many countries have diseases of livestock that are not known to exist in the United States or that are not widely prevalent, and that can be spread by soil and other ground contaminants. This requirement would mitigate against the introduction of such diseases through such fomites.

We would continue to inspect ocean vessels prior to each voyage to ensure that the vessel has been properly cleaned and disinfected. The inspection would also be to ensure that there is sufficient food and water for the voyage, and continues to meet the standards for ocean vessels.

To ensure that we have sufficient notice and information to conduct the inspection in a timely manner, we propose to require that the owner or operator provide us with the following information at least 72 hours before the vessel will be available for inspection:

- The name of the ocean vessel.
- The port, date, and time the ocean vessel will be available for inspection, and the estimated time that loading will begin.
- A description of the livestock to be transported, including the type, number, and estimated average weight of the livestock.
- Stability data for the ship with the livestock on board.
- The port of discharge.
- The route and expected length of the voyage.

Finally, we are proposing to require that the owner or operator of an ocean vessel used to export livestock from the United States, including vessels that use shipping containers, submit a written report to APHIS within 5 business days after completing the voyage. This report would include the name of the ocean vessel, the name and address of all exporters of livestock transported on the vessel, the port of embarkation, the dates of the voyage, the port where the livestock were discharged, the number of each species of livestock loaded, and the number of each species that died and an explanation for those mortalities. Additionally, the report would have to document any failure of any major life support system for the livestock, including, but not limited to, systems for providing feed and water, ventilation systems, and livestock waste management systems. Any such failure would have to be documented, regardless of the duration or whether the failure resulted in any harm to the livestock. Additionally, if an ocean vessel used to export livestock experiences such a failure of a major life support system for livestock during the voyage, we propose to require that the owner or operator of the vessel would have to notify APHIS immediately by telephone, facsimile, or other electronic means. Contact numbers and addresses would be provided in the Program Handbook.

The report itself would have to include the name and contact information of the person who prepared the report, and would have to be submitted to APHIS by facsimile or email. Contact numbers and addresses for the report itself, as well as an optional template for the report, would also be provided in the Program Handbook.

There currently are no requirements for owners or operators of ocean vessels to report livestock deaths or serious system failures on ocean vessels that could affect the health of any livestock transported. Having this information would allow APHIS to better determine whether a particular vessel meets our performance standards or whether any of our guidance for meeting

performance standards should be adjusted. Requiring that APHIS be notified immediately of any major system failures would alert APHIS to the potential need for additional food or other resources for the livestock, or a potential stop at another port.

APHIS would also be able to notify animal health officials in the importing country about any expected delays or animal health issues they may have to deal with as a result of system failures, including mortalities. In the absence of these requirements, APHIS may not learn of problems affecting animals during a voyage until those problems are reported by animal health officials in the importing country, or may have to scramble to make last minute arrangements in the event of a problem. We propose that failure to provide timely reports as required could result in us disapproving future livestock shipments by the owner or operator or revoking the vessel's certification to transport livestock for export.

Aircraft (§ 91.13)

We are proposing to substantially retain the requirements in current § 91.41 for cleaning and disinfection of aircraft. We are, however, proposing to remove specific approved disinfectants from the regulations, and instead, to list approved disinfectants in the Program Handbook. The requirements for cleaning and disinfection of aircraft are in paragraphs (a) through (d) of proposed § 91.13.

Proposed paragraph (a)(1) of § 91.13 provides that the Administrator will approve a disinfectant for the purposes of that section upon determining that the disinfectant is effective against pathogens that may be spread by the animals and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the EPA. Proposed paragraph (a)(2) of § 91.13 states that the Program Handbook provides access to a list of

approved disinfectants, and contains provisions for approving additional disinfectants. Proposed paragraph (a)(3) of § 91.13 contains provisions for withdrawing approval.

Proposed paragraphs (b) through (d) would retain, with non-substantive editorial revisions, the other existing requirements in the regulations governing cleaning and disinfection of aircraft.

Finally, we are also proposing two new requirements for livestock exported from the United States via aircraft, which would be contained in paragraph (e) of § 91.13. We are proposing that any cargo containers used to ship the livestock would have to be designed and constructed of a material of sufficient strength to securely contain the animals, as determined by APHIS. We are doing so because, in the absence of such requirements, exporters have sometimes constructed containers out of materials, such as plywood, that are not adequate to prevent the livestock from escaping during transit. We are also proposing that the containers must provide sufficient space for the species being transported given the duration of the trip, as determined by APHIS, in order to prevent overcrowding of animals.

Other Movements and Conditions (§ 91.14)

Finally, we propose to retain the provision in current § 91.4 by which the Administrator may, upon request in specific cases, permit the export of livestock not otherwise provided for in part 91 under such conditions as the Administrator may prescribe in each specific case to prevent the spread of livestock diseases and to ensure the humane treatment of the animals during transport to the importing country. This flexibility ensures that the Administrator can make appropriate exceptions in unforeseen or unusual situations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The proposed 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.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

This proposed rule would amend 9 CFR part 91, which contains requirements for the inspection and handling of live animals (cattle, horses, captive cervids, sheep, goats, and swine) to be exported from the United States. Among other things, the proposed rule would remove some prescriptive requirements applicable to livestock, either completely or by replacing them with performance standards, and would make other adjustments in inspection and handling requirements to assist exporters. These changes would provide APHIS and exporters more flexibility in arranging for the export of livestock from the United States while continuing to ensure the animals' health and welfare.

The proposed rule would also add requirements for individual identification of livestock intended for export, use of methods and laboratories approved by APHIS when livestock must be tested for certain diseases, and obtaining export health certificates for non-livestock animals, hatching eggs, and animal germplasm when such certificates are required by the importing country. These changes would help ensure that all live animals, hatching eggs, and animal germplasm exported from the United States meet the health requirements of the countries to which they are destined.

Entities directly affected by this rule would include exporters of live animals, hatching eggs, and animal germplasm. While we do not know the size distribution of these exporters, we expect that the majority are small by Small Business Administration standards, given the prevalence of small entities among livestock producers. Operators of export inspection facilities, export isolation facilities, aircraft, and ocean vessels would also be directly affected. These industries are also largely composed of small businesses. The provisions of the proposed rule would facilitate the export process for affected parties.

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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule;

and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2012-0049. Please send a copy of your comments to: (1) APHIS, using one of the methods described under ADDRESSES at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

Revising our regulations governing the export of live animals from the United States will require information collection activities, including the issuance of export health certificates, official identification of exported animals, and reports filed by the owners or operators of ocean vessels that export livestock.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

- (2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.54 hours per response.

Respondents: Veterinarians, exporters, owners, owners/operators of ocean vessels.

Estimated annual number of respondents: 10,183.

Estimated annual number of responses per respondent: 2.91.

Estimated annual number of responses: 29,614.

Estimated total annual burden on respondents: 15,950 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this

proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851-2727.

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to revise 9 CFR part 91 to read as follows:

PART 91– EXPORTATION OF LIVE ANIMALS, HATCHING EGGS OR OTHER EMBRYONATED EGGS, ANIMAL SEMEN, ANIMAL EMBRYOS, AND GAMETES FROM THE UNITED STATES

Sec.

Subpart A–General Provisions

- 91.1 Definitions.
- 91.2 Applicability.
- 91.3 General requirements.
- 91.4 Prohibited exports.

Subpart B–Livestock

- 91.5 Identification of livestock intended for export.
- 91.6 Cleaning and disinfection of means of conveyance, containers, and facilities used during movement; approved disinfectants.
- 91.7 Pre-export inspection.
- 91.8 Rest, feed, and water prior to export.
- 91.9 Ports.
- 91.10 Export inspection facilities.
- 91.11 Export isolation facilities.
- 91.12 Ocean vessels.
- 91.13 Aircraft.
- 91.14 Other movements and conditions.

Authority: 7 U.S.C. 8301–8317; 19 U.S.C. 1644a(c); 21 U.S.C. 136, 136a, and 618; 46 U.S.C. 3901 and 3902; 7 CFR 2.22, 2.80, and 371.4.

Subpart A—General Provisions

§ 91.1 Definitions.

As used in this part, the following terms will have the meanings set forth in this section:

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal. Any member of the animal kingdom (except a human).

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual who is authorized by APHIS to perform the function involved.

Date of export. The date animals intended for export are loaded onto an ocean vessel or aircraft or, if moved by land to Canada or Mexico, the date the animals cross the border.

Export health certificate. An official document issued in the United States that certifies that animals or other commodities listed on the certificate meet the export requirements of this part and the importing country.

Export inspection facility. A facility that is affiliated with a port of embarkation and that has been approved by the Administrator as the location where APHIS will conduct health inspections of livestock before they are loaded onto ocean vessels or aircraft for export from the United States.

Export isolation facility. A facility where animals intended for export are isolated from other animals for a period of time immediately before being moved for export.

Horses. Horses, mules, and asses.

Inspector. An individual authorized by APHIS to inspect animals and/or animal products intended for export from the United States.

Livestock. Horses, cattle (including American bison), captive cervids, sheep, swine, and goats, regardless of intended use.

Premises of export. The premises where the animals intended for export are isolated as required by the importing country prior to export or, if the importing country does not require pre-export isolation, the farm or other premises where the animals are assembled for pre-export inspection and/or testing, or the germplasm is collected or stored, before being moved to a port of embarkation or land border port.

Program diseases. Diseases for which there are cooperative State-Federal programs and domestic regulations in subchapter C of this chapter.

Program Handbook. A document that contains guidance and other information related to the regulations in this part. The Program Handbook is available on APHIS' import-export Web site (http://www.aphis.usda.gov/import_export/index.shtml).

State of origin. The State in which the premises of export is located.

§ 91.2 Applicability.

You may not export any animal or animal germplasm from the United States except in compliance with this part.

§ 91.3 General requirements.

(a) Issuance of export health certificates. (1) Livestock must have an export health certificate in order to be eligible for export from the United States.

(2) If an importing country is known to require an export health certificate for any animal other than livestock or for any animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes intended for export to that country, the animal or other commodity must have an export health certificate in order to be eligible for export from the United States.

(b) Content of export health certificates. (1) Livestock; minimum requirements. Regardless of the requirements of the importing country, at a minimum, the following information must be contained on an export health certificate for livestock:

- (i) The species of each animal.
- (ii) The breed of each animal.
- (iii) The sex of each animal.
- (iv) The age of each animal.
- (v) The individual identification of the animals as required by § 91.5.
- (vi) The importing country.
- (vii) The consignor.
- (viii) The consignee.
- (ix) A certification that an accredited veterinarian inspected the livestock and found them to be fit for export.
- (x) A signature and date by an accredited veterinarian.
- (xi) An endorsement by the APHIS veterinarian responsible for the State of origin.

(2) Livestock; additional requirements. In addition to the minimum requirements in paragraph (b)(1) of this section, the export health certificate must meet any other information or issuance requirements specified by the importing country.

(3) Animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes. Export health certificates for animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes must meet any information requirements specified by the importing country.

(c) Inspection requirements for livestock. In order to be eligible for export, livestock must be inspected within the timeframe required by the importing country. If the importing country does not specify a timeframe, the livestock must be inspected within 30 days prior to the date of export.

(d) Testing requirements for livestock. All samples for tests of livestock that are required by the importing country must be taken by an APHIS representative or accredited veterinarian. The samples must be taken and tests made within the timeframe allowed by the importing country and, if specified, at the location required by the importing country. If the importing country does not specify a timeframe, the samples must be taken and tests made within 30 days prior to the date of export, except that tuberculin tests may be conducted within 90 days prior to the date of export. All tests for program diseases must be made in laboratories and using methods approved by the Administrator for those diseases. The Program Handbook contains a link to an APHIS Web site that lists laboratories approved to conduct tests for specific diseases. Approved methods are those specified or otherwise incorporated within the domestic regulations in subchapter C of this chapter.

(e) Movement of livestock, animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes with an export health certificate. (1)

Livestock. An export health certificate for livestock must be issued and endorsed before the livestock move from the premises of export. The original signed export health certificate must accompany the livestock for the entire duration of movement from the premises of export to the port of embarkation or land border port, except when the export health certificate has been issued and endorsed electronically.

(2) Animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes. When an export health certificate is required by the importing country for any animal other than livestock or for animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes, it must be issued and, if required by the importing country, endorsed by an APHIS representative prior to the arrival of the animal or other commodity at the port of embarkation or land border port. When presented for endorsement, the health certificate must be accompanied by reports for all laboratory tests specifically identified on the certificate. The laboratory reports must either be the originals prepared by the laboratory that performed the tests or must be annotated by the laboratory that performed the test to indicate how the originals may be obtained. Except when an export health certificate has been issued and endorsed electronically, the original signed export health certificate must accompany the animals, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes to the port of embarkation or land border port.

(f) Validity of export health certificate. (1) Livestock. Unless specified by the importing country, the export health certificate is valid for 30 days from the date of issuance, provided that the inspection and test results under paragraphs (c) and (d) of this section are still valid.

(2) Animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes. Unless specified by the importing country, the export health certificate is valid for 30 days from the date of issuance.

§ 91.4 Prohibited exports.

No animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes under Federal, State, or local government quarantine or movement restrictions for animal health reasons may be exported from the United States unless the importing country issues an import permit or other written instruction allowing entry of the animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes, and APHIS concurs with the export of the animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes.

Subpart B—Livestock

§ 91.5 Identification of livestock intended for export.

(a) Except as provided in paragraph (b) of this section, livestock that are intended for export must be identified in accordance with part 86 of this chapter. If the importing country requires an additional form of identification, the livestock must also bear that form of identification.

(b) Horses may be identified by an individual animal tattoo alone, without an accompanying description of the horse, if allowed by the importing country.

§ 91.6 Cleaning and disinfection of means of conveyance, containers, and facilities used during movement; approved disinfectants.

(a) All export health certificates for livestock must be accompanied by a statement issued by an APHIS representative and/or accredited veterinarian that the means of conveyance or

container in which the livestock will be transported from the premises of export has been cleaned and disinfected prior to loading the livestock with a disinfectant approved by the Administrator for purposes of this section or by a statement that the means of conveyance or container was not previously used to transport animals.

(b) Livestock moved for export may be unloaded only into a facility which has been cleaned and disinfected in the presence of an APHIS representative or an accredited veterinarian prior to such unloading with a disinfectant approved by the Administrator for purposes of this section. A statement certifying to such action must be attached to the export health certificate by the APHIS representative or accredited veterinarian.

(c) Approved disinfectants. The Administrator will approve a disinfectant for the purposes of this section upon determining that the disinfectant is effective against pathogens that may be spread by the animals intended for export and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the U.S. Environmental Protection Agency. The Program Handbook provides access to a list of disinfectants approved by the Administrator for use as required by this section. Other disinfectants may also be approved by the Administrator in accordance with this paragraph. The Administrator will withdraw approval of a disinfectant, and remove it from the list of approved disinfectants, if the disinfectant no longer meets the conditions for approval in this section.

§ 91.7 Pre-export inspection.

(a) All livestock intended for export by air or sea must receive a visual health inspection from an APHIS veterinarian within 48 hours prior to embarkation, unless the importing country specifies otherwise. The purpose of the inspection is to determine whether the livestock are sound, healthy, and fit to travel. The APHIS veterinarian will reject for export any livestock that

he or she finds unfit to travel. The owner of the animals or the owner's agent must make arrangements for any livestock found unfit to travel. Livestock that are unfit to travel include, but are not limited to:

(1) Livestock that are sick, injured, weak, disabled, or fatigued;

(2) Livestock that are unable to stand unaided or bear weight on each leg;

(3) Livestock that are blind in both eyes;

(4) Livestock that cannot be moved without causing additional suffering;

(5) Newborn livestock with an unhealed navel;

(6) Livestock that have given birth within the previous 48 hours and are traveling without their offspring;

(7) Pregnant livestock that would be in the final 10 percent of their gestation period at the planned time of unloading in the importing country; and

(8) Livestock with unhealed wounds from recent surgical procedures, such as dehorning.

(b) The APHIS veterinarian must conduct the inspection at the export inspection facility associated with the port of embarkation of the livestock; at an export isolation facility approved in accordance with § 91.11, when authorized by the Administrator in accordance with paragraph (c) of this section; or at an export inspection facility other than the facility associated with the port of embarkation, when authorized by the Administrator in accordance with paragraph (d) of this section. Unless APHIS has authorized otherwise, any sorting, grouping, identification, or other handling of the livestock by the exporter must be done before this inspection. The APHIS veterinarian may also conduct clinical examination of any livestock during or after this inspection if he or she deems it necessary in order to determine the animal's health. Any testing or treatment related to this clinical examination must be performed by an APHIS veterinarian or

an accredited veterinarian. Finally, if the facility used to conduct the inspection is a facility other than the export inspection facility associated with the port of embarkation, it must be located within 28 hours driving distance under normal driving conditions from the port of embarkation, and livestock must be afforded at least 48 hours rest, with sufficient feed and water during that time period, prior to movement from the facility.

(c) Conditions for approval of pre-export inspection at an export isolation facility.

(1) The Administrator may allow pre-export inspection of livestock to be conducted at an export isolation facility, rather than at an export inspection facility, when the exporter can show to the satisfaction of the Administrator that the livestock would suffer undue hardship if they had to be inspected at the export inspection facility, when the distance from the export isolation facility to the port of embarkation is significantly less than the distance from the export isolation facility to the export inspection facility associated with the port of embarkation, when inspection at the export isolation facility would be a more efficient use of APHIS resources, or for other reasons acceptable to the Administrator.

(2) The Administrator's approval is contingent upon APHIS having personnel available to provide services at that location. Approval is also contingent upon the Administrator determining that the facility has space, lighting, and humane means of handling livestock sufficient for the APHIS personnel to safely conduct required inspections. The Program Handbook contains guidance on ways to meet these requirements. Owners and operators may submit alternative plans for meeting the requirements to APHIS for evaluation and approval. Alternatives must be at least as effective in meeting the requirements as those described in the Program Handbook in order to be approved. Alternate plans must be approved by APHIS before the facility may be used for purposes of this section.

(d) The Administrator may allow pre-export inspection of livestock to be conducted at an export inspection facility other than the export inspection facility associated with the port of embarkation when the exporter can show to the satisfaction of the Administrator that the livestock would suffer undue hardship if they had to be inspected at the export inspection facility associated with the port of embarkation, when inspection at this different export inspection facility would be a more efficient use of APHIS resources, or for other reasons acceptable to the Administrator.

(e) The APHIS veterinarian will maintain an inspection record that includes the date and place of the pre-export inspection, species and number of animals inspected, the number of animals rejected, a description of those animals, and the reasons for rejection.

(f) If requested by the importing country or an exporter, the APHIS veterinarian who inspects the livestock will issue a certificate of inspection for livestock he or she finds to be sound, healthy, and fit to travel.

§ 91.8 Rest, feed, and water prior to export.

All livestock intended for export by air or sea must be allowed a period of at least 2 hours rest prior to being loaded onto an ocean vessel or aircraft for export. Adequate food and water must be available to the livestock during the rest period. An inspector may extend the required rest period up to 5 hours, at his or her discretion and based on a determination that more rest is needed in order for the inspector to have assurances that the animals are fit to travel prior to loading. Finally, if livestock have been inspected for export at a facility other than the export inspection facility associated with the port of embarkation, they must be visually observed at the end of this rest period for fitness to travel.

§ 91.9 Ports.

(a) Except as provided in paragraph (b) of this section, livestock exported by air or sea may be exported only through ports designated as ports of embarkation by the Administrator. Any port that has an export inspection facility that meets the requirements of § 91.10 permanently associated with it is designated as a port of embarkation. The Program Handbook contains a list of designated ports of embarkation. A list may also be obtained from a Veterinary Services area office. Information on area offices is available on APHIS' import-export Web site (http://www.aphis.usda.gov/import_export/index.shtml).

(b) The Administrator may approve other ports for the exportation of livestock on a temporary basis with the concurrence of the port director. The Administrator will grant such temporary approvals only for a specific shipment of livestock, and only if pre-export inspection of that shipment has occurred at an export isolation facility or an export inspection facility not associated with the port of embarkation, as provided in § 91.7.

(c) Temporarily approved ports of embarkation will not be added to the list of designated ports of embarkation and are only approved for the time period and shipment conditions specified by APHIS at the time of approval.

§ 91.10 Export inspection facilities.

(a) Export inspection facilities must be approved by the Administrator before they may be used for any livestock intended for export. The Administrator will approve an export inspection facility upon determining that it meets the requirements in paragraph (b) of this section. This approval remains in effect unless it is revoked in accordance with paragraph (c) of this section, or unless any of the following occur, in which case reapproval must be sought:

(1) The owner of the facility changes.

(2) Significant damage to the facility occurs or significant structural changes are made to the facility.

(b)(1) Export inspection facilities must be constructed, equipped, and managed in a manner that prevents transmission of disease to and from livestock in the facilities, provides for the safe and humane handling and restraint of livestock, and provides sufficient offices, space, and lighting for APHIS veterinarians to safely conduct required health inspections of livestock and related business. The Program Handbook contains guidance on ways to meet these requirements. Owners and operators may submit alternative plans for meeting the requirements to APHIS for evaluation and approval; the address to which to submit such alternatives is contained in the Program Handbook. Alternatives must be at least as effective in meeting the requirements as the methods described in the Program Handbook in order to be approved. Alternatives must be approved by APHIS before being used for purposes of this section.

(2) For the purposes of approval or a subsequent audit, APHIS representatives must have access to all areas of the facility during the facility's business hours to evaluate compliance with the requirements of this section.

(3) The application for approval of an export inspection facility must be accompanied by a certification from the authorities having jurisdiction over environmental affairs in the locality of the facility. The certification must state that the facility complies with any applicable requirements of the State and local governments, and the U.S. Environmental Protection Agency regarding disposal of animal wastes.

(c) The Administrator will deny or revoke approval of an export inspection facility for failure to meet the requirements in paragraph (b) of this section.

(1) APHIS will conduct site inspections of approved export inspection facilities at least once a year for continued compliance with the standards. If a facility fails to pass the inspection, the Administrator may revoke its approval. If the Administrator revokes approval for a facility that serves a designated port of embarkation, the Administrator may also remove that port from the list of designated ports of embarkation.

(2) APHIS will provide written notice of any proposed denial or revocation to the operator of the facility, who will be given an opportunity to present his or her views on the issues before a final decision is made. The notice will list any deficiencies in detail. APHIS will provide notice of pending revocations at least 60 days before the revocation is scheduled to take effect, but may suspend facility operations before that date and before any consideration of objections by the facility operator if the Administrator determines the suspension is necessary to protect animal health or public health, interest, or safety. The operator of any facility whose approval is denied or revoked may request another inspection after remedying the deficiencies.

§ 91.11 Export isolation facilities.

(a) If an importing country requires livestock to undergo pre-export isolation approved by the U.S. Department of Agriculture, APHIS must approve the export isolation facility to be used for the livestock prior to each isolation. APHIS will approve a facility only if the Administrator determines, upon APHIS inspection of the facility, that the facility meets standards identified by the importing country. If the importing country does not identify specific standards, APHIS will approve the export isolation facility only if the Administrator determines, upon APHIS inspection of the facility, that the facility has adequate measures in place to protect the livestock at the facility from exposure to animals of different health status and fomites in order to prevent transmission of diseases of livestock during the isolation period. The Program Handbook

contains guidance on measures acceptable to APHIS. Owners and operators may submit alternative measures to APHIS for evaluation and approval; the address to which to submit such an alternative is contained in the Program Handbook. Alternatives must be at least as effective in meeting the requirement as those described in the Program Handbook in order to be approved. Alternatives must be approved by APHIS before being used for purposes of this section.

(b) Isolation must be under the supervision of an accredited veterinarian or, if requested by the importing country, by an APHIS veterinarian.

§ 91.12 Ocean vessels.

(a) Inspection of the ocean vessel. (1) Certification to carry livestock. Ocean vessels must be certified by APHIS prior to initial use to transport any livestock from the United States. The owner or the operator of the ocean vessel must make arrangements prior to the vessel's arrival at a designated port of embarkation in the United States for an APHIS representative to inspect the vessel while it is at that port of embarkation. Alternatively, at the discretion of the Administrator and upon request of the exporter, transporting company, or their agent, the inspection may be done at a foreign port. If APHIS determines that the ocean vessel meets the requirements of paragraph (d) of this section, APHIS will certify the vessel to transport livestock from the United States. APHIS may certify a vessel that does not meet all of the requirements in paragraph (d), provided that an exemption from the requirements the vessel does not meet has been granted to the vessel pursuant to paragraph (e) of this section. The certification will specify the species of livestock for which the vessel is approved. The certification will be valid for up to 3 years; however, the ocean vessel must be recertified prior to transporting livestock any time significant changes are made to the vessel, including to livestock transport spaces or life support systems; any time a major life support system fails; any time species of livestock not covered by

the existing certification are to be transported; and any time the owner or operator of the ocean vessel changes. The owner or operator of the vessel must present the following documentation to APHIS prior to its initial inspection for certification and when requested by APHIS prior to subsequent inspections for recertification:

(i) General information about the vessel, including year built, length and breadth, vessel name history, port of registry, call sign, maximum and average speed, fresh water tank capacity and fresh water generation rate, and feed silo capacity (if the vessel has a silo);

(ii) A notarized statement from an engineer concerning the rate of air exchange in each compartment of the vessel;

(iii) The species of livestock that the vessel would transport;

(iv) Scale drawings that provide details of the design, materials, and methods of construction and arrangement of fittings for the containment and movement of livestock; provisions for the storage and distribution of feed and water; drainage arrangements; primary and secondary sources of power; and lighting;

(v) A photograph of the rails and gates of any pens;

(vi) A description of the flooring surface on the livestock decks; and

(vii) The following measurements: Width of the ramps; the clear height from the ramps to the lowest overhead structures; the incline between the ramps and the horizontal plane; the distance between footlocks on the ramps; the height of side fencing on the ramps; the height of the vessel's side doors through which livestock are loaded; the width of alleyways running fore and aft between livestock pens; and the distance from the floor of the livestock pens to the beams or lowest structures overhead.

(2) Prior to each voyage. Prior to loading any livestock intended for export from the United States, an APHIS representative must inspect the vessel to confirm that the ocean vessel has been adequately cleaned and disinfected as required by paragraph (b) of this section, has sufficient food and water for the voyage as required by paragraph (c) of this section, and continues to meet the requirements of paragraph (d) of this section. APHIS will schedule the inspection after the owner or operator of the ocean vessel provides the following information:

(i) The name of the ocean vessel;

(ii) The port, date, and time the ocean vessel will be available for inspection, and estimated time that loading will begin;

(iii) A description of the livestock to be transported, including the type, number, and estimated average weight of the livestock;

(iv) Stability data for the ocean vessel with livestock on board;

(v) The port of discharge; and

(vi) The route and expected length of the voyage.

(3) The information in paragraphs (a)(2)(i) through (a)(2)(vi) must be provided at least 72 hours before the vessel will be available for inspection.

(b) Cleaning and disinfection. (1) Any ocean vessel intended for use in exporting livestock, and all fittings, utensils, containers, and equipment (unless new) used for loading, stowing, or other handling of livestock aboard the vessel must be thoroughly cleaned and disinfected to the satisfaction of an APHIS representative prior to any livestock being loaded. The disinfectant must be approved by the Administrator. Guidance on cleaning and disinfecting ocean vessels may be found in the Program Handbook.

(2) The Administrator will approve a disinfectant for the purposes of this paragraph upon determining that the disinfectant is effective against pathogens that may be spread by the animals and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the U.S. Environmental Protection Agency. The Program Handbook provides access to a list of disinfectants approved by the Administrator. Other disinfectants may also be approved by the Administrator in accordance with this paragraph. The Administrator will withdraw approval of a disinfectant, and remove it from the list of approved disinfectants in the Program Handbook, if the disinfectant no longer meets the conditions for approval in this section.

(3) All ocean vessels, upon docking at a U.S. port to load livestock, must have disinfectant foot baths at entryways where persons board and exit the ocean vessel, and require such baths before allowing any person to disembark.

(c) Feed and water. Sufficient feed and water must be provided to livestock aboard the ocean vessel, taking into consideration the livestock's species, body weight, the expected duration of the voyage, and the likelihood of adverse climatic conditions during transport. Guidance on this requirement may be found in the Program Handbook.

(d) Accommodations for the humane transport of livestock; general requirements. Ocean vessels used to transport livestock intended for export must be designed, constructed, and managed to reasonably assure the livestock are protected from injury and remain healthy during loading and transport to the importing country. Except as provided below in paragraph (e) of this section, no livestock may be loaded onto an ocean vessel unless, in the opinion of an APHIS representative, the ocean vessel meets the requirements of this section. The Program Handbook contains guidance on ways to meet the requirements. Owners and operators may submit

alternative means and methods for meeting the requirements to APHIS for evaluation and approval. Alternatives must be at least as effective in meeting the requirements as those described in the Program Handbook in order to be approved. Alternatives must be approved by APHIS before being used for purposes of this section.

(1) Pens. All pens, including gates and portable rails used to close access ways, must be designed and constructed of material of sufficient strength to securely contain the livestock. They must be properly formed, closely fitted, and rigidly secured in place. They must have smooth finished surfaces free from sharp protrusions. They must not have worn, decayed, unsound, or otherwise defective parts. Flooring must be strong enough to support the livestock to be transported and provide a satisfactory non-slip foothold. Pens on exposed upper decks must protect the livestock from the weather. Pens next to engine or boiler rooms or similar sources of heat must be fitted to protect the livestock from injury due to transfer of heat to the livestock or livestock transport spaces. Any fittings or protrusions from the vessel's sides that abut pens must be covered to protect the livestock from injury. Pens must be of appropriate size for the species, size, weight, and condition of the livestock being transported and take into consideration the vessel's route.

(2) Positioning. Livestock must be positioned during transport so that an animal handler or other responsible person can observe each animal regularly and clearly to ensure the livestock's safety and welfare.

(3) Resources for sick or injured animals. The vessel must have an adequate number of appropriately sized and located pens set aside to segregate livestock that become sick or injured from other animals. It must also have adequate veterinary medical supplies, including medicines, for the species, condition, and number of livestock transported.

(4) Ramps, doors, and passageways. Ramps, doors, and passageways used for livestock must be of sufficient width and height for their use and allow the safe passage of the species transported. They must have secure, smooth fittings free from sharp protrusions and non-slip flooring, and must not have worn, decayed, unsound, or otherwise defective parts. Ramps must not have an incline that is excessive for the species of livestock transported and must be fitted with foot battens to prevent slippage at intervals suitable for the species. The sides of ramps must be of sufficient height and strength to prevent escape of the species of livestock transported.

(5) Feed and water. The feeding and watering system must be designed to permit all livestock in each pen adequate access to feed and water. The system must also be designed to minimize soiling of pens and to prevent animal waste from contaminating feed and water. Similarly, feed must be loaded and stored aboard the vessel in a manner that protects it from weather and sea water and, if kept under animal transport spaces, protects it from spillage from animal watering and feeding and from animal waste. If the normal means of tending, feeding, and watering of livestock on board the ocean vessel is wholly or partially by automatic means, the vessel must have alternative arrangements for the satisfactory tending, feeding, and watering of the animals in the event of a malfunction of the automatic means.

(6) Ventilation. Ventilation during loading, unloading, and transport must provide fresh air and remove excessive heat, humidity, and noxious fumes (such as ammonia and carbon dioxide). Ventilation must be adequate for variations in climate and weather and to meet the needs of the livestock being transported. Ventilation must be effective both when the vessel is stationary and when it is moving and must be turned on when the first animal is loaded. The vessel must have on board a back-up ventilation system (including emergency power supply) in

good working order or replacement parts and the means, including qualified personnel, to make the repairs or replacements.

(7) Waste management. The vessel must have a system or arrangements, including a backup system in working order or alternate arrangements, for managing waste to prevent excessive buildup in livestock transport spaces during the voyage.

(8) Lighting. The vessel must have adequate illumination to allow clear observation of livestock during loading, unloading, and transport.

(9) Bedding. Bedding must be loaded and stored aboard the vessel in a manner that protects it from weather and sea water and, if kept under animal transport spaces, protects it from spillage from animal watering and feeding and from animal waste.

(10) Cleaning. The vessel must be designed and constructed to allow thorough cleaning and disinfection and to prevent feces and urine from livestock on upper levels from soiling livestock or their feed or water on lower levels.

(11) Halters and ropes. Halters, ropes, or other equipment provided for the handling and tying of horses or other livestock must be satisfactory to ensure the humane treatment of the livestock.

(12) Personnel. The owner or operator of the ocean vessel must have on board during loading, transport, and unloading at least 3 persons (or at least 1 person if fewer than 800 head of livestock will be transported) with previous experience with ocean vessels that have handled the kind(s) of livestock to be carried, as well as a sufficient number of attendants with the appropriate experience to be able to ensure proper care of the livestock.

(13) Vessel stability. The vessel must have adequate stability, taking into consideration the weight and distribution of livestock and fodder, as well as effects of high winds and seas. If

requested by APHIS, the owner or operator of the vessel must present stability calculations for the voyage that have been independently verified for accuracy.

(14) Additional conditions. The vessel must meet any other condition the Administrator determines is necessary for approval, as dictated by specific circumstances and communicated to the owner and operator of the vessel, to protect the livestock and keep them healthy during loading, unloading, and transport to the importing country.

(e) Accommodations for the humane transport of livestock; vessels using shipping containers. An inspector may exempt an ocean vessel that uses shipping containers to transport livestock to an importing country from requirements in paragraph (d) of this section that he or she specifies, if the inspector determines that the containers themselves are designed, constructed, and managed in a manner to reasonably assure the livestock are protected from injury and remain healthy during loading, unloading, and transport to the importing country. The Program Handbook contains exemption guidance.

(f) Operator's report. (1) The owner or operator of any ocean vessel used to export livestock (including vessels that use shipping containers) from the United States must submit a written report to APHIS within 5 business days after completing a voyage. The report must include the name of the ocean vessel; the name and address of all exporters of livestock transported on the vessel; the port of embarkation; dates of the voyage; the port where the livestock were discharged; the number of each species of livestock loaded; and the number of each species that died and an explanation for those mortalities. The report must also document any failure of any major life support system for the livestock, including, but not limited to, systems for providing feed and water, ventilation systems, and livestock waste management systems. Any such failure must be documented, regardless of the duration or whether the failure

resulted in any harm to the livestock. The report must include the name, telephone number, and email address of the person who prepared the report and the date of the report. The report must be submitted to APHIS by facsimile or email. Contact numbers and addresses, as well as an optional template for the report, are provided in the Program Handbook.

(2) If an ocean vessel used to export livestock experiences any failure of a major life support system for livestock during the voyage, the owner or operator of the ocean vessel must notify APHIS immediately by telephone, facsimile, or other electronic means. Contact numbers and addresses are provided in the Program Handbook.

(3) Failure to provide timely reports as required by this section may result in APHIS disapproving future livestock shipments by the responsible owner or operator or revoking the vessel's certification under paragraph (a) of this section to carry livestock.

§ 91.13 Aircraft.

(a) Prior to loading livestock aboard aircraft, the stowage area of the aircraft and any loading ramps, fittings, and equipment to be used in loading the animals must be cleaned and then disinfected with a disinfectant approved by the Administrator, to the satisfaction of an APHIS representative, unless the representative determines that the aircraft has already been cleaned and disinfected to his or her satisfaction.

(1) The Administrator will approve a disinfectant for the purposes of this section upon determining that the disinfectant is effective against pathogens that may be spread by the animals and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the U.S. Environmental Protection Agency.

(2) The Program Handbook provides access to a list of disinfectants approved by the Administrator for use as required by this section. Other disinfectants may also be approved by the Administrator in accordance with paragraph (a)(1) of this section.

(3) The Administrator will withdraw approval of a disinfectant, and remove it from the list of approved disinfectants in the Program Handbook, if the disinfectant no longer meets the conditions for approval in this section.

(b) The time at which the cleaning and disinfection are to be performed must be approved by the APHIS representative, who will give approval only if he or she determines that the cleaning and disinfection will be effective up to the projected time the livestock will be loaded. If the livestock are not loaded by the projected time, the APHIS representative will determine whether further cleaning and disinfection are necessary.

(c) The cleaning must remove all garbage, soil, manure, plant materials, insects, paper, and other debris from the stowage area. The disinfectant solution must be applied with a device that creates an aerosol or mist that covers 100 percent of the surfaces in the stowage area, except for any loaded cargo and deck surface under it that, in the opinion of the APHIS representative, do not contain material, such as garbage, soil, manure, plant materials, insects, waste paper, or debris, that may harbor animal disease pathogens.

(d) After cleaning and disinfection is performed, the APHIS representative will sign and deliver to the captain of the aircraft or other responsible official of the airline involved a document stating that the aircraft has been properly cleaned and disinfected, and stating further the date, the carrier, the flight number, and the name of the airport and the city and state in which it is located. If an aircraft is cleaned and disinfected at one airport, then flies to a subsequent airport, with or without stops en route, to load animals for export, an APHIS representative at the

subsequent airport will determine, based on examination of the cleaning and disinfection documents, whether the previous cleaning and disinfection is adequate or whether to order a new cleaning and disinfection. If the aircraft has loaded any cargo in addition to animals, the APHIS representative at the subsequent airport will determine whether to order a new cleaning and disinfection, based on both examination of the cleaning and disinfection documents and on the inspection of the stowage area for materials, such as garbage, soil, manure, plant materials, insects, waste paper, or debris, that may harbor animal disease pathogens.

(e) Cargo containers used to ship livestock must be designed and constructed of a material of sufficient strength to securely contain the animals and must provide sufficient space for the species being transported given the duration of the trip, as determined by APHIS.

§ 91.14 Other movements and conditions.

The Administrator may, upon request in specific cases, permit the exportation of livestock not otherwise provided for in this part under such conditions as he or she may prescribe in each specific case to prevent the spread of livestock diseases and to ensure the humane treatment of the animals during transport to the importing country.

Done in Washington, DC, this 20th day of February 2015 .

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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