Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 99–102–1]

Ports Designated for Exportation of Horses; Dayton, OH

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the ''Inspection and Handling of Livestock for Exportation'' regulations by adding Dayton International Airport in Dayton, OH, as a port of embarkation and Instone Air Services, Inc., as the export inspection facility for equines for that port. This action will update the regulations by adding a port of embarkation and an export inspection facility through which horses may be processed for export.

DATES: This rule will be effective on April 17, 2000, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before March 20, 2000. If adverse comment is received, we will publish a timely withdrawal of this rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to: Docket No. 99–102–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–102–1.

You may read any comments that we receive on this docket in our reading room. The reading room 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) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Morley Cook, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–6479.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 91, ''Inspection and Handling of Livestock for Exportation'' (referred to below as the regulations), prescribe conditions for exporting animals from the United States. The regulations state, among other things, that all animals, except animals exported by land to Canada or Mexico, must be exported through designated ports of embarkation, unless the exporter can show that the animals would suffer undue hardship if they were required to be moved to a designated port of embarkation.

Paragraph (a) of § 91.14 contains a list of designated ports of embarkation and export inspection facilities. To receive designation as a port of embarkation, a port must have an export inspection facility available for inspecting, holding, feeding, and watering animals prior to exportation. The facility must meet requirements in § 91.14(c) concerning its physical construction and size, inspection implements, cleaning and disinfection, feed and water, access by inspectors, animal handling arrangements, testing and treatment of animals, location, disposal of animal wastes, lighting, office and restroom facilities, and walkways.

Instone Air Services, Inc., operates a facility at Dayton International Airport in Dayton, OH, that has served as an export inspection facility for equines on a case-by-case basis since February 1, 1999. The company has requested that we approve its facility as a permanent export inspection facility, enabling it to contract for shipments of equines without first having to ask for permission from the Animal and Plant Health Inspection Service (APHIS). Instone Air Services, Inc., built its facility specifically for moving horses to and from Canada. The facility has passed an APHIS inspection and meets all the requirements for use as an export inspection facility for equines. It can be supported by the two APHIS veterinary medical officers (VMO's) in our Ohio/West Virginia area office and, if need be, can also be supported by a VMO from the Eastern Region. The number of equines moved through the Instone Air Services, Inc., facility has increased to the extent that the facility could function effectively and efficiently on a permanent basis. Therefore, we are amending the regulations by adding Dayton International Airport to the list of ports of embarkation in § 91.14(a) and by adding Instone Air Services, Inc., as the export inspection facility for equines for that port.

This rule will amend § 91.14(a) in accordance with the procedures explained below under **DATES**.

Dates

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

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

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

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final

rule will become effective 60 days following its publication. We will publish a document to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations by adding Dayton International Airport to the list of ports of embarkation in § 91.14(a) and by adding Instone Air Services, Inc., as the export inspection facility for equines for that port. Dayton International Airport and the Instone Air Services, Inc., facility in Dayton, OH, are already being used as a port of embarkation and an export inspection facility, respectively, for equines on a case-by-case basis under the regulations in § 91.14(c). Adding them to the list of permanent facilities appears warranted because the number of equines exported from Dayton International Airport has increased to the point that the Instone Air Services, Inc., facility could function effectively and efficiently on a permanent basis.

The following analysis addresses the economic effect the direct final rule will have on small entities, as required by the Regulatory Flexibility Act.

Affected entities include horse farms, operators of racing stables, and horse race trainers that use the export inspection facility. These entities will benefit from this rule due to an increase in transportation alternatives and a decrease in transportation costs. Horse farms with annual revenue less than $500,000, and operators of racing stables and horse race trainers with annual revenue of less than $5 million, are considered small entities by the Small Business Administration. At least some of the affected entities are considered small entities, but we do not know how many there are or to what extent they will benefit from this rule.

Affected entities also include Instone Air Services, Inc., which has been operating an export inspection facility authorized to process equines for export on a case-by-case basis since February 1, 1999, and Emory Worldwide Airline, the carrier that has been transporting horses to and from Dayton International Airport for the past year. In 1999, Instone Air Services, Inc., arranged for the direct shipment of 10 horses to Canadian destinations on 5 Emory Worldwide Airline flights out of Dayton, OH. Another three horses were shipped by air from Dayton, OH, to Rochester, NY, and then moved by surface transportation across the border to Canada. All 13 horses also returned to the United States through Dayton, OH. Instone Air Services, Inc., is projecting a small increase in business for 2000; this rule will enable the company to handle the increase more efficiently. Instone Air Services, Inc., is considered a small entity; Emory Worldwide Airline is not. However, both are expected to benefit by this rule.

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

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 91

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

Accordingly, we are amending 9 CFR part 91 as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 continues to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, and 618; 46 U.S.C. 466a and 466b; 49 U.S.C. 1509(d); 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 91.14, paragraph (a)(13) is revised to read as follows:

§ 91.14 Ports of embarkation and export inspection facilities.

(a) * * *

(13) *Ohio.*

(i) Dayton International Airport.

(A) Instone Air Services, Inc., (equines only), 1 Emory Plaza, Dayton International Airport, Vandalia, OH 45377, (970) 382–0002.

(B) [Reserved].

(ii) Wilmington—airport only.

(A) Airborne Express Animal Export Facility, 145 Hunter Drive, Wilmington, OH 96701, (513) 382–5591.

(B) [Reserved].

* * * * *

Done in Washington, DC, this 11th day of February 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–3833 Filed 2–16–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 145 and 147

[Docket No. 98–096–2]

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by establishing new program classifications and providing new or modified sampling and testing procedures for Plan participants and participating flocks. These changes were voted on and approved by the voting delegates at the Plan's 1998 National Plan Conference. These changes will keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

EFFECTIVE DATE: March 20, 2000.

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

SUPPLEMENTARY INFORMATION:

Background

The National Poultry Improvement Plan (NPIP, also referred to below as