

# Rules and Regulations

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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:** Final rule; technical amendment.

**SUMMARY:** In a final rule published in the *Federal Register* on January 20, 2016, and effective on February 19, 2016, we revised our regulations regarding the exportation of livestock from the United States. Among other revisions, we expanded the scope of the regulations so that, if the Animal and Plant Health Inspection Service (APHIS) knows that an importing country requires an export health certificate endorsed by the competent veterinary authority of the United States 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 endorsed export health certificate in order to be eligible for export from the United States. While, in the preamble for that rule, we indicated that APHIS is the competent veterinary authority of the United States, and must endorse the export health certificate in such instances, this was not reflected in the regulations themselves. This document corrects that error.

**DATES:** Effective October 26, 2016.

**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:** In a final rule<sup>1</sup> that was published in the *Federal Register* on January 20, 2016 (81 FR 2967, Docket No. APHIS–2012–0049), and effective on February 19, 2016, we amended the regulations concerning the exportation of livestock from the United States, which are found in 9 CFR part 91 (referred to below as “the regulations”). Among other revisions, we expanded the scope of the regulations so that, if the Animal and Plant Health Inspection Service (APHIS) knows that an importing country requires an export health certificate endorsed by the competent veterinary authority of the United States 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 endorsed export health certificate in order to be eligible for export from the United States.

In the preamble of that rule, we stated that this requirement was necessary because several foreign countries consider any animal, germplasm, or hatching egg offered for importation to their country without an export health certificate issued by the competent veterinary authority of the exporting country to present a risk of disseminating pests or diseases of livestock within their country, and accordingly prohibit such importation. We also stated that, if we are aware that the importing country has such requirements, we consider it necessary to require export health certificates for the animals, germplasm, or hatching eggs in order to provide assurances to the importing country that, in our, that is, APHIS’, determination as the competent veterinary authority of the United States, we do not consider the animals, germplasm, or hatching eggs to present a risk of disseminating pests or diseases of livestock. Thus, we implied that, in such instances, the export health certificate must be issued and endorsed by APHIS.

In the regulatory text of that final rule, however, we did not specify that such

<sup>1</sup>To view the rule, supporting documents, and comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0049>.

export health certificates must be endorsed by APHIS, but rather that they must be endorsed by the competent veterinary authority of the United States.

This has led to confusion regarding whether we intended to allow agencies other than APHIS to endorse the certificates. We did not.

Accordingly, we are amending the regulations to specify that, if APHIS knows that an importing country requires an export health certificate endorsed by the competent veterinary authority of the United States 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 endorsed by APHIS in order to be eligible for export from the United States.

#### 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—EXPORTATION OF LIVE ANIMALS, HATCHING EGGS OR OTHER EMBRYONATED EGGS, ANIMAL SEMEN, ANIMAL EMBRYOS, AND GAMETES FROM THE UNITED STATES

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

**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.

- 2. In § 91.3, paragraph (a)(2) is revised to read as follows:

#### § 91.3 General requirements.

(a) \* \* \*

(2) If APHIS knows that an importing country requires an export health certificate endorsed by the competent veterinary authority of the United States 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 endorsed by APHIS in order to be

eligible for export from the United States.

\* \* \* \* \*

Done in Washington, DC, this 21st day of October 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016-25860 Filed 10-25-16; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Parts 313, 320, and 500

[Docket No. FSIS-2016-0004]

#### Inhumane Handling of Livestock in Connection With Slaughter by Persons Not Employed by the Official Establishment

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final determination and opportunity for comments.

**SUMMARY:** The Food Safety and Inspection Service (FSIS), is announcing its intent to hold livestock owners, transporters, haulers and other persons not employed by an official establishment responsible if they commit acts involving inhumane handling of livestock in connection with slaughter when on the premises of an official establishment. The Agency intends to initiate civil or criminal action, in appropriate circumstances, against individuals not employed by an official establishment, if these individuals handle livestock inhumanely in connection with slaughter when on the official premises. FSIS believes these actions will further improve the welfare of livestock handled in connection with slaughter by ensuring that all persons that inhumanely handle livestock in connection with slaughter are held accountable.

**DATES:** Comments must be received by November 25, 2016. FSIS will implement the actions discussed in this document on January 24, 2017, unless FSIS receives comments that demonstrate a need to revise this date. FSIS will publish a **Federal Register** document affirming the implementation date.

**ADDRESSES:** FSIS invites interested persons to submit comments on this notice. Comments may be submitted by either of the following methods:

*Federal eRulemaking Portal:* This Web site provides the ability to type

short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov/>. Follow the on-line instructions at that site for submitting comments.

*Mail, including CD-ROMs, etc.:* Send to Docket Room Manager, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 14000 Independence Avenue SW., Mailstop 3782, Room 8-163B, Washington, DC 20250-3700.

*Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8-163B, Washington, DC 20250-3700.

*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2016-0004. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov>.

*Docket:* For access to background documents or to comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street SW., Room 8-164, Washington, DC 20250-3700 between 8 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Daniel L. Engeljohn, Ph.D., Assistant Administrator, Office of Policy and Program Development, FSIS, USDA; Telephone: (202) 205-0495.

#### SUPPLEMENTARY INFORMATION:

##### Background

FSIS administers the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), which establishes requirements for the premises, facilities, and operations of official establishments that slaughter livestock and prepare meat and meat products for human food to ensure both the safety of meat and the humane slaughter and handling of livestock. The FMIA provides that, for the purposes of preventing inhumane slaughter of livestock, the Secretary of Agriculture will assign inspectors to examine and inspect the methods by which livestock are slaughtered and handled in connection with slaughter in slaughtering establishments subject to inspection under the FMIA (21 U.S.C. 603(b)). The Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 *et seq.*) requires that the slaughter of livestock and the handling of livestock in connection with slaughter be carried out only by humane methods (7 U.S.C. 1901). Therefore, FSIS requires official establishments to humanely handle livestock that are on the official

premises, on vehicles that are on the official premises, and on vehicles in queue for slaughter establishments. Once a vehicle carrying livestock enters, or is in line to enter, an official establishment's premises, the vehicle is considered to be part of that official establishment's premises (see FSIS Directive 6900.2).

With respect to enforcement action at the establishment, the FMIA and implementing regulations provide that FSIS may suspend inspection services from an official establishment for inhumane slaughter or inhumane handling in connection with slaughter (21 U.S.C. 603(b); 9 CFR part 500). The FMIA (21 U.S.C. 610) provides that no person, establishment, or corporation shall slaughter or handle in connection with slaughter any livestock in any manner not in accordance with the HMSA (21 U.S.C. 610(b)). The FMIA also provides for the issuance of warning letters and for initiation of criminal and civil action for violations (21 U.S.C. 674 and 676).

Livestock transporters or haulers transport animals to slaughter establishments. Many of these individuals are not employed by the establishment and thus are not required to follow instructions from the establishment on the handling of livestock in connection with slaughter.

Unlike owners of Federal establishments, non-employees, such as livestock transporters, generally do not hold a grant of Federal inspection and therefore are not subject to FSIS administrative enforcement actions. When non-employee transporters inhumanely handle livestock on the premises of an official establishment, FSIS takes action against the establishment (see FSIS Directive 6900.2). For purposes of this document, livestock transporters, haulers, or other persons not employed by an official establishment that handle livestock in connection with slaughter are collectively referred to as "non-employee transporters", or simply "non-employees."

On January 21, 2015, FSIS received a petition from an attorney on behalf of an official swine slaughter establishment requesting that FSIS review its humane handling enforcement policy (available on the FSIS Web page at <http://www.fsis.usda.gov/wps/wcm/connect/4d9160de-a7a1-4fd9-88ff-e3b24bf8d1e9/15-03-Non-Employee-Humane-Handling.pdf?MOD=AJPERES>). The petition stated that official establishments should not be held accountable when non-employees inhumanely handle livestock on the official establishment premises. FSIS