

information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2002–03 fiscal period began on April 1, 2002, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is proposed to be amended as follows:

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 922 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 922.235 is revised to read as follows:

##### § 922.235 Assessment rate.

On and after April 1, 2002, an assessment rate of \$2.50 per ton is established for the Washington Apricot Marketing Committee.

Dated: June 25, 2002.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 02–16478 Filed 6–28–02; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 99–012–1]

#### Standards for Permanent, Privately Owned Horse Quarantine Facilities

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations pertaining to the importation of horses to establish standards for the approval of permanent, privately owned quarantine facilities for horses. We are taking this action because recent demand for quarantine services for horses has exceeded the space available at existing facilities. We believe that allowing imported horses to be quarantined in permanent, privately owned horse quarantine facilities that meet these criteria would facilitate the importation of horses while continuing to protect against the introduction of communicable diseases of horses.

**DATES:** We will consider all comments that we receive by August 30, 2002.

**ADDRESSES:** Please send four copies of your comment (an original and three copies) to: Docket No. 99–012–1, 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. 99–012–1.

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 dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Barbara Bischoff, Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

**SUPPLEMENTARY INFORMATION:**

## Background

The regulations in 9 CFR part 93 govern the importation into the United States of specified animals and animal products in order to help prevent the introduction of various animal diseases into the United States. The regulations in part 93 require that some of these animals be quarantined upon arrival in the United States as a condition of entry. APHIS operates animal quarantine facilities and authorizes the use of privately owned quarantine facilities for certain animal importations. The regulations in part 93 currently contain requirements for the approval of various privately owned quarantine facilities. The regulations at subpart C of part 93 (9 CFR 93.300 through 93.326, referred to below as the regulations) pertain to the importation of horses and include requirements for privately owned quarantine facilities for horses. These requirements are for the approval and establishment of temporary quarantine facilities for the purpose of quarantining imported horses for a specific event.

In addition to operating Federal animal quarantine facilities and authorizing the operation of temporary, privately owned quarantine facilities for horses, APHIS currently authorizes the operation of one permanent, privately owned animal import quarantine facility, located in Los Angeles County, CA.

The demand for import quarantine facilities for horses has risen in recent years as the amount of trade between the United States and other countries has risen. From 1992 to 1999, the number of horses imported annually into the United States increased substantially. In some cases, the demand for quarantine services for horses has exceeded the space available at existing facilities. In addition, in some locations, such as Hawaii and Puerto Rico, no facilities exist for quarantining imported horses. The demand for quarantine services for horses cannot always be filled by temporary, privately owned quarantine facilities because such facilities are established, approved, and operated by importers on a temporary basis to handle only horses imported for a unique importation, race, or show.

As a result of the increasing demand for quarantine space for imported horses and a request from the horse industry to establish standards for permanent, privately owned horse quarantine facilities, we are proposing to establish requirements in the regulations for the approval and operation of such facilities. We have considered the

possible need for permanent, privately owned quarantine facilities for horses in the past. On September 6, 1989, we published in the **Federal Register** (54 FR 36986–36996, Docket No. 85–061) a proposed rule that would have (1) allowed the operation of permanent, privately owned quarantine facilities for horses; (2) added new requirements for the approval of temporary, privately owned quarantine facilities for horses; and (3) required payment from each privately owned quarantine facility for services provided by APHIS at the facility. These changes would have been made in 9 CFR part 92; however, a 1990 final rule reorganized part 92, and the proposed provisions were no longer consistent with the new format of the part. Because of this inconsistency and for other reasons, we withdrew the proposed rule and reopened the issue for public discussion in a notice of withdrawal and an advance notice of proposed rulemaking published in the **Federal Register** on February 26, 1996 (61 FR 7079, Docket No. 95–084–1). Then, on May 6, 1996, we published a notice (61 FR 20189–20190, Docket No. 95–084–2) that we were reopening and extending the public comment period established by the advance notice of proposed rulemaking and holding a public meeting on May 17, 1996, regarding the issue of permanent, privately owned quarantine facilities for horses.

We received 10 comments during the 2 comment periods and at the public meeting just described. Some commenters supported the concept of permanent, privately owned quarantine facilities for horses, and some commenters were opposed. We have considered the comments and have decided to propose regulations that would allow the establishment of permanent, privately owned horse quarantine facilities that would operate under the strict oversight of an APHIS veterinarian. We believe that these facilities would provide an effective and efficient means of bringing horses into the United States without compromising our ability to protect against the introduction of communicable diseases of horses.

We intend to maintain the current requirements in the regulations for the approval of temporary, privately owned quarantine facilities for horses. We believe that these requirements are sufficient for facilities that are intended to quarantine horses imported only for a particular event. Temporary facilities are generally used to quarantine small numbers of animals in a single group and are in operation only a short period

of time before all the animals are removed and the facility is closed.

We are proposing to add requirements to the regulations for the establishment and approval of permanent, privately owned quarantine facilities for horses. These requirements are designed to maintain the same biological security standards that are currently employed in other APHIS-approved permanent quarantine facilities.

We believe that the permanent, privately owned facilities must be designed, equipped, and monitored similarly to APHIS quarantine facilities in order to provide sufficient protection against the introduction of disease. Like an APHIS facility, a permanent, privately owned quarantine facility could be occupied on a continuing basis by a large number of horses in different lots.<sup>1</sup> Therefore, the risk of disease spread within and from permanent facilities would be different than the risk at temporary facilities. These differences dictate that security measures must be tighter, and disease detection and prevention measures must be different, at permanent facilities than at temporary ones. While the requirements for temporary facilities allow for variation in the physical plants, the proposed requirements for permanent facilities would ensure a greater degree of consistency in the physical plants of those facilities. Such consistency should help ensure a greater degree of biosecurity. The full text of the proposed regulations appears in the rule portion of this document. Our discussion of the proposed provisions follows.

#### Definitions

We are proposing to add to § 93.300 definitions for the terms *permanent, privately owned quarantine facility* and *temporary, privately owned quarantine facility* to make clear the differences between the two types of facilities. A *permanent, privately owned quarantine facility* would be one that offers quarantine services for horses to the general public on a continuing basis and that is owned by an entity other than the Federal Government. A *temporary, privately owned quarantine facility* would be one that offers quarantine services for a special event and that is owned by an entity other than the Federal Government. Throughout the rest of this document, use of the term “permanent facility” means a permanent, privately owned quarantine facility for horses, and use of the term

“temporary facility” means a temporary, privately owned quarantine facility for horses.

We are proposing to revise the definition for *operator* contained in § 93.300. *Operator* is currently defined for the purposes of § 93.308 as “any person operating an approved quarantine facility.” The revised definition of *operator* would be “a person other than the Federal government who owns or operates a temporary, privately owned quarantine facility or a permanent, privately owned quarantine facility.” We are proposing this change because we want to emphasize that, although private entities would own these facilities, they would be subject to APHIS approval and oversight.

We would also add definitions for the terms *lot*, *lot-holding area*, *quarantine area*, and *nonquarantine area*. We would define a *lot* of horses as a group of horses that, while held on a conveyance or premises, have had opportunity for physical contact with other horses in the group or with their excrement or discharges at any time during their shipment to the United States. A *lot-holding area* would be an area in a facility in which a single lot of horses is held at one time. The *quarantine area* of a facility would be the area of a facility that comprises all of the lot-holding areas in the facility and any other areas that the horses have access to, including loading docks for receiving and releasing horses. The *quarantine area* would also include any areas in the facility that are used to conduct examinations of horses and take samples or areas where samples are processed and examined. The *nonquarantine area* of a facility would include the area in a permanent, privately owned quarantine facility that includes offices, storage areas, and other areas outside the quarantine area, and that is off limits to horses, samples taken from horses that have not yet been prepared or packaged for shipment to laboratories, and any other objects or substances that have been in the quarantine area during quarantine of horses.

#### Nonsubstantive Changes

The requirements for temporary facilities are currently located in § 93.308 (b) and (c). Although we are not proposing to make any substantive changes to these requirements, we are proposing to make some nonsubstantive changes to update the language. We are also proposing to combine paragraphs (b) and (c), so that all of the requirements pertaining to the establishment and operation of

<sup>1</sup> Under this proposed rule, APHIS would also approve permanent, private facilities that are equipped to handle only one lot of horses at a time.

temporary facilities are located in paragraph (b). We would place the proposed regulations pertaining to permanent facilities in the newly vacated § 93.308(c). Those regulations are described below. In addition, we are proposing to revise the heading for § 93.309 to indicate more clearly that the section pertains to payment information for use of all quarantine facilities, including privately owned temporary and permanent quarantine facilities, and quarantine facilities owned by APHIS. The section heading currently reads "Horse quarantine facilities"; we believe a more helpful heading would be "Horse quarantine facilities; payment information." Therefore, as proposed, § 93.308(a) would contain general information about quarantine requirements for imported horses; § 93.308(b) would contain requirements for temporary facilities; § 93.308(c) would contain requirements for permanent facilities; and § 93.309 would contain information about payment for services provided at all quarantine facilities.

Section 93.303 of the regulations pertains to ports designated for the importation of horses. Paragraph (e) of that section pertains to ports used by persons who quarantine horses at temporary facilities. The paragraph heading in § 93.303(e) currently reads "Ports and quarantine facilities provided by the importer for horses." We are proposing to revise the paragraph heading because the owner of a permanent facility would not necessarily be the importer of the horses quarantined at the facility. The new paragraph heading for § 93.303(e) would read "Ports for horses to be quarantined at privately owned quarantine facilities."

Section 93.304 contains permit requirements for horses imported from certain regions. Paragraphs (a) and (a)(2) contain references to quarantine facilities provided by importers of horses. Since, in all cases, such facilities would be privately-owned facilities, we are proposing to revise those paragraphs to make it clear that they refer to privately-owned quarantine facilities. We are also proposing to clarify that under paragraph (a)(2), applications for permits to import horses from certain regions or horses intended for quarantine at privately-owned quarantine facilities may be denied for the various reasons described in that paragraph.

### **Proposed Requirements for Permanent Facilities**

We are proposing to add to the regulations information about how to

apply for approval of a permanent facility and information concerning denial and withdrawal of approval. Owners of any currently approved quarantine facilities, whether temporary or permanent, who wish to convert to, or be recognized as, a permanent facility would need to meet the proposed requirements for permanent facilities described below and apply for approval as a permanent facility. Such facilities would need to be approved to operate by APHIS by the effective date of the final rule for this action, if it is adopted, in order to continue quarantine operations.

### **Approval of Permanent Facilities**

#### *Application Process*

The proposed regulations explain how to apply for approval of a permanent facility. Under the proposed regulations, interested persons would be required to write to the Administrator, c/o National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737-1231. The application letter would be required to include:

- The full name and mailing address of the applicant.
- The location and street address of the facility for which approval is sought.
- Blueprints for the facility.
- A description of the financial resources available for construction, operation, and maintenance of the facility.
- The anticipated source or origin of horses to be quarantined as well as the expected size and frequency of shipments.
- A contingency plan for the possible disposal of all the horses capable of being housed in the facility.

If APHIS determines that a submitted application is complete and merits further consideration, we would require that the person applying for facility approval enter into a compliance agreement with APHIS wherein the applicant agrees to pay the cost of all APHIS services<sup>2</sup> associated with APHIS's evaluation of the application and facility. This compliance agreement applies only to fees accrued during the application process.<sup>3</sup>

Requests for approval would be required to be submitted to APHIS at least 120 days prior to the date of application for local building permits in order to ensure that APHIS has adequate

time to evaluate the plans for the facility, assess potential environmental effects, and determine that adequate APHIS personnel are available to staff the facility.

Requests for approval of a proposed facility would be evaluated on a first-come, first-served basis.

#### *Approval Requirements*

The proposed regulations also list the basic criteria that a permanent facility must meet to be approved by APHIS. Under the regulations, a permanent facility would be required to meet all the requirements in § 93.308(c). The facility would also be required to meet any additional requirements that may be imposed by the Administrator to ensure that the quarantine is adequate to enable determination of the horses' health status, as well as to prevent the transmission of diseases into, within, and from the facility. These additional requirements would be specified in the compliance agreement required under § 93.308(c)(2). Also, under the proposed regulations, APHIS would need to find, based on an environmental analysis, that the operation of the facility would not have significant environmental effects.

We are proposing that, to be approved as a permanent facility, the Administrator must determine that sufficient APHIS personnel (including veterinarians and animal health technicians) are available to ensure the biological security of the facility. Therefore, if a facility met all of the other proposed requirements and APHIS personnel were available, then APHIS would approve the facility and assign personnel to it. Because the assignment of APHIS personnel would be handled on a "first-come, first-served" basis, the deployment of APHIS personnel at one permanent facility might result in another facility not being approved for lack of necessary APHIS personnel. The Administrator would have sole discretion in determining the number of APHIS personnel to be assigned to the facility.

The proposed regulations also include procedures for denying or withdrawing approval of permanent facilities if any provision of the regulations is not met. The regulations would also establish due process procedures regarding a denial or withdrawal of approval and an opportunity for a hearing when there is a dispute of material fact regarding the denial or withdrawal. In addition, approval would be withdrawn automatically by the Administrator when the owner notifies, in writing, the veterinarian in charge for the State in

<sup>2</sup> APHIS charges for evaluation services at hourly rates in 9 CFR 130.30.

<sup>3</sup> If the facility is approved by APHIS, facility owners must enter into a new compliance agreement in accordance with § 93.308(c)(2) of the proposed regulations.

which the facility is located that the facility is no longer in operation.

Under the proposed regulations, the approval of a permanent facility may be denied or withdrawn if:

- Any requirement of this section or the compliance agreement is not complied with.
- The operator fails to pay for APHIS services rendered.
- The operator or a person responsibly connected with the business of the permanent facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal.
- The operator or a person responsibly connected with the business of the permanent facility is or has been convicted of any crime involving fraud, bribery, or extortion or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of animals.
- The approved permanent facility has not been in use to quarantine horses for a period of at least 1 year.

The proposed regulations would provide that a person is responsibly connected with the business of the permanent facility if the person has an ownership, mortgage, or lease interest in the facility's physical plant, or if such person is a partner, officer, director, holder or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity for the operation of the permanent facility.

#### Compliance Agreement

We are proposing to prohibit any facility from operating as a permanent facility unless the facility is operated in accordance with a compliance agreement executed by the owner and by the APHIS Administrator that must be renewed on an annual basis. The compliance agreement would provide that the facility is required to meet all applicable requirements of § 93.308 of the regulations and that the facility's quarantine operations are subject to the strict oversight of APHIS representatives. The compliance agreement would also state that the operator of the facility agrees to be responsible for all the costs associated with operating a permanent facility, including:

- All costs associated with its maintenance and operation;
- All costs associated with the hiring of employees and other personnel to attend to the horses as well as to maintain and operate the facility;
- All costs associated with the care of quarantined horses, such as feed, bedding, medicines, inspections,

testing, laboratory procedures, and necropsy examinations; and

- All APHIS charges for the services of APHIS representatives in accordance with 9 CFR part 130.

The compliance agreement would also state that the operator agrees to bar from the facility any employee or other personnel at the facility who fail to comply with the proposed regulations in § 93.308 (c), other regulations of 9 CFR part 93, any terms of the compliance agreement, or related instructions from APHIS representatives.

#### Physical Plant Requirements

The proposed requirements for the physical plant of permanent facilities are designed to ensure that permanent facilities are capable of operating in accordance with the regulations to prevent the spread of diseases to horses in different lots within a permanent facility or outside a permanent facility.

#### Location

To minimize the risk of disease introduction from imported horses moving from the port of entry to the permanent facility, we are proposing to require that the facility be located in proximity to a port authorized under § 93.303(e) such that the Administrator is able to determine that the movement of horses from the port to the permanent facility poses no significant risk of transmitting communicable diseases of animals to the domestic animal population. While requiring that a permanent facility be within proximity of the port, we decided for several reasons not to require that the port and the facility be located within a certain distance of one another. Some ports will be in large metropolitan areas with the nearest concentration of livestock many miles away. Other ports may be in towns with rural areas and concentrations of livestock within a very short distance of the port. Considering the diversity of places in which persons may consider locating permanent facilities, it would be difficult to stipulate a maximum distance from the port of entry.

We are further proposing to require that the facility be located at least one-half mile from any premises holding livestock or horses. We believe that this distance would be sufficient to prevent the aerosol transmission of various infectious diseases of horses and other livestock.

The specific routes for the movement of horses from the port to the permanent facility would have to be approved by the Administrator. In evaluating the suitability of a particular site for a

permanent facility, the Administrator would consider whether the movement of horses from the port of entry to the proposed facility would pose any significant risk for transmitting communicable livestock diseases.

#### Construction

We are proposing to require that the facility be of sound construction, in good repair, and properly designed to prevent the escape of horses from quarantine. The facility would be required to have the capacity to receive and house a shipment of horses as a lot on an "all-in, all-out" basis.

In order to ensure the integrity of quarantine operations, we are proposing to require that the facility be enclosed by a security fence that can reasonably be expected to prevent unauthorized persons, horses, and other animals from outside the facility from having contact with horses quarantined in the facility.

We would also require that all entryways into the nonquarantine area of the facility be equipped with a secure and lockable door. Further, while horses are in quarantine, all access to the quarantine area for horses would need to be from within the building, and each such entryway to the quarantine area would be required to be equipped with a series of solid self-closing double doors. Further, entryways to each lot-holding area would have to be equipped with a solid lockable door. Emergency exits would be permitted in the quarantine area but such exits would be required to be constructed so as to permit their opening only from the inside of the facility in order to ensure the security of the horses in quarantine and the integrity of quarantine operations.

We propose to require that the facility be constructed so that any windows or other openings in the quarantine area are double-screened with screening of sufficient gauge and mesh to prevent the entry or exit of insects and other vectors of diseases of horses. The screens would need to be easily removable for cleaning, but otherwise secure enough to ensure the biological security of the facility.

The facility would need to have adequate lighting throughout, including in stalls and hallways, for the purpose of examining horses and conducting necropsies.

The facility would need to have two separate loading docks: One that is part of the quarantine area and that is used for receiving and releasing horses, and one that is part of the nonquarantine area and that is used for general receiving and pickup.

We would also require that the facility be constructed so that the floor surfaces with which horses have contact are nonslip and wear-resistant. All floor surfaces with which the horses, their excrement, or discharges have contact would have to provide for adequate drainage, and drains would be required to be at least 8 inches in diameter. All floor and wall surfaces with which the horses, their excrement, or discharges have contact would have to be impervious to moisture and be able to withstand frequent cleaning and disinfection without deterioration. Other ceiling and wall surfaces with which the horses, their excrement, or discharges do not have contact would have to be able to withstand cleaning and disinfection between shipments of horses. The cleaning and disinfection of all of these surfaces would help ensure that disease agents would not be spread from one lot of horses to another. We would further require that surfaces with which the horses could have contact must not have any sharp edges that could cause injury to the horses.

The facility would need to be constructed so that different lots of horses held at the facility at the same time would be separated by physical barriers in such a manner that horses in one lot could not have physical contact with horses in another lot or with the excrement or discharges of horses in another lot. In addition, we would require that permanent facilities include stalls capable of isolating any horses exhibiting signs of illness. These provisions would help ensure that horses infected with or exposed to disease do not spread the disease or expose other horses in the facility to the disease.

To prevent dissemination of disease via persons at the facility, we are proposing to require that the facility contain showers for use before entering and after exiting the areas where the horses are maintained. Our requirements concerning showers would depend on the configuration of the quarantine area. In those facilities where it is possible to move from the nonquarantine area into any lot-holding area without passing through another lot-holding area, we would require that a shower be located at the entrance to the quarantine area. In those facilities where it is not possible to move to certain lot-holding area(s) except by passing through another lot-holding area, we would require that a shower be located at the entrance to each lot-holding area. A shower would also be needed at the entrance to the necropsy area (see description of necropsy area below). We would also require that a

clothes-storage and clothes-changing area be provided at each end of each shower area, and that there be one or more receptacles near each shower so that clothing that has been worn into a lot-holding area or elsewhere in the quarantine area can be deposited in the receptacle(s) prior to entering the shower.

Because of the need for APHIS representatives assigned to a permanent facility to examine horses and draw samples for testing, we would require that permanent facilities contain adequate space for these purposes, and that the space include equipment to provide for the safe inspection of horses (i.e., restraining stocks). The facility would need to include adequate storage space for the necessary equipment and supplies, work space for preparing and packaging samples for mailing, and storage space for duplicate samples. Moreover, we would require that adequate storage space for supplies and equipment be provided for each lot of horses. A separate storage space for each lot of horses would help ensure that equipment used on a horse in one lot would not come into contact with horses from another lot or with equipment used on those other horses. Such contact could spread disease between lots of horses. We would further require that the facility include a secure, lockable office space with enough room to contain a desk, chair, and filing cabinet for APHIS use.

We would require that the facility contain a necropsy area and that a shower be located at the entrance to the necropsy area. The necropsy area would have to provide sufficient space and light to conduct an adequate necropsy of a horse and would have to be equipped with hot and cold running water, a drain, a cabinet for storing instruments, a refrigerator-freezer for storing laboratory specimens, and an autoclave to sterilize veterinary equipment. Providing for necropsies within the facility would reduce the risk of disease spread to horses outside the facility because no carcasses of potentially diseased horses would need to be transported outside the facility prior to performance of a necropsy. The necropsy area would be necessary to perform post mortem inspection of horses that die in the permanent facility and to collect samples for laboratory diagnosis. These actions would be needed to determine if the death of a horse was associated with a disease, or if the death was caused by other factors, such as colic or physical injury.

We are also proposing to require that the facility have sufficient storage space for equipment and supplies used in

quarantine operations. Storage space would be required to include separate, secure storage for pesticides and for medical and other biological supplies, as well as a separate feed storage area, that is vermin-proof, for feed and bedding, if feed and bedding are to be stored at the facility. If the facility has multiple lot-holding areas, we would require that the facility also have separate storage space for supplies and equipment for each lot-holding area.

We are proposing that the facility have an area for washing and drying clothes, linens, and towels and an area for cleaning and disinfecting equipment used in the facility. The facility must also include a work area for the repair of equipment. These areas are essential to ensure the continuity of quarantine operations.

The facility would need to have permanent restrooms in both the quarantine and nonquarantine areas of the facility in order to eliminate the need for persons to leave or enter the quarantine area simply to use a restroom. Leaving the quarantine area would necessitate the person showering prior to entering the nonquarantine area, and then again upon reentering the quarantine area.

The facility would also need to have an area within the quarantine area for breaks and meals in order to eliminate the need for workers to leave the quarantine area for breaks.

We would also require that the facility be constructed with a heating, ventilating, and air conditioning (HVAC) system capable of controlling and maintaining the ambient temperature, air quality, moisture, and odor at levels that are not injurious or harmful to the health of horses in quarantine. We would prohibit air supplied to lot-holding areas from being recirculated or reused for other ventilation needs. Further, HVAC systems for lot-holding areas would be required to be separate from air handling systems for other operational and administrative areas of the facility in order to ensure that air from the quarantine areas is not diverted into nonquarantine areas of the facility. In addition, if the facility is approved to handle more than one lot of horses at a time, each lot-holding area would be required to have its own separate HVAC system that must be designed to prevent cross contamination between the separate lot-holding areas.

The facility, including the lot-holding areas, would have to be equipped with a fire alarm voice communication system so that personnel working in those areas can be readily warned of any potential emergency and vice versa.

The facility would also need to have a television monitoring system or other arrangement sufficient to provide a full view of the quarantine area or areas, excluding the clothes changing area.

The facility would also need to have a communication system between the nonquarantine and quarantine areas of the facility. Such a system would allow persons working in the quarantine area to communicate with persons working in the nonquarantine area and vice versa without moving from one area to the other, and therefore, without showering in or out.

#### **Sanitation**

To ensure that proper animal health and biological security measures are observed, we would require that permanent facilities have the equipment and supplies necessary to maintain the facility in clean and sanitary condition, including pest control equipment and supplies and cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment. Facilities would need to maintain separate equipment and supplies for each lot of horses.

We would require facilities to maintain a supply of potable water adequate to meet all watering and cleaning needs at the facility. We would also require that water faucets for hoses be located throughout the facility to ensure that personnel would not need to drag hoses across areas that have already been cleaned and disinfected. We would also require that an emergency supply of water for horses in quarantine be maintained at the facility.

Facilities would also need to maintain a stock of disinfectant authorized in § 71.10(a)(5) of the regulations, or otherwise approved by the Administrator, and that is sufficient to disinfect the entire facility.

We would also require permanent facilities to have the capability to dispose of wastes, including manure, urine, and used bedding, by means of burial, incineration, or public sewer. Facilities would need to handle other waste material in a manner that minimizes spoilage and the attraction of pests and would need to dispose of the waste material by incineration, public sewer, or other preapproved manner that prevents the spread of disease. Disposal of wastes would need to be carried out under the direct oversight of APHIS representatives.

We would further require permanent facilities to have the capability to dispose of horse carcasses in a manner approved by the Administrator and under conditions that minimize the risk of disease spread from carcasses. This

requirement is necessary to ensure that facilities can destroy any disease agents that might be present in a horse carcass.

Further, we would require that incineration that is carried out at the facility be done in incinerators that are detached from other facility structures and that are capable of burning animal waste and refuse as required. We would require the incineration site to include an area sufficient for solid waste holding. Incineration could also take place at a local site away from the facility premises. Furthermore, we would require all incineration activities to be carried out under the direct oversight of APHIS representatives.

We would require the facility to have the capability to control surface drainage and effluent into, within, and from the facility in a manner that prevents the spread of disease into, within, or from the facility. If the facility is approved to handle more than one lot of horses at the same time, we would require that the facility have separate drainage systems for each lot-holding area in order to prevent cross contamination.

#### **Security**

We would require that the facility and premises be kept locked and secure at all times to ensure the integrity of quarantine operations. We would also require the facility and premises to have signs indicating that the facility is a quarantine area and no visitors are allowed.

The facility and premises would also need to be guarded at all times by one or more representatives of a bonded security company or, alternatively, would need to have an electronic security system that would indicate the entry of unauthorized persons into the facility. We would require that such an electronic security system be coordinated either through or with the local police so that the quarantine facility is monitored whenever APHIS representatives are not at the facility. We would also require that such an electronic security system be of the "silent type" triggered to ring at the monitoring site and not at the facility. The electronic security system would need to be approved by Underwriter's Laboratories. We would also require that the operator provide written instructions to the monitoring agency stating that the police and a representative of APHIS designated by APHIS must be notified by the monitoring agency if the alarm is triggered. The operator would be required to submit a copy of those instructions to the Administrator. The operator of the facility would be

required to notify the designated APHIS representative whenever a breach of security occurs or is suspected of occurring. Further, in the event that disease is diagnosed in quarantined horses, the Administrator could require that the operator have the facility guarded by a bonded security company in a manner that the Administrator deems necessary to ensure the biological security of the facility.

We would require that the operator of the facility furnish a telephone number or numbers to APHIS at which the operator or his or her agent can be reached at all times while horses are in quarantine.

We would also provide that APHIS may place APHIS seals on any or all entrances and exits of the facility when determined necessary by APHIS and take all necessary steps to ensure that such seals are broken only in the presence of an APHIS representative. In the event that someone other than an APHIS representative breaks such seals, we would consider the act a breach in security and APHIS representatives would make an immediate accounting of all horses in the facility. If we determine that a breach in security has occurred, we may extend the quarantine period for horses as long as necessary to ensure that the horses are free of communicable diseases.

#### **Operating Procedures**

##### *APHIS Oversight*

The quarantine of horses at the facility would be subject to the strict oversight of APHIS representatives, who could include one or more veterinarians and other professional, technical, and support personnel employed by APHIS and authorized to perform the services required by the regulations and the compliance agreement. Unlike temporary facilities, which are inspected on a regular basis by an APHIS veterinarian, a permanent facility would have at least one APHIS representative overseeing the care of all horses in quarantine during normal working hours. Depending on the size of the facility and the number of horses present, additional APHIS veterinarians and animal health technicians could be necessary to ensure adequate oversight of the horses in quarantine. The deployment of APHIS representatives to oversee and provide other professional, technical, and support services at a quarantine facility would be determined solely by the Administrator.

If for any reason, the operator fails to properly care for, feed, or handle the quarantined horses as required under the regulations, or fails to maintain and

operate the facility as provided in this section, APHIS representatives would be authorized by the compliance agreement to furnish such neglected services or make arrangements for the sale or disposal of quarantined horses at the quarantine facility owner's expense.

#### *Personnel*

We propose to require the operator of the facility to provide adequate personnel to maintain the facility and care for the horses in quarantine, including attendants to care for and feed the horses, and other personnel to maintain, operate, and administer the facility.

We are also proposing to require that the operator provide APHIS with a list of employees and other personnel assigned to work at the facility. The list would need to include the names, current residential addresses, and identification numbers of employees and other personnel, and would need to be updated with any changes or additions in advance of such employee or other personnel working at the quarantine facility. These requirements are necessary to ensure that APHIS has knowledge of, and can identify, all persons working at the facility.

In conjunction with the above requirements, we would require the operator to provide APHIS with signed statements from each employee and other personnel hired by the operator and working at the facility in which the person agrees to comply with § 93.308(c) of the regulations, other applicable provisions of 9 CFR part 93, all terms of the compliance agreement, and any related instructions from APHIS representatives pertaining to quarantine operations, including contact with animals both inside and outside the facility.

#### *Authorized Access*

We are also proposing to grant access to the quarantine facility premises as well as inside the quarantine facility only to APHIS representatives and authorized employees and other personnel of the operator assigned to work at the facility. All other persons would be prohibited from the premises unless specifically granted access by the overseeing APHIS representative. Any visitors granted access would be required to be accompanied at all times by an APHIS representative while on the premises or in the quarantine area of the facility.

#### *Sanitary Requirements*

Under the proposed regulations, all facility employees and other personnel,

as well as any other person granted access to the quarantine area, must:

- Shower when entering and leaving the quarantine area;
- Shower before entering a lot-holding area, if previously exposed from access to another lot-holding area;
- Shower when leaving the necropsy area if a necropsy is in the process of being performed or has just been completed, or if all or portions of the examined animal remain exposed;
- Wear clean protective work clothing and footwear upon entering the quarantine area;
- Wear disposable gloves when handling sick horses, and then wash hands after removing gloves;
- Change protective clothing, footwear, and gloves when they become soiled or contaminated;
- *Not* have contact with any horses in the facility other than the lot or lots of horses to which the person is assigned or is granted access; and
- *Not* have had contact with any horses outside the quarantine facility for at least 7 days after the last contact with the horses in quarantine, or for a period of time determined by the overseeing APHIS representative as necessary to prevent the transmission of communicable diseases of horses.

The above requirements are necessary to ensure the integrity of quarantine operations at facilities.

Further, the operator would be responsible for providing a sufficient supply of clothing and footwear to ensure that workers and others provided access to the quarantine area at the facility have clean, protective clothing and footwear at the start of the workday and when they move from one lot of horses to another lot of horses.

The operator or the operator's designated representative would also be responsible for the proper handling, washing, and disposal of soiled and contaminated clothing worn within the quarantine facility in a manner approved by the overseeing APHIS representative as adequate to preclude transmission of any animal disease agent from the facility. At the end of each workday, work clothing worn into each lot-holding area would need to be collected and kept in a bag until the clothing is washed. Used footwear would either be left in the clothes changing area or cleaned with hot water (148 °F minimum) and detergent and disinfected as directed by an APHIS representative.

We would require that all equipment (including tractors) be cleaned and disinfected prior to being used in a quarantine area of the facility with a

disinfectant authorized in § 71.10(a)(5) of the regulations or otherwise approved by the Administrator. The equipment would have to remain dedicated to the facility for the entire quarantine period in order to preclude the spread of disease agents outside the facility. Any equipment used with quarantined horses (e.g., halters, floats) would have to remain dedicated to that particular lot of quarantined horses for the duration of the quarantine period or be cleaned and disinfected before coming in contact with horses from another lot to ensure that no cross contamination occurs. Prior to its use on another lot of horses or its removal from the quarantine premises, any equipment would have to be cleaned and disinfected to the satisfaction of an APHIS representative.

The proposed regulations would also require that any vehicle, upon entering or leaving the quarantine area of the facility, be immediately cleaned and disinfected under the oversight of an APHIS representative with a disinfectant authorized in § 71.10(a)(5) of the regulations.

Further, we would require that the area of the facility in which a lot of horses has been held must be thoroughly cleaned and disinfected under the oversight of an APHIS representative upon release of the horses, with a disinfectant authorized in § 71.10(a)(5) before a new lot of horses is placed in that area of the facility. This requirement is necessary to ensure that horses entering quarantine are not exposed to disease agents present in the previous lot of horses.

#### **Handling of the Horses in Quarantine**

Under the proposed regulations, horses that are quarantined in private facilities would have to undergo the appropriate quarantine specified in § 93.308(a) and would be subject to any other applicable regulations in title 9 of the Code of Federal Regulations. For the purposes of quarantine operations, private facilities would operate no differently than Federal horse quarantine facilities.

Each lot of horses to be quarantined would be required to be placed in the facility on an "all-in, all-out" basis. Under this requirement, no horse could be taken out of the lot while it is in quarantine, except for diagnostic purposes, and no horse could be added to the lot while the lot is in quarantine.

The regulations would require that the facility provide sufficient feed and bedding that is free of vermin and that is not spoiled for the horses in quarantine. Feed and bedding would be required to originate from an area that



is not listed in 9 CFR 72.2 as an area quarantined for splenic or tick fever.

We would prohibit the breeding of horses or the collection of germplasm from horses during the quarantine period unless necessary for a required import testing procedure. This prohibition is necessary because horses under quarantine will not have passed all entry tests or requirements and could be diseased and refused entry. Breeding and collection of germplasm should only take place after horses have fulfilled all entry requirements.

We propose to require that horses in quarantine be subjected to such tests and procedures as directed by the overseeing APHIS representative to determine whether they are free from communicable diseases of horses. We would allow horses in quarantine to be vaccinated only with vaccines that have been approved by APHIS and that are administered by an APHIS veterinarian or an accredited veterinarian under the direct oversight of an APHIS representative. APHIS will only approve use of vaccines that are licensed by APHIS in accordance with § 102.5 of this chapter.<sup>4</sup>

We would require that any death or suspected illness of horses in quarantine be reported immediately to the overseeing APHIS representative so that appropriate measures are taken to ensure the health of the other horses in quarantine. The affected horses would be required to be disposed of as the Administrator may direct or, depending on the nature of the disease, would be required to be cared for as directed by the overseeing APHIS representative.

The regulations would provide that quarantined horses requiring specialized medical attention or additional postmortem testing may be transported off the quarantine site, if authorized by the overseeing APHIS representative. In such situations, a second quarantine site would have to be established to house the horses at the facility of destination (e.g., veterinary college hospital) and the overseeing APHIS representative could extend the quarantine period until the results of any outstanding tests or postmortems are received.

Further, if we determine that a lot of horses is infected with or exposed to a communicable disease of horses, we would require that arrangements for the final disposition of the infected or exposed lot be accomplished within 10 work days following disease

confirmation. We would require the horses to be disposed of under the direct oversight of APHIS representatives. We would require the operator to have a preapproved contingency plan for the possible disposal of all horses housed in the facility prior to issuance of an import permit. This requirement is essential to ensure that diseased horses can be disposed of without posing a risk of disseminating diseases outside the quarantine facility.

#### Records

It would be the facility operator's responsibility to maintain a current daily log to record the entry and exit of all persons entering and leaving the quarantine facility. We would require the operator or the operator's designated representative to hold the log, along with any logs kept by APHIS and deposited with the operator, for at least 2 years following the date of release of the horses from quarantine and to make such logs available to APHIS representatives upon request.

#### Environmental Requirements

We propose to provide that, if APHIS determines that a privately operated quarantine facility does not meet all applicable local, State, and Federal environmental regulations, APHIS reserves the right to deny or suspend approval of the facility until appropriate remedial measures have been applied. This requirement is necessary to ensure that APHIS-approved facilities meet all applicable waste disposal and other environmental quality standards.

#### Variances

The Administrator may grant variances to the proposed requirements relating to location, construction, and other design features of the physical facility as well as sanitation, security, operating procedures, recordkeeping, and other provisions of the regulations, but only if the Administrator determines that the variance causes no detrimental impact to the overall biological security of the quarantine operation. The operator of a permanent facility would have to submit a request for a variance to the Administrator in writing at least 30 days in advance of the arrival of horses to the facility. Any variance would also have to be expressly provided for in the compliance agreement.

In conjunction with these changes, we would also make editorial changes to § 93.310 of the regulations to update the regulations and make them easier to understand.

We believe that these proposed regulations would ensure that

permanent facilities could operate without posing a risk of foreign disease introduction and allow U.S. horse importers another option for quarantining imported horses. We welcome public comment on the proposed regulations.

#### *Executive Order 12866 and Regulatory Flexibility Act*

This proposed rule has been reviewed under Executive Order 12866. The 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 set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no basis to conclude that this rule will 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.

This proposed rule would allow the establishment and operation, under strict APHIS oversight, of permanent, privately owned quarantine facilities for horses imported into the United States. Currently, APHIS allows the establishment of privately owned quarantine facilities for horses on a temporary basis. Such temporary facilities are used to quarantine horses imported for a particular event or purpose. APHIS has also authorized the operation of one permanent, privately owned and operated animal quarantine facility in Los Angeles County, CA.

In accordance with 21 U.S.C. 111, the Secretary is authorized to promulgate regulations and take such measures as he may deem proper to prevent the introduction or dissemination of the contagion of any contagious, infectious, or communicable disease of animals from a foreign country into the United States.

The horse industry in the United States accounts for approximately \$25.3 billion of the U.S. gross national product. Of this amount, 98 percent comes from 22 States; in 7 of these States (California, Florida, Kentucky, New York, Pennsylvania, Texas, and Virginia), the horse industry grosses more than \$500 million annually. In 2000, economic activities related to horses generated approximately \$1.9 billion in tax revenues, most of which

<sup>4</sup> A list of approved vaccines is available from National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road Unit, Riverdale, Maryland 20737-1231.



were generated in States where parimutuel betting was allowed.

Trade in live horses between the United States and other countries has increased considerably over the last several years. Even though the United States is a net exporter of live horses, imports of live horses have increased dramatically. Specifically, from 1992 to 1999, U.S. imports of live horses increased by 345 percent in terms of value (from \$76.2 million to \$339.2 million) and by 80 percent in number (from 16,962 horses to 30,396 horses).

The increased demand for importing horses in the United States has resulted in an increased demand for import quarantine services. The demand for these services exceeds what can be provided at current Federal facilities. As can be seen from the data above, horses play an important role in the international trade of the United States.

#### *Effects on Small Entities*

We have identified two types of entities that could be affected by implementation of this rule; an existing permanent, privately owned quarantine facility and horse importers or farmers.

#### *Quarantine Facilities*

According to Small Business Administration (SBA) criteria, the existing permanent, privately owned quarantine facility that operates in Los Angeles County, CA, is considered a small entity.

If this proposed rule is implemented, that quarantine facility may need to upgrade its facilities to be in compliance with the proposed requirements. If and when the facility is approved for operation under the proposed regulations, the cost of any needed renovations to the facility, as well as the costs associated with being in compliance with the proposed regulations, would likely be passed on to importers of horses who elect to use the facility to quarantine imported horses.

However, given the increased demand for quarantine services in the United States, the small number of Federal horse quarantine facilities currently in operation, and the fact that there are no other permanent, privately owned quarantine facilities operating at this time, it is not likely that this action would have a significant effect on the facility in the long run. Nevertheless, at this time, we are unable to determine the effect that implementation of this rule would have on the facility's business volume and revenue.

#### *Importers of Horses and Horse Farms*

According to SBA criteria, a farm that keeps horses for breeding and has annual revenues less than \$500,000 is considered a small entity. According to the 1997 Census of Agriculture, more than 98 percent of these farms had an annual revenue of less than \$500,000, placing them in the SBA's category of a small entity.

The establishment of permanent, privately owned quarantine facilities for horses would clearly benefit the horse industry if the volume and worth of live horse imports continues to increase. These facilities would save time and money for U.S. importers of horses and may also have positive economic effects for horse transporters and for horse owners who use imported horses. While it is not possible for us to predict the amount of the expected positive financial effects on horse importers, savings to U.S. importers could come from a reduction in time spent waiting for available space in Federal quarantine facilities.

The additional number of horses that might be imported into the United States as a result of this proposed rule is not known. However, because the proposed rule is expected to result in the opening of only one or two additional quarantine facilities in the next several years, the effect upon the price of an imported horse is likely to be small but positive (in terms of a lower price to the buyer).

This proposed rule contains information collection requirements, which have been submitted for approval to the Office of Management and Budget (see "Paperwork Reduction Act" below).

#### *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.

#### *National Environmental Policy Act*

An environmental assessment has not been prepared for this proposed rule. Because the environmental impacts that could result from implementation of this proposal would vary according to the location and design of the facility being approved, APHIS has determined site-specific environmental assessments must be conducted for each permanent, privately owned horse quarantine facility prior to approval of the facility.

APHIS will publish a notice in the **Federal Register** for each environmental assessment we conduct in this regard if this proposed rule is finalized, and we would invite public comment on each site-specific environmental assessment.

#### *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 comment refers to Docket No. 99-012-1. Please send a copy of your comment to: (1) Docket No. 99-012-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, 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.

Because recent demand for quarantine services for horses has exceeded the space available at existing facilities, we are proposing to allow the establishment of permanent, privately owned horse quarantine facilities if they meet requirements proposed in this document. Accomplishing this will necessitate the use of several information collection activities, including an application for facility approval, a compliance agreement explaining the conditions under which the facility must be operated, and a certification that the facility meets all applicable environmental regulations.

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 .78571 hours per response.

*Respondents:* Owners of approved permanent, privately owned horse quarantine facilities and applicants for approval.

*Estimated annual number of respondents:* 3.

*Estimated annual number of responses per respondent:* 4.666.

*Estimated annual number of responses:* 14.

*Estimated total annual burden on respondents:* 11 hours.

Copies of this information collection can be obtained from: Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### List of Subjects in 9 CFR Part 93

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

Accordingly, we propose to amend 9 CFR part 93 as follows:

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

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

**Authority:** 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

#### Subpart C—[Amended]

2. In part 93, subpart C, footnotes 16, 17, 18, and 19 and their references would be redesignated as footnotes 18, 19, 20, and 21, respectively.

3. Section 93.300 would be amended by revising the definition for “operator” and by adding, in alphabetical order, new definitions to read as follows:

#### § 93.300 Definitions.

\* \* \* \* \*

*Lot.* A group of horses that, while held on a premises or conveyance, have had opportunity for physical contact with other horses in the group or with their excrement or discharges at any time

during their shipment to the United States.

*Lot-holding area.* That area in a permanent, privately owned quarantine facility in which a single lot of horses is held at one time.

*Nonquarantine area.* That area in a permanent, privately owned quarantine facility that includes offices, storage areas, and other areas outside the quarantine area, and that is off limits to horses, samples taken from horses, and any other objects or substances that have been in the quarantine area during quarantine of horses.

*Operator.* A person other than the Federal Government who owns or operates a temporary, privately owned quarantine facility or a permanent, privately owned quarantine facility.

*Quarantine area.* That area in a permanent, privately owned quarantine facility that comprises all of the lot-holding areas in the facility and any other areas in the facility that horses have access to, including loading docks for receiving and releasing horses, and any areas used to conduct examinations of horses and take samples and any areas where samples are processed or examined.

*Permanent, privately owned quarantine facility.* A facility that offers quarantine services for horses to the general public on a continuing basis and that is owned by an entity other than the Federal Government (also permanent facility).

\* \* \* \* \*

*Temporary, privately owned quarantine facility.* A facility that offers quarantine services for horses imported for a special event and that is owned by an entity other than the Federal Government (also temporary facility).

\* \* \* \* \*

4. In § 93.303, paragraph (e), the paragraph heading would be revised to read as follows:

#### § 93.303 Ports designated for the importation of horses.

\* \* \* \* \*

(e) *Ports for horses to be quarantined at privately owned quarantine facilities.*

\* \* \*

\* \* \* \* \*

#### § 93.304 [Amended]

5. In § 93.304, paragraph (a), the introductory text, the words “quarantine facility provided by the importer” would be removed, and the words “privately-owned quarantine facility” would be added in their place.

6. In § 93.304, paragraph (a)(2), the words “regulations, horses intended for quarantine at a quarantine facility provided by the importer,” would be

removed, and the words “regulations or horses intended for quarantine at a privately-owned quarantine facility” would be added in their place.

7. In § 93.308, paragraphs (b) and (c) would be revised to read as follows:

#### § 93.308 Quarantine requirements.

\* \* \* \* \*

(b) *Temporary, privately owned quarantine facilities.* Horses presented for entry into the United States as provided in § 93.303(e) of this part may be quarantined in temporary, privately owned quarantine facilities that meet the requirements of paragraphs (b)(1) and (2) of this section and that have been approved by the Administrator for a specific importation.

(1) *Approval.* Requests for approval and plans for proposed temporary facilities must be submitted no less than 15 days before the proposed date of entry of horses into the facility to APHIS, Veterinary Services, National Center for Import and Export, 4700 River Road, Unit 39, Riverdale, MD 20737–1231. Before facility approval can be granted, a veterinary medical officer of APHIS must inspect the facility to determine whether it complies with the standards set forth in this section: *Provided, however*, that approval of any temporary facility and use of such facility will be contingent upon a determination made by the Administrator that adequate personnel are available to provide required services at the facility. Approval of any facility may be refused and approval of any quarantine facility may be withdrawn at any time by the Administrator, upon his or her determination that any requirements of this section are not being met. Before such action is taken, the operator of the facility will be informed of the reasons for the proposed action by the Administrator and afforded an opportunity to present his or her views. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. The cost of the facility and all maintenance and operational costs of the facility will be borne by the operator.

(2) *Standards and handling procedures.* The facility must be maintained and operated in accordance with the following standards:

(i) *Inspection.* Inspection and quarantine services will be arranged by the operator or his or her agent with the APHIS veterinarian in charge for the State in which the approved facility is located <sup>15</sup> no less than 7 days before the

<sup>15</sup> The name and address of the veterinarian in charge in any State is available from APHIS.

proposed date of entry of the horses into the quarantine facility.

(ii) *Physical plant requirements.*

(A) The facility must be located and constructed to prevent horses from having physical contact with animals outside the facility.

(B) The facility must be constructed only with materials that can withstand repeated cleaning and disinfection. (All walls, floors, and ceilings must be constructed of solid material that is impervious to moisture.) Doors, windows, and other openings of the facility must be provided with double screens that will prevent insects from entering the facility.

(iii) *Sanitation and security.* (A) The operator must arrange for a supply of water adequate to clean and disinfect the facility.

(B) All feed and bedding must originate from an area not under quarantine because of splenetic or tick fever (see part 72 of this chapter) and must be stored within the facility.

(C) Upon the death or destruction of any horse, the operator must arrange for the disposal of the horse's carcass by incineration. Disposal of all other waste removed from the facility during the time the horses are in quarantine or from horses that are refused entry into the United States must be either by incineration or in a public sewer system that meets all applicable environmental quality control standards. Following completion of the quarantine period and the release of the horses into the United States, all waste may be removed from the quarantine facility without further restriction.

(D) The facility will be maintained and operated in accordance with any additional requirements the Administrator deems appropriate to prevent the dissemination of any communicable disease.

(E) The facility must comply with all applicable local, State, and Federal requirements for environmental quality.

(iv) *Personnel.* (A) Access to the facility will be granted only to persons working at the facility or to persons specifically granted such access by an APHIS representative.

(B) The operator must provide attendants for the care and feeding of horses while in the quarantine facility.

(C) Persons working in the quarantine facility may not come in contact with any horses outside the quarantine facility during the quarantine period for any horses in the facility.

(v) *Handling of horses in quarantine.* Horses offered for importation into the

United States that are quarantined in an approved temporary facility must be handled in accordance with paragraph (a) of this section while in quarantine.

(c) *Permanent, privately owned quarantine facilities.* Horses presented for entry into the United States as provided in § 93.303(e) of this part may be quarantined in permanent, privately owned quarantine facilities approved by the Administrator as meeting the requirements of paragraphs (c)(1) through (7) of this section.

(1) *APHIS approval.*

(i) *Approval procedures.* Persons seeking APHIS approval of a permanent, privately-owned quarantine facility must write to the Administrator, c/o National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737-1231. The application letter must include the full name and mailing address of the applicant; the location and street address of the facility for which approval is sought; blueprints of the facility; a description of the financial resources available for construction, operation, and maintenance of the facility; the anticipated source or origin of horses to be quarantined, as well as the expected size and frequency of shipments; and a contingency plan for the possible disposal of all the horses capable of being housed in the facility.

(A) If APHIS determines that an application is complete and merits further consideration, the person applying for facility approval must enter into a compliance agreement with APHIS wherein the applicant agrees to pay the cost of all APHIS services associated with APHIS's evaluation of the application and facility. APHIS charges for evaluation services at hourly rates listed in § 130.30 of this title. This compliance agreement applies only to fees accrued during the application process. If the facility is approved by APHIS, facility owners must enter into a new compliance agreement in accordance with paragraph (c)(2) of this section.

(B) Requests for approval must be submitted to APHIS at least 120 days prior to the date of application for local building permits. Requests for approval will be evaluated on a first-come, first-served basis.

(ii) *Criteria for approval.* Before a facility may operate as a permanent, privately owned quarantine facility for horses, it must be approved by APHIS. To be approved:

(A) APHIS must find, based on an environmental analysis, that the operation of the facility will not have significant environmental effects;

(B) The facility must meet all of the requirements of this section;

(C) The facility must meet any additional requirements that may be imposed by the Administrator in each specific case, as specified in the compliance agreement required under paragraph (c)(2) of this section, to ensure that the quarantine of horses in the facility will be adequate to enable determination of their health status, as well as to prevent the transmission of diseases into, within, and from the facility; and

(D) The Administrator must determine that sufficient personnel, including one or more APHIS veterinarians and other professional, technical, and support personnel, are available to serve as APHIS representatives at the facility and provide continuous oversight and other technical services to ensure the biological security of the facility, if approved. APHIS will assign personnel to facilities requesting approval in the order that the facilities are approved. The Administrator has sole discretion on the number of APHIS personnel to be assigned to the facility.

(iii) *Maintaining approval.* To maintain APHIS approval, the operator must continue to comply with all the requirements of paragraph (c) of this section and the terms of the compliance agreement executed in accordance with paragraph (c)(2) of this section.

(iv) *Withdrawal or denial of approval.* Approval for a proposed privately owned quarantine facility may be denied or approval for a facility already in operation may be withdrawn at any time by the Administrator, for any of the reasons provided in paragraph (c)(1)(iv)(C) of this section.

(A) Before facility approval is denied or withdrawn, APHIS will inform the operator of the proposed or existing quarantine facility and include the reasons for the proposed action. If there is a conflict as to any material fact, APHIS will afford the operator, upon request, the opportunity for a hearing with respect to the merits or validity of such action in accordance with the rules of practice that APHIS adopts for the proceeding.

(B) Withdrawal of approval of an existing facility will become effective prior to final determination in the proceeding when the Administrator determines that such action is necessary to protect animal health or the public health, interest, or safety. Such withdrawal will be effective upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, APHIS will give written confirmation to the

operator of the facility as promptly as circumstances allow. This withdrawal will continue in effect pending the completion of the proceeding and any judicial review, unless otherwise ordered by the Administrator. In addition to withdrawal of approval for the reasons provided in paragraph (c)(1)(iv)(C) of this section, the Administrator will also automatically withdraw approval when the operator of any approved facility notifies the APHIS veterinarian in charge for the State in which the facility is located, in writing, that the facility is no longer in operation.<sup>16</sup>

(C) Except as provided in paragraph (c)(1)(iv)(E) of this section, the Administrator may deny or withdraw approval of a permanent privately owned quarantine facility if:

(1) Any requirement of this section or the compliance agreement is not complied with; or

(2) The operator fails to remit any charges for APHIS services rendered; or

(3) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal; or

(4) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime involving fraud, bribery, or extortion or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of animals; or

(5) The approved quarantine facility has not been in use to quarantine horses for a period of at least 1 year.

(D) For the purposes of this section, a person is deemed to be responsibly connected with the business of the quarantine facility if such person has an ownership, mortgage, or lease interest in the facility's physical plant, or if such person is a partner, officer, director, holder or owner of 10 percent or more of its voting stock, or is an employee in a managerial or executive capacity.

(2) *Compliance agreement.* (i) All permanent, privately owned quarantine facilities for horses must operate in accordance with a compliance agreement executed by the operator or his or her agent and the Administrator, and that must be renewed on an annual basis.

(ii) The compliance agreement must provide that:

(A) The facility must meet all applicable requirements of this section;

(B) The facility's quarantine operations are subject to the strict oversight of APHIS representatives;

(C) The operator agrees to be responsible for the cost of the facility; all costs associated with its maintenance and operation; all costs associated with the hiring of employees and other personnel to attend to the horses as well as to maintain and operate the facility; all costs associated with the care of quarantined horses, such as feed, bedding, medicines, inspections, testing, laboratory procedures, and necropsy examinations; and all APHIS charges for the services of APHIS representatives in accordance with this section and part 130 of this chapter; and

(D) The operator agrees to bar from the facility any employee or other personnel at the facility who fails to comply with paragraph (c) of this section or other provisions of this part, any terms of the compliance agreement, or related instructions from APHIS representatives;

(3) *Physical plant requirements.* The facility must meet the following requirements as determined by an APHIS inspection before horses may be admitted to it:

(i) *Location.* The quarantine facility must be located:

(A) In proximity to a port authorized under § 93.303(e) of this part of this part such that the movement of the imported horses along preapproved routes from the port to the quarantine facility poses no significant risk, as determined by the Administrator, of transmitting communicable diseases of horses.

(B) At least one-half mile from any premises holding livestock or horses.

(ii) *Construction.* The facility must be of sound construction, in good repair, and properly designed to prevent the escape of quarantined horses. It must have adequate capacity to receive and house a shipment of horses as a lot on an "all-in, all-out" basis and must include the following:

(A) *Perimeter fencing.* The facility must be surrounded by a security fence of sufficient height and design to prevent the entry of unauthorized people and animals from outside the facility and to prevent the escape of the horses in quarantine.

(B) *Entrances and exits.* All entryways into the nonquarantine area of the facility must be equipped with a secure and lockable door. While horses are in quarantine, all access to the quarantine area for horses must be from within the building, and each such entryway to the quarantine area must be equipped with a series of solid self-closing double

doors. Entryways to each lot-holding area must be equipped with a solid lockable door. Emergency exits to the outside may exist in the quarantine area. Such emergency exits must be constructed so as to permit their opening from the inside of the facility only.

(C) *Windows and other openings.* The facility must be constructed so that any windows or other openings in the quarantine area are double-screened with screening of sufficient gauge and mesh to prevent the entry or exit of insects and other vectors of diseases of horses. The interior and exterior screens must be separated by at least 3 inches (7.62 cm). All screening of windows or other openings must be easily removable for cleaning, yet otherwise remain locked and secure at all times in a manner satisfactory to APHIS representatives in order to ensure the biological security of the facility.

(D) *Lighting.* The facility must have adequate lighting throughout, including in stalls and hallways, for the purpose of examining the horses and conducting necropsies.

(E) *Loading docks.* The facility must include separate docks for animal receiving and releasing and for general receiving and pickup.

(F) *Surfaces.* The facility must be constructed so that the floor surfaces with which horses have contact are nonslip and wear-resistant. All floor surfaces with which the horses, their excrement, or discharges have contact must provide for adequate drainage, and drains must be at least 8 inches in diameter. All floor and wall surfaces with which the horses, their excrement, or discharges have contact must be impervious to moisture and be able to withstand frequent cleaning and disinfection without deterioration. Other ceiling and wall surfaces with which the horses, their excrement, or discharges do not have contact must be able to withstand cleaning and disinfection between shipments of horses. All floor and wall surfaces must be free of sharp edges that could cause injury to horses.

(G) *Means of isolation.* Physical barriers must separate different lots of horses in the facility so that horses in one lot cannot have physical contact with horses in another lot or with their excrement or discharges. Stalls must be available that are capable of isolating any horses exhibiting signs of illness.

(H) *Showers.* In a facility where it is possible to move from the nonquarantine area into any lot-holding area without passing through another lot-holding area, the facility must have a shower at the entrance to the

<sup>16</sup> The name and address of the veterinarian in charge in any State is available from APHIS, Veterinary Services, National Center for Import and Export, 4700 River Road, Unit 39, Riverdale, MD 20737-1231.

quarantine area. In a facility where it is not possible to move to any lot-holding area except by first passing through another lot-holding area, the facility must have a shower at the entrance to each lot-holding area. A shower must be located at the entrance to the necropsy area. A clothes-storage and clothes-changing area must be provided at each end of each shower area. There must also be one or more receptacles near each shower so that clothing that has been worn into a lot-holding area or elsewhere in the quarantine area can be deposited in the receptacle(s) prior to entering the shower.

(I) *APHIS space.* The facility must have adequate space for APHIS representatives to conduct examinations and testing of the horses in quarantine, prepare and package samples for mailing, and store the necessary equipment and supplies for each lot of horses and duplicate samples. The examination space must include equipment to provide for the safe inspection of horses (i.e., restraining stocks). The facility must also include a secure, lockable office for APHIS use with enough room for a desk, chair, and filing cabinet.

(J) *Necropsy area.* The facility must have an area that is of sufficient size to perform necropsies on horses and that is equipped with adequate lighting, hot and cold running water, a drain, a cabinet for storing instruments, a refrigerator-freezer for storing specimens, and an autoclave to sterilize veterinary equipment.

(K) *Storage.* The facility must have sufficient storage space for equipment and supplies used in quarantine operations. Storage space must include separate, secure storage for pesticides and for medical and other biological supplies, as well as a separate feed storage area that is vermin-proof for feed and bedding, if feed and bedding are stored at the facility. If the facility has multiple lot-holding areas, then separate storage space for supplies and equipment must be provided for each lot-holding area.

(L) *Additional space needs.* The facility must have an area for washing and drying clothes, linens, and towels and an area for cleaning and disinfecting equipment used in the facility. The facility must also include a work area for the repair of equipment.

(M) *Restrooms.* The facility must have permanent restrooms in both the quarantine and nonquarantine areas of the facility.

(N) *Breakroom.* The facility must have an area within the quarantine area for breaks and meals.

(O) *Ventilation and climate control.* The facility must be constructed with a heating, ventilating and air conditioning (HVAC) system capable of controlling and maintaining the ambient temperature, air quality, moisture, and odor at levels that are not injurious or harmful to the health of horses in quarantine. Air supplied to lot-holding areas must not be recirculated or reused for other ventilation needs. HVAC systems for lot-holding areas must be separate from air handling systems for other operational and administrative areas of the facility. In addition, if the facility is approved to handle more than one lot of horses at a time, each lot-holding area must have its own separate HVAC system that is designed to prevent cross-contamination between the separate lot-holding areas.

(P) *Fire protection.* The facility, including the lot holding areas, must have a fire alarm voice communication system.

(Q) *Monitoring system.* The facility must have a television monitoring system or other arrangement sufficient to provide a full view of the quarantine area or areas, excluding the clothes changing area.

(R) *Communication system.* The facility must have a communication system between the nonquarantine and quarantine areas of the facility.

(iii) *Sanitation.* To ensure that proper animal health and biological security measures are observed, the facility must have the following:

(A) Equipment and supplies necessary to maintain the facility in clean and sanitary condition, including pest control equipment and supplies and cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment.

(B) Separately maintained equipment and supplies for each lot of horses.

(C) A supply of potable water adequate to meet all watering and cleaning needs, with water faucets for hoses located throughout the facility. An emergency supply of water for horses in quarantine must also be maintained.

(D) A stock of disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator that is sufficient to disinfect the entire facility.

(E) The capability to dispose of wastes, including manure, urine, and used bedding, by means of burial, incineration, or public sewer. Other waste material must be handled in such a manner that minimizes spoilage and the attraction of pests and must be disposed of by incineration, public sewer, or other preapproved manner

that prevents the spread of disease. Disposal of wastes must be carried out under the direct oversight of APHIS representatives.

(F) The capability to dispose of horse carcasses in a manner approved by the Administrator and under conditions that minimize the risk of disease spread from carcasses.

(G) For incineration to be carried out at the facility, incineration equipment that is detached from other facility structures and is capable of burning animal waste and refuse as required. The incineration site must also include an area sufficient for solid waste holding. Incineration may also take place at a local site away from the facility premises. All incineration activities must be carried out under the direct oversight of APHIS representatives.

(H) The capability to control surface drainage and effluent into, within, and from the facility in a manner that prevents the spread of disease into, within, or from the facility. If the facility is approved to handle more than one lot of horses at the same time, there must be separate drainage systems for each lot-holding area in order to prevent cross contamination.

(iv) *Security.* Facilities must provide the following security measures:

(A) The facility and premises must be kept locked and secure at all times while horses are in quarantine.

(B) The facility and premises must have signs indicating that the facility is a quarantine area and no visitors are allowed.

(C) The facility and premises must be guarded at all times by one or more representatives of a bonded security company or, alternatively, the facility must have an electronic security system that indicates the entry of unauthorized persons into the facility. Electronic security systems must be coordinated through or with the local police so that monitoring of the quarantine facility is maintained whenever APHIS representatives are not at the facility. The electronic security system must be of the "silent type" and must be triggered to ring at the monitoring site and not at the facility. The electronic security system must be approved by Underwriter's Laboratories. The operator must provide written instructions to the monitoring agency stating that the police and a representative of APHIS designated by APHIS must be notified by the monitoring agency if the alarm is triggered. The operator must also submit a copy of those instructions to the Administrator. The operator must notify the designated APHIS representative

whenever a breach of security occurs or is suspected of occurring. In the event that disease is diagnosed in quarantined horses, the Administrator may require that the operator have the facility guarded by a bonded security company in a manner that the Administrator deems necessary to ensure the biological security of the facility.

(D) The operator must furnish a telephone number or numbers to APHIS at which the operator or his or her agent can be reached at all times.

(E) APHIS is authorized to place APHIS seals on any or all entrances and exits of the facility when determined necessary by APHIS and to take all necessary steps to ensure that such seals are broken only in the presence of an APHIS representative. If someone other than an APHIS representative breaks such seals, APHIS will consider the act a breach in security and APHIS representatives will make an immediate accounting of all horses in the facility. If a breach in security occurs, APHIS may extend the quarantine period as long as necessary to determine that the horses are free of communicable diseases.

(4) *Operating procedures.* The following procedures must be observed at the facility at all times:

(i) *APHIS oversight.*

(A) The quarantine of horses at a privately owned quarantine facility is subject to the strict oversight of APHIS representatives authorized to perform the services required by this section.

(B) If, for any reason, the operator fails to properly care for, feed, or handle the quarantined horses as required in paragraph (c) of this section, or fails to maintain and operate the facility as provided in paragraph (c) of this section, APHIS representatives are authorized by the compliance agreement to furnish such neglected services or make arrangements for the sale or disposal of quarantined horses at the quarantine facility owner's expense.

(ii) *Personnel.*

(A) The operator must provide adequate personnel to maintain the facility and care for the horses in quarantine, including attendants to care for and feed horses, and other personnel as needed to maintain, operate, and administer the facility.

(B) The operator must provide APHIS with an updated list of all personnel who have access to the facility. The list must include the names, current residential addresses, and identification numbers of each person, and must be updated with any changes or additions in advance of such person having access to the quarantine facility.

(C) The operator must provide APHIS with signed statements from each person having access to the facility in which the person agrees to comply with paragraph (c) of this section and applicable provisions of this part, all terms of the compliance agreement, and any related instructions from APHIS representatives pertaining to quarantine operations, including contact with animals both inside and outside the facility.

(iii) *Authorized access.* Access to the facility premises as well as inside the quarantine area will be granted only to APHIS representatives, authorized employees, and other personnel of the operator assigned to work at the facility. All other persons are prohibited from the premises unless specifically granted access by an APHIS representative. Any visitors granted access must be accompanied at all times by an APHIS representative while on the premises or in the quarantine area of the facility.

(iv) *Sanitary requirements.*

(A) All persons granted access to the quarantine area must:

(1) Shower when entering and leaving the quarantine area.

(2) Shower before entering a lot-holding area if previously exposed from access to another lot-holding area.

(3) Shower when leaving the necropsy area if a necropsy is in the process of being performed or has just been completed, or if all or portions of the examined animal remain exposed.

(4) Wear clean protective work clothing and footwear upon entering the quarantine area.

(5) Wear disposable gloves when handling sick horses and then wash hands after removing gloves.

(6) Change protective clothing, footwear, and gloves when they become soiled or contaminated.

(7) Not have contact with any horses in the facility other than the lot or lots of horses to which the person is assigned or is granted access.

(8) Not have contact with any horses outside the quarantine facility for at least 7 days after the last contact with the horses in quarantine, or for a period of time determined by the overseeing APHIS representative as necessary to prevent the transmission of communicable diseases of horses.

(B) The operator is responsible for providing a sufficient supply of clothing and footwear to ensure that all persons provided access to the quarantine area at the facility have clean, protective clothing and footwear upon their initial entry and when they move from one lot of horses to another lot of horses.

(C) The operator is responsible for the proper handling, washing, and disposal

of soiled and contaminated clothing worn within the quarantine facility in a manner approved by APHIS as adequate to preclude transmission of any animal disease agent from the facility. At the end of each workday, work clothing worn into each lot-holding area must be collected and kept in a bag until the clothing is washed. Used footwear must either be left in the clothes changing area or cleaned with hot water (148 °F minimum) and detergent and disinfected as directed by an APHIS representative.

(D) All equipment (including tractors) must be cleaned and disinfected prior to being used in the quarantine area of the facility with a disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator. The equipment must remain dedicated to the facility for the entire quarantine period. Any equipment used with quarantined horses (e.g., halters, floats) must remain dedicated to that particular lot of quarantined horses for the duration of the quarantine period or be cleaned and disinfected before coming in contact with horses from another lot. Prior to its use on another lot of horses or its removal from the quarantine premises, any equipment must be cleaned and disinfected to the satisfaction of an APHIS representative.

(E) Any vehicle, upon entering or leaving the quarantine area of the facility, must be immediately cleaned and disinfected under the oversight of an APHIS representative with a disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator.

(F) That area of the facility in which a lot of horses has been held or has had access to must be thoroughly cleaned and disinfected under the oversight of an APHIS representative upon release of the horses with a disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator before a new lot of horses is placed in that area of the facility.

(v) *Handling of the horses in quarantine.*

(A) All horses must be handled in accordance with paragraph (a) of this section.

(B) Each lot of horses to be quarantined must be placed in the facility on an "all-in, all-out" basis. No horse may be taken out of the lot while it is in quarantine, except for diagnostic purposes, and no horse may be added to the lot while the lot is in quarantine.

(C) The facility must provide sufficient feed and bedding for the horses in quarantine, and it must be free of vermin and not spoiled. Feed and bedding must originate from an area that

is not listed in 9 CFR 72.2 as an area quarantined for splenetic or tick fever.

(D) Breeding of horses or collection of germplasm from horses is prohibited during the quarantine period unless necessary for a required import testing procedure.

(E) Horses in quarantine will be subjected to such tests and procedures as directed by an APHIS representative to determine whether they are free from communicable diseases of horses. While in quarantine, horses may be vaccinated only with vaccines that have been approved by APHIS and that are administered by an APHIS veterinarian or an accredited veterinarian under the direct oversight of an APHIS representative. APHIS will approve a vaccine only if the vaccine is licensed by APHIS in accordance with § 102.5 of this chapter.<sup>17</sup>

(F) Any death or suspected illness of horses in quarantine must be reported immediately to APHIS. The affected horses must be disposed of as the Administrator may direct or, depending on the nature of the disease, must be cared for as directed by APHIS to prevent the spread of disease.

(G) Quarantined horses requiring specialized medical attention or additional postmortem testing may be transported off the quarantine site, if authorized by APHIS. A second quarantine site must be established to house the horses at the facility of destination (e.g., veterinary college hospital). In such cases, APHIS may extend the quarantine period until the results of any outstanding tests or postmortems are received.

(H) Should the lot of horses become infected with or exposed to a communicable disease of horses, arrangements for the final disposition of the infected or exposed lot must be accomplished within 4 work days following disease confirmation. Subsequent disposition of the horses must occur under the direct oversight of APHIS representatives. The operator must have a preapproved contingency plan for the possible disposal of all horses housed in the facility prior to issuance of the import permit.

(vi) *Records.*

(A) The facility operator must maintain a current daily log to record the entry and exit of all persons entering and leaving the quarantine facility.

(B) The operator must maintain the daily log, along with any logs kept by APHIS and deposited with the operator,

for at least 2 years following the date of release of the horses from quarantine and must make such logs available to APHIS representatives upon request.

(5) *Environmental quality.* If APHIS determines that a privately operated quarantine facility does not meet applicable local, State, or Federal environmental regulations, APHIS may deny or suspend approval of the facility until appropriate remedial measures have been applied.

(6) *Variances.* The Administrator may grant variances to existing requirements relating to location, construction and other design features of the physical facility, as well as to sanitation, security, operating procedures, recordkeeping, and other provisions of paragraph (c) of this section, but only if the Administrator determines that the variance causes no detrimental impact to the overall biological security of the quarantine operations. The operator must submit a request for a variance to the Administrator in writing at least 30 days in advance of the arrival of horses to the facility. Any variance must also be expressly provided for in the compliance agreement.

8. In § 93.309, the section heading would be revised to read as follows:

**§ 93.309 Horse quarantine facilities; payment information.**

\* \* \* \* \*

9. Section 93.310 would be revised to read as follows:

**§ 93.310 Quarantine stations, visiting restricted; sales prohibited.**

Visitors are not permitted in the quarantine enclosure during any time that horses are in quarantine unless an APHIS representative specifically grants access under such conditions and restrictions as may be imposed by APHIS. An importer (or his or her agent or accredited veterinarian) may be admitted to the lot-holding area(s) containing his or her quarantined horses at such intervals as may be deemed necessary, and under such conditions and restrictions as may be imposed, by an APHIS representative. On the last day of the quarantine period, owners, officers or registry societies, and others having official business or whose services may be necessary in the removal of the horses may be admitted upon written permission from an APHIS representative. No exhibition or sale shall be allowed within the quarantine grounds.

Done in Washington, DC, this 24th day of June, 2002.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02-16337 Filed 6-28-02; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM217; Notice No. 25-02-07-SC]

#### **Special Conditions: Boeing Commercial Airplane Group, Boeing Model 747-400 Series Airplane; Forward Lower Lobe (Service/Cargo) Compartment**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This notice proposes special conditions for the Boeing Model 747-400 series airplane. This airplane, as modified by the Boeing Commercial Airplane Group, Wichita, Kansas, will have novel or unusual design features associated with the installation of a forward lower lobe compartment that will have two functions: that of a service compartment and that of a class C cargo compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Comments must be received on or before July 31, 2002.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM217, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM217. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mark Quam, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW.,

<sup>17</sup> A list of approved vaccines is available from National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737-1231.