

into the herd, except for certain cattle less than 6 months of age that met certain criteria in the definition. In the interim rule, *herd* was defined, in part, as “any group of one or more animals maintained for at least 4 months on common ground.” Therefore, according to the definitions in the interim rule, a “whole herd test” could be a test of a group of cattle that had been together for as little as 4 months.

To address the commenters’ concerns that such a test might not give an adequate picture of the tuberculosis history of cattle intended for importation into the United States, in this interim rule we are requiring that the cattle described in § 93.406(a)(2)(i) and (iii) be accompanied by certification that the herd in which the cattle were born and raised has tested negative to a whole herd test. In the definitions in § 93.400, we are adding the term *herd of origin* to mean the herd within which an individual animal was born and raised and that was maintained on common ground for at least 4 months. To accommodate additions to the herd of origin, we are including in the definition of *herd of origin* certain language that was included in the April 2002 interim rule’s definition of *herd*, but that, in this interim rule, we are removing from the definition of *herd*, as explained below. We are providing in the definition of *herd of origin* that, for a group of one or more animals to qualify as a herd of origin for the purposes of § 93.406, animals may be added to the herd during or after the 4-month qualifying period only if they: (1) Originated from a tuberculosis-free herd; or (2) originated from an accredited herd or originated from a herd of origin that tested negative to a whole herd test, and the individual cattle to be added to the herd also tested negative to any additional individual tests for tuberculosis required by the Administrator.

The herd of origin testing results must be included on the same import certificate already required under § 93.406(a). The certificate must be issued by a salaried veterinary officer of the national government of the region of origin, or, if the animals are exported from Mexico, either be such a certificate or one that is issued by a veterinarian accredited by the National Government of Mexico and endorsed by a full-time salaried veterinary officer of the National Government of Mexico.

We are also amending the definition of *whole herd test* to make it clear that the herd tested in a whole herd test is a herd of origin. Additionally, we are amending the definition of *herd* by removing the condition that the animals

have been together for at least 4 months (as well as the language discussed above regarding additions to the herd during or after the 4-month qualifying period). The 4-month qualifying provision was included in the initial interim rule to increase the validity of the whole herd test of the herd from which the cattle originated. However, under this interim rule, we can better ensure that cattle to be imported into the United States are not infected with tuberculosis, even if they are exported as part of a herd that has been together for less than 4 months, by requiring negative tuberculosis results to a whole herd test of the herd in which the cattle were born and raised (the herd of origin).

To give us further information upon which to evaluate a request to import cattle, we are amending § 93.404(a), which describes, among other things, the process for applying for an import permit. Under the existing regulations, an application to import ruminants must include the region of origin of the animals. In this interim rule, we are adding the requirement that the application for an import permit include the address of, or other means of identifying, the premises of the herd of origin, including the State or its equivalent, the municipality or nearest city, and the specific location of the premises, or an equivalent method, approved by the Administrator, of identifying the location of the premises. This same information will be required regarding any other premises where the animals were held prior to export.

Definition of Official Tuberculin Test

One commenter observed that the wording of the definition of *official tuberculin test* in the April 2001 interim rule suggests that the test may be administered and reported by a non-veterinarian as long as he or she is a salaried official of the national government of the exporting region. The commenter recommended that the definition of *official tuberculin test* be revised to provide that the test is one that is administered and reported either by a veterinarian accredited by, or a salaried veterinarian of, the State or Federal government of the exporting region, rather than simply by a salaried official of the government of the exporting region. The commenter was particularly concerned that the official tuberculin test of Mexican cattle be administered and reported by a veterinarian accredited by SAGARPA or a salaried veterinarian of SAGARPA.

We agree that the change recommended by the commenter is appropriate and are revising the definition of *official tuberculin test* to

provide that such a test is administered and reported by a full-time salaried veterinary officer of the national government of the region of origin, or administered and reported by a veterinarian designated or accredited by the national government of the region of origin and endorsed by a full-time salaried veterinary officer of the national government of the region of origin, representing that the veterinarian issuing the certificate was authorized to do so.

Miscellaneous

Additionally, we are adding language to § 93.406(c) to clarify that, under the existing regulations in § 93.427(a), cattle and other ruminants from Mexico may be detained at the port of entry for inspection, testing, disinfection, and dipping.

Emergency Action

This rulemaking is necessary on an emergency basis to help us better ensure that imported cattle are free of tuberculosis, thereby protecting against the spread of tuberculosis within the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This 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.

This interim rule amends the animal import regulations to require that an import permit be obtained for the importation of cattle from Mexico; to require certification regarding the tuberculosis history of the herds from which a group of cattle is assembled for export to the United States; to require information regarding each premises where cattle intended for export to the United States have resided; and to add a definition for *herd of origin* and revise