

Subpart B—Business and Industry Loans

■ 2. Section 4279.107 is revised to read as follows:

§ 4279.107 Guarantee fees.

For all new loans there are two types of non-refundable guarantee fees to be paid by the lender. The fees may be passed on to the borrower. The fees may be forwarded to the Agency through an electronic funds transfer system or, at the Agency's discretion, by a check payable to USDA using a USDA-approved form.

(a) *Initial guarantee fee.* The initial fee is paid at the time the Loan Note Guarantee is issued. The fee may be included as an eligible loan purpose in the guaranteed loan. The fee will be the rate (a specified percentage not to exceed 2 percent) multiplied by the principal loan amount, multiplied by the percent of guarantee. Subject to specified annual limits set by the Agency, the initial guarantee fee may be reduced to 1 percent if the borrower's business supports value-added agriculture and results in farmers benefiting financially, or

(1) Is a high impact business development investment in accordance with § 4279.155(b)(5), and

(2) Is located in a rural community that:

(i) Is experiencing long-term population decline and job deterioration, or

(ii) Has remained persistently poor over the last 60 years, or

(iii) Is experiencing trauma as a result of natural disaster, or

(iv) Is experiencing fundamental structural changes in its economic base.

(b) *Annual renewal fee.* The annual renewal fee is paid once a year and is required to maintain the enforceability of the guarantee as to the lender.

(1) The rate of the annual renewal fee (a specified percentage) is established by Rural Development in an annual notice published in the **Federal Register**, multiplied by the outstanding principal loan balance as of December 31 of each year, multiplied by the percent of guarantee. The rate is the rate in effect at the time the loan is obligated, and will remain in effect for the life of the loan.

(2) Annual renewal fees are due on January 31. Payments not received by April 1 are considered delinquent and, at the Agency's discretion, may result in cancellation of the guarantee to the lender. Holders' rights will continue in effect as specified in the Loan Note Guarantee and Assignment Guarantee Agreement. Any delinquent annual

renewal fees will bear interest at the note rate and will be deducted from any loss payment due the lender. For loans where the Loan Note Guarantee is issued between October 1 and December 31, the first annual renewal fee payment will be due January 31 of the second year following the date the Loan Note Guarantee was issued.

PART 4287—SERVICING

■ 3. The authority citation for part 4287 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart B—Servicing Business and Industry Guaranteed Loans

§ 4287.107 [Amended]

■ 4. Section 4287.107(a) is revised to read as follows:

* * * * *

(a) *Lender reports and annual renewal fee.* The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually using a USDA-approved status report or other approved format. The lender will transmit the annual renewal fee to the Agency simultaneously with the December 31 semiannual status report in accordance with 7 CFR part 4279, subpart B, § 4279.107.

* * * * *

Dated: September 27, 2005.

Thomas C. Dorr,

Under Secretary, Rural Development.

[FR Doc. 05-19722 Filed 9-30-05; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 02-024-2]

Stall Reservations at Import Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations regarding the importation of horses into the United States by requiring persons who cancel reservations for stall space at import quarantine facilities to notify us earlier and by increasing the fee for canceling reservations.

DATES: The interim rule became effective on December 9, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Freeda Isaac, Senior Staff Veterinarian, Technical Trade Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-8364.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on December 9, 2002 (67 FR 72827-72830, Docket No. 02-024-1), we amended the regulations in 9 CFR part 93 regarding the importation of horses into the United States by requiring persons who cancel reservations for stall space at import quarantine facilities to notify us earlier and by increasing the fee for canceling reservations. Under the new fee structure, persons who cancel a reservation 30 business days or more prior to the reservation date will be charged 25 percent of the reservation fee; persons who cancel a reservation 15 to 29 business days prior to the reservation date will be charged 50 percent of the reservation fee; and persons who cancel a reservation less than 15 business days prior to the reservation date will forfeit 100 percent of the reservation fee. We took that action to discourage importers from reserving space that they may not use and canceling when it is too late for others to use the space and to recover the fixed cost associated with operating quarantine facilities when stall space goes unused. This interim rule was intended to improve the occupancy rate of stall space, and, therefore, the efficiency of import quarantine facilities.

Comments on the interim rule were required to be received on or before February 7, 2003. We received three comments by that date. The comments were from a horse industry group, a transportation association, and a transport company. We have carefully considered all of the comments we received. They are discussed below.

Note: In the "Background" section of the interim rule, we stated that brokers are required to have certain diagnostic tests performed on their horses and that these tests must be processed at National Veterinary Services Laboratories (NVSL). Some commenters interpreted this statement to mean that we were requiring that horses be pretested for the diseases dourine, glanders, piroplasmiasis, and infectious equine anemia and that this pretesting be performed at NVSL. That perception is incorrect. Pretesting is not a requirement but may be done at the discretion of the importer or agent. If pretesting is done, importers may utilize NVSL. The Animal and Plant Health

Inspection Service (APHIS) will conduct its own tests during quarantine.

Two commenters said that the new cancellation policy unnecessarily penalizes those who reserve stall space early and are then required to make legitimate alterations to their bookings. The commenters asked that we consider implementing a small administrative fee for changes made more than 30 days prior to the reservation date.

The purpose of the interim rule was to discourage horse brokers from making several reservations and simply forfeiting the \$40 cancellation fees if a client is not found to fill those reserved spaces. This situation had led some brokers to complain that the potential loss of a \$40 cancellation fee is not an effective deterrent to prevent brokers from reserving stall space before a client is found. Since the publication of our December 2002 interim rule, the problem of late cancellations has been eliminated. We believe that instituting the suggested small fee for canceled reservations would result in a situation similar to the one that existed prior to publication of the interim rule.

All three commenters stated that a policy should be enacted wherein stall space in a horse quarantine facility may be formally transferred from one party to another within 15 days of arrival.

Shipments arriving at quarantine facilities are comprised of horses from several different brokers. As such, the suggested formal transfer policy would require a continual monitoring policy, along with the accompanying paperwork. Such an approach potentially involves a great amount of time, personnel, and expense for all affected parties. As such, this method is not cost effective, nor would it eliminate the practice of speculative reservation.

Two commenters said that the grace period within which shipments may arrive without incurring cancellation fees should be extended from 24 to 48 hours.

Under the regulations in effect prior to the December 2002 interim rule, we required 5 business days' notice for cancellations in order for importers to avoid forfeiture of the total reservation fee. As a result of the interim rule, we, among other things, established a graduated fee schedule for cancellations. Importers or their agents are now required to present for entry, within 24 hours following the designated time of arrival, the horse for which the reservation was made. In our opinion, increasing the time period within which importers must present their horses would lead to a reintroduction of past speculative

reservation practices. The regulations in § 93.304(a)(3)(iv) provide for the return of reservation fees to importers in certain cases when unforeseen circumstances arise that prevent an importer from presenting a horse for entry within the required time period.

One commenter said that the forfeiture amounts as established in the graduated fee schedule set for cancellations are too high.

Prior to publication of the interim rule, we carefully considered a fee schedule that we thought to be appropriate and effective in eliminating the practice of speculative reservations. The USDA quarantine facilities in Florida and New York each lost approximately \$300,000 to \$470,000 yearly in forgone user fees. While we recognize that increasing cancellation fees and the time period required for cancellation affects both horse owners and brokers, the forfeiture amounts must necessarily be set at a level that will serve as a meaningful deterrent to speculative reservation-making and allow APHIS to recover the fixed cost associated with operating quarantine facilities when stall space goes unused.

Two commenters stated that there is a need to specifically create a set of circumstances under which a full refund of the reservation fee would be granted, suggesting that a refund would be appropriate in cases where an airline cancels a flight or a horse is injured during loading.

The regulations already describe the circumstances under which a full refund may be granted. As stated previously, under the regulations at § 93.304(a)(3)(iv), a reservation fee will not be forfeited if the Administrator determines that certain essential services were not available at the necessary time as a result of unforeseen circumstances. These circumstances include, but are not limited to, the closing of an airport due to inclement weather or the unavailability of the reserved space due to the extension of another quarantine. We believe it is appropriate and necessary to limit refunds to the circumstances relating to services, other than those provided by carriers, necessary for the importation of the horses within the required period that are unavailable because of unforeseen circumstances as determined by the Administrator.

Likewise, the issuance of refunds, as may be necessary in the situations described above, is based somewhat on the Administrator's discretion. As such, we believe that any attempt to list all instances where a refund would be granted would unnecessarily limit the Administrator's ability to make

determinations in a wide variety of circumstances. It is necessary to leave the exception as written in order to preserve the flexibility of the regulations.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, this action 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.

List of Subjects in 9 CFR Part 93

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

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

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 93 and that was published at 67 FR 72827–72830 on December 9, 2002.

Done in Washington, DC, this 27th day of September 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–19689 Filed 9–30–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22534; Directorate Identifier 2005–NE–27–AD; Amendment 39–14305; AD 2005–20–11]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (RRC) (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) Models 250–C28, –C28B, and –C28C Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).