

The challenge of developing a sustainable, market driven business model are intensified in heir property situations.

Grants, subsidies, and litigation settlements have failed to prevent land loss. It cannot be overemphasized that long-term stability cannot be based on perpetual dependence on subsidy programs; rather it requires adaptation to market initiatives and the leveraging of assets to build competitive business models.

#### Request for Public Comments

The objective of any USDA program would be to reverse the land loss trend and foster the growth of healthy, sustainable African American farms and rural communities. USDA is inviting public comment on this goal. USDA seeks public response on the questions listed below. However, public comments are not limited to addressing only the seven bulleted points. Comments on all heir property related issues are welcomed.

1. Greater Understanding. USDA seeks any materials or personal insights that would contribute to the overall understanding of the heir property issue.

2. What has been done, or is being done to alleviate heir properties. What should be done? USDA would like to learn about any previous attempts to clear heir property. USDA is interested in why each attempt succeeded or failed and would like detailed accounts of the attempts.

3. What should USDA's role be to assist African American land and homeowners to clear title?

4. What are the risks—to all parties involved—of clearing title? USDA is mindful of the fact that heir properties are unique and sometimes fragile. It should also be noted that USDA would not sanction any program that could potentially take an ownership interest in farmland.

5. What resources are needed to clear title? The 2005 study proved that there are several resources being used to clear title. USDA seeks public comment to determine if those resources are sufficient and if so is there anything USDA can do to bolster them? If those resources are insufficient, what additional measures should be taken to improve the situation?

6. Is clear title in itself sufficient to reverse the land loss trend? USDA's first objective is the effective resolution of the heir property issue; however USDA realizes that the African American community will quickly advance beyond clear title. Therefore, USDA seeks public comment to determine if

clearing title in itself is enough to reverse the land loss trend. If clear title alone is not enough to reverse the land loss trend, please indicate what else is needed.

Please illustrate any ideas for initiatives that go beyond clear title. USDA is particularly interested in any ideas for educational courses that may help reverse the land loss trend.

7. Role of the Community Based Organizations. Community based organizations (CBOs) have played a critical role in supporting small farmers. In the past century, they have made significant progress advancing civic equality for all minorities. Research suggests that community based organizations will be an essential part of the heir property solution.

Currently, USDA seeks a partnership with a community based organization that has a commitment to local communities and can be a bridge to the government at the local and national levels while at the same time building trust between USDA and African American farmers. USDA seeks public advice on the future role of such a partner. For example, must a CBO be an agriculture related organization in order to effectively administer a clear title program? Or could it be an organization with lesser agriculture credentials, but an equally well-established community relationship, such as a faith-based organization?

USDA Rural Development is working to ensure all sectors of rural America are able to participate in the growth and expansion of the rural economy. The ability of small producers to participate in these opportunities depends on their ability to become vertical owners in the agriculture production process and in order to do so they must have access to capital and innovative business models.

A clear title initiative would be an important contribution of stabilizing African American land ownership and would lay the foundation for a more sustainable and diversified pattern of development for the years ahead.

Dated: November 22, 2006.

**Thomas C. Dorr,**

*Under Secretary for Rural Development.*

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 91

[Docket No. APHIS-2006-0147]

RIN 0579-AC26

#### Cattle for Export; Removal of Certain Testing Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the livestock exportation regulations to eliminate the requirement for pre-export tuberculosis and brucellosis testing of certain cattle being exported to countries that do not require such testing. This action would facilitate the exportation of certain cattle by eliminating the need to conduct pre-export tuberculosis and brucellosis testing when the receiving country does not require such testing.

**DATES:** We will consider all comments that we receive on or before March 12, 2007.

**ADDRESSES:** You may submit comments by either of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click "Submit." In the Docket ID column, select APHIS-2006-0147 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- **Postal Mail/Commercial Delivery:** Please send four copies of your comment (an original and three copies) to Docket No. APHIS-2006-0147, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0147.

**Reading Room:** 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.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Antonio Ramirez, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 40, Riverdale, MD 20737-1231; (301) 734-8364.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 91, "Inspection and Handling of Livestock for Exportation" (referred to below as the regulations), prescribe conditions for exporting animals from the United States. Section 91.5 requires, among other things, that cattle intended for exportation be tested for tuberculosis and brucellosis prior to export.

Certain exceptions to the testing requirement exist. The regulations in § 91.5(a) do not require testing for tuberculosis prior to export when cattle are being exported directly to slaughter in a country that the Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined has an acceptable tuberculosis surveillance system at slaughter plants and that agrees to share any findings of tuberculosis in U.S. origin cattle with APHIS, or when cattle are being exported directly to slaughter from a State designated as an Accredited-free State in 9 CFR part 77, "Tuberculosis."

The regulations in § 91.5(b) do not require testing for brucellosis prior to export when cattle are being exported directly to slaughter in a country that the Administrator has determined has an acceptable brucellosis surveillance system at slaughter plants and that agrees to share any findings of brucellosis in U.S. origin cattle with APHIS, or when cattle are being exported directly to slaughter from a State designated as a Class Free State in 9 CFR part 78, "Brucellosis." Officially vaccinated dairy breeds under 20 months of age, official vaccinated beef breeds under 24 months of age, and steers and spayed heifers are also exempt from the brucellosis testing requirement.

All other cattle exported from the United States must be tested for tuberculosis within 90 days prior to export and tested for brucellosis within 30 days prior to export, as required by § 91.3(c). The brucellosis test may be administered at a longer interval prior to

export if the receiving country requires or allows it.

In recent years, the Cooperative State-Federal Tuberculosis Eradication Program and the Cooperative State-Federal Brucellosis Eradication Program have made significant progress in reducing the occurrence of those two diseases in U.S. cattle. Currently, all States except Minnesota and portions of Michigan and New Mexico are designated Accredited-free for tuberculosis, and all States except Idaho and Texas are designated Class Free States for brucellosis.

Canadian animal health authorities have recognized our success in eradicating brucellosis, tuberculosis, and other diseases by establishing the Restricted Feeder Cattle Program, which allows certain untested feeder cattle to be imported into Canada.<sup>1</sup> To participate in this program, the feeder cattle must originate in a State that has been designated by the U.S. Department of Agriculture (USDA) as free of brucellosis and tuberculosis. Under the program, U.S. feeder cattle from 39 States considered to have a low incidence of bluetongue are able to enter Canada directly without testing; feeder cattle from the remaining 11 States, which are considered to have a high incidence of bluetongue, are also not required to be tested, provided they reside for at least 60 days prior to import in a low-incidence State. Testing for cattle from such States, however, is still an option; should the feeder cattle be found free of bluetongue, the 60-day period is waived.<sup>2</sup>

Feeder cattle that meet these conditions do not fall under any of the exceptions in § 91.5 and are still required to be tested within 30 and 90 days of export for brucellosis and tuberculosis, respectively. Paragraph (b) of § 91.3 states that the Administrator may, upon request of the appropriate animal health official of the country of destination, waive the tuberculosis and brucellosis tests referred to in §§ 91.5(a) and (b) of the regulations when he finds such tests are not necessary to prevent the exportation of diseased animals from the United States. However, this provision does not allow us to relieve the testing requirement for cattle exported under the Restricted Feeder

<sup>1</sup> Detailed provisions of this program can be found in Canadian Food Inspection Agency Client Services Information Sheet No. 14, "Restricted Feeder Cattle from the United States." This document can be viewed on the Internet at <http://www.inspection.gc.ca/english/animal/heasan/policy/ie-2001-14e.shtml>.

<sup>2</sup> The Canada Food Inspection Agency published a proposal on May 19, 2006, that would eliminate bluetongue-related restrictions on the importation of cattle, among other animals.

Cattle Program, as Canadian animal health officials would have to request each time cattle are exported that the brucellosis and tuberculosis tests not be administered.

Canada's Restricted Feeder Cattle Program covers only cattle that meet the requirements above, and there are no other countries that have recognized our Accredited-free and Class Free designations for States. However, we have recently requested that Canadian animal health authorities recognize our Accredited-free and Class Free designations for States and more generally relieve testing requirements for cattle exported to Canada from those States. If Canada approves this request, the regulations would still require U.S. exporters to administer tuberculosis and brucellosis tests that would then not be required by Canadian animal health regulations. A similar situation could arise if any other country that receives U.S. cattle were to recognize our Accredited-free for tuberculosis or Class Free for brucellosis designations of States and suspend or eliminate any requirements that U.S. cattle must be tested for those diseases prior to export from the United States, because the regulations require testing in all cases except those listed earlier in this document.

To relieve this unnecessary burden and to avoid similar problems that may arise in the future, we are proposing to amend the regulations to exempt cattle from tuberculosis and brucellosis testing prior to export if such testing is not required by the receiving country for cattle from any tuberculosis Accredited-free or brucellosis Class Free State. This action would both relieve restrictions on certain exports of U.S. cattle to Canada that no longer appear necessary and ensure that, if other countries receiving exports of U.S. cattle suspend or remove their requirements that U.S. cattle be tested for tuberculosis or brucellosis, U.S. exporters of cattle would receive the full benefits of no longer being required to perform such tests.

##### Miscellaneous Changes

In § 91.1, *official brucellosis vaccine* is defined as: "A female bovine animal vaccinated against brucellosis in accordance with the provisions prescribed in the Recommended brucellosis Eradication Uniform Methods and Rules, chapter 1, part I-H, I, and J. The provisions of the Uniform Methods and Rules are hereby incorporated by reference." However, "Uniform Methods and Rules: Brucellosis Eradication" has not actually been incorporated by reference, and so no explicit definition of *official*

*brucellosis vaccinate* currently exists in 9 CFR part 91. We are proposing to correct this error by revising this definition to read: "An official adult vaccinate or an official calfhood vaccinate as defined in § 78.1 of this chapter." The definitions in § 78.1 are similar to the definitions of those terms in "Uniform Methods and Rules: Brucellosis Eradication," but contain more specific testing requirements.

The regulations contain other references to the "Uniform Methods and Rules: Brucellosis Eradication." We are developing a proposal that would update the regulations and harmonize them with the "Uniform Methods and Rules: Brucellosis Eradication." We will address the other references to the "Uniform Methods and Rules" in the regulations with that proposal.

In § 91.5, paragraph (a)(1)(ii) states that tuberculosis tests are not required for any cattle "exported directly to slaughter from a State designated as an Accredited-Free State in 9 CFR 77.1." The regulations in part 77 were revised in a final rule published in the **Federal Register** on October 23, 2000 (65 FR 63502–63533), and the list of Accredited-free States for cattle and bison is now located in § 77.7. We would amend § 91.5(a)(1)(ii) to reflect that change.

#### **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.

The proposed rule would remove the requirement that cattle destined for export must be tested for brucellosis and tuberculosis prior to export in any case in which such testing is not required by the receiving country for cattle originating in the United States or any State therein.

The proposed rule would affect domestic producers of cattle, specifically those engaged in the export of animals. In 2005, there were 982,510 cattle operations in the United States.<sup>3</sup> On January 1, 2005, domestic inventory of cattle and calves totaled over 95.8 million, with an average per head value of \$916, and a total value of production of over \$87.8 billion.<sup>4</sup> Under U.S. Small Business Administration's (SBA) size standards, operations engaged in cattle

ranching or production (both beef and dairy) are considered small if they earn \$750,000 or less in annual receipts.<sup>5</sup> According to the USDA's National Agricultural Statistics Service, approximately 953,390, or 97 percent, of the 982,510 cattle operations in the United States are holding fewer than 500 head of cattle. As such, we would assume that the overwhelming majority of domestic cattle operations would be considered small by SBA standards.

Only those operations engaged in the export of their animals would be affected by this proposed rule. In 2005, the United States exported 21,155 live cattle, with a total value of over \$7.2 million. Our primary trading partners historically are Canada and Mexico, and in 2005 Canada and Mexico ranked first and second, respectively, as destinations of U.S. live cattle exports by value.<sup>6</sup> In response to strong domestic cattle price and trade barriers related to bovine spongiform encephalopathy and other diseases, U.S. cattle exports declined significantly in 2003–2004, but they are now on the rebound. The number of operations engaged in the export of cattle is unknown.

Under the proposed rule, domestic cattle producers wishing to export their animals would no longer be required to test for tuberculosis and brucellosis prior to export when the importing countries do not require such testing. As such, the proposed rule would represent a reduction in compliance costs currently associated with export requirements for live cattle. APHIS estimates the average cost of tuberculosis testing for cattle ranges from \$10 to \$12 per head. In addition, APHIS estimates the cost of an official herd blood test for brucellosis to be \$3 per animal. APHIS welcomes public comment regarding the exact costs for tuberculosis tests and brucellosis tests per animal. Assuming a producer located in a State that is Accredited-free for tuberculosis and Class Free for brucellosis were to export cattle to a country where pre-export testing requirements were eliminated, the cost savings that the producer would capture as a result of the proposed change to the regulations would depend on the number of animals exported. Again, the

<sup>3</sup> Table of Size Standards based on North American Industry Classification System (NAICS) 2002. Beef Cattle Ranching and Farming: NAICS code 112111, Dairy Cattle and Milk Production: NAICS code 112120. Washington, DC: U.S. Small Business Administration, effective January 5, 2006.

<sup>6</sup> USDA–FAS, *U.S. Trade Exports-FATUS Commodity Aggregations*. Washington, DC: Foreign Agricultural Service. Based on data from the Dept. of Commerce, U.S. Census Bureau, Foreign Trade Statistics.

exact number of domestic producers whose operations depend on the export of cattle is unknown. However, given the average per-head value of \$916, the cost saved by not having to test for tuberculosis and brucellosis prior to export is not expected to be economically significant, as the combined cost of the tests represents a small percentage of the per-head value of the cattle.

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

#### **Executive Order 12372**

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

#### **Executive Order 12988**

This 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 in conflict 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.

#### **Paperwork Reduction Act**

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

#### **List of Subjects in 9 CFR Part 91**

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

Accordingly, we propose to amend 9 CFR part 91 as follows:

#### **PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION**

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

**Authority:** 7 U.S.C. 8301–8317; 19 U.S.C. 1644a(c); 21 U.S.C. 136, 136a, and 618; 46 U.S.C. 3901 and 3902; 7 CFR 2.22, 2.80, and 371.4.

2. In § 91.1, the definition of *official brucellosis vaccinate* would be revised to read as follows:

#### **§ 91.1 Definitions.**

\* \* \* \* \*

<sup>3</sup> USDA–NASS, *Quick Stats U.S. & All States Data*. Washington, DC: National Agricultural Statistics Service, 2006.

<sup>4</sup> USDA–NASS, *Agricultural Statistics 2005*.

*Official brucellosis vaccinate.* An official adult vaccinate or an official calfhood vaccinate as defined in § 78.1 of this chapter.

\* \* \* \* \*

3. Section 91.5 would be amended as follows:

a. In paragraph (a)(1), by removing the word “or” at the end of paragraph (a)(1)(i); by removing the citation “9 CFR 77.1” in paragraph (a)(1)(ii) and adding the citation “§ 77.7 of this chapter” in its place; by removing the period at the end of paragraph (a)(1)(ii) and adding a semicolon in its place; and by adding new paragraphs (a)(1)(iii) and (a)(1)(iv) to read as set forth below.

b. In paragraph (b)(1), by removing the word “or” at the end of paragraph (b)(1)(iv), by removing the period at the end of paragraph (b)(1)(v) and adding a semicolon in its place, and by adding new paragraphs (b)(1)(vi) and (b)(1)(vii) to read as set forth below.

#### § 91.5 Cattle.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(iii) Cattle exported to a country that does not require cattle from the United States to be tested for tuberculosis as described in this part; or

(iv) Cattle exported from a State designated as an Accredited-free State in § 77.7 of this chapter to a country that does not require cattle from Accredited-free States to be tested for tuberculosis as described in this part.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(vi) Cattle exported to a country that does not require cattle from the United States to be tested for brucellosis as described in this part; or

(vii) Cattle exported from a State designated as a Class Free State in § 78.41 of this chapter to a country that does not require cattle from Class Free States to be tested for brucellosis as described in this part.

\* \* \* \* \*

Done in Washington, DC, this 3rd day of January 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. RM06-21-000 and RM07-4-000]

#### 18 CFR Part 284

#### Release of Capacity on Interstate Natural Gas Pipelines; Request for Comments

January 3, 2007.

**AGENCY :** Federal Energy Regulatory Commission, DOE.

**ACTION :** Request for comments.

**SUMMARY:** The Federal Energy Regulatory Commission has received two petitions requesting changes in, or clarifications of, the Commission’s regulations relating to the release of capacity on interstate natural gas pipelines. The Commission is requesting comments on the current operation of the Commission’s capacity release program and whether changes in any of its capacity release policies would improve the efficiency of the natural gas market.

**DATES:** Comments are due March 12, 2007.

**ADDRESSES:** You may submit comments, identified by Docket Nos. RM06-21-000 and RM07-4-000, by one of the following methods:

- *Agency Web Site:* <http://ferc.gov>.

Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.

- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

#### FOR FURTHER INFORMATION CONTACT:

Eugene Kim, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

#### SUPPLEMENTARY INFORMATION:

### Pacific Gas and Electric Co., Southwest Gas Corp.

[Docket No. RM06-21-000]

**Coral Energy Resources, L.P., Chevron U.S.A. Inc., ConocoPhillips Co., Constellation Energy Commodities Group, Inc., Merrill Lynch Commodities, Inc., Nexen Marketing U.S.A., Inc., Tenaska Marketing Ventures, UBS Energy LLC**

[Docket No. RM07-4-000]

#### Request for Comments

1. Recently, the Commission has received two petitions, requesting changes in, or clarifications of, the Commission’s regulations relating to the release of capacity on interstate natural gas pipelines.<sup>1</sup> As described below, this notice requests comment on the current operation of the Commission’s capacity release program and whether changes in any of its capacity release policies would improve the efficiency of the natural gas market.

#### Background

2. In Order No. 636,<sup>2</sup> the Commission adopted the capacity release program in place of its previous “capacity brokering” program. Under capacity brokering, firm shippers could assign their capacity directly to a replacement shipper on a first-come, first-served basis, without any requirement that the brokering shipper post the availability of its capacity or allocate it to the highest bidder.<sup>3</sup> In Order No. 636, the Commission concluded that the Commission lacked the ability to ensure that capacity brokering was operating in a not unduly discriminatory fashion. “When transactions occurred directly and privately between shippers, there was no way to verify that certain purchasers were not being favored unreasonably over others. ‘Simply put, there [were] too many potential assignors of capacity and too many

<sup>1</sup> These regulations are set forth at 18 CFR 284.8 (2006).

<sup>2</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation, and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, 57 FR 13,267 (April 16, 1992), FERC Stats. and Regs. Regulations Preambles (January 1991–June 1996) ¶ 30,939 (April 8, 1992); *order on reh’g*, Order No. 636-A, 57 FR 36,128 (August 12, 1002), FERC Stats. and Regs. Regulations Preambles (January 1991–June 1996) ¶ 30,950 (August 3, 1992); *order on reh’g*, Order No. 636-B, 57 FR 57,911 (Dec. 8, 1992), 61 FERC ¶ 61,272 (1992); *notice of denial of reh’g*, 62 FERC ¶ 61,007 (1993); *aff’d in part, vacated and remanded in part, United Dist. Companies v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996); *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

<sup>3</sup> *See Algonquin Gas Transmission Corp.*, 59 FERC ¶ 61,032 (1992).