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Regulatory Analysis and Development, PPD  
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Submitted electronically via [www.regulations.gov](http://www.regulations.gov)

**RE: Docket No. APHIS—2012—0049; Exportation of Live Animals, Hatching Eggs, and Animal Germplasm from the United States**

To Whom It May Concern:

The undersigned animal protection organizations write to submit comments on the proposed rule, “Exportation of Live Animals, Hatching Eggs, and Animal Germplasm from the United States,” published in the *Federal Register* on February 26, 2015. We appreciate the Animal and Plant Health Inspection Service’s (APHIS) efforts to improve its live animal export regulations, and we welcome the opportunity to offer our perspective and recommendations.

**Background**

In 2010, animal industry publications reported an impending increase in exports of live animals—dairy and beef cattle specifically—to supply breeding herds in Europe and Asia. The increase in exports was expected to last five years and involve hundreds of thousands of animals. In fact, between 2010 and 2014 approximately 625,000 mammals were exported to countries other than Canada and Mexico, according to USDA’s Foreign Agricultural Service.<sup>1</sup> A large majority of these animals were exported to Turkey and Russia,<sup>2</sup> and we believe most were transported by sea.

In February 2011, AWI, in partnership with the World Society for the Protection of Animals, submitted a rulemaking petition to APHIS, requesting that the agency amend U.S. animal export regulations to require specific “fitness to travel” criteria. In the petition, the groups warned that a disaster involving U.S. animals was all but inevitable. That inevitability came in August 2012, when more than 1,000 of 3,400 breeding dairy cattle being shipped from Galveston, Texas, to Russia died during the voyage or shortly after arrival.<sup>3</sup> In communications with APHIS officials (obtained by AWI through the Freedom of

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<sup>1</sup> Foreign Agricultural Service, Global Agricultural Trade System (GATS), <http://apps.fas.usda.gov/gats/default.aspx>.

<sup>2</sup> Ibid.

<sup>3</sup> Rosselkhoz nadzor (Federal Service for Veterinary and Phytosanitary Surveillance), The Rosselkhoz nadzor is Concerned about Extremely Grave Deficiencies in Animal Safety Ensuing during Transport by the US Veterinary Service, [http://www.fsvps.ru/fsvps/news/5201.html?\\_language=en](http://www.fsvps.ru/fsvps/news/5201.html?_language=en).

Information Act), Russian authorities cited a number of problems with the shipment that they considered to be in “gross violation” of the World Organization for Animal Health’s (“OIE”) animal health code for “Transport of Animals by Sea.” Russia requested an investigation by APHIS and threatened to suspend imports of U.S. cattle by sea if the situation was not satisfactorily resolved. Russian authorities subsequently requested investigations into at least two additional U.S. shipments involving high animal mortality.

The proposed regulations, released on February 26<sup>th</sup>, offer improvements to the existing live animal export rules that address some of the issues encountered with the shipments mentioned above. These new requirements include: fitness to travel criteria; reporting of mortalities for all shipments; onboard back-up systems for feeding, ventilation, and waste management; reporting of any failure of a major life support systems; and recertification of any vessel experiencing a life support system failure.

However, additional improvements are needed to further lower the risks to animal health and welfare associated with long distance transport. These include certain provisions of the OIE international transport by sea guidelines<sup>4</sup> that are missing from the proposed U.S. export regulations. Our recommendations for revisions to the proposed rule on live animal export are detailed below:

#### **Section 91.7 Pre-export Inspection**

AWI’s 2011 petition included the following language to address the disposition of animals who were found to be unfit for travel during pre-export inspection: “Humane and effective arrangements must be made by the owner or agent for the prompt euthanasia or care of any animal rejected as unfit for travel.” That language is based on OIE guidelines, which state: “Humane and effective arrangements should be made by the owner or agent for the handling and care of any animal rejected as unfit for travel.”<sup>5</sup>

We appreciate inclusion of language related to this issue in the proposed rule (“owner of the animals or the owner’s agent must make arrangements for any livestock found unfit to travel”); however, we find it insufficient. The proposed text does not mention appropriate care, or if necessary euthanasia, for animals. “Make arrangements” may merely refer to removing an animal from the premises. Animals who are unfit for travel should not be simply carted off to another location. The final regulation should specifically refer to arrangements for handling and care of any unfit animals.

#### **Section 91.8 Rest, Feed, and Water Prior to Export**

The proposed rule requires only two hours of rest for animals prior to being loaded for export, as opposed to the current five hours minimum. The federal Twenty-Eight Hour Law also requires that animals be rested for at least five hours prior to additional transport.<sup>6</sup> Research has suggested that at least eight hours are needed to gain a sufficient benefit from a rest period in ruminants.<sup>7</sup> Other

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<sup>4</sup> World Organization for Animal Health, Terrestrial Animal Health Code, Transport of Animals by Sea, Chapter 7.2.

<sup>5</sup> World Organization for Animal Health, Terrestrial Animal Health Code, Transport of Animals by Sea, 7.2.7.3.

<sup>6</sup> 49 U.S.C. § 80502.

<sup>7</sup> Knowles, T.G. 1998. A review of road transport of slaughter sheep. *Veterinary Record* 143:212-219.

countries—including some of the United States' largest trading partners—have minimum rest periods that far exceed two hours. For example, Canada's regulations require that animals being exported to any country other than the United States be at the place of embarkation for a minimum of 12 hours (does not apply to transport by air).<sup>8</sup> Loading onto sea vessels can be a long and stressful process; it is important that animals be properly rested beforehand. Therefore, we recommend that animals be at the port of embarkation no less than eight hours before initiation of the loading process.

### **Section 91.12 Ocean Vessels**

#### 91.12(a)(1) Certification to carry livestock

This section requires that an ocean vessel be recertified prior to the end of the 3-year certification period if significant changes are made to the vessel or its ownership, or any time a major life support system fails, or any time species not covered by the existing certification are to be transported. We approve of this provision in the proposed rule and request that an additional condition be added: vessels should be required to undergo recertification after high mortality has occurred on a voyage. It is essential that the cause(s) of high mortality be identified, and recertification of the vessel is one means of doing this.

#### 91.12(c) Feed and water

Information, including photographs, received by APHIS from the Russian government suggests that some animals on voyages between the two countries suffered from inadequate nutrition (see attached photos of U.S. cattle shipped to Russia on the "Pearl of Para"). While the proposed rule requires sufficient water and food for the expected duration of the voyage, it does not require additional supplies for unforeseen delays in reaching the journey's destination (which occurred with the "Pearl of Para" voyage). The rule indicates that guidance on the feed and water requirement will be available in the *Program Handbook*; however, this issue is critical enough that it should be codified in regulation. Canadian regulations require an extra two days' supply of food and water for each estimated eight days of the voyage.<sup>9</sup> We recommend that the regulation include a similar requirement.

#### 91.12(d)(1) Pens

The section on pens requires that the enclosures be "of appropriate size for the species, size, weight, and condition of the livestock being transported..." This section (or alternatively the section on pre-export inspection, 91.7) should also require that animals be grouped according to compatibility. OIE guidelines for transport by sea devotes an entire section, with five specific recommendations, to selection of compatible groups.<sup>10</sup> The U.S regulation should mirror the OIE in this regard.

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<sup>8</sup> Canadian Health of Animals Regulations (CRC, c. 296), 71(1).

<sup>9</sup> Canadian Health of Animals Regulations (CRC, c. 296), 148(6)(b).

<sup>10</sup> World Organization for Animal Health, Terrestrial Animal Health Code, Transport of Animals by Sea, 7.2.7.2.

#### 91.12(d)(2) Animal positioning for observation

The proposed rule requires animal handlers or other responsible persons to observe each animal “regularly”; however, the term is not defined. Incidents that have occurred on sea voyages between the United States and Russia suggest that either animals were not observed properly, or those assigned with caring for the animals were unable and/or unwilling to take action to correct the problems encountered. In terms of addressing the former, handlers should be required to observe animals at a minimum of every 12 hours throughout the voyage. This is consistent with OIE guidelines which recommend that animals be observed daily and nightly.<sup>11</sup> (To address the latter cause of high morbidity and mortality, please see our comments on section 91.12(d)(12) below.)

#### 91.12(d)(3) Resources for sick or injured animals

The current proposal requires that the vessel “have an adequate number of appropriately sized and located pens set aside to segregate livestock that become sick or injured from other animals.” The rule also requires adequate veterinary medical supplies, including medicines, for the species and number of animals being transported. We support this provision and request that two additional related requirements be added: 1) supplies for humane euthanasia must be available on board and 2) animal handlers or other responsible persons must possess the ability, as well as the authority, to euthanize animals. This recommendation is consistent with OIE guidelines, which state: “Sick or injured animals should be appropriately treated or humanely killed, in accordance with a predetermined emergency response plan. Veterinary advice should be sought if necessary. All drugs and products should be used according to recommendations from a veterinarian and in accordance with the manufacturer’s instructions.”<sup>12</sup> Similarly, Canadian export regulations require that sea vessels be equipped with a “suitable humane killing device.”<sup>13</sup>

#### 91.12(d)(5) Feed and water

This section requires a back-up system for the feeding and watering of animals if the main system is operated wholly or partially by automatic means, which we endorse. We also recommend that any automatic feeding and watering systems be equipped with an alarm feature in the case of malfunction.

#### 91.12(d)(6) Ventilation

We strongly support the requirement that the vessel have a back-up ventilation system in good working order that can be employed in case of malfunction of the primary system. We also recommend that monitoring for atmospheric conditions including temperature, humidity, ammonia, and carbon dioxide be conducted either automatically or manually, and that emergency actions be taken in response to readings that exceed established limits. Such monitoring should be conducted in every area of the vessel where animals are located.

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<sup>11</sup> World Organization for Animal Health, Terrestrial Animal Health Code, Transport of Animals by Sea, 7.2.9.1.

<sup>12</sup> World Organization for Animal Health, Terrestrial Animal Health Code, Transport of Animals by Sea, 7.2.9.2.

<sup>13</sup> Canadian Health of Animals Regulations (CRC, c. 296), 158(1), 158(2).

### 91.12(d)(7) Waste management

We support requiring that vessels have a back-up waste management system in good working order that can be employed in case of malfunction of the primary system. We also recommend that any automatic systems be equipped with an alarm feature to indicate malfunction.

### 91.12(d)(8) Lighting

This section requires “adequate illumination to allow clear observation of livestock during loading, unloading, and transport.” It should also require some form of backup lighting, which could include portable lighting.

### 9.12(d)(12) Personnel

The proposed rule requires at least 3 persons to be available on the vessel to care for the animals (or at least 1 person if fewer than 800 animals are being transported). These personnel must have previous experience with ocean vessels that have transported the kinds of animals to be carried. Each vessel must also include a sufficient number of attendants with the appropriate experience to ensure proper care of the animals. However, the situations described in communications from the Russian government indicate that this may not be adequate. We believe that mortalities on the shipments to Russia could have been reduced if a veterinarian was available to assess and treat sick animals. Therefore, we strongly recommend that a qualified veterinary officer be on board any vessel undertaking a voyage of more than two days. We further suggest that the required number of attendants be more clearly detailed. For example, Canada’s export regulations require a qualified veterinarian if more than 25 equines are being transported, and one attendant for every 25 equines or for every 50 animals other than equines.<sup>14</sup>

### 9.12(d)(14) Additional conditions

This section allows for the addition of other conditions determined to be necessary to protect animals and keep them healthy during loading, unloading, and transport to the importing countries. While the proposed rule addresses many conditions that have the potential to impact animal health and welfare, emergency procedures are not well covered. We recommend that the final rule include a provision for fire extinguishers in every area of the vessel where animals are located and a requirement that every vessel possess and maintain an emergency management plan that includes the care of all animals. The latter requirement is consistent with OIE guidelines, which recommend that vessels have a plan that includes emergency response procedures.<sup>15</sup>

### 91.12(e) Accommodations for the humane transport of livestock; vessels using shipping containers

This section, which allows inspectors to exempt an ocean vessel that uses shipping containers, appears to offer a major loophole to the rule’s animal welfare requirements. This is inappropriate, especially

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<sup>14</sup> Canadian Health of Animals Regulations (CRC, c. 296), 152(1).

<sup>15</sup> World Organization for Animal Health, Terrestrial Animal Health Code, Transport of Animals by Sea, 7.2.5.1.

given that many of the regulation's welfare-related requirements, including proper ventilation, waste management, lighting, bedding, and cleaning, are more—not less—difficult to achieve when animals are confined in shipping containers. The Russian government has complained to APHIS regarding conditions in both pen and container housing. Photographs of animals transported to Russia on the "Angus Express" in November 2012 (attached) illustrate the consequences of not properly managing waste when animals are held in containers. Proper lighting, waste management, ventilation, and food and water must be provided if containers are to be allowed. Furthermore, there is no justification for providing animals in containers with less space. We also recommend that failure of life support systems and mortality be compared for pen and container housing, and, if container housing is associated with higher levels of mortality or system failure, APHIS should consider amending the regulations to prohibit the use of containers.

#### 91.12(f) Operator's report

We strongly support the requirement of a written report submitted to APHIS within five business days of the end of each journey. The proposed rule provides that the report include the number of mortalities during the journey and an explanation of the suspected cause(s). We recommend that the report cover animal injuries in addition to deaths. Further, a significant proportion of the mortalities associated with long distance transport may occur following arrival when the animals are being held in quarantine facilities. This was the case with the "Pearl of Para" incident in August 2012, where a large number of cattle died or were euthanized/slaughtered after the completion of the voyage. Therefore, low mortality should not be seen as an indication that conditions during a journey were conducive to animal health/welfare.

#### **Section 91.13 Aircraft**

Unlike the regulation's section on sea vessels, the section on transport by air focuses almost exclusively on cleaning procedures and offers very little in terms of welfare protections. The current language reads: "Cargo containers used to ship livestock must be designed and constructed of a material of sufficient strength to securely contain the animals and must provide sufficient space for the species being transported given the duration of the trip, as determined by APHIS." However, the regulation does not state that minimum space requirements will be detailed in the *Program Handbook*, as we would expect and recommend. In addition to space, the regulation should reference requirements for proper ventilation and temperature control, which should be further detailed in the handbook.

As an example, Canada's animal export regulations include separate requirements for ventilation of vessels and aircraft. The requirement for aircraft follows: "Every air carrier shall provide every aircraft cabin in which animals are transported with means of ventilation that will provide a change of air not less than once every five minutes when the aircraft is on the ground and not less than once every four minutes when the aircraft is in flight."<sup>16</sup>

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<sup>16</sup> Canadian Health of Animals Regulations (CRC, c. 296), 146.

It is not clear whether the *Program Handbook* will cover birds and rabbits, who are typically shipped by aircraft. We strongly urge APHIS to address these species and the conditions (especially space, ventilation, and temperature) under which they can be transported in the handbook.

### Conclusion

In the past few years, large numbers of U.S. cattle have died on sea voyages to foreign countries. Other animals have arrived at their destination in poor health. The total number of deaths, and their cause(s), are unknown to everyone, including APHIS. Proposed changes to the live animal export rules will provide APHIS with this information. The changes also grant APHIS the legal authority to use this information to determine which vessels will be allowed to transport U.S. animals. We recognize the importance of the revisions, but caution APHIS that the additional changes discussed above are needed to further lower the risks associated with long distance transport.

While amending the export regulations should help reduce morbidity and mortality, it is simply not possible to fully ensure the health and welfare of animals on such long journeys, particularly those conducted by sea. Consequently, our organizations urge APHIS to adopt the recommendations above and to take steps to curtail the practice of long distance transport.

Thank you for considering our comments, and we look forward to seeing our recommendations incorporated into the final rule.

Sincerely,



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**U.S. Cattle Shipped to Russia on “Pearl of Para” (July 2012)**





**U.S. Cattle Shipped to Russia on “Angus Express” (Nov. 2012)**

