

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. The part heading is revised to read as follows:

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

3. Section 927.4 is revised to read as follows:

§ 927.4 Pears.

Pears means and includes any and all of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Forelle, and Seckel varieties of pears, and any other winter pear varieties or subvarieties that are grown in the production area and are recognized by the Control Committee and approved by the Secretary.

4. Section 927.10 is revised to read as follows:

§ 927.10 Production area.

Production area means and includes the States of Oregon and Washington.

§ 927.11 [Amended]

5. In § 927.11, paragraph (e) is removed.

§ 927.20 [Amended]

6. Section 927.20 is amended by removing the number “14” in the first sentence and adding in its place the number “12”, and removing the word “seven” each time it appears in the third sentence and adding in its place the word “six”.

§ 927.33 [Amended]

7. In § 927.33, paragraph (a) is amended by removing the word “ten” in the first sentence and adding in its place the word “nine”; and adding the words “telecopier or other electronic means,” and a comma after the word “mail” in paragraph (b) first sentence.

Dated: November 7, 1997.

Thomas A. O'Brien,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 97–29927 Filed 11–13–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 94**

[Docket No. 96–066–2]

Importation of Sliced and Pre-Packaged Dry-Cured Pork Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our regulations to allow dry-cured pork products that have been sliced and packaged prior to shipment to the United States to be imported into the United States under specified conditions. This action will relieve some restrictions on the importation of pork into the United States without presenting a significant risk of introducing any serious communicable diseases of animals.

EFFECTIVE DATE: December 15, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Julia Sturm, Supervisory Staff Officer, Products Program, National Center for Import and Export, VS, APHIS, Suite 3B66, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3277; or E-mail: jsturm@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:**Background**

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, bovine spongiform encephalopathy, hog cholera, African swine fever, and swine vesicular disease, into the United States. These are dangerous and destructive communicable diseases of ruminants and swine.

Under the regulations, certain animal products—whole hams, pork shoulders, and pork loins—from regions where foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease exists may be imported into the United States only under certain conditions. To be eligible for importation, these products must have been dry-cured and otherwise handled in accordance with procedures specified in § 94.17 of the regulations.

However, the regulations have not allowed these same products to be eligible for importation if they have been sliced and packaged prior to shipment. We have prohibited the

importation of sliced and packaged dry-cured hams, pork shoulders, and pork loins because of the difficulty in verifying the origin of the meat and how it has been processed. Without this information, we cannot easily determine whether the meat has been treated and otherwise handled in a manner that ensures it is free of disease agents.

On April 14, 1997, we published in the **Federal Register** (62 FR 18055–18059, Docket No. 96–066–1) a proposal to allow presliced and prepackaged dry-cured pork to be imported into the United States under certain conditions from countries¹ where foot-and-mouth disease, rinderpest, swine vesicular disease, African swine fever, and hog cholera exist. The proposed conditions were designed to ensure that the origin of the pork and the method of processing could be verified.

We solicited comments concerning our proposal for 60 days ending June 13, 1997. We received 13 comments by that date. They were from importers, foreign governments and meat processors, and one veterinarian. The comments were primarily positive. Several comments suggested changes in the proposed regulations. These suggestions are discussed individually below.

Separation of Facilities

In our proposed rule, we required that the slicing/packaging facility itself would have to be in a separate building, physically detached from any area where pork or pork products are handled for other purposes. This requirement was designed to prevent any possible contamination of the meat.

Several commenters objected to this requirement as unnecessarily restrictive. Commenters made various suggestions as to how we could minimize contamination without requiring a separate building for the slicing/packaging facility. Among the suggestions were: require workers moving from the pork processing facility to the slicing/packaging facility to change into either freshly laundered or disposable clothing, including caps, masks, gloves and footwear; require a “changing/scrub” room for employees; and require “walls, doors, passageways, etc.”

After carefully considering these comments, we have determined that our proposed requirement that the slicing/packaging facility be in a separate building is overly restrictive. Having the

¹ Since the proposed rule was published, we have amended our regulations for importing animals and animal products to refer to regions, rather than countries. See the paragraph headed “Miscellaneous,” elsewhere in this Supplementary Information section.

slicing/packaging facility in a separate building would achieve our goal of separating the facilities so that disease agents cannot be transmitted from areas in the facility where pork is cured and dried to the slicing/packaging facility. However, it may not be practical in all situations, and we believe the desired goal can be accomplished by other means. Therefore, our final rule (§ 94.17(p)(1)(ii)) will state that the slicing/packaging facility may either be in a separate, physically detached building, or in a separate room within the same building where the pork is cured and dried if the slicing and packing room has no direct access to areas in the facility where pork is cured and dried and if the room can be closed off from the rest of the facility so unauthorized individuals cannot enter.

We are not making any changes based on the commenters' suggestions regarding showering and clothing for workers. Our proposed rule included a requirement (see § 94.17(p)(1)(ix)) that workers in the slicing/packaging facilities who handle dry-cured hams, pork shoulders, and pork loins either shower and put on a full set of clean clothes, or wait 24 hours after handling other pork or pork products before handling dry-cured pork hams, pork shoulders, or pork loins in the facility that are intended for importation into the United States. We believe the commenters' suggestions are already covered by this requirement.

Safeguards

One commenter objected that our proposed rule would eliminate "critical safeguard and identification points." The commenter pointed out that no individual identification would remain on the pork after slicing and packaging, and that the Animal and Plant Health Inspection Service (APHIS) would have to rely on "paper certification" and records compiled by facilities that process, slice, and package dry-cured pork products.

As discussed in our proposal, we believe that the combination of inspection and recordkeeping requirements included in this rulemaking will allow verification of the meat's origin, treatment, and handling. Therefore, we have made no changes in response to this comment. Our rule provides for periodic inspections of slicing/packaging facilities (see proposed § 94.17(p)(1)). These include inspections by both APHIS personnel and personnel from the Food Safety Inspection Service (FSIS) of the U.S. Department of Agriculture. In addition, our rule requires slicing/packaging facilities to maintain specific, detailed

records on the source and identity of all dry-cured pork they handle (see § 94.17(p)(1)(iv)). Access to these records must be restricted to officials of the national government of the region of origin, representatives of the United States Government, and persons maintaining the records (see § 94.17(p)(1)(v)). In addition, APHIS representatives, or individuals authorized by APHIS, will make unannounced visits to inspect the facility and the required records (see § 94.17(p)(1)(viii)).

Since April 1987, similar recordkeeping and inspection requirements have been in effect for facilities that cure and dry whole pork products. These products have been imported into the United States since 1988 without problems.

We realize that the effectiveness of our regulations is dependent to some extent on the honesty and reliability of others. However, this is also true in reverse: foreign governments rely on records maintained by U.S. producers and processors, and on certificates issued by APHIS. In a system of mutual reliance, we believe the possibility of violations is minimized.

Under these circumstances, we believe our regulations are adequate to protect the health of livestock in the United States.

Lot Numbers

One commenter suggested that we require lot numbers to be placed on packages of sliced pork.

When drafting the proposed rule, we considered requiring the lot number of the meat to appear on the label, or requiring that meat from only one lot be in a package. However, as we explained in our proposed rule, current industry practice is to label packages with the lot number. Current industry practice is also to package only meat from one lot in a package. Under these circumstances, it appears unnecessary to include either requirement in our regulations. However, if industry practices change, and we believe it is necessary to require lot numbers or to require that only meat from one lot be in a package, we will publish a proposal in the **Federal Register** for public comment.

Miscellaneous

On October 28, 1997, we published in the **Federal Register** (62 FR 56000—56026, Docket No. 94–106–9) a final rule establishing procedures for recognizing regions, rather than only countries, for the purpose of importation of animals and animal products into the United States. In that

rule, scheduled to be effective on November 28, 1997, we amended 9 CFR part 94 to remove the words "country" and "countries" and replace them, respectively, with the words "region" and "regions". To reflect these intervening changes, we have therefore adjusted the language in this rule.

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.

In accordance with 5 U.S.C. 603, we have performed a Final Regulatory Flexibility Act Analysis, set forth below, regarding the economic impact of this rule on small entities.

This final rule will amend the regulations regarding importation of dry-cured pork products from regions where certain diseases of concern exist, by providing that certain sliced and packaged products may be imported into the United States under specified conditions.

We have used all available data to estimate the potential economic effects of allowing these sliced and pre-packaged dry-cured pork products to be imported into the United States. However, some of the data we believe would be helpful in making this determination has not been available. Specifically, data on: (1) The quantity of specialty dry-cured hams produced domestically; (2) the quantity of potential imports; and (3) the degree to which imported presliced and prepackaged dry-cured pork products will displace existing imported or domestic products, is not available. In our proposed rule, we invited comments. However, none of the comments we received addressed these economic issues.

The pork products covered by the rule are specialty products, such as Parma hams from Italy. These products are similar to other dry-cured pork products consumed in the United States, some imported from other countries and some produced domestically. Currently, only whole dry-cured pork hams, pork shoulders, and pork loins are being imported into the United States. Slightly less than 3 million pounds of such whole products were imported in 1995, the most recent year for which figures are available. Presliced and prepackaged dry-cured pork products are not being imported into the United States at this time.

We estimate that fewer than 15 domestic companies produce dry-cured

pork products similar to those covered by this final rule as a primary or major product line. At least two of these companies are very large, and these types of products constitute only a small fraction of their overall business. Of the others, four are subsidiaries of Italian or Swiss companies.

There are also a number of other producers of cured and smoked hams who may produce similar products. If they do, this final rule could affect them. In addition, there are approximately 10 domestic establishments that buy cured hams and trim and dress them for resale. Some of the resulting products might be similar to the presliced and prepackaged products covered by this rule. If so, these businesses could also be affected by this final rule.

This rule contains various recordkeeping requirements, which were described in our proposed rule, and which have been approved by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0015.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.17 [Amended]

2. Section 94.17 is amended as follows:

a. By revising the introductory text to read as set forth below.

b. In paragraph (d), by adding the word "whole" immediately before the word "ham,".

c. In paragraph (e), by adding the word "whole" immediately after the words "was processed"; and in footnote 14, by removing the words "9 CFR part 301, *et seq.*" and adding the words "9 CFR, chapter III" in their place.

d. In paragraph (f), by adding the word "whole" immediately after the words "was processed".

e. In paragraph (g), by adding the word "whole" immediately after the words "was processed", and by removing the words "within 12 months".

f. In the introductory text of paragraph (h), and in the introductory text of paragraph (i), by adding the word "whole" immediately after the words "was processed".

g. In paragraphs (j)(1), (j)(2), (j)(3), (k), (l), and (n), by adding the word "whole" immediately after the first word "The" in each paragraph.

h. In paragraph (j)(2), by adding the word "whole" immediately before the words "dry-cured pork shoulder".

i. In paragraph (n), by removing the words "trust fund agreement" and adding the words "cooperative service agreement" in its place each time it appears.

j. By adding a new paragraph (p) to read as set forth below.

§ 94.17 Dry-cured pork products from regions where foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease exists.

Notwithstanding any other provisions in this part, dry-cured ham, pork shoulder, or pork loin, whether whole or sliced and packaged, shall not be prohibited from being imported into the

United States if it meets the following conditions:

* * * * *

(p) Whole hams, pork shoulders, and pork loins that have been dry-cured in accordance with paragraph (i) of this section may be transported to a facility in the same region for slicing and packaging in accordance with this paragraph.

(1) *The slicing/packaging facility.* (i) The slicing/packaging facility² must be inspected, prior to slicing and packaging any hams, pork shoulders, or pork loins in accordance with this paragraph, by an APHIS representative and determined by the Administrator to be capable of meeting the provisions of this paragraph.

(ii) The slicing/packaging facility must be either in a separate, physically detached building, or in a separate room in the facility where the whole ham, pork shoulder, or pork loin was dry-cured in accordance with paragraph (i) of this section. If the slicing/packaging facility is in a separate room, the room must have no direct access to areas in the facility where pork is cured and dried and it must be capable of being closed off from the rest of the facility so unauthorized individuals cannot enter.

(iii) The slicing/packaging facility, including all equipment used to handle pork and pork products, such as containers, work surfaces, slicing machines, and packaging equipment, must be cleaned and disinfected after sliced and packaged pork products that are not eligible for export to the United States leave the facility, and before whole dry-cured hams, pork shoulders, or pork intended for importation into the United States enter the facility for slicing and packaging. Cleaning and disinfecting must be adequate to ensure that disease agents of concern are killed or inactivated and that pork products intended for importation into the United States are not contaminated.

(iv) The slicing/packaging facility must maintain under lock and key for a minimum of 2 years, original records on each lot of whole dry-cured hams, pork shoulders, and pork loins entering the facility for slicing and packaging under this section, including:

(A) The approval number of the facility where the whole ham, shoulder, or loin was dry-cured in accordance with paragraph (i) of this section;

(B) The date the whole ham, shoulder, or loin started dry-curing;

(C) The date the whole ham, shoulder, or loin completed dry-curing;

(D) The date the whole ham, shoulder, or loin was sliced and packaged; and

² See footnote 14 in § 94.17(e).

(E) A copy of all certifications required under paragraph (p) of this section.

(v) Access to records required to be maintained under paragraph (p) of this section must be restricted to officials of the national government of the region of origin, representatives of the United States Government, and persons maintaining the records.

(vi) The operator of the slicing/packaging facility must have signed a cooperative service agreement with APHIS prior to receipt of the whole dry-cured hams, pork shoulders, or pork loins for slicing and packaging, stating that all hams, pork shoulders, or pork loins sliced and packaged at the facility for importation into the United States will be sliced and packaged only in accordance with this section.

(vii) The operator of the slicing/packaging facility must be current, in accordance with the terms of the cooperative service agreement signed with APHIS, in paying all costs for an APHIS representative to inspect the establishment, including travel, salary, subsistence, administrative overhead, and other incidental expenses.

(viii) The slicing/packaging facility must allow the unannounced entry into the establishment of APHIS representatives, or other persons authorized by the Administrator, for the purpose of inspecting the establishment and records of the establishment.

(ix) Workers at the slicing/packaging facility who handle pork or pork products in the facility must shower and put on a full set of clean clothes, or wait 24 hours after handling pork or pork products that are not eligible for importation into the United States, before handling dry-cured hams, pork shoulders, or pork loins in the slicing/packaging facility that are intended for importation into the United States.

(x) Pork products intended for importation into the United States may not be in the slicing/packaging facility at the same time as pork products not intended for exportation to the United States.

(2) *Slicing and packaging and labeling procedures.* (i) A full-time salaried veterinarian employed by the national government of the region of origin must inspect each lot of whole dry-cured hams, pork shoulders, and pork loins at the slicing/packaging facility, before slicing is begun, and must certify in English that it is eligible for importation into the United States in accordance with this section; and

(ii) Either a full-time salaried veterinarian employed by the national government of the region of origin, or, if the national government of the region

of origin recognizes a local consortium as responsible for product quality, a representative of that local consortium, must certify in English that he or she personally supervised the entire process of slicing and packaging each lot of dry-cured hams, pork shoulders, and pork loins at the slicing/packaging facility; that each lot of dry-cured hams, pork shoulders, and pork loins was sliced and packaged in accordance with the requirements of this paragraph; and that the sliced and packaged pork ham, shoulder, or loin is the same dry-cured ham, pork shoulder, or pork loin certified under paragraph (p)(2)(i).

(iii) The sliced and packaged dry-cured pork ham, pork shoulder, or pork loin must be labeled with the date that processing of the meat under paragraph (i) of this section began, and with the date the meat was sliced and packaged.

(Approved by the Office of Management and Budget under control number 0579-0015)

Done in Washington, DC, this 7th day of November 1997.

Charles Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-29989 Filed 11-13-97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 96-089-1]

Import/Export User Fees; Exemptions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the user fee regulations to provide that user fees are not charged for veterinary diagnostic services in the following cases: When veterinary diagnostic services are provided in connection with Federal programs to control or eradicate diseases or pests of livestock or poultry in the United States (program diseases) or in support of zoonotic disease surveillance when there is a significant risk to human health; and when veterinary diagnostic reagents are distributed within the United States for testing for foreign animal diseases. In addition, we are eliminating the user fee for export health certificates that are requested and reviewed, but not endorsed. We are making these changes to eliminate confusion, clarify when

certain user fees apply, and eliminate an unnecessary user fee.

DATES: Interim rule effective November 7, 1997. Consideration will be given only to comments received on or before January 13, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-089-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-089-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Division, M&B, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737-1232, (301) 734-8351.

SUPPLEMENTARY INFORMATION:

Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS) for the costs of providing veterinary diagnostic services, and import-related and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Sections 130.14 through 130.18 list the various veterinary diagnostic services for which user fees are charged and the associated user fees.

We are proposing to amend 9 CFR part 130 (the regulations) to provide that user fees will not be charged for veterinary diagnostic services listed in §§ 130.14 through 130.18 in the following cases: (1) When veterinary diagnostic services are provided in connection with Federal programs to control or eradicate diseases or pests of animals in the United States (program diseases) or in support of zoonotic disease surveillance when there is a significant risk to human health; and (2) when veterinary diagnostic reagents are distributed within the United States for testing for foreign animal diseases. In addition, we are eliminating the user fee listed in § 130.20(d) for export health certificates that are requested and reviewed, but not endorsed.

Veterinary Diagnostic Services

Veterinary diagnostics is the work performed in a laboratory to determine if a disease-causing organism or