

(c) A supply plant from which 50 percent or more of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c), including milk that is diverted from the plant, is transferred to pool distributing plants. \* \* \*

14. On page 16245, second column, in § 1007.61 paragraph(b)(1) the reference to § 1005.60 is corrected to read § 1007.60.

15. On page 16245, second column, in § 1007.61, paragraph (b)(2) is corrected to read as follows:

**§ 1007.61 Computation of uniform prices.**

\* \* \* \* \*

(b) \* \* \*

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1007.75.

\* \* \* \* \*

**§ 1007.75 [Corrected]**

16. On page 16246, third column, in § 1007.75 the reference to § 1007.50 is corrected to read § 1007.51.

17. On page 16250, second column, in § 1030.10, paragraph (a) is corrected by adding the word "area" after the word "marketing" to read as follows:

**§ 1030.10 Producer-handler.**

\* \* \* \* \*

(a) Operates a dairy farm and a distributing plant from which there is route disposition in the marketing area during the month;

\* \* \* \* \*

18. On page 16253, first column, in § 1030.61, paragraph (c) is corrected to read as follows:

**§ 1030.61 Computation of producer price differential.**

\* \* \* \* \*

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1030.75.

\* \* \* \* \*

**§ 1032.2 [Corrected]**

19. On page 16255, second column, in § 1032.2, subheading "Colorado Counties", the word "Freemont" is corrected to read "Fremont".

20. On page 16259, third column, in § 1032.61, paragraph (c) is corrected to read as follows:

**§ 1032.61 Computation of producer price differential.**

\* \* \* \* \*

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1032.75.

\* \* \* \* \*

21. On page 16266, second column, in § 1033.61, paragraph (c) is corrected to read as follows:

**§ 1033.61 Computation of producer price differential.**

\* \* \* \* \*

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1033.75.

\* \* \* \* \*

22. On page 16273, first column, in § 1124.61, paragraph (c) is corrected to read as follows:

**§ 1124.61 Computation of producer price differential.**

\* \* \* \* \*

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1124.75.

\* \* \* \* \*

23. On page 16278, third column, in § 1126.61, paragraph (c) is corrected to read as follows:

**§ 1126.61 Computation of producer price differential.**

\* \* \* \* \*

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1126.75.

\* \* \* \* \*

24. On page 16284, first column, in § 1131.61, paragraph (b)(2) is corrected to read as follows:

**§ 1131.61 Computation of uniform prices.**

\* \* \* \* \*

(b) \* \* \*

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1131.75.

\* \* \* \* \*

25. On page 16289, third column, in § 1135.60, paragraph (h) is corrected by adding the phrase "and the corresponding step of § 1000.44(b)" after the reference to § 1000.44(a)(3)(i) to read as follows:

**§ 1135.60 Handler's value of milk.**

\* \* \* \* \*

(h) Multiply the difference between the Class I price applicable at the

location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

\* \* \* \* \*

26. On page 16290, first column, in § 1135.61, paragraph (c) is corrected to read as follows:

**§ 1135.61 Computation of producer price differential.**

\* \* \* \* \*

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1135.75.

\* \* \* \* \*

27. The authority citations for 7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1131 and 1135 are corrected to read as follows:

**Authority:** 7 U.S.C. 601-674, and 7253.

Dated: July 8, 1999.

**Enrique E. Figueroa,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 99-17893 Filed 7-13-99; 8:45 am]

BILLING CODE 3410-12-P

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Parts 94 and 96**

[Docket No. 95-027-1]

**Importation of Pork and Pork Products**

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

**ACTION:** Proposed rule.

**SUMMARY:** We propose to amend the regulations concerning the importation of pork and pork products into the United States. Specifically, we propose to allow pork that originates in a region

where African swine fever exists to be imported into the United States if it has been heated to an internal temperature of at least 69 °C after the bones have been removed. We also propose to provide an alternative, dry heat processing method for pork from regions where swine vesicular disease exists. In addition, we propose to make other minor amendments to the regulations for importing pork and pork products from regions where African swine fever, swine vesicular disease, or hog cholera exists. These proposed changes would relieve some restrictions on the importation of pork and pork products from regions where these diseases exist without presenting a significant risk of introducing African swine fever, hog cholera, or swine vesicular disease into the United States.

**DATES:** We invite you to comment on this docket. We will consider comments that we receive by September 13, 1999.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 95-027-1, 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. 95-027-1.

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.

APHIS documents published in the **Federal Register**, and related information, including names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Masoud A. Malik, Senior Staff Veterinarian, Import/Export Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-7834.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The regulations in 9 CFR part 94 (the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to prevent the introduction of various animal diseases, including foot-and-mouth disease, rinderpest, African

swine fever (ASF), hog cholera (HC), and swine vesicular disease (SVD), into the United States. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.8 of the regulations restricts the importation of pork and pork products into the United States from regions in which ASF exists or is reasonably believed to exist (ASF regions). Section 94.9 of the regulations restricts the importation into the United States of pork and pork products from regions where HC is known to exist (HC regions). Section 94.12 of the regulations restricts the importation into the United States of pork and pork products from regions where SVD is known to exist (SVD regions).

##### **Pork From an ASF Region**

Pork and pork products from an ASF region must be processed as specified in the regulations to be eligible for entry into the United States. One of the options for processing pork and pork products in an ASF region is that the bones must be removed and then the pork or pork product heated, by a method other than flash heating, to an internal temperature of at least 69 °C. (156 °F.) throughout. To qualify for this option, the pork or pork products must have originated from swine raised and slaughtered in a region free of ASF. Research<sup>1</sup> has shown that heating the pork or pork products to an internal temperature of at least 69 °C. after bone removal is sufficient, by itself, to destroy the virus that causes ASF. Therefore, we propose to remove the requirement that the pork or pork products originate from swine from an ASF-free region.

Section 94.8 includes several requirements related to the requirement we are proposing to remove. These include requirements that the pork be shipped to the processing facility in the ASF region in a sealed container and accompanied by a certificate of origin. These requirements would not be necessary if we no longer require the pork or pork products to come from swine that originated in an ASF-free region. Therefore, we propose to remove these requirements.

Section 94.8 also contains a number of requirements related to the processing establishment in the ASF region where the pork or pork products

are to be heated. Several of these requirements also relate to the origin requirement we are proposing to remove.

Paragraph (a)(3)(iv)(A) of § 94.8 specifies that the processing establishment may not receive or process any live swine, may only use pork or pork products that originate in an ASF-free region, and must process pork or pork products only in accordance with our regulations. In other words, the processing establishment must be a facility dedicated to processing pork or pork products that meet the requirements for export to the United States. These requirements were intended to ensure that the pork or pork products from ASF-free regions would not be contaminated with the ASF virus during processing.

We propose to remove the requirements that the processing establishment may not receive or process any live swine and may only use pork or pork products that originate in an ASF-free region. We propose to replace these restrictions with requirements that the processing establishment take certain steps, explained below, to ensure that the processed pork or pork products are not contaminated after processing and prior to being exported to the United States. As long as the pork or pork products are protected from being contaminated with the ASF virus, the processing establishment could receive and process live swine and would not be limited to processing pork and pork products from ASF-free regions. The processing establishment would not have to be a dedicated facility.

Specifically, we propose to require that all areas, utensils, and equipment likely to contact the pork or pork products to be processed, including skinning, deboning, cutting, and packing areas, and related utensils and equipment, be cleaned and disinfected after processing pork or pork products not eligible for export to the United States and before pork or pork products eligible for export to the United States. We also propose to require that pork or pork products eligible for export to the United States not be handled, cut, or otherwise processed at the same time as any pork or pork products not eligible for export to the United States. We believe that these proposed requirements would protect the pork or pork products from possible contamination with the ASF virus after they have been processed. In addition, we propose to require that pork or pork products intended for export to the

<sup>1</sup> See P. D. McKercher, W. R. Hess, and F. Hamdy, "Residual Viruses in Pork Products," *J. Applied and Environmental Microbiology* 35, 142-145 (1978) and P. D. McKercher, D. O. Morgan, J. W. McVicar, and M. J. Shuot, "Thermal Processing to Inactivate Viruses in Meat Products," *Proceedings of the 84th Annual Meeting of the United States Animal Health Association, San Diego, California*, 320-328 (1980).

United States be packed in clean new packaging that is clearly distinguishable from that containing any pork or pork products not eligible for export to the United States. This requirement would prevent the inadvertent shipment to the United States of pork or pork products not eligible for importation into the United States.

Paragraph (a)(3)(iv)(B) of § 94.8 requires the operators of the processing establishment in the ASF region to have a written compliance agreement with the Animal and Plant Health Inspection Service (APHIS). Under this compliance agreement, APHIS inspects the establishment to ensure that it is meeting our requirements. We propose to remove the requirement for a compliance agreement and the attendant inspections. We would, instead, rely on certification provided by the national government of the region in which the processing facility is located to ascertain that the establishment has met our requirements. This certification is required by § 94.8(a)(3)(vi), which states that the pork or pork products must be accompanied by a certificate issued by an official of the national government of the region in which the processing establishment is located who is authorized to issue the foreign meat inspection certificate required by 9 CFR 327.4, stating that all of the requirements of § 94.8 have been met. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

Paragraph (a)(3)(iv)(C) of § 94.8 specifies that the operators of the processing establishment must have a trust fund agreement with APHIS. The trust fund agreement provides for payment of the cost of inspections performed under the compliance agreement. Because we are proposing to remove the compliance agreement requirement, we also propose to remove the trust fund agreement requirement.

Paragraph (d) of § 94.8 specifies the circumstances for the cancellation of a compliance agreement and the appeal process for such cancellation. We also propose to remove § 94.8(d). Effect of Proposed Changes in § 94.8 on Swine Casings Regulations in § 96.2

The proposed changes to § 94.8 affect the regulations in 9 CFR part 96 (the casings regulations). The casings regulations govern the importation of swine casings into the United States to prevent the introduction of contagious livestock diseases. Swine casings are intestines, stomachs, esophagi, and urinary bladders from swine that are

used to encase processed meats, such as sausage.

The ASF virus may be present in, and spread by, swine, pork, pork products, and byproducts, including casings. The regulations in part 96 require that animal casings imported into the United States be accompanied by a Foreign Official Certificate for Animal Casings. On each certificate, the issuing veterinarian certifies, among other things, that the casings were derived from healthy animals that received ante mortem and post mortem veterinary inspections at the time of slaughter, are clean and sound, and were prepared and handled only in a sanitary manner and were not subjected to contagion prior to exportation. Since veterinary inspection cannot detect ASF in its early stages, the veterinary inspection required by the regulations cannot be relied on to assess the presence of ASF in its early stages in swine from an ASF region. In addition, swine casings cannot be processed by heating or any other method that would destroy the ASF virus if it were present, since this would render the casings unusable. Therefore, to remove the possibility that ASF-contaminated casings derived from apparently healthy animals that meet the criteria for certification in § 96.3 might be imported into the United States, § 96.2(a) specifically prohibits the importation of swine casings that originated in an ASF region. Further, § 96.2(a) provides that swine casings that originated in an ASF-free region and are processed in an ASF region may be eligible for importation into the United States only if they are processed in an establishment that meets the criteria in § 94.8(a)(3)(iv) to prevent contamination with ASF.

As discussed above, we propose to revise the requirements for processing establishments in ASF regions that process pork or pork products for export to the United States. These proposed changes would relieve unnecessary restrictions for processing pork or pork products to be exported to the United States. However, the requirements we propose to remove for pork and pork products imported under § 94.8 are necessary to prevent ASF contamination of swine casings. Therefore, we propose to incorporate all of the provisions that are currently in § 94.8(a)(3)(iv) of the regulations into § 96.2, with minor adjustments for clarity and applicability to casings, as follows:

- Swine casings to be processed in an ASF region for importation into the United States must be derived from swine raised and slaughtered in an ASF-free region.

- The swine casings must be shipped from the ASF-free region to the processing establishment in the ASF region in a closed container sealed with serially numbered seals applied by an official of the national government of the region of origin.

- The swine casings must be accompanied to the processing establishment by a certificate written in English and signed by an official of the national government of the region of origin specifying the region of origin, the processing establishment to which they will be consigned, and the numbers of the seals applied.

- The swine casings may only be removed from their closed and sealed containers at the processing establishment after an official of the national government of the region where the processing establishment is located determined that the seals are intact and free of any evidence of tampering, and had so stated on the origin certificate referred to above.

- The swine casings may not be processed at more than one processing establishment in the ASF region.

- The processing establishment in the ASF region must be an establishment approved under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations under the Act (9 CFR, chapter III). As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act and regulations under the Act.

- The processing establishment in the ASF region may not receive or process any live swine and may use only pork or pork products from ASF-free regions that are shipped to the processing establishment in accordance with the requirements listed above.

- The processing establishment must be operated by persons who have entered into a valid written compliance agreement with APHIS to maintain on file at the processing establishment for at least 2 years copies of the origin certificates, to allow APHIS personnel to make unannounced inspections as necessary to monitor compliance with the regulations, and to otherwise comply with the provisions of the regulations.

- The processing establishment is operated by persons who have entered into a cooperative service agreement (previously referred to as a trust fund agreement) with APHIS to pay for the cost of APHIS inspections. The establishment must be current in paying for APHIS personnel to inspect the establishment (it is anticipated that such inspections will occur on average once per year). In addition, the processing

establishment must have on deposit with APHIS an unobligated amount equal to the cost for APHIS personnel to conduct one inspection, including travel, salary, subsistence, administrative overhead, and other incidental expenses (including excess baggage provisions up to 150 pounds).

- APHIS inspectors who supervise the enforcement of the compliance agreement may cancel a processing establishment's compliance agreement for failure to comply with the regulations. The processing establishment may appeal the cancellation of the compliance agreement.

- The swine casings must be accompanied to the United States by a certificate issued by an official of the national government of the region in which the processing establishment is located who is authorized to issue the foreign meat inspection certificate required by 9 CFR, chapter III, part 327, stating that all of the requirements of the regulations have been met. Upon arrival of the swine casings in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

#### **Bone Removal in Hog Cholera (HC) and Swine Vesicular Disease (SVD) Regions**

The regulations at §§ 94.9(b)(1)(ii) and 94.12(b)(1)(ii) provide that pork or pork products may be imported into the United States from an HC or SVD region if the bones have been removed in the region of origin and the pork or pork product is heated to an internal temperature of 69 °C. (As explained below, pork from an SVD region must have received heat treatment in a commercially accepted manner used for perishable canned pork products.) The regulations do not require pork or pork products to originate from swine in a region free of HC or SVD. Thus, there is no reason to specify that the bones must be removed in the region of origin, only that they be removed before the pork or pork product is heated to the required temperature. Therefore, we propose to remove the requirement that the bones be removed in the region of origin and specify, instead, that the bones be removed prior to heating.

#### **Heat Treatment in HC Regions**

The regulations at § 94.9(b)(1)(ii)(B) provide that pork or pork products from an HC region must have received heat treatment producing an internal temperature of 69 °C. after bone removal. The regulations do not specify how the pork or pork products must be heated. If a flash-heating method, such as microwave cooking, is used, the HC

virus may not be destroyed. Flash heating may not be sufficient to bring the pork or pork products to a full 69 °C. throughout, which is necessary to ensure that the HC virus is destroyed. Therefore, we propose to amend § 94.9(b)(1)(ii)(B) to specify that the pork or pork product must be heated by other than a flash-heating method to an internal temperature of 69 °C. throughout to ensure that the HC virus is destroyed.

#### **Proposed Dry Heat Cooking Option for Pork From SVD Regions**

The Government of Italy has requested that we add a dry heat option for processing pork and pork products in SVD regions. This change would allow products such as Mortadella ham to be exported to the United States from SVD regions. Currently, § 94.12(b)(1)(ii) requires the pork to reach at least 69 °C. through heat treatment applied in a commercially accepted manner used for perishable canned pork products (steam or moist heat). Research<sup>2</sup> that studied Mortadella ham prepared according to the method followed in Italian industry showed that when the pork was processed in an oven using dry heat, the SVD virus was destroyed after being cooked for at least 10 hours with the pork reaching a minimum internal temperature of 65 °C. (149 °F.).

Therefore, we propose to add a dry heat cooking method to our regulations that would require the pork to be completely deboned, then continuously heated in an oven for at least 10 hours with oven temperatures starting at a minimum of 62 °C. (143.6 °F.) and reaching at least 85 °C. (185 °F.), so that the pork reaches a minimum internal temperature of at least 65 °C. (149 °F.). We propose to add this dry heat cooking method to § 94.12 as a new paragraph (b)(1)(v).

This proposed dry heat cooking method would provide another option for pork or pork products to be processed in a way that would ensure that the SVD virus would be destroyed, while allowing greater flexibility in the style of preparation and therefore greater diversity of the products that could be prepared for exportation to the United States.

#### **Miscellaneous Changes**

We propose several minor, nonsubstantive, editorial changes for clarity and consistency.

<sup>2</sup> See T. Frescura, D. Rutili, and A. Morozzi, Studies on the isolation and persistence of swine vesicular disease virus in meat and meat products, 411-421 (1976), the International Organization of Epizootics (OIE) Bulletin 86.

#### **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.

This proposal would amend 9 CFR 94.8 to allow pork and pork products that originated in an ASF region to be imported into the United States if the meat has been cooked to a minimum internal temperature of 69 °C. (156 °F.) after removal of the bones.

Regions listed in § 94.8 as regions in which ASF exists or is reasonably believed to exist are all the countries of Africa; Brazil, Cuba, Haiti, and Malta; and the Island of Sardinia, Italy.

Total pork production in the United States in 1996 was 7,764,000 metric tons. Brazil, the largest pork producer of the listed regions, produced 1,600,000 metric tons of pork in 1996. The combined pork production of the other listed regions was 1,033,767 metric tons in 1996. While Brazil's pork production was 21 percent of the U.S. pork production in 1996, the second largest pork producer among the other listed regions was Nigeria. Nigeria produced 278,080 metric tons of pork, only 4 percent of U.S. pork production.

Therefore, other than Brazil, none of the listed regions produces enough pork to make the possibility of increased exports from those countries likely. Furthermore, much of the pork produced in Brazil and the other listed regions was consumed in the region of origin. This trend is expected to continue based on the strong pork demand in Brazil and the other listed regions. In 1996, Brazil consumed 97 percent of its pork production, exporting only 56,000 metric tons. According to projections by the Economic Research Service (ERS) of the United States Department of Agriculture, Brazil is expected to consume 94 percent of its increasing pork production in each of the years 2000 through 2005. Even if Brazil exported to the United States the remaining 6 percent of its pork production in those years, those exports would only represent about 1 percent of projected U.S. pork production. Therefore, adoption of this proposed rule is unlikely to significantly affect the pork industry or consumer prices in the United States.

Additionally, ERS projected that U.S. pork imports would decline by more than 1 percent annually between 1998 and 2007. Declining imports are

expected due to the restructured U.S. pork industry. One of the results of the restructuring has been production of low-cost pork products. These low-cost pork products are expected, increasingly, to price imported pork out of the domestic U.S. market.

This proposed rule also would allow pork from SVD regions to be processed using dry heat after deboning. This dry heat cooking method can produce Mortadella ham and other meats. Italian producers of Mortadella ham are interested in exporting Mortadella ham to the United States.

The precise volume of Mortadella ham that would enter the United States if this proposed rule is adopted is not available. However, we expect the volume would be minimal. Mortadella ham is a specialty food that is likely to satisfy only a small niche market in the United States. Due to its high fat content, Mortadella ham is not likely to be popular with a broad cross section of American consumers.

Based on this information, we would expect very little additional pork or pork products to be imported into the United States as a result of this proposed rule. Thus, any impact to small domestic swine producers would likely be minimal. In 1997, there were about 109,754 hog and pig farms in the United States, of which an estimated 91 percent would be considered "small" entities (annual sales of less than \$0.5 million, according to the Small Business Administration (SBA) size criteria). These small entities maintain about 40 percent of the U.S. hog and pig inventories.

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 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 inconsistent 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.*).

#### 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

##### 9 CFR Part 94

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

##### 9 CFR Part 96

Imports, Livestock, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR parts 94 and 96 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 would continue 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).

2. Section 94.8 would be amended as follows:

a. In the introductory paragraph by removing the word "island" and adding the word "Island" in its place.

b. By revising paragraph (a)(3) to read as set forth below.

c. By adding a new paragraph (a)(4) to read as set forth below.

d. By removing paragraph (d).

#### § 94.8 Pork and pork products from regions where African swine fever exists or is reasonably believed to exist.

\* \* \* \* \*

(a) \* \* \*

(3) Such pork or pork product:

(i) Was processed in a single establishment that meets the requirements in paragraph (a)(4) of this section.

(ii) Was heated by other than a flash-heating method to an internal temperature of at least 69 °C. (156 °F.) throughout after the bones had been removed.

(iii) Is accompanied to the United States by a certificate stating that all of the requirements of this section have been met. The certificate must be written in English. The certificate must

be issued by an official of the national government of the region in which the processing establishment is located. The official must be authorized to issue the foreign meat inspection certificate required by part 327 of chapter III of this title. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(4) The processing establishment<sup>8</sup> in a region listed in this section must comply with the following requirements:

(i) All areas, utensils, and equipment likely to contact the pork or pork products to be processed, including skinning, deboning, cutting, and packing areas, and related utensils and equipment, must be cleaned and disinfected after processing pork or pork products not eligible for export to the United States and before pork or pork products eligible for export to the United States.

(ii) Pork or pork products eligible for export to the United States may not be handled, cut, or otherwise processed at the same time as any pork or pork products not eligible for export to the United States.

(iii) Pork or pork products eligible for export to the United States must be packed in clean new packaging that is clearly distinguishable from that containing any pork or pork products not eligible for export to the United States.

\* \* \* \* \*

3. In § 94.9, paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) would be revised to read as follows:

#### § 94.9 Pork and pork products from regions where hog cholera exists.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product was heated by other than a flash-heating method to an internal temperature of 69 °C. (156 °F.) throughout; or

\* \* \* \* \*

5. Section 94.12 would be amended as follows:

a. By removing "or" and adding a period in its place at the end of paragraph (b)(1)(i) and at the end of paragraph (b)(1)(iii)(B).

<sup>8</sup> As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations thereunder (9 CFR, chapter III, part 327), including requirements that the pork or pork products be prepared only in approved establishments.

b. By revising paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) to read as set forth below.

c. By adding a new paragraph (b)(1)(v) to read as set forth below.

d. In paragraph (b)(2), by removing the word “; and” and adding a period in its place.

**§ 94.12 Pork and pork products from regions where swine vesicular disease exists.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product received heat treatment in a commercially accepted manner used for perishable canned pork products so that it reached an internal temperature of 69 °C. (156 °F.) throughout.

\* \* \* \* \*

(v) Such pork or pork product is in compliance with the following requirements:

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product received continual heat treatment in an oven for a minimum of 10 hours so that it reached an internal temperature of 65 °C. (149 °F.) throughout. The oven temperature started at a minimum of 62 °C. (143.6 °F.) and reached at least 85 °C. (185 °F.).

\* \* \* \* \*

**PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES**

6. The authority citation for part 96 would continue to read as follows:

**Authority:** 21 U.S.C. 111, 136, 136a; 7 CFR 2.22, 2.80, and 371.2(d).

**§ 96.10 [Amended]**

7. Section 96.10 would be amended by redesignating footnote 1 and its reference as footnote 2.

8. Section 96.2 would be revised to read as follows:

**§ 96.2 Prohibition of casings due to African swine fever and bovine spongiform encephalopathy.**

(a) *Swine casings.* The importation of swine casings that originated in or were processed in a region where African swine fever exists, as listed in § 94.8 of this subchapter, is prohibited, with the following exception: Swine casings that are processed in a region where African swine fever exists may be imported into the United States under the following conditions:

(1) *Origin of casings.* The swine casings were derived from swine raised and slaughtered in a region not listed in § 94.8(a) of this subchapter.

(2) *Shipping requirements.* The casings were shipped from the region of origin to a processing establishment in a region listed in § 94.8 of this subchapter in a closed container sealed with serially numbered seals applied by an official of the national government of the region of origin.

(3) *Origin certificate.* The casings were accompanied from the region of origin to the processing establishment by a certificate written in English and signed by an official of the national government of the region of origin specifying the region of origin, the processing establishment to which the swine casings were consigned, and the numbers of the seals applied.

(4) *Integrity of seals.* The casings were taken out of the container at the processing establishment only after an official of the national government of the region where the processing establishment is located determined that the seals were intact and free of any evidence of tampering and had so stated on the certificate referred to in paragraph (a)(3) of this section.

(5) *The processing establishment.* The casings were processed at a single processing establishment<sup>1</sup> in a region listed in § 94.8 of this subchapter. The processing establishment does not receive or process any live swine and uses only pork and pork products that originate in a region not listed in § 94.8 of this subchapter and that are shipped to the processing establishment in accordance with paragraphs (a)(2) through (a)(4) of this section.

(6) *Compliance agreement.* The processing establishment is operated by persons who have entered into a valid written compliance agreement with APHIS to maintain on file at the processing establishment for at least 2 years copies of the certificates referred to in paragraph (a)(4) of this section, to allow APHIS personnel to make unannounced inspections as necessary to monitor compliance with the provisions of this section, and to otherwise comply with the provisions of this section.

(7) *Cooperative service agreement.* The processing establishment is operated by persons who have entered into a cooperative service agreement

<sup>1</sup> As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations under the Act (9 CFR, chapter III, part 327), including requirements that the pork or pork products be prepared only in approved establishments.

with APHIS. The establishment is current in paying for APHIS personnel to inspect the establishment (it is anticipated that such inspections will occur once per year). In addition, the processing establishment has on deposit with APHIS an unobligated amount equal to the cost for APHIS personnel to conduct one inspection, including travel, salary, subsistence, administrative overhead, and other incidental expenses (including excess baggage provisions up to 150 pounds).

(8) *Compliance agreement cancellation.* Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this section or any conditions imposed by this section. If the cancellation is oral, the decision and the reasons will be confirmed in writing, as promptly as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision to the Administrator, in writing, within 10 days after receiving written notification of the cancellation. The appeal should state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Administrator will grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing will be held to resolve such conflict. Rules of Practice governing such a hearing will be adopted by the Administrator.

(9) *Export certification.* The casings are accompanied to the United States by a certificate stating that all of the requirements of this section have been met. The certificate must be written in English. The certificate must be issued by an official of the national government of the region in which the processing establishment is located. The official must be authorized to issue the foreign meat inspection certificate required by part 327 in chapter III of this title. Upon arrival of the swine casings in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(b) *Bovine or other ruminant casings.* The importation of casings, except stomachs, from bovines and other ruminants that originated in or were processed in any region listed in § 94.18(a) of this subchapter is prohibited.

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

Done in Washington, DC, this 8th day of July 1999.

**A. Cielo,**

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

[FR Doc. 99-17937 Filed 7-13-99; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 130

[Docket No. 98-052-1]

#### Veterinary Services User Fees; Biosecurity Level Three Laboratory Inspection Fee

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend existing user fees for the inspection for approval of biosecurity level three laboratories. Existing user fees require biosecurity level three laboratories to pay user fees for inspection based on hourly rates. We are proposing to replace the hourly rates for this specific service with a flat rate user fee that would cover all the costs of inspection related to approving a laboratory for handling one defined set of organisms or vectors. We are taking this action in order to ensure that the user fees cover our costs.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by September 13, 1999.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 98-052-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 98-052-1.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://>

[www.aphis.usda.gov/ppd/rad/webrepor.html](http://www.aphis.usda.gov/ppd/rad/webrepor.html).

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations for Veterinary Services, contact Ms. Louise Lothery, Administrative Officer, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737-1231; (301) 734-7517.

For information concerning rate development of the proposed user fee, contact Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Service Enhancement Unit, MRPBS, 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- and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Section 130.8 lists miscellaneous flat rate user fees. Section § 130.9 lists the hourly rate user fees charged for APHIS' import or entry services, including inspection of laboratories within the United States.

In accordance with 9 CFR part 122, we require inspection of biosecurity level three laboratories prior to their receiving and handling high risk organisms or vectors. Biosecurity level three laboratories are used to conduct research on foreign animal disease agents, especially viruses, with high disease risks. These laboratories utilize containment facilities that use special precautions, such as negative pressure ventilation, to keep the disease agents within the facility and to protect the researchers who work with them.

We are proposing to revise the user fees for inspection of these laboratories based on our review of user fees and the costs of service. Under the current hourly rate user fees in §130.9, APHIS has been unable to recover all of the costs associated with inspecting biosecurity level three laboratories. Under the hourly rate user fee structure, the traveltime allowance provides for a maximum of 6 hours of round-trip ground travel. This traveltime allowance is insufficient in that air travel and overnight lodging are required in order to access more than half of the laboratories APHIS currently inspects.

Under the current hourly rates, the average user fee collected for inspection for approval of biosecurity level three laboratories is approximately \$462 per laboratory. The actual average cost of

inspecting these laboratories is approximately \$977 per laboratory. The portion of the actual cost that we are not currently able to recover is the portion of transportation (i.e., airfare and related expenses) and lodging costs we incur above the 6-hour traveltime allowance for laboratories that are not located near an authorized APHIS inspector's place of duty. We do not believe it is fair to charge those laboratories a higher fee than others based solely on their physical location in relation to authorized inspectors' official duty stations.

Therefore, in order to ensure that we recover all costs, we are proposing to amend 9 CFR part 130 to establish a flat rate user fee of \$977 to cover the cost of APHIS' inspection of biosecurity level three laboratories. The flat rate user fee would cover all costs of inspection, including airfare and/or ground travel, lodging, inspection, per diem, and miscellaneous travel expenses. We are also proposing to amend § 130.1 to add a definition for "biosecurity level three laboratory" to read: "A laboratory or production facility that works with foreign or domestic animal disease agents, organisms, or vectors that spread by aerosol route and that have serious or lethal effects, therefore requiring special biocontainment measures."

We are also proposing to clarify that the hourly rate user fees contained in § 130.9 are not applicable to services that are billed under flat rate fees contained in other sections of part 130.

#### 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.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this proposed rule on small entities. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects.

User fees to reimburse APHIS for the costs of providing veterinary diagnostic services and import- and export-related services for live animals and birds and