

period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

■ For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

#### PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 966.234 is revised to read as follows:

##### § 966.234 Assessment rate.

On and after August 1 2007, an assessment rate of \$0.0325 per 25-pound carton is established for Florida tomatoes.

Dated: November 8, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7–22277 Filed 11–14–07; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 98

[Docket No. APHIS–2006–0120]

**RIN 0579–AC58**

#### Importation of Sheep and Goat Semen

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations regarding the importation of animal germplasm by removing specific restrictions on sheep semen from regions where scrapie exists and requiring the inclusion of additional information on the international health certificate accompanying sheep and goat semen. Experience and research have convinced us that sheep and goat semen pose a minimal risk of transmitting scrapie. This action will relieve restrictions on imported sheep semen while continuing to provide safeguards against the introduction and dissemination of scrapie.

**DATES:** *Effective Date:* December 17, 2007.

**FOR FURTHER INFORMATION CONTACT:** Dr. James P. Davis, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–0694.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 9, 2006, we published a proposed rule in the **Federal Register** (71 FR 45444–45447) in which we proposed to amend the regulations in 9 CFR part 98 regarding the importation of animal germplasm by removing specific restrictions on sheep semen from regions where scrapie exists and requiring the inclusion of additional information on the international health certificate accompanying sheep and goat semen. This action would relieve restrictions on imported sheep semen while continuing to provide safeguards against the introduction and dissemination of scrapie.

Comments were required to be received by October 10, 2006. We received seven comments by that date, from the Canadian Food Inspection Agency, a sheep industry association, sheep breeders, and private citizens. One commenter supported the proposed rule as written. Another commenter stated that there should be a ban on all imports of animal semen into the United States, but did not offer specific comments on the provisions of the proposed rule. The remaining commenters were generally supportive of the proposed rule but made suggestions or raised issues about its provisions.

The Canadian Food Inspection Agency stated that it believed Canada's scrapie program is equivalent to the United States' program and, therefore, sheep semen from Canada should be allowed to be imported without restrictions. The commenter stated that the risk of new strains of scrapie being introduced into the United States from Canada is minimal.

As we stated in the proposed rule, in 1996, when the regulations allowing semen to be imported from Canada without restrictions were established, Canada had a scrapie control program that we regarded as equivalent to that in the United States. In 2001, however, the United States went from a control program to an eradication program which is now in full implementation. Canada has not conducted a scrapie prevalence study and does not conduct national slaughter surveillance for the disease. To fully evaluate Canada's program we would need a complete description of the program, including

numbers and geographic representation of their surveillance and efforts to monitor for unusual strains. We are making no changes to the rule as a result of this comment.

One commenter stated that semen imported from any country should be distributed only to flocks listed in the Scrapie National Database to provide for better traceability in the event of a disease outbreak.

APHIS notes that semen imported from regions not recognized as scrapie-free—at this time, everywhere in the world except Australia and New Zealand—will still be required to be distributed only to listed flocks. We believe the new recordkeeping requirements for first generation (F1) progeny resulting from imported semen will provide sufficient information to conduct traceback investigations in the event of a disease outbreak. We are making no changes as a result of this comment.

One commenter stated that the requirement that only flocks in the Scrapie Flock Certification Program may receive imported semen should be eliminated entirely.

The intent of the proposed rule is to allow all flocks listed in the Scrapie National Database to use semen imported from anywhere in the world; there will be no restrictions on distribution of semen imported from regions recognized as scrapie-free. This does not unreasonably limit distribution of imported semen since there is a high compliance rate for flock premises listing through the National Scrapie Eradication Program, and because any flock may be listed by making a toll-free phone call. To further facilitate distribution of imported semen, we have added a provision in this final rule that allows imported semen to be further distributed to any other listed flock with written notification to the Veterinary Services area office.

One commenter suggested that the identification and recordkeeping requirements for F1 progeny resulting from imported semen should be made a condition of the import permit rather than a separate agreement. The commenter further stated that APHIS should distribute special eartags for identifying F1 progeny at the time the permit is approved. The commenter stated that these suggestions would reduce the burden on both producers and APHIS.

We agree with this commenter and have made changes in this final rule to incorporate these suggestions. Since there will be no written agreement separate from the permit, this final rule also includes a provision that APHIS

may view and copy records of F1 progeny during normal business hours.

One commenter stated that any imported semen should be accompanied by a certificate of genetic testing of the donor ram for resistance to scrapie.

While we agree that information from genetic testing may be useful to sheep breeders, we do not believe that requiring genetic testing of donor rams as a condition for importing semen into the United States is warranted because it would put excessive restrictions on the importation of semen for some breeds in which the scrapie-resistant genotypes do not exist. If an importer wants to see results of genetic testing from a donor ram, that individual should request it from the seller.

One commenter asked that the restriction of selling rams born as a result of artificial insemination using imported semen only to listed flocks be relaxed. The commenter stated that sheep breeders currently are too limited as to whom they may sell such rams.

Although there will be identification and recordkeeping requirements for F1 progeny resulting from the use of imported semen, the proposed rule, when finalized, will remove other restrictions on the sale of F1 progeny. This will apply both to existing F1 progeny from imported semen as well as to F1 lambs born after the new regulations take effect.

One commenter questioned the accuracy of the statement in the proposed rule's economic analysis that only 114 farms of the estimated 43,891 engaged in sheep and goat farming in 2002 had a market value of \$500,000 or more per year in agricultural products sold and Government payments.

APHIS believes this estimate to be accurate. The figures were obtained from the 2002 Census of Agriculture, which is the most recent year for which we have data.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

#### **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.

The regulations in § 98.37 have restricted the importation of sheep semen from regions other than Australia, Canada, and New Zealand due to scrapie concerns. These restrictions have included provisions

requiring the semen to be transferred only to females in a United States flock that participates in the Scrapie Flock Certification Program (SFCP), the semen originates from a donor animal participating in a program equivalent to the United States SFCP and that the semen is accompanied by a certificate attesting to the above conditions. Additionally, the regulations have required the importer to provide APHIS with information regarding control programs, surveillance, and disease incidence in the exporting region, as well as information on the health status of other ruminants in the region in order to export sheep semen to the United States.

All these restrictions on imports of sheep and goat semen were put in place due to scrapie concerns and with the goal of preventing the spread of scrapie in domestic animals. However, further scientific research, as well as experience, has demonstrated to APHIS that sheep and goat semen pose a minimal risk of transmitting scrapie. Therefore, this final rule will eliminate restrictions on sheep semen being imported from regions other than Australia, Canada, and New Zealand by removing the provisions of § 98.37 from our regulations. In their place, we will require that sheep or goat semen from scrapie-affected regions be accompanied by an international veterinary certificate as recommended in the World Organization for Animal Health's (OIE) Terrestrial Animal Health Code. Consequently, this final rule will bring the United States' import standards for sheep and goat semen in harmony with recognized international standards, while still protecting against scrapie introduction into the United States.

These changes in the regulations will have a direct effect on importers of sheep semen and those businesses involved in support activities for animal production, which includes, among other activities, establishments providing breeding services. The number of establishments engaged in support activities for animal breeding is tracked by the U.S. Census Bureau. In 2001, the latest year for which information is available, there were 3,999 establishments in the North American Industry Classification System (NAICS) subsector 1152, which comprises establishments primarily engaged in performing activities related to raising livestock.<sup>1</sup> The annual payroll for these 3,999 establishments was \$452.3 million, which translates into an

average annual payroll per establishment of \$113,106. The U.S. Small Business Administration (SBA) size standard for this particular sector is \$6 million or less in annual receipts.<sup>2</sup> Unfortunately, the Census data do not include annual receipts for these establishments; however, based on the annual payroll per establishment, it is reasonable to conclude that the majority of these businesses would be considered small by SBA definitions.

A variety of animal production support activities other than artificial insemination for sheep are included in NAICS subsector 1152. APHIS does not have specific information on the number and size of businesses providing artificial insemination services. Based on the data for all NAICS 1152 businesses, we believe they are primarily small entities with annual receipts of not more than \$6 million.

Additionally, it is possible this final rule may indirectly affect domestic sheep and goat producers. The Census of Agriculture for 2002, the most recent year for which we have data, estimated that there were 43,891 farms engaged in sheep and goat farming.<sup>3</sup> The SBA size standard for sheep and goat farming (NAICS subsector 1124) is \$750,000 or less in annual receipts. The 2002 Census estimates the total market value of all agricultural products sold by domestic sheep and goat farmers to be over \$445 million, which translates into an average of \$10,147 per farm. When combined with Government payments, the average per-farm market value agricultural products sold is \$10,815.<sup>4</sup> Only 114 farms are classified as having \$500,000 or more in market value of agricultural products sold and Government payments. So, at least 43,777, or 99 percent, of farms engaged in sheep and goat farming would be considered small by SBA standards.

Foreign exporters of sheep semen from countries other than Australia, Canada, and New Zealand might also benefit from the removal of import restrictions on sheep semen. However, as non-U.S. entities, they lie outside the scope of the Regulatory Flexibility Act and are not considered in this economic analysis.

As this rule will lift some of the import restrictions on imported semen from regions that are not considered

<sup>2</sup> Table of Size Standards based on NAICS 2002. Washington, DC: Small Business Administration, 2004.

<sup>3</sup> USDA, 2002 Census of Agriculture—United States Data, Table 50, Washington, DC: National Agricultural Statistics Service.

<sup>4</sup> USDA, 2002 Census of Agriculture, Table 59, under column heading "Sheep and Goat Farming (1124)."

<sup>1</sup> Statistics of U.S. Businesses: 2001: Support Activities for Animal Production—United States. Washington, DC: U.S. Census Bureau.

scrapie-free, there will be a reduction in compliance requirements. In place of the current requirements, imported sheep or goat semen will have to be accompanied by an international veterinary certificate consistent with OIE standards. This certificate will have to be completed by a veterinary officer prior to being exported to the United States, and as such would not pose any compliance requirements for domestic entities.

#### Benefits

Importers of sheep semen, as well as firms engaged in agricultural support activities, specifically those providing artificial insemination services, could possibly benefit from the final rule. Imports of sheep semen are not tracked as a separate line item by USDA's Foreign Agricultural Service. However, Veterinary Services of APHIS tracks raw data and estimates there were 2,491 straws of sheep semen imported in 2004 and only 1 straw in 2003, with Australia being the primary exporter.<sup>5</sup> It is possible that the changes to the regulations will encourage exports of sheep and goat semen to the United States in response to reduced import restrictions. Laws of supply and demand dictate that increased supply will result in lower prices. However, if this happens it will be over the long run because currently there is not a large demand for sheep semen in the United States, as evidenced by the number of imports. In fact, domestic sheep and goat producers rarely rely on artificial insemination as a means of breeding animals because it is too expensive. Artificial insemination technology is primarily practiced by the seedstock industry. Thus, the market for imported sheep semen is small, consisting primarily of producers that raise less common breeds and desire imported semen to improve and diversify their genetics.<sup>6</sup>

#### Costs

It is possible these changes to the regulations could have an indirect effect on domestic sheep and goat breeders over the long run. However, a variety of conditions would have to be met for this situation to materialize. These conditions include, but are not limited to, artificial insemination technology becoming a more cost effective approach

to sheep and goat production versus using breeding animals. Essentially, the only way sheep and goat breeders would be affected over the long run is if the process of artificial insemination becomes cheaper than purchasing or maintaining replacement breeding animals. As of January 1, 2005, there were inventories of 4.53 million head of breeding sheep and goats in the United States. Thus, it is possible that, as the process of artificial insemination becomes more cost effective and as imported sheep semen becomes more readily available and technologies improve, sheep and goat producers will substitute away from buying replacement breeding animals and use artificial insemination instead. However, as stated previously, this situation is long term in nature and highly conditional.

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

#### Executive Order 12988

This final 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

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

#### List of Subjects in 9 CFR Part 98

Animal diseases, Imports.

■ Accordingly, we are amending 9 CFR part 98 as follows:

#### PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

■ 1. The authority citation for part 98 continues to read as follows:

**Authority:** 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 98.34, a new paragraph (d) is added to read as follows:

#### § 98.34 Import permits for poultry semen and animal semen.

\* \* \* \* \*

(d) *Sheep and goat semen from regions where scrapie exists.*

Importation of semen of sheep and goats is subject to the requirements in § 98.35(e). Applications for a permit to import sheep and goat semen must include statements that:

- (1) All first generation (F1) progeny resulting from imported semen will be identified with a permanent official identification consistent with the provisions of § 79.2 of this chapter; and
- (2) Records of any sale of F1 progeny, including the name and address of the buyer, will be kept for a period of 5 years. APHIS may view and copy these records during normal business hours.

■ 3. In § 98.35, paragraphs (e)(1), (e)(2), and (e)(3) are revised to read as follows:

#### § 98.35 Declaration, health certificate, and other documents for animal semen.

(e) \* \* \*

(1) The donor animals:

- (i) Are permanently identified, to enable traceback to their establishment of origin; and
- (ii) Have been kept since birth in establishments in which no case of scrapie had been confirmed during their residency; and
- (iii) Neither showed clinical signs of scrapie at the time of semen collection nor developed scrapie between the time of semen collection and the export of semen to the United States; and

(iv) The dam of the semen donor is not, nor was not, affected with scrapie.

(2) In the region where the semen originates:

(i) Scrapie is a compulsorily notifiable disease; and

(ii) An effective surveillance and monitoring system for scrapie is in place; and

(iii) Affected sheep and goats are slaughtered and completely destroyed; and

(iv) The feeding of sheep and goats with meat-and-bone meal or greaves derived from ruminants has been banned and the ban effectively enforced in the whole region; and

(3) Semen originating in regions other than Australia and New Zealand is to be transferred to females in a flock that is listed in the Scrapie National Database as part of the Scrapie Program in the United States. Imported semen may be further distributed to any other listed flock with written notification to the APHIS Veterinary Services area office.

\* \* \* \* \*

#### § 98.37 [Removed]

■ 4. Section 98.37 is removed and reserved.

<sup>5</sup> Elizabeth McKenna, Data Manager (APHIS).

<sup>6</sup> Susan Schoenian, Area Agent, Sheep & Goats Western Maryland Research & Education Center, University of Maryland Cooperative Extension; via email communication and article "An Update on Sheep A.I." Maryland Small Ruminant page. <http://www.sheepandgoat.com/articles/ai.html>, Maryland Sheep News, 1999.

Done in Washington, DC, this 8th day of November 2007.

Kevin Shea,

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

[FR Doc. E7-22279 Filed 11-14-07; 8:45 am]

BILLING CODE 3410-34-P

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 630

RIN 3052-AC40

#### Disclosure to Investors in System-Wide and Consolidated Bank Debt Obligations of the Farm Credit System

**AGENCY:** Farm Credit Administration.

**ACTION:** Direct final rule.

**SUMMARY:** The Farm Credit Administration (FCA or we) issues this direct final rule amending our regulation on the external auditor's assessment of internal control over financial reporting concerning the System-wide annual report to investors. The effect of the amended rule is to require the external auditor of the Federal Farm Credit Banks Funding Corporation (Funding Corporation) to express an opinion on the effectiveness of internal control over financial reporting instead of reporting on management's assessment of internal control over financial reporting. The amended rule implements recent changes in industry practices.

**DATES:** If no significant adverse comment is received on or before December 17, 2007, these regulations shall be effective upon the expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish notice of the effective date in the **Federal Register**. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not the subject of a significant comment. In such a case, we would then tell you how we expect to continue further rulemaking on the provisions that were the subject of significant adverse comment.

**ADDRESSES:** We offer a variety of methods for you to submit comments. For accuracy and efficiency reasons, we encourage commenters to submit comments by e-mail, through the Agency's Web site, or the Federal eRulemaking Portal. Regardless of the

method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- **E-mail:** Send us an e-mail at [reg-comm@fca.gov](mailto:reg-comm@fca.gov).
- **Agency Web site:** <http://www.fca.gov>. Once you are at the Web site, select "Public Commenters," then "Public Comments."
- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.
- **Fax:** (703) 883-4477. Posting and processing of faxes may be delayed. As faxes are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, please consider another means to submit your comment if possible.

You may review copies of comments we receive at our office in McLean, Virginia, or from our Web site at <http://www.fca.gov>. Once you are in the Web site, select "Public Commenters," then select "Public Comments," then select "Submitting a Comment" and follow the instructions there. We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

#### FOR FURTHER INFORMATION CONTACT:

Wade Wynn, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4414, TTY (703) 883-4434, or Laura McFarland, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-4020.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The FCA adopted a final rule on December 20, 2006, amending our disclosure and reporting requirements for Farm Credit System (System) institutions.<sup>1</sup> As part of that rulemaking, we added a requirement in § 630.5(d) to include a report by management assessing the effectiveness of internal control over financial reporting in the System-wide annual report to investors. We also added a requirement that the

external auditor of the Funding Corporation review, attest, and report on management's assessment of internal control over financial reporting. The December 2006 rulemaking adding § 630.5(d) did not receive any objections to requiring an external auditor to report on management's assessment of internal control over financial reporting in the System-wide annual report to investors. Commenters did ask that the attestation reporting requirement be similar to that of Public Company Accounting Oversight Board (PCAOB) auditing standards, and we agreed. We further explained that the external auditor's attestation report should conform to other applicable industry standards, which we identified as those regulations of the Securities and Exchange Commission (SEC) implementing the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley).<sup>2</sup> Although the System is not covered by the provisions of Sarbanes-Oxley, nor regulated by the SEC, we generally regard SEC rules as the industry standard in this area, and we continue to follow this same general approach with consideration given to the unique cooperative structure of the System.

On June 27, 2007, the SEC revised its requirement regarding the external auditor's attestation report.<sup>3</sup> The SEC now requires the external auditor to express an opinion directly on the effectiveness of internal control over financial reporting instead of reporting on management's assessment of internal control over financial reporting. The SEC continues to require external auditors to evaluate whether management has included appropriate disclosures in its assessment report. Further, on July 25, 2007, the SEC approved PCAOB Auditing Standard No. 5, "An Audit of Internal Control Over Financial Reporting That Is Integrated With an Audit of Financial Statements."<sup>4</sup> Auditing Standard No. 5 is intended to increase the accuracy of financial reports and reduce costs by making audits more risk-based and scalable to company size and complexity. Auditing Standard No. 5 requires the external auditor to form an opinion on the effectiveness of internal control over financial reporting except in the circumstance of a scope limitation that would result in the auditor disclaiming an opinion. The

<sup>2</sup> Pub. L. 107-204 (July 30, 2002).

<sup>3</sup> 72 FR 35310 (June 27, 2007).

<sup>4</sup> Auditing Standard No. 5 supersedes Auditing Standard No. 2, "An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements" for all audits of internal control ending on or after November 15, 2007.

<sup>1</sup> 71 FR 76111 (December 20, 2006).