

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. APHIS-2010-0077]

#### Availability of a Risk Analysis Evaluating the Foot-and-Mouth Disease Status of Japan

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

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** We are advising the public that a risk analysis has been prepared by the Animal and Plant Health Inspection Service concerning the foot-and-mouth disease (FMD) status of Japan and the risk of susceptible animals and animal products from Japan harboring the FMD virus. This evaluation will be used as a basis for determining whether the Animal and Plant Health Inspection Service again recognizes Japan as free of FMD and allows the importation of whole cuts of boneless beef from Japan to resume. Other ruminant meat and meat byproducts, as well as fresh pork, live ruminants, and live swine, would remain prohibited due to Japan's status for bovine spongiform encephalopathy, classical swine fever, and swine vesicular disease. We are making this evaluation available to the public for review and comment.

**DATES:** We will consider all comments that we receive on or before September 26, 2011.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2010-0077-0005>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2010-0077, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0077> or in our reading room, which 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) 6902817 before coming.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kelly Rhodes, Senior Staff Veterinarian, Regionalization Evaluation Services—Import, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest and foot-and-mouth disease (FMD). Section 94.1 of the regulations lists regions of the world that are considered free of rinderpest and FMD. Section 94.11 lists regions of the world considered free of rinderpest and FMD but from which the importation of meat and other animal products into the United States is subject to additional restrictions because of those regions' proximity to or trading relationships with FMD-affected regions.

In an interim rule<sup>1</sup> effective and published in the **Federal Register** on October 25, 2010 (75 FR 65431-65432, Docket No. APHIS-2010-0077), we amended the regulations in paragraphs (a)(2) and (a)(3) of § 94.1 to remove Japan from the list of regions considered free of rinderpest and FMD and to add Japan to the list of regions considered free of rinderpest, respectively. We also amended the regulations in § 94.11 to remove Japan from the list of regions considered free of rinderpest and FMD but from which the importation of meat and other animal products of ruminants

and swine into the United States is subject to additional restrictions. The interim rule also clarified that the importation into the United States of whole cuts of boneless beef, which had been allowed under the provisions in § 94.27 of the regulations, was being prohibited due to FMD. Those actions were necessary because, by July 4, 2010, Japan had reported FMD on a total of 292 premises in Miyazaki prefecture of that country to the World Organization for Animal Health (OIE).

The source of the virus has not been definitively identified. However, the Ministry of Agriculture, Forestry and Food in Japan suspects that it was introduced through people or personal goods from a nearby country contaminated with the FMD virus. Japan's official veterinary services addressed the FMD outbreak through a stamping-out policy that involved movement restrictions, culling, active surveillance, and ultimately vaccination. All vaccinated animals were subsequently culled. Intensive surveillance demonstrated that the virus did not spread outside Miyazaki prefecture. On February 4, 2011, the OIE reinstated Japan to its list of countries free of FMD without vaccination.

Although we removed Japan from the list of regions in the world considered free of rinderpest and FMD, and the list of regions considered free of rinderpest and FMD but from which the importation of meat and other animal products is subject to additional restrictions, we recognized that Japan immediately responded to the detection of the disease by imposing restrictions on the movement of susceptible animals and animal products, both within and from Japan, and initiating measures to eradicate the disease. We stated that, because of Japan's response to detection of the disease, we intended to reassess the situation in accordance with the standards of the OIE at a future date, and that as part of the reassessment process, we would consider all comments received during the comment period on the interim rule.

In this notice, we are announcing the availability for review and comment of a document titled "APHIS Evaluation of the Foot and Mouth Disease Status of Japan." This evaluation examines the events that occurred during and after the outbreaks and assesses the risk of live animals and animal products from

<sup>1</sup> To view the interim rule and the comment we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0077>.

Japan harboring the FMD virus. This risk analysis will serve as the basis for our determination whether to reinstate Japan to the list of regions free of FMD and rinderpest and the list of regions considered free of FMD and rinderpest but from which the importation of meat and other animal products of ruminants and swine into the United States is subject to additional restrictions. The risk analysis will also serve as the basis for our determination whether to allow the resumption of the importation of whole cuts of boneless beef from Japan. We are making the risk analysis available for public comment for 60 days.

The risk analysis may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the risk analysis by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the analysis when requesting copies.

**Authority:** 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 20th day of July 2011.

**Kevin Shea,**

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

[FR Doc. 2011–18849 Filed 7–25–11; 8:45 am]

**BILLING CODE 3410–34–P**

## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

### **14 CFR Part 1245**

[Notice 11–070]

**RIN 2700–AD63**

### **Claims for Patent and Copyright Infringement**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) proposes regulations relating to requirements for the filing of claims against NASA where a potential claimant believes NASA is infringing privately owned rights in patented inventions or copyrighted works. The requirements for filing an administrative claim are important since the filing of a claim carries with it certain rights relating to the applicable statute of limitations for filing suit

against the Government. The proposed regulations set forth guidelines as to what NASA considers necessary to file a claim for patent or copyright infringement, and they also provide for written notification to the claimant upon completion of an investigation by NASA.

**DATES:** Comments must be received on or before August 25, 2011.

**ADDRESSES:** Comments must be identified with “RIN 2700–AD63” and may be sent to NASA by the following method:

- *Federal E-Rulemaking Portal:*

<http://www.regulations.gov>. Follow the online instructions for submitting comments. Please note NASA may post all comments on the Internet without change, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Helen M. Galus, National Aeronautics and Space Administration, Office of the General Counsel, Washington, DC 20546–0001. Telephone 202–358–3437.

**SUPPLEMENTARY INFORMATION:** The National Aeronautics and Space Act (51 U.S.C. 20113) authorizes the Administrator of NASA to settle administrative claims of patent and copyright infringement by NASA. In addition to that authority to acquire license rights and interests in patents and copyrights through settlement of claims, the Administrator has authority to settle claims of patent and copyright infringement pursuant to 22 U.S.C. 2356, 35 U.S.C. 183 and 286, and 28 U.S.C. 1498(b).

In accordance with these authorities, NASA is issuing proposed regulations setting forth requirements for the filing of claims against NASA where a potential claimant believes NASA is infringing privately owned rights in patented inventions or copyrighted works. The proposed regulations are designed to inform potential claimants as to what information must be supplied in their communication to NASA regarding alleged infringement before NASA will consider a claim to have been filed. The regulations identify certain commonly received communications which are concerned with rights in patents and copyrights, but which will not be considered sufficient to constitute the formal filing of a claim.

The requirements for filing an administrative claim are important since the filing of a claim carries with it certain rights relating to the applicable statute of limitations for filing suit against the Government. In the case of patent infringement claims, Title 35 U.S.C. 286 provides that the six-year

statute of limitations for filing suits for patent infringement may, in the case of claims against the Government, be tolled up to six years between the date of receipt of a written claim for compensation by the Government and the date of mailing by the Government of a notice that the claim has been denied. Copyright infringement claims can be tolled indefinitely under 28 U.S.C. 1498(b) between the date of receipt of a written claim for compensation by the Government and the date of mailing by the Government of a notice that the claim has been denied. The proposed regulations set forth guidelines as to what NASA considers necessary to file a claim for patent or copyright infringement.

Section 1245.202(a) provides that in order for a potential claimant's communication to NASA to formally instigate a claim, it must specifically allege infringement by NASA, request compensation, identify a patent or copyright alleged to be infringed, and indicate an act or item which the potential claimant believes infringes the claimant's patent or copyright. Section 1245.203(a) advises the potential claimant where to forward communications regarding the alleged infringement. Section 1245.202(b) of the regulation identifies information which, although not necessary in order for a communication to be considered sufficient to constitute the filing of a claim, is usually necessary to process a claim and, therefore, if presented initially with the claim, may serve to expedite the handling of the claim. The proposed regulations provide for written notification to the claimant upon completion of an investigation by NASA.

### **Regulatory Analysis Section**

#### *Paperwork Reduction Act Statement*

This rule does not contain an information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Executive Order 12866 and Executive Order 13563*

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules,