

For the reasons set forth in the preamble, 7 CFR part 1207 is amended as follows:

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

1. The authority citation for 7 CFR part 1207 continues to read as follows:

Authority: 7 U.S.C. 2611–2627.

§ 1207.322 [Amended]

2. Section 1207.322 is amended by suspending:

- (A) Paragraph (a) in its entirety,
 - (B) In paragraph (b), the words “at meetings” in the first sentence and the entire last sentence,
 - (C) In paragraph (c), the entire last sentence, and
 - (D) In paragraph (d), the entire last two sentences of the introductory text and paragraphs (d)(1) through (5).
3. In § 1207.503, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1207.503 Nominations.

(a) Pursuant to § 1207.322 of the plan, the Board shall assist producers in producing sections or States each year to nominate producer members for the Board. Such nominations may be conducted at meetings or by mail ballots. One individual shall be nominated for each position to become vacant. A list of nominees shall be submitted to the Secretary for consideration by November 1 of each year.

(b) Pursuant to § 1207.322 of the plan, the Board shall assist importers each year to nominate importer members for the Board. Such nominations may be conducted at meetings or by mail ballots.

(c) Nomination meetings or mail balloting shall be well publicized with notice given to producers, importers, and the Secretary at least 10 days prior to each meeting or mailing of ballots.

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4. Section 1207.505 is revised to read as follows:

§ 1207.505 Procedure.

(a) The procedure for conducting the Board's meetings shall be in accordance with the bylaws adopted by the Board on June 7, 1972, and approved by the Secretary and any subsequent amendments adopted by the Board and approved by the Secretary.

(b) Each importer member shall be entitled to not less than one vote. Importer members shall also be entitled to one additional vote for each 1 million hundredweight, or major fraction thereof, on a fresh-weight basis, of imported tablestock potatoes, potato

products, or seed potatoes, as determined by data on imports provided by the U.S. Department of Agriculture. The casting of such votes shall be determined by the importer members.

5. In § 1207.513, paragraph (c)(2) is revised to read as follows:

§ 1207.513 Payment of assessments.

* * * * *

(c) * * *

(2) All designated handlers, including a designated handler whose own production is handled and assessments to the Board paid by another designated handler, shall report to the Board:

- (i) Date of report (which is also date of payment to the Board).
- (ii) The name and address of the designated handler;
- (iii) The period potatoes were handled;
- (iv) The total quantity of potatoes determined to be assessable during the period potatoes were handled, pursuant to § 1207.511.

* * * * *

Dated: August 26, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97–23307 Filed 8–28–97; 12:10 p.m.]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 94 and 96

[Docket No. 97–002–2]

Change in Disease Status of Italy, Except the Island of Sardinia, Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are declaring Italy, with the exception of the island of Sardinia, free of African swine fever because there have been no confirmed outbreaks of African swine fever in Italy, except on the island of Sardinia, since 1983. This action will relieve certain restrictions on the importation into the United States of pork and pork products, including swine casings, from all regions of Italy except Sardinia. However, because hog cholera and swine vesicular disease exist in Italy, and because Italy, as a member state of the European Union, has certain trade practices regarding live swine and pork and pork products that are less restrictive than are acceptable to

the United States, the importation into the United States of live swine and pork and pork products from Italy will continue to be subject to certain restrictions.

EFFECTIVE DATE: September 17, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 40, Riverdale, MD 20737–1231, (301) 734–8695; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

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

On June 12, 1997, we published in the **Federal Register** (62 FR 32051–32053, Docket No. 97–002–1) a proposal to amend the regulations to declare Italy, with the exception of the island of Sardinia, free of ASF. In that document, we noted that because hog cholera and swine vesicular disease exist in Italy, and because Italy, as a member state of the European Union, has certain trade practices regarding live swine and pork and pork products that are less restrictive than are acceptable to the United States, the importation into the United States of live swine and pork and pork products from Italy would continue to be subject to certain restrictions. We further proposed to amend §§ 94.8 and 96.2 to include the words “or part of a country” after references to “a country” or “any country” affected with ASF so that the regulations in those sections would remain accurate in light of the proposal to recognize less than the entire country of Italy as free of ASF. We also proposed to make two nonsubstantive editorial changes to the regulations in part 94.

We solicited comments concerning our proposal for a 60-day period ending on August 11, 1997. We received two comments by that date. The comments we received were from two foreign meat processor associations and supported the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are

adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule removes certain restrictions on the importation into the United States, from all regions of Italy except Sardinia, of pork and pork products, including swine casings. We have determined that approximately 2 weeks are needed to ensure that Animal and Plant Health Inspection Service personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be made effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule amends the regulations in part 94 by removing Italy, except the island of Sardinia, from the list of countries where ASF exists or is reasonably believed to exist. This action relieves certain restrictions on the importation of pork and pork products, including swine casings, into the United States from all areas of Italy except the island of Sardinia. However, because hog cholera and swine vesicular disease exist in Italy, and because Italy, as a member state of the European Union, has certain trade practices regarding live swine and pork and pork products that are less restrictive than are acceptable to the United States, the importation into the United States of live swine and pork and pork products from Italy will continue to be subject to restrictions. For this reason, no live swine, or fresh, chilled, or frozen pork will be imported from Italy as a result of this rule change.

Entities in the United States likely to be affected by this rule are those entities engaged in the production of swine and processed pork products. According to the Small Business Administration (SBA) definition, a "small entity" in the production of swine is an entity whose total annual sales are less than \$0.5 million. Under this definition, approximately 96.3 percent of domestic producers are considered to be small entities. According to the SBA definition, a small entity in the production of pork products, including

meat packing plants, is an entity employing fewer than 500 workers. In 1992, the most recent year for which complete figures are available, over 95 percent of pork processors of all types were considered small entities.

It is possible that imports of processed pork products will be affected by this rule, but we believe any change will be minimal. Italy has not been declared free of swine vesicular disease or hog cholera, so there will continue to be restrictions on the importation into the United States of pork and pork products, including dry-cured pork products, from anywhere in Italy. Given those continuing restrictions, we believe any potential increase in imports of processed pork products derived from Italian swine will be minimal. The economic impact of a slight increase in those imports on U.S. swine producers and processors of pork and pork products is likewise expected to be minimal.

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 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 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

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, 9 CFR parts 94 and 96 are 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).

§ 94.4 [Amended]

2. In § 94.4, in the introductory text of paragraph (b)(8) and in paragraph (b)(8)(i)(C), footnotes 1 and 2 and their references in the text are redesignated as footnotes 2 and 3, respectively.

§ 94.6 [Amended]

3. Section 94.6 is amended as follows:

a. In paragraph (c)(2), footnote 1 and its reference in the text are redesignated as footnote 4.

b. In the introductory text of paragraph (d), footnote 2 and its reference in the text are redesignated as footnote 5.

c. In paragraph (d)(1)(ix)(C)(I), footnote 3 and its reference in the text are redesignated as footnote 6.

§ 94.8 [Amended]

4. Section 94.8 is amended as follows:

a. In the introductory text of the section, footnote 1 and its reference in the text are redesignated as footnote 7, and, in the text of newly redesignated footnote 7, the words "or a part of a country" are added after the word "country" the first time it appears.

b. In the introductory text of the section, the words "All the countries of Africa, Brazil, Cuba, Haiti, Italy, Malta, and Portugal" are removed and the words "All the countries of Africa; Brazil, Cuba, Haiti, Malta, and Portugal; and the island of Sardinia, Italy" are added in their place.

c. In the introductory text of paragraph (a), the words "or part of a country" are added after the word "country".

d. In paragraph (a)(3)(i)(A), the words "or part of a country" are added after the word "country".

e. In paragraph (a)(3)(i)(B), footnote 2 and its reference in the text are redesignated as footnote 8, and the words "country listed" are removed and the words "country or part of a country listed" are added in their place.

f. In paragraph (a)(3)(iv)(A), the words "or parts of countries" are added after the word "countries".

g. In paragraph (a)(3)(v), the words "or part of a country" are added after the word "country".

h. In paragraph (c), the words "or part of a country" are added after the word "country".

§ 94.9 [Amended]

5. In § 94.9, paragraph (a), footnote 1 and its reference in the text are redesignated as footnote 9, and in paragraph (b)(3) footnote 2 and its reference in the text are redesignated as footnote 10.

§ 94.12 [Amended]

6. In § 94.12, paragraph (b)(1)(iii)(B), footnote 1 and its reference in the text are redesignated as footnote 11, and in paragraph (b)(3) footnote 2 and its reference in the text are redesignated as footnote 12.

§ 94.16 [Amended]

7. In § 94.16, paragraph (b)(2), footnote 1 and its eight references in the text are redesignated as footnote 13.

§ 94.17 [Amended]

8. In § 94.17, in paragraph (a), the word "subpart" is removed and the word "section" is added in its place, and in paragraph (e), footnote 1 and its reference in the text are redesignated as footnote 14.

§ 94.18 [Amended]

9. In § 94.18, in paragraph (c)(2), footnote 1 and its reference in the text are redesignated as footnote 15, and in paragraph (d)(1), footnote 2 and its reference in the text are redesignated as footnote 16.

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

10. The authority citation for part 96 continues to read as follows:

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

§ 96.2 [Amended]

11. In § 96.2, paragraph (a) is amended by adding the words "or part of a country" after the word "country" each time it appears.

Done in Washington, DC, this 26th day of August 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-23213 Filed 8-29-97; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 207, 218, 430, 490, 501, 601, 820, 1013, 1017, and 1050

RIN 1901-AA76

Office of General Counsel; Inflation Adjustment of Civil Monetary Penalties

AGENCY: Office of General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy ("DOE") is issuing this final non-discretionary rule to adjust DOE's civil monetary penalties ("CMPs") for inflation as mandated by the Debt Collection Improvement Act of 1996. This rule adjusts CMPs within the jurisdiction of the DOE to the maximum extent allowed by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996. **EFFECTIVE DATE:** October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Stephen Duarte, U.S. Department of Energy, Office of General Counsel, GC-74, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION:

I. Background

In order to preserve the deterrent effect of civil penalties and foster compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) ("the Act"), requires Federal agencies to regularly adjust each CMP provided by law within the jurisdiction of the agency. The Act requires each agency to make an initial inflationary adjustment for all applicable civil penalties within 180 days of the enactment of the statute, and to make further adjustments at least once every four years.

The Act provides that any increase in a CMP due to the calculated inflation adjustments shall apply only to violations that occur after the date the increase takes effect and states that the initial inflation adjustment may not exceed 10 percent of the existing penalty.

II. Method of Calculation

Under the Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum

civil penalty amount per violation by the cost-of-living adjustment. The "cost-of-living" adjustment is defined as the amount by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the year in which the amount of such civil penalty was last set or adjusted pursuant to law. Any calculated increase under this adjustment is rounded to the nearest—

- (1) Multiple of \$10 in the case of penalties less than or equal to \$100;
- (2) Multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;
- (3) Multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;
- (4) Multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;
- (5) Multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and
- (6) Multiple of \$25,000 in the case of penalties greater than \$200,000.

28 U.S.C. 2461 note, sec. 5.

For example, pursuant to section 13262 of Title 42 of the United States Code, the DOE may impose a civil penalty of up to \$5,000 per violation against any person who violates certain sections of the Energy Policy Act of 1992 or any regulation issued under such sections. This civil penalty was set in 1992 and has not been adjusted. The CPI for June 1996 is 156.7 and 140.2 for June 1992. The inflation factor is 156.7/140.2, or 1.117689. The maximum penalty amount after the increase would be \$ 5,588.45 and after rounding would be \$ 6,000. After applying the 10 percent limit on an initial increase, however, the new maximum penalty amount per violation is \$5,500. DOE made a similar calculation for each CMP adjusted in this rulemaking.

III. Explanation of Final Rule

The following list summarizes the existing DOE regulations containing civil monetary penalties, and the penalties before and after adjustment.

10 CFR 207.7	\$2,500	2,750
10 CFR 218.42	5,000	5,500
10 CFR 430.61	100	110
10 CFR 490.604	5,000	5,500