

Cattle imports by the United States from Australia have been minimal, as reflected by data for the last 5 years. Trade statistics divide cattle into two groups—purebred and not purebred. Purebred cattle imported from Australia numbered only 17 head in 1998 and 21 head in 1999. None were imported in 2000, 2001, or 2002. The small numbers imported in 1998 and 1999 represented only 0.4 percent of U.S. imports of purebred cattle in those 2 years.

The number of not purebred cattle imported from Australia averaged fewer than eight animals per year from 1998 through 2002. Given that annual total U.S. imports of not purebred cattle over this 5-year period averaged more than 2.2 million per year, the number that came from Australia is negligible. Because the United States has not imported cattle from New Zealand, we do not have comparable statistics for that country.

While these numbers are very small, the average value of cattle imported from Australia has been much higher than the value of imported cattle generally. For purebred cattle from Australia, the average value was \$5,082 per head, compared to an average value for all purebred cattle imports of \$1,051. For not purebred cattle from Australia, the average value was \$3,083 per head, compared to an average value for all not purebred cattle imports of \$556.

It is unlikely the number of cattle imported from Australia will be affected by removing testing requirements for brucellosis. Brucellosis testing costs, assumed to range between \$7.50 and \$15 per head including veterinary fees and handling expenses, represent from 0.15 percent to 0.30 percent of the value of purebred cattle imported from Australia in 1998 and 1999, and from 0.24 percent to 0.49 percent of the value of not purebred cattle imported from Australia from 1998 through 2002.

A small cost savings will be realized by exporters of Australian cattle for a negligible number of animals, if quantities imported in recent years continue into the future. Cost savings of such small proportion are not expected to affect the number of Australian cattle offered for export to the United States. Any benefit realized by U.S. buyers of cattle from Australia will be negligible as well. If cattle are imported from New Zealand, impacts of this rule for U.S. buyers are expected to be similarly negligible.

As a part of the rulemaking process, APHIS evaluates whether regulations will have a significant economic impact on a substantial number of small entities. If any entities are affected by this rule, they will likely be U.S. cattle

operations, nearly all of which are small entities. According to the 1997 Census of Agriculture, over 99 percent of farms with cattle sales had annual receipts that did not exceed \$750,000, the small-entity criterion set by the Small Business Administration (SBA).

It is unlikely high-valued cattle imported from Australia would be destined for slaughter. Nonetheless, it is noted that feedlots that could purchase the cattle may or may not be small entities. SBA classifies cattle feedlots as small entities if their annual receipts are not more than \$1.5 million. There were 95,189 feedlots in the United States in 2002, about 93,000 (nearly 98 percent) of which had capacities of fewer than 1,000 head and can be considered small entities. However, the 2 percent of the Nation's feedlots that have capacities of at least 1,000 head held 82 percent of all cattle and calves on feed on January 1, 2003. These larger feedlots have average annual receipts of over \$9 million, well above the small-entity criterion.

In any case, the rule will have little, if any, impact on U.S. entities, large or small. Brucellosis testing exemptions will result in small cost savings for exporters of cattle from Australia or New Zealand. The rule is not expected to affect the negligible number of cattle imported from Australia or cause cattle to be imported from New Zealand for the first time.

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 proposed 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 final rule contains no 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 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 93 as follows:

### PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 1. The authority citation for part 93 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. Section 93.406 is amended as follows:

■ a. In the introductory text of paragraph (a), in the first sentence, the words “in paragraph (d) of this section and” is added immediately after the words “Except as provided”.

■ b. A new paragraph (d) is added to read as follows:

#### § 93.406 Diagnostic tests.

\* \* \* \* \*

(d) *Testing exemptions.* Cattle from Australia and New Zealand are exempt from the brucellosis testing requirements of paragraph (a)(1) of this section.

Done in Washington, DC, this 14th day of April, 2004.

**Kevin Shea,**

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

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 94 and 98

[Docket No. 98–090–7]

RIN 0579–AB03

#### Classical Swine Fever Status of France and Spain

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations concerning the importation of animals and animal products to recognize France and Spain as regions in which classical swine fever (CSF) is not known to exist, and from which breeding swine, swine semen, and pork and pork products may be imported into the United States under certain conditions, in the absence of restrictions associated with other foreign animal diseases of swine. This rulemaking will ensure that breeding swine, swine

semen, and pork and pork products imported from France or Spain have originated in one of those countries or in any other region recognized by the Animal and Plant Health Inspection Service as free of CSF and that, prior to export to the United States, such animals and animal products have not been commingled with animals and animal products from regions where CSF exists.

**EFFECTIVE DATE:** April 20, 2004.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture regulates the importation of animals and animal products to guard against the introduction of animal diseases into this country. The regulations pertaining to the importation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

On June 25, 1999, we published in the *Federal Register* (64 FR 34155-34168, Docket No. 98-090-1) a proposal to, among other things, amend the regulations regarding the importation of swine and swine products from a specifically defined region in the European Union (EU) consisting of Austria, Belgium, France, Greece, Luxembourg, the Netherlands, Portugal, Spain, and parts of Germany and Italy. (For convenience, we refer to individual countries of this EU region as "Member States.") In proposing to recognize smaller regions within Germany and Italy as free of classical swine fever (CSF, which we referred to in the proposed rule as hog cholera), we defined the administrative units for purposes of regionalization in those two Member States as the *kreis* for Germany and the region for Italy. An administrative unit was considered to be the smallest administrative jurisdiction in the Member State with effective oversight of normal animal movements into, out of, and within that jurisdiction, and that, in association with national authorities, if necessary, has the responsibility for controlling animal diseases locally.

Before developing our proposed rule, we prepared a risk analysis to estimate the likelihood of introducing CSF from

the EU region, and to determine what, if any, mitigation measures would be necessary. We assessed the likelihood of introducing CSF through the importation of live breeding swine, swine semen, and pork and pork products. We made the risk analysis available to the public during the comment period for the proposed rule.

We solicited comments concerning our proposed rule for 60 days ending August 24, 1999. One of the commenters expressed concerns with several aspects of our risk analysis. Based on the concerns expressed in that comment, and as recommended by the Department's Office of Risk Assessment and Cost Benefit Analysis, we revised our risk analysis and included a supplement that presented in more detail specific information about CSF outbreaks in the EU region. The revised risk analysis was titled "Risk Analysis for Importation of Classical Swine Fever Virus in Swine and Swine Products from the European Union—December 2000."

On April 7, 2003, we published in the *Federal Register* (68 FR 16922-16940, Docket No. 98-090-5) a final rule that, among other things, amended the regulations to recognize a smaller region in the EU consisting of Austria, Belgium, Greece, the Netherlands, Portugal, and parts of Germany and Italy as free of CSF. In the final rule, APHIS did not recognize France, Spain, or Luxembourg as free of CSF, and thus as part of the EU region free of CSF, as we had proposed to do in our June 1999 proposed rule, because CSF outbreaks had occurred in domestic swine in each of those Member States after the publication of the proposed rule.

In our April 2003 final rule, we continued to consider all of France, Spain, and Luxembourg to be affected with CSF, even though outbreaks in domestic swine had occurred only in limited areas of those Member States, because we had not yet defined the administrative units in those Member States that we would use for purposes of regionalization. When the outbreaks occurred, France, Spain, and Luxembourg took action to eradicate CSF. The last affected herds were depopulated in France on April 26, 2002, and in Spain on April 30, 2002. Because Luxembourg experienced an outbreak in domestic swine in August 2003 and continues to remain under restriction by the EU because of CSF in feral swine, Luxembourg was not considered for evaluation for CSF-free status at this time.

Following the elimination of CSF in domestic swine in France and Spain, on November 24, 2003, we published in the

*Federal Register* (68 FR 65869-65871, Docket No. 98-090-6) a supplemental risk analysis which examined the risk of introducing CSF through the importation of swine and swine products from those two Member States. The supplemental risk analysis is available on the Internet at <http://www.aphis.usda.gov/vs/ncie/reg-request.html>.<sup>1</sup> For this analysis, we used the applicable information from the risk analyses we conducted for the June 1999 proposed rule and the April 2003 final rule, as well as information made available following the outbreaks, and subsequent elimination, of CSF in France and Spain. We concluded that the risk of importation of CSF virus in swine and swine products from France and Spain was low, based on the demonstrated ability of these two Member States to effectively contain CSF outbreaks in domestic swine. Recognition of the CSF status of France and Spain as equivalent to that of the other EU Member States or regions evaluated in the revised risk analysis of December 2000 was, therefore, judged to be appropriate.

We solicited comments concerning our supplemental risk analysis for 60 days ending January 23, 2004. We received three comments by that date. They were from the Government of Spain, a French pork producers' association, and the U.S. National Pork Board. Two of the commenters expressed concerns about certain aspects of the supplemental risk assessment. The comments are discussed below by topic.

One commenter referred to the hypothesis that the virus involved in the April 2002 CSF outbreak in France might have been introduced onto the affected premises by fomites, perhaps on the clothing or personal vehicle of a visiting farmer from Germany. The commenter also noted that the United States requires travelers to declare whether they have visited agricultural facilities during their international travel and recommends procedures for those who have, such as the disinfection of footwear prior to reentering the United States.

In our revised risk analysis of December 2000, we took into account the fact that travelers moving between EU Member States are not subject to border restrictions such as those imposed upon travelers entering or reentering the United States. We

<sup>1</sup> At the bottom of that Web site page, click on "Information previously submitted by Regions requesting export approval and their supporting documentation." At the next screen, click on the triangle beside "European Union—France/Spain/Swine, swine semen, pork/Classical Swine Fever," then on the triangle beside "Response by APHIS."

assumed that the EU region would likely continue to experience occasional CSF outbreaks in the future but concluded that the EU region evaluated in the risk analysis had adequate surveillance and control programs in place to detect and contain them. We therefore concluded that the risk of importing the CSF virus into the United States via imports of breeding swine, pork, pork products, or swine semen from the specified EU region under the conditions set out in the April 2003 final rule was low.

The commenter also discussed our use of the commune (municipality) as the administrative unit to be employed for regionalization purposes in France. The commune is the smallest administrative unit described in the assessment and, according to the commenter, falls under "only indirect supervision" of the Prefect for the department (a larger administrative unit roughly equivalent to several U.S. counties or a U.S. State) under which it is subsumed. Within each department there is a Direction Departementale des Services Veterinaires which serves under the direct authority of the Prefect and is responsible for the implementation and enforcement of animal health regulations at the department level. Although the specific question that the commenter was asking was not entirely clear, the commenter seemed to be expressing a concern over France's ability to manage and control disease at the commune level.

As noted earlier, in our June 1999 proposed rule, we explained the criteria we use for designating administrative units for the purpose of regionalization. An administrative unit is the smallest administrative jurisdiction that has effective oversight of normal animal movements into, out of, and within that jurisdiction, and that, in association with national authorities, if necessary, has the responsibility for controlling animal disease locally. In France, this unit is a commune. During its February 2003 site visit, the APHIS team had the opportunity to observe the functions of the veterinary authorities at the central, regional, and commune levels. Veterinary surveillance and control activities at all these levels appeared to be effective. APHIS concluded that France is able to manage and control CSF at the commune level and that, for the purposes of regionalization, the appropriate administrative unit is the commune.

An outbreak of CSF, however, would not necessarily be limited to a single administrative unit. If the zones affected in an outbreak cross administrative borders, the restricted area would

include all of the administrative units affected by the outbreak.

The commenter also questioned France's strategy for controlling CSF in its wild boar population, noting that in zones known to be infected with CSF, all hunting has been prohibited. Based on the expectation that the CSF virus will develop freely in the wild boar population, this approach seeks to allow natural immunity to develop in the older animals, while susceptible, young animals die from the disease, thus creating an immune population to act as a barrier to further CSF spread. The approach differs significantly from that of Germany and Luxembourg, both of which encourage hunting to eliminate infected animals and use vaccine baits to establish immunity in the wild boar population. It was suggested by the commenter that with no other country using the French strategy for controlling CSF in wild boars, we have no historical comparison to determine its likelihood of success.

French officials have been aware for many years of the risk of the CSF virus spreading from infected wild boars to domestic swine. France conducts serological surveillance of both wild boars and domestic swine in high-risk areas. Our 2003 supplemental risk assessment found that adequate surveillance programs are in place to detect CSF and to allow for appropriate responses to ensure that disease spread is limited.

The same commenter also discussed concerns raised by a CSF outbreak that occurred in Spain during the period from June 2001 to May 2002. Spanish officials believe that the virus might have entered the country through the illegal importation from Eastern Europe of commercial swine for fattening in Spain. According to the commenter, while there have been some controls instituted for the local movement of swine within Spain, no evidence is provided in the supplemental risk assessment that Spain has instituted additional controls to prevent future illegal swine importation.

Live swine imported into the EU from third countries are required to be accompanied by an official health certificate issued by the exporting country and are subject to inspection at border posts upon entry into the EU. Spain does not have a land border with third (*i.e.*, non-EU) countries and is not directly involved in land border control. Consideration of imports from third countries was included in the previous evaluations upon which APHIS based its determination that imports from designated EU Member States did not

pose a significant risk of introducing CSF into the United States.

Relevant to this, swine moving overland from Eastern Europe into the EU would be subject to entry requirements at the EU's eastern borders but could then proceed westward to Spain without encountering additional border controls. Therefore, the possibility that an illegal land shipment of swine from Eastern Europe may have reached Spain should not necessarily be seen to reflect poorly on Spain's internal surveillance or movement control programs. In fact, Spain has actively prosecuted cases of illegal swine movement within the country and imposed stiff penalties as a deterrent to future illegal movement. To ensure compliance with EU standards, the European Commission (EC) approves and lists border inspection posts in the Annex of Commission Decision 2001/881/EC. Furthermore the EC regularly inspects (at least once every 3 years) the infrastructure, equipment, and working practices of the border inspection posts.

The same commenter also referred to Spain's requirement that new, large swine facilities be constructed at least 1 km from existing large swine facilities. It is noted by the commenter that the Ministerio de Agricultura, Pesca y Alimentacion, which is the Spanish equivalent of the U.S. Department of Agriculture, intends to extend the requirement to existing holdings as well, but that compliance with the present requirement is not discussed in the supplemental risk assessment. In the December 2000 risk assessment, APHIS had determined that CSF spread was more likely in regions with high swine density compared to regions with low swine density, so information on producers' compliance with the existing 1-km requirement could be helpful in evaluating the risks of CSF transmission to U.S. swine posed by imports from Spain. The commenter also noted that the 1-km requirement appears only to apply to "large" swine farms. APHIS's 2000 risk assessment did not differentiate specifically between the risk of CSF transmission associated with large farms and that associated with small farms but focused on the risk associated with overall swine density.

Our 2003 supplemental risk assessment evaluated Spain's ability to detect, control, and eradicate CSF under the regulations existing at the time. We judged Spain to be equivalent in these areas to the other EU Member States or regions covered under the December 2000 revised risk assessment. We view the 1-km distance requirement as a useful mitigation of the risks of CSF transmission posed by high swine

density. Requiring a distance of 1 km between holdings can help limit spread of the disease from an infected holding.

The commenter also expressed concern over our intention to use the comarca as the administrative unit for regionalization purposes. Spain is comprised of 17 autonomous regions, each with its own government. The autonomous regions are further divided into provinces, which are comprised of local administrative units called comarcas. The commenter noted that if swine in a comarca were found to be positive for CSF, a request could potentially be made to exclude simply that single comarca from the regions declared free of the disease.

In Spain, APHIS considers the smallest administrative jurisdiction that has effective oversight of normal animal movements into, out of, and within that jurisdiction, and that, in association with national authorities, if necessary, has the responsibility for controlling animal disease locally, to be a comarca. Our evaluation led us to conclude that the necessary veterinary structures exist at the comarca level to allow for the implementation of an effective CSF control plan.

The Government of Spain, while expressing its satisfaction with the findings of the supplemental risk assessment, requested the inclusion in the text of a more specific description of the term comarca in order to clarify that the term refers to those geographic divisions established for animal health purposes. It is our view, however, that the description of comarca contained in the supplemental risk assessment was consistent with our usual practice and was adequate for the purposes of that document.

As noted earlier, in our supplemental risk analysis of November 2003, we concluded that the risk of importation of CSF virus in swine and swine products from France and Spain was low, based on the demonstrated ability of these two Member States to effectively contain CSF outbreaks in domestic swine. In this final rule, therefore, we are recognizing the CSF status of France and Spain as equivalent to that of the other EU Member States or regions evaluated in the revised risk analysis of December 2000. Specifically, we are adding France and Spain to the lists of CSF-free regions in §§ 94.9 and 94.10. We are also incorporating France and Spain into the larger CSF-free EU region designated in § 94.23 as a region from which pork, pork products, and live breeding swine may be imported into the United States under certain conditions and in § 98.38 as a region from which swine semen may be

imported into the United States under certain conditions.

#### 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 recognizes France and Spain as regions in which CSF does not exist. Although restrictions on the importation of animals and animal products from France and Spain may continue because of our concerns about other diseases and about the movement of products within the EU prior to export to the United States, a number of restrictions due to CSF are no longer warranted for imports from these two Member States. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

#### 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.

This final rule recognizes France and Spain as free of CSF and allows the importation into the United States of pork, pork products, live breeding swine, and swine semen from France and Spain under certain conditions.

U.S. entities that may be affected by this final rule are swine and pork producers and pork product wholesalers. The Small Business Administration (SBA) defines small hog and pig farms as those earning not more than \$750,000 in annual receipts.<sup>2</sup> The National Agricultural Statistics Service, on the other hand, determines the size of hog farms based on hog inventories. Our analysis has determined that only those swine operations with inventories well in excess of 3,000 animals would likely earn more than \$750,000 in yearly sales.<sup>3</sup> Since over 95 percent of U.S. swine operations hold inventories of fewer than 2,000 head, it is clear that most U.S. swine and pork producers fit the SBA's definition of small entities.

Likewise, pork product wholesalers are also mainly small entities. The SBA

<sup>2</sup> North American Industrial Classification System (NAICS) 112210, Hog and pig farming.

<sup>3</sup> Assuming about a 6-month production cycle, one inventory unit would roughly represent two annual sale units. An average price of \$102 per head (230 pounds selling weight, at \$44.30 per cwt, the average of hog prices in 2001), implies a gross revenue of \$204 per head of inventory, yielding \$750,000/\$204 per head = 3,676 head.

categorizes such businesses as small entities if they do not have more than 100 employees.<sup>4</sup> We do not know the size distribution of meat wholesalers, but the 1997 Economic Census (the most recent available) indicates that the average number of employees per establishment that year was 14.<sup>5</sup>

If a country has had a history of prior exports of a commodity to the United States, we can turn to that record as an indicator of import levels that may result from reinstated access to U.S. markets. However, APHIS has never before recognized France or Spain as a region in which CSF is not known to exist. Imports of swine and swine products from these two EU Member States have, therefore, been rare.<sup>6</sup> In order to assess the possible economic impacts of this final rule, we must look to the swine and swine product exports of France and Spain to other countries during a recent year and compare those exports to U.S. production and import levels and patterns. All of the following data are for calendar year 2000, and are considered representative in terms of U.S. swine and swine product import patterns.

France and Spain have been able to carry on trade in swine and swine products with other countries, as well as the rest of the EU, even though they have not been recognized as CSF-free by APHIS. France and Spain exported 283,000 head and 1,359,000 head of live swine, respectively, to other EU members in 2000, but neither Member State exported any live swine outside the EU.<sup>7</sup> U.S. imports of live swine that year, which amounted to over 5.7 million head, all entered from Canada,<sup>8</sup> except for 602 head from Norway.

Regarding pork, France and Spain exported 366,000 metric tons (MTs) and

<sup>4</sup> NAICS 424420, Packaged frozen food merchant wholesalers, and NAICS 424470, Meat and meat product merchant wholesalers.

<sup>5</sup> As reported in the 1997 Economic Census of the U.S. Census Bureau, there were 3,557 meat and meat product wholesale establishments that had a total of 50,256 paid employees.

<sup>6</sup> According to U.S. Bureau of Census data, as reported by the World Trade Atlas, over the 10-year period 1994–2003, there were no imports of live swine or swine products from Spain into the United States. During this same period, live swine were imported from France in 2 of the 10 years: 72 head in 1994 (valued at \$118,000, 0.16 percent of U.S. swine imports), and 239 head in 1995 (\$378,000, 0.27 percent of imports). Very small amounts of pork were also imported from France in 2 of the 10 years: In 1995 (valued at \$161,786, 0.4 percent of U.S. pork imports) and in 1997 (\$21,678, a negligible share of imports).

<sup>7</sup> Live swine and pork export data for France and Spain are from FAS, GAIN Reports #FR0061 and #SP1035.

<sup>8</sup> U.S. live swine and pork import data are from U.S. Census Bureau, as reported by the World Trade Atlas.

345,000 MTs, respectively, to other EU members. France and Spain also exported 220,000 MTs and 19,000 MTs of pork, respectively, to countries outside the EU. It is reasonable to assume that a portion of these exports, in particular, of the exports to countries outside the EU, may be diverted to the United States upon publication of this rule. A principal deciding factor would be U.S. prices relative to those in other world markets. However, U.S. import patterns suggest that it is unlikely that any diversions will have a major effect on U.S. entities. Canada has been our major foreign supplier of pork, providing 85 percent of imports in 2000. Denmark, a distant second, supplied 13 percent that same year. Thus, all other countries exporting pork to the United States in 2000 supplied only 2 percent of U.S. imports.

Total commercial production of pork in the United States in 2000 was about 8.6 million MTs.<sup>9</sup> Total pork imports in 2000, which amounted to about 321,000 MTs, represented 3.7 percent of U.S. production. The 2 percent of pork imports not supplied by Canada or Denmark represented about 0.07 percent of U.S. production. Even if sizable shares of pork exports by France or Spain were to be sent to the United States as a result of this final rule, the impact for U.S. entities would be small.

It is unlikely that this rule will result in swine or swine product imports from France or Spain of any consequence, based on these representative statistics from 2000. We conclude that while the majority of U.S. enterprises that may be affected by swine and swine product imports from those two Member States are small entities, impacts will be minor.

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 final 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 98

Animal diseases, Imports.

■ Accordingly, we are amending 9 CFR parts 94 and 98 as follows:

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

■ 1. The authority citation for part 94 is revised to read as follows:

**Authority:** 7 U.S.C. 450, 7701–7772, 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 § 94.9, paragraph (a) is revised to read as follows:

#### **§ 94.9 Pork and pork products from regions where classical swine fever exists.**

(a) Classical swine fever is known to exist in all regions of the world except Australia; Canada; Denmark; England; Fiji; Finland; Iceland; Isle of Man; the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa; New Zealand; Northern Ireland; Norway; the Republic of Ireland; Scotland; Sweden; Trust Territory of the Pacific Islands; Wales; and a single region in the European Union consisting of Austria, Belgium, France, Germany (except for the Kreis Uckermark in the Land of Brandenburg; the Kreis Oldenburg, the Kreis Soltau-Fallingbostel, and the Kreis Vechta in the Land of Lower Saxony; the Kreis Heinsberg and the Kreis Warendorf in the Land of Northrhine-Westphalia; the Kreis Bernkastel-Wittlich, the Kreis Bitburg-Prüm, the Kreis Donnersbergkreis, the Kreis Rhein-Hunsrück, the Kreis Südliche Weinstrasse, and the Kreis Trier-Saarburg in the Land of Rhineland Palatinate; and the Kreis Altmarkkreis in the Land of Saxony-Anhalt), Greece, Italy (except for the Regions of Emilia-Romagna, Piemonte, and Sardegna), the Netherlands, Portugal, and Spain.<sup>10</sup>

\* \* \* \* \*

■ 3. In § 94.10, paragraph (a) is revised to read as follows:

#### **§ 94.10 Swine from regions where classical swine fever exists.**

(a) Classical swine fever is known to exist in all regions of the world except Australia; Canada; Denmark; England; Fiji; Finland; Iceland; Isle of Man; the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa; New Zealand; Northern Ireland; Norway; the Republic of Ireland; Scotland; Sweden; Trust Territory of the Pacific Islands; Wales; and a single region in the European Union consisting of Austria, Belgium, France, Germany (except for the Kreis Uckermark in the Land of Brandenburg; the Kreis Oldenburg, the Kreis Soltau-Fallingbostel, and the Kreis Vechta in the Land of Lower Saxony; the Kreis Heinsberg and the Kreis Warendorf in the Land of Northrhine-Westphalia; the Kreis Bernkastel-Wittlich, the Kreis Bitburg-Prüm, the Kreis Donnersbergkreis, the Kreis Rhein-Hunsrück, the Kreis Südliche Weinstrasse, and the Kreis Trier-Saarburg in the Land of Rhineland Palatinate; and the Kreis Altmarkkreis in the Land of Saxony-Anhalt), Greece, Italy (except for the Regions of Emilia-Romagna, Piemonte, and Sardegna), the Netherlands, Portugal, and Spain. No swine that are moved from or transit any region where classical swine fever is known to exist may be imported into the United States, except for wild swine imported into the United States in accordance with paragraph (b) of this section.

\* \* \* \* \*

#### **§ 94.23 [Amended]**

■ 4. In § 94.23, the introductory text is amended by adding the word “France,” after the word “Belgium,” and by removing the words “and Portugal” and adding the words “Portugal, and Spain” in their place.

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

■ 5. 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.

#### **§ 98.38 [Amended]**

■ 6. In § 98.38, the introductory text is amended by adding the word “France,” after the word “Belgium,” and by removing the words “and Portugal” and

title for other prohibitions and restrictions upon importation of swine and swine products.

<sup>9</sup> Agricultural Statistics 2003, Table 7–66, converted from million pounds.

<sup>10</sup> See also other provisions of this part and parts 93, 95, and 96 of this chapter and part 327 of this

adding the words "Portugal, and Spain" in their place.

Done in Washington, DC, this 14th day of April, 2004 .

**Kevin Shea,**

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

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 320 and 381

[Docket No. 01-034E]

#### Need To Complete New Registration Form

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Extension of date by which businesses required to register with FSIS must do so.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing that all parties required to register with the Agency, including those that are currently registered, have until May 24, 2004, to file the new registration form that the Agency has developed. On June 25, 2003, FSIS announced that it had developed the new registration form, and that all businesses required to register with FSIS were to submit the form by March 22, 2004. FSIS is extending the deadline for submitting the new registration form because it was not available at the time FSIS projected that it would be available. This document addresses issues that have arisen concerning the registration requirement.

**DATES:** All parties required to register with FSIS, including those currently registered, must complete the new registration form and submit it to FSIS by May 24, 2004.

**ADDRESSES:** The new registration form (FSIS Form 5020-1) is available over the Internet at <http://www.fsis.usda.gov/fsisforms>. To obtain a copy of the registration form, parties may also write to USDA, FSIS, Program Evaluation, Enforcement and Review (PEER), Evaluation and Enforcement Division (EED), 300 West End Court Building, 1255 22nd Street, NW., Room 300, Washington, DC 20250-3700.

**FOR FURTHER INFORMATION CONTACT:** Dr. Arshad Hussain, Division Director, Data Analysis and Statistical Support Staff, Food Safety and Inspection Service, U.S. Department of Agriculture (202) 720-3219.

**SUPPLEMENTARY INFORMATION:** On June 25, 2003, FSIS published a document that announced the need for certain businesses to complete a new registration form that the Agency had developed, and that explained the importance of compliance with recordkeeping and registration requirements in the Federal meat and poultry products inspection regulations (68 FR 37730).

As explained in that document, the Federal Meat Inspection Act (FMIA) and Poultry Products Inspection Act (PPIA) prohibit any person, firm, or corporation from engaging in commerce as a meat or poultry products broker, renderer, animal food manufacturer, wholesaler of any carcasses, or parts or products of the carcasses of livestock (that is, cattle, sheep, swine, goats, horses, mules, or other equines) or poultry, or public warehouseman storing any such articles in or for commerce, or from buying, selling, or transporting, or importing any dead, dying, disabled or diseased livestock or poultry or parts of the carcasses of livestock or poultry that died otherwise than by slaughter, unless they have registered their business as required by the regulations, 9 CFR 320.5 and 381.179 (see section 203 of the FMIA (21 U.S.C. 643) and section 11(c) of the PPIA (21 U.S.C. 460(c)). Sections 320.5(c) and 381.179(c) of 9 CFR provide that the registration requirements do not apply to persons that conduct any of the businesses listed above only at an official establishment. Therefore, official establishments are not required to register with FSIS.

Following publication of the June 25, 2003, document, a retail association contacted FSIS and asked whether retailers are required to register with FSIS, and whether warehouses and distribution centers owned by retail stores are required to register with FSIS. The Agency advises that retail stores that sell meat or poultry products to household consumers only are not required to register with FSIS. However, if they sell meat or poultry products to hotels, restaurants, institutions, or other retailers, they are wholesalers of such products and thus are subject to the registration requirement.

With regard to warehouses and to distribution centers that store product and thus function as warehouses, the statutes and regulations require that public warehouses register with FSIS but do not require that private warehouses register. Whether a warehouse is considered public or private turns on several factors. If a warehouse is owned by a retail store and stores only meat and poultry products that are the property of that

retail store, the warehouse is a private warehouse and is not required to register with FSIS. However, if the warehouse stores any meat or poultry products that are not owned by the retail store that owns the warehouse, that warehouse would be considered a public warehouse and would be required to register with FSIS. For example, if a retail store has consigned meat or poultry products to a hotel, restaurant, institution, or other retailer, and the product is stored in the warehouse owned by the retail store, the warehouse is functioning as a public warehouse, because the retail store no longer owns the products, and would be required to register.

As explained in the June 25, 2003, document, registration information, along with business records, is critical in any FSIS investigation related to public health, food safety, or misbranding of meat or poultry products (68 FR 37730). Registration information and business records are crucial in tracing sources of foodborne disease associated with consumption of meat or poultry products and in tracing the sources of contamination of meat or poultry products. Registration information and business records are also crucial in preventing the spread of disease associated with the consumption of meat or poultry products.

According to §§ 320.5(a) and 381.179(a) of the regulations, parties required to register with FSIS must do so by filing a form with the Agency. These regulations require parties to register within 90 days after they begin to engage in any of the businesses that require them to register. Sections 320.5(b) and 381.179(b) of the regulations require that, whenever any change is made in the registrant's name, business address, or any trade or business name under which it conducts its business, the registrant must report such change in writing to the Administrator within 15 days after making the change.

As explained in the June 25, 2003, document, FSIS has developed a new registration form. Because the form asks for certain information that was not included on the previous form, including an e-mail address, phone number, and subsidiaries' hours of operation, all parties required to register, including those that are currently registered, need to complete the new form and submit it to FSIS. Parties must submit the form to FSIS by May 24, 2004.

FSIS previously announced that parties were required to submit the form by March 22, 2004. FSIS is extending