

(OMB) under OMB control number 0579-0284.

### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we are amending 7 CFR part 319 as follows:

### PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 319.41-1, a new paragraph (d) is added to read as follows:

#### § 319.41-1 Plant products permitted entry.<sup>1</sup>

\* \* \* \* \*

(d) Immature, dehusked "baby" sweet corn may be imported from Zambia in accordance with § 319.56-2f(a).

■ 3. A new § 319.56-2f is added to read as follows:

#### § 319.56-2f Conditions governing the entry of baby corn and baby carrots from Zambia.

(a) Immature, dehusked "baby" sweet corn (*Zea mays* L.) measuring 10 to 25 millimeters (0.39 to 0.98 inches) in diameter and 60 to 105 millimeters (2.36 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions:

(1) The production site, which is a field, where the corn has been grown must have been inspected at least once during the growing season and before harvest for the following pest: *Phomopsis jaczewskii*.

(2) After harvest, the corn must be inspected by Zambia's national plant protection organization (NPPO) and found free of the pests listed in paragraph (a)(1) of this section before the corn may be shipped to the continental United States.

(3) The corn must be inspected at the port of first arrival as provided in § 319.56-6.

(4) Each shipment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the corn has been inspected and found free of *Phomopsis jaczewskii* based on field and packinghouse inspections.

(5) The corn may be imported in commercial shipments only.

(b) Immature "baby" carrots (*Daucus carota* L. ssp. *sativus*) for consumption measuring 10 to 18 millimeters (0.39 to 0.71 inches) in diameter and 50 to 105 millimeters (1.97 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions:

(1) The production site, which is a field, where the carrots have been grown must have been inspected at least once during the growing season and before harvest for the following pest: *Meloidogyne ethiopica*.

(2) After harvest, the carrots must be inspected by the NPPO of Zambia and found free of the pests listed in paragraph (b)(1) of this section before the carrots may be shipped to the continental United States.

(3) The carrots must be inspected at the port of first arrival as provided in § 319.56-6.

(4) Each shipment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the carrots have been inspected and found free of *Meloidogyne ethiopica* based on field and packinghouse inspections.

(5) The carrots must be free from leaves and soil.

(6) The carrots may be imported in commercial shipments only.

(Approved by the Office of Management and Budget under control number 0579-0284)

Done in Washington, DC, this 19th day of May 2006.

**W. Ron DeHaven,**

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 06-4813 Filed 5-23-06; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 00-022-2]

#### Standards for Privately Owned Quarantine Facilities for Ruminants

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations for the importation of ruminants into the United States to establish standards for privately owned quarantine facilities. The regulations have authorized the establishment of privately operated quarantine facilities for ruminants, which are subject to approval and oversight by the Animal and Plant Health Inspection Service, but have not provided specific standards for the approval, operation, and oversight of such facilities, with the exception of privately operated quarantine facilities for sheep or goats. Based on recent interest in establishing such facilities for cattle, we are adding standards for privately owned quarantine facilities covering all ruminants to ensure that any facilities that may be approved for this purpose operate in a manner that protects the health of the U.S. livestock population.

**DATES:** *Effective Date:* June 23, 2006.

**FOR FURTHER INFORMATION CONTACT:** Dr. Arnaldo Vaquer, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, USDA, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-3277.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 93 govern the importation into the United States of specified animals and animal products in order to help prevent the introduction of various animal diseases into the United States. The regulations in part 93 require, among other things, that certain animals, as a condition of entry, be quarantined upon arrival in the United States. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture operates animal quarantine facilities. We also authorize the use of quarantine facilities that are privately owned and operated for certain animal importations.

The regulations at subpart D of part 93 (9 CFR 93.400 through 93.435, and referred to below as the regulations)

<sup>1</sup> Except as provided in § 319.41-6 the regulations in this subpart do not authorize importations through the mails.

pertain to the importation of ruminants. Ruminants include all animals that chew the cud, such as cattle, buffaloes, sheep, goats, deer, antelopes, camels, llamas, and giraffes. Section 93.411 requires that ruminants imported into the United States be quarantined upon arrival for at least 30 days, with certain exceptions. Ruminants from Canada and Mexico are not subject to this quarantine requirement.

On August 28, 2003, we published a proposed rule in the **Federal Register** (68 FR 51716–51734, Docket No. 00–022–1) to amend the regulations for the importation of ruminants into the United States to establish standards for privately owned quarantine facilities. The proposed rule described specific standards for the approval, operation, and oversight of such facilities.

We solicited comments concerning our proposal for 60 days ending October 27, 2003. We received two comments by that date, from the Australian Department of Agriculture, Fisheries and Forestry and a private cattle feeding company. These comments are discussed below.

Both comments objected to the proposed requirement that ruminants destined for a facility more than 1 mile from the port of entry be held temporarily in a facility located near the port until they are inspected. As proposed, this facility would have been a permanent structure. One commenter stated that this practice would prove costly and burdensome to importers and stressful to the animals. The commenter suggested that an inspection be conducted on board the ship. The other commenter stated that land prices and availability within 1 mile of a major port of entry would make building temporary or destination quarantine facilities there prohibitive.

We agree that building permanent structures that would serve as temporary inspection facilities within 1 mile of the port of entry may prove prohibitive for importers. Therefore, our final rule will allow the inspection facilities to be temporary structures that may be assembled and disassembled as needed. Specifically, we have changed our proposed definition of *temporary inspection facilities* in § 93.400 and have removed requirements in proposed § 93.412(d)(3)(i)(C)(4) that would be unnecessary for temporary port-side structures. These include requirements for submitting blueprints of the inspection facility, a description of the financial resources available for the facility's construction, and copies of State and local permits for construction and operation of the facilities. We will require that exporters submit a plan for

APHIS approval that includes the port of entry, a description of the type of temporary facility that they wish to use at the port of entry to sort and load ruminants, and the source(s) of materials for the facilities.

One commenter disagreed with the proposed requirement that the owner of the quarantine facility pay all expenses for services provided by APHIS and place on deposit enough money to cover estimated costs for the duration of the quarantine.

We believe it is appropriate to charge those who benefit directly from APHIS' services for the costs of our providing those services. The requirement that privately owned quarantine facilities deposit, in advance, the amount needed to cover all expenses for the duration of the quarantine is a precautionary measure designed to ensure animals receive the appropriate care and do not present a disease risk in case the company is later unable to pay for these expenses.

One commenter asked which types of facility, minimum or medium security, Australian feeder cattle would be quarantined in.

The determination regarding which type of facility may be used will depend on a country of origin's animal health status at the time of exportation. Based on Australia's current animal health status, Australian feeder cattle would be quarantined in minimum security facilities.

One commenter noted that our proposal provided that ruminants to be quarantined come into the United States only at a port of which appropriate Federal personnel are available to provide the necessary services and stated that the port of entry needs to be as close as possible to the quarantine facility. The commenter appears to suggest that the location of privately owned quarantine facilities be considered in decisions regarding staffing at ports.

Few cattle are being shipped to the United States at this time that require quarantine. If this number increases, we will respond appropriately so that staff at the maritime ports at which the cattle would arrive will be able to continue providing necessary services.

In addition to the issues discussed above, the commenters raised issues that were outside the scope of this rulemaking. These issues pertain to the post-arrival quarantine of ruminants, which was not addressed in the proposed rule.

Specifically, the commenters argued that our mandatory 30-day post-arrival quarantine, which would follow a 60-day pre-export quarantine period under

the current regulations in addition to transit time, was too lengthy. One of these commenters stated that Australian feeder cattle that may be imported into the United States should not be required to undergo the 30-day post-arrival quarantine.

These issues are outside the scope of this rulemaking. Our proposed rule addressed only standards for privately owned quarantine facilities for ruminants and did not propose any changes to existing quarantine requirements for imported ruminants.

#### Miscellaneous Changes

In addition to the changes noted previously, we are also making several nonsubstantive changes to this rule. After the proposed rule was published, the Office of International Epizootics (OIE) changed its name to the World Organization for Animal Health (OIE). We have changed all references to the Office of International Epizootics in the rule portion of this document to reflect this change. In addition, OIE has changed its disease classifications from List A and B to listed diseases. We have changed all references to "OIE List A diseases" to "OIE listed diseases."

In several locations, our proposal listed "Unit 38" in the address for the National Center for Import and Export, but the correct unit number is 39. We have replaced all occurrences of "Unit 38" with "Unit 39."

In proposed § 93.412(d)(3)(v)(B)(2) we stated that quarantine facilities would have to be equipped with an alarm system approved by Underwriter's Laboratories. In this final rule, we have removed the statement requiring Underwriter's Laboratories approval because we believe it is unnecessary. It is APHIS' position that very few, if any, alarm systems will be available on the market without Underwriter's Laboratories approval.

As proposed, § 93.412 (d)(4) contained some errors that we are correcting in this final rule. Specifically, paragraphs (d)(4)(iii)(B) and (d)(4)(iv)(A)(4) of this final rule prohibit contact with any susceptible animals outside the facility for 5 days rather than 7 days. Also, proposed § 93.412 (d)(4)(iv)(F)(1)(i) stated that all persons granted access to a medium security facility quarantine area would have to shower when entering and leaving the quarantine area. It is not customary to require individuals to shower when entering quarantine facilities, only when leaving them. Therefore, we have changed this provision in our final rule by removing the showering when entering requirement. In addition, proposed § 93.412 (d)(4)(iv)(F)(2) stated

that quarantine facility operators would be required to provide clothing and footwear to ensure that workers and others provided access to the quarantine area have clean, protective clothing and footwear after showering. Since showering will not be required prior to entering the quarantine area, § 93.412 (d)(4)(iv)(F)(2) of this final rule states that quarantine facility operators must ensure that workers and others provided access to the quarantine area have clean, protective clothing and footwear before entering the facility. Finally, we have corrected the address of where individuals can obtain a list of approved vaccines for ruminants in quarantine. That address is in § 93.412(d)(4)(v)(D), footnote 8.

In our proposed rule, we proposed to add a definition of *area veterinarian in charge*. Following the publication of our proposed rule, we published in the **Federal Register** (70 FR 71213–71218, Docket No. 03–080–8) an interim rule in which we added a definition for *area veterinarian in charge*. Therefore, in this final rule we are not adding the term *area veterinarian in charge* to the definitions section.

Our proposal included existing provisions which allowed APHIS to seize and sell ruminants from quarantine facilities under circumstances in which APHIS was not fully compensated for its services. We believe this requirement is no longer necessary due to the provisions of the compliance agreement in § 93.412 (d)(2). These provisions include, among other things, that prior to entering into a compliance agreement, an operator must obtain insurance or a surety bond approved by APHIS that financially guarantees the operator's ability to cover all costs and other financial liabilities and obligations of the facility, including a worst case scenario in which all quarantined ruminants must be destroyed and disposed of because of an animal health emergency, as determined by the Administrator. We believe that these provisions will preclude any circumstances under which APHIS would have to seize and sell animals for failure to pay. Therefore, in § 93.412 (a) of this final rule, we have removed language regarding seizing and selling animals and instead, point to the provisions of our compliance agreement in paragraph (d)(2).

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 for the importation of ruminants appear at 9 CFR part 93, subpart D, §§ 93.400 through 93.435. Section 93.411 requires that ruminants arriving in the United States, with certain exceptions, be quarantined upon arrival for at least 30 days. Ruminants from Canada and Mexico are generally not subject to this quarantine requirement.

Section 93.412, paragraph (a), authorizes the establishment of privately operated quarantine facilities for ruminants, subject to APHIS approval and oversight. Section 93.434 contains standards for the approval, operation, and oversight of privately operated quarantine facilities for sheep or goats. After these standards were first established in 1988, privately operated quarantine facilities were briefly used for the importation of sheep and goats into the United States. However, there are currently no approved private quarantine facilities for sheep or goats, or for other ruminants. Therefore, imported ruminants subject to quarantine must enter the United States through facilities maintained by APHIS.

We have received requests to import cattle into the United States through quarantine facilities that are privately owned and operated.

Given the current interest in establishing privately owned quarantine facilities for cattle, we are amending our regulations and publishing standards for approval and oversight of such facilities. The standards are consistent with the standards followed at APHIS quarantine facilities to ensure that the health of the U.S. livestock population is not jeopardized by the release of unhealthy animals or communicable disease agents from quarantine facilities.

These standards apply not only to privately owned facilities intended for imported cattle, but for privately owned and operated facilities that wish to handle other imported ruminants, including sheep and goats. Therefore, we are removing from our regulations the existing standards for the approval of privately operated quarantine facilities for sheep or goats.

Over the 14-year period 1991–2004, U.S. bovine imports averaged more than 2.1 million head per year, with an annual average nominal value of \$1.1 billion. In comparison, the U.S. cattle

inventory has averaged about 99 million head over this period. According to the 2002 Census of Agriculture, the value of U.S. cattle and calf sales in that year was approximately \$45 billion, based on the sale of 74 million head. Thus, bovine imports represent about 2 percent of the U.S. cattle and calf population, and less than 3 percent, by value, of domestic sales.

Nearly all bovines imported by the United States come from Canada and Mexico. Prior to the discovery of bovine spongiform encephalopathy (BSE) in Canada in May 2003, Canada was the main foreign supplier. Currently, Mexico is the primary source of imports. In 2002, Canada exported nearly 1.7 million bovine and Mexico exported more than 800,000 bovine into the United States. Following the Canadian BSE discovery in May 2003, bovine imports from Canada were restricted for a little over 2 years, until July 2005. Imports from Mexico averaged 1.3 million head per year in 2003 and 2004.

During the 14-year period 1991–2004, bovine imports from countries other than Canada and Mexico averaged only 87 head per year. In 2002, the only other sources of bovine imports were Australia (4 head) and Guatemala (1 head). In 2003, the only bovine imports other than those supplied by Canada and Mexico were 12 head imported from New Zealand. In 2004, all of the bovines imported by the United States came from Mexico (1.37 million head) and Canada (135 head).

Based on the historic record, the number of cattle imported into the United States that would be affected by this rule would likely be small, given that ruminants from Canada and Mexico have generally not been subject to quarantine as a condition of entry into the United States. However, bovine imports from countries other than Canada and Mexico may become more substantial, depending on the number and type of facilities (medium or minimum security facility) that are approved for operation.

From 1991–2002, U.S. sheep imports averaged 51,268 head annually, showing an increase from about 23,000 head in 1991 to about 139,000 head in 2002. Canada dominated this market as well, prior to the 2003 BSE discovery, supplying more than 99 percent of U.S. sheep imports. Numbers of sheep imported from all other countries have been very small (12 head from Australia in 2003, 20 head from Mexico in 2004). The annual average nominal value of sheep imports in the 1991–2002 period was approximately \$54 million. After BSE was discovered in Canada in May 2003, we began prohibiting imports of

live ruminants from Canada. Therefore, in 2003, the value of sheep imports fell to \$7.1 million and in 2004, it totaled only \$16,000 due to BSE import restrictions on Canada.

U.S. imports of goats in 1994 (28,912 head) greatly exceeded the number imported in all other years of the period from 1991–2002. When this year is excluded, annual import levels over the period averaged 2,244 head, with more than 80 percent supplied by Canada. The annual average nominal value of goat imports from 1991–2002 (excluding 1994 imports) was about \$400,000 (\$178 per head). There were 11,874 goats imported by the United States in 2002, of which 9,948 head (84 percent) were supplied by Canada. In 2003, 5,967 and 1,486 goats were imported from Canada and Australia, respectively, valued at about \$600,000. In 2004, only 147 goats valued at \$14,000 were imported, all from Australia.

APHIS and other Federal agencies are required to evaluate whether proposed regulations are likely to have a significant economic impact on a substantial number of small entities. Privately owned and operated quarantine facilities have been used from time to time for the importation of sheep and goats into the United States. However, no such approved facilities are currently in operation. Therefore, the standards contained in this rule will not adversely affect any such entities, large or small. However, should one or more privately owned quarantine facility be approved for operation, importers should benefit by having additional options for the placement of ruminants to be imported into the United States. And, particularly in the case of minimum security facilities, importers may have the opportunity to import ruminants from certain regions in larger lot sizes as compared to the current situation of having the animals placed in an APHIS indoor quarantine facility.

APHIS does not expect this rule to have a major effect on the number of cattle, sheep, and goats imported by the United States, given the historically small import percentages supplied by countries other than Canada (prior to May 2003) and Mexico. Moreover, the total import levels, themselves, are small in comparison to U.S. production levels.

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.

#### National Environmental Policy Act

An environmental assessment has not been prepared for this final rule. Because the environmental impacts that will result from this action would vary according to the location and design of the facility being approved, APHIS has determined site-specific environmental assessments must be conducted for each privately owned quarantine facility for ruminants prior to approval of the facility. APHIS will publish a notice in the **Federal Register** for each environmental assessment we conduct in this regard and we will invite public comment on each site-specific environmental assessment.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0232.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

#### 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.

■ 2–3. Section 93.400 is amended by revising the footnotes to the definitions of *immediate slaughter* and *recognized slaughtering establishment* and by adding, in alphabetical order, new definitions for *Federal veterinarian*, *lot*, *lot-holding area*, *nonquarantine area*, *operator*, *privately owned medium security quarantine facility* (*medium security facility*), *privately owned minimum security quarantine facility* (*minimum security facility*), *quarantine area*, *State veterinarian*, *temporary inspection facility*, *World Organization for Animal Health (OIE)* to read as follows:

#### § 93.400 Definitions.

\* \* \* \* \*

*Federal veterinarian.* A veterinarian employed and authorized by the Federal Government to perform the tasks required by this subpart.

\* \* \* \* \*

*Immediate slaughter.* Consignment directly from the port of entry to a recognized slaughtering establishment<sup>1</sup> and slaughtered within 2 weeks from the date of entry.

\* \* \* \* \*

*Lot.* A group of ruminants that, while held on a conveyance or premises, has opportunity for physical contact with each other or with each other's excrement or discharges at any time between arrival at the quarantine facility and 60 days prior to export to the United States.

*Lot-holding area.* That area in a privately owned medium or minimum security quarantine facility in which a single lot of ruminants is held at one time.

\* \* \* \* \*

*Nonquarantine area.* That area of a privately owned medium or minimum security quarantine facility that includes

<sup>1</sup> The name of recognized slaughtering establishments approved under this part may be obtained from the area veterinarian in charge for the State of destination of the shipment. The name and address of the area veterinarian in charge in any State is available from the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import and Export, 4700 River Road Unit 39, Riverdale, MD 20737–1231.

offices, storage areas, and other areas outside the quarantine area, and that is off limits to ruminants, samples taken from ruminants, and any other objects or substances that have been in the quarantine area during the quarantine of ruminants.

\* \* \* \* \*

*Operator.* A person other than the Federal Government who owns or operates, subject to APHIS' approval and oversight, a privately owned medium or minimum security quarantine facility.

\* \* \* \* \*

*Privately owned medium security quarantine facility (medium security facility).* A facility that:

- (1) Is owned, operated, and financed by a person other than the Federal Government;
- (2) Is subject to the strict oversight of APHIS representatives;
- (3) Is constructed, operated, and maintained in accordance with the requirements for medium security facilities in § 93.412(d); and
- (4) Provides the necessary level of quarantine services for the holding of ruminants in an indoor, vector-proof environment prior to the animals' entry into the United States. Quarantine services would have to include testing or observation for any OIE listed diseases and other livestock diseases exotic to the United States, as well as any other diseases, as necessary, to be determined by the Administrator.

*Privately owned minimum security quarantine facility (minimum security facility).* A facility that:

- (1) Is owned, operated, and financed by a person other than the Federal Government;
- (2) Is subject to the strict oversight of APHIS representatives;
- (3) Is constructed, operated, and maintained in accordance with the requirements for minimum security facilities in § 93.412(d);
- (4) Is used for the quarantine of ruminants that pose no significant risk, as determined by the Administrator, of introducing or transmitting to the U.S. livestock population any livestock disease that is biologically transmissible by vectors; and
- (5) Provides the necessary level of quarantine services for the outdoor holding of ruminants, prior to the animals' entry into the United States. Quarantine services would have to include testing or observation for any OIE listed diseases and other livestock diseases exotic to the United States, as well as any other diseases, as necessary, to be determined by the Administrator.

*Quarantine area.* That area of a privately owned medium or minimum

security quarantine facility that comprises all of the lot-holding areas in the facility and any other areas in the facility that ruminants have access to, including loading docks for receiving and releasing ruminants, and any areas used to conduct examinations of ruminants and take samples and any areas where samples are processed or examined.

*Recognized slaughtering establishment.*<sup>2</sup> \* \* \*

\* \* \* \* \*

*State veterinarian.* A veterinarian employed and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

\* \* \* \* \*

*Temporary inspection facility.* A temporary facility that is constructed of metal panels that can be erected and broken down alongside the transportation vessel carrying ruminants that are imported into the United States in accordance with § 93.408 of this subpart and that will be quarantined at a minimum or medium security quarantine facilities located more than 1 mile from the port of entry.

\* \* \* \* \*

*World Organization for Animal Health (OIE).* The international organization recognized by the World Trade Organization for setting animal health standards, reporting global animal situations and disease status, and presenting guidelines and recommendations on sanitary measures related to animal health.

\* \* \* \* \*

■ 4. In § 93.403, paragraph (g) is revised to read as follows:

**§ 93.403 Ports designated for the importation of ruminants.**

\* \* \* \* \*

(g) *Ports and privately owned quarantine facilities.* Ruminants may be imported into the United States at any port specified in paragraph (a) of this section, or at any other port designated as an international port or airport by the Bureau of Customs and Border Protection, and quarantined at an APHIS-approved privately owned quarantine facility, provided the applicable provisions of §§ 93.401, 93.404(a), 93.407, 93.408, and 93.412 are met.

**§ 93.404 [Amended]**

■ 5. In § 93.404, paragraph (a)(1) is amended by adding the words "the name and address of the quarantine facility, if the ruminants are to be

quarantined at a privately owned quarantine facility;" after the words "and the port of entry in the United States;"

■ 6. In § 93.412, paragraphs (a) and (c) are revised and a new paragraph (d) and OMB citation at the end of the section are added to read as follows:

**§ 93.412 Ruminant quarantine facilities.**

(a) *Privately owned quarantine facilities.* The operator of a privately owned medium or minimum security quarantine facility subject to the regulations in this subpart shall arrange for acceptable transportation from the port to the privately owned quarantine facility and for the care, feeding, and handling of the ruminants from the time of unloading at the port to the time of release from the quarantine facility. Such arrangements shall be agreed to in advance by the Administrator. All expenses related to these activities shall be the responsibility of the operator. The privately owned quarantine facility must be suitable for the quarantine of the ruminants and must be approved by the Administrator prior to the issuance of any import permit. The facilities occupied by the ruminants should be kept clean and sanitary to the satisfaction of the APHIS representatives. If for any cause, the care, feeding, or handling of ruminants, or the sanitation of the facilities is neglected, in the opinion of the overseeing APHIS representative, such services may be furnished by APHIS in the same manner as though arrangements had been made for such services as provided by paragraph (b) of this section. The operator must request in writing inspection and other services as may be required, and shall waive all claims against the United States and APHIS or any employee of APHIS for damages which may arise from such services. The Administrator may prescribe reasonable rates for the services provided under this paragraph. When APHIS finds it necessary to extend the usual minimum quarantine period, APHIS shall advise the operator in writing, and the operator must pay for such additional quarantine and other services required. The operator must pay for all services received in connection with each separate lot of ruminants as specified in the compliance agreement required under paragraph (d)(2) of this section.

\* \* \* \* \*

(c) APHIS collection of payments from the importer, or his or her agent, or the operator, for service rendered shall be deposited so as to be available

<sup>2</sup> See footnote 1.

for defraying the expenses involved in this service.

(d) *Standards for privately owned quarantine facilities for ruminants.*

(1) *APHIS approval of facilities.*

(i) *Approval procedures.* Persons seeking APHIS approval of a privately owned medium or minimum security quarantine facility for ruminants must make written application to the Administrator, c/o National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231. The application must include the full name and mailing address of the applicant; the location and street address of the facility for which approval is sought; blueprints of the facility; a description of the financial resources available for construction, operation and maintenance of the facility; copies of all approved State permits for construction and operation of the facility (but not local building permits), as well as copies of all approved Federal, State, and local environmental permits; the anticipated source(s) or origin(s) of ruminants to be quarantined, as well as the expected size and frequency of shipments, and a contingency plan for the possible destruction and disposal of all ruminants capable of being held in the facility.

(A) If APHIS determines that an application is complete and merits further consideration, the person applying for facility approval must agree to pay the costs of all APHIS services associated with APHIS' evaluation of the application and facility. APHIS charges for evaluation services at hourly rates are listed in § 130.30 of this chapter. If the facility is approved by APHIS, the operator must enter into a compliance agreement in accordance with paragraph (d)(2) of this section.

(B) Requests for approval must be submitted at least 120 days prior to the date of application for local building permits. Requests for approval will be evaluated on a first-come, first-served basis.

(ii) *Criteria for approval.* Before a facility may be built to operate as a privately owned medium or minimum security quarantine facility for ruminants, it must be approved by APHIS. To be approved:

(A) APHIS must find, based on an environmental assessment, and based on any required Federal, State, and local environmental permits or evaluations secured by the operator and copies of which are provided to APHIS, that the operation of the facility will not have significant environmental effects;

(B) The facility must meet all the requirements of paragraph (d) of this section;

(C) The facility must meet any additional requirements that may be imposed by the Administrator in each specific case, as specified in the compliance agreement required under paragraph (d)(2) of this section, to ensure that the quarantine of ruminants in the facility will be adequate to enable determination of their health status, as well as to prevent the transmission of livestock diseases into, within, and from the facility; and

(D) The Administrator must determine whether sufficient personnel, including one or more APHIS veterinarians and other professional, technical, and support personnel, are available to serve as APHIS representatives at the facility and provide continuous oversight and other technical services to ensure the biological security of the facility, if approved. APHIS will assign personnel to facilities requesting approval in the order that the facilities meet all of the criteria for approval. The Administrator has sole discretion on the number of APHIS personnel to be assigned to the facility.

(iii) *Maintaining approval.* To maintain APHIS approval, the operator must continue to comply with all the requirements of paragraph (d) of this section as well as the terms of the compliance agreement executed in accordance with paragraph (d)(2) of this section.

(iv) *Withdrawal or denial of approval.* Approval of a proposed privately owned medium or minimum security quarantine facility may be denied or approval of a facility already in operation may be withdrawn at any time by the Administrator for any of the reasons provided in paragraph (d)(1)(iv)(C) of this section.

(A) Before facility approval is denied or withdrawn, APHIS will inform the operator of the proposed or existing facility and include the reasons for the proposed action. If there is a conflict as to any material fact, APHIS will afford the operator, upon request, the opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice that APHIS adopts for the proceeding.

(B) Withdrawal of approval of an existing facility will become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal will be effective upon oral or written notification, whichever is earlier, to the

operator of the facility. In the event of oral notification, APHIS will give written confirmation to the operator of the facility as promptly as circumstances allow. This withdrawal will continue in effect pending the completion of the proceeding and any judicial review, unless otherwise ordered by the Administrator. In addition to withdrawal of approval for the reasons provided in paragraph (d)(1)(iv)(C) of this section, the Administrator will also automatically withdraw approval when the operator of any approved facility notifies the area veterinarian in charge for the State in which the facility is located, in writing, that the facility is no longer in operation.<sup>7</sup>

(C) The Administrator may deny or withdraw the approval of a privately owned medium or minimum security quarantine facility if:

(1) Any requirement of paragraph (d) of this section or the compliance agreement is not met; or

(2) The facility has not been in use to quarantine ruminants for a period of at least 1 year; or

(3) The operator fails to remit any charges for APHIS services rendered; or

(4) The operator or a person responsibly connected with the business of the facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal; or

(5) The operator or a person responsibly connected with the business of the facility is or has been convicted of a crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of animals; or

(6) Any other requirement under the Animal Health Protection Act (7 U.S.C. 8301-8317) or the regulations thereunder are not met.

(D) For the purposes of paragraph (d)(1)(iv) of this section, a person is deemed to be responsibly connected with the business of the facility if such person has an ownership, mortgage, or lease interest in the facility, or if such person is a partner, officer, director, holder, or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity.

(2) *Compliance agreement.* (i) A privately owned medium or minimum security quarantine facility must operate in accordance with a compliance

<sup>7</sup> The name and address of the area veterinarian in charge in any State is available from the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import and Export, 4700 River road Unit 39, Riverdale, MD 20737-1231.

agreement executed by the operator or other designated representative of the facility and by the Administrator. The compliance agreement must be signed by both parties before a facility may commence operations. The compliance agreement must provide that:

(A) The facility must meet all applicable requirements of paragraph (d) of this section;

(B) The facility's quarantine operations are subject to the strict oversight of APHIS representatives;

(C) The operator agrees to be responsible for the cost of building the facility; all costs associated with its maintenance and operation; all costs associated with the hiring of personnel to attend to the ruminants, as well as to maintain and operate the facility; all costs associated with the care of quarantined ruminants, such as feed, bedding, medicines, inspections, testing, laboratory procedures, and necropsy examinations; all costs associated with the death or destruction and disposition of quarantined ruminants; and all APHIS charges for the services of APHIS representatives in accordance with this section and part 130 of this chapter;

(D) The operator obtained, prior to execution of this agreement, a financial instrument (insurance or surety bond) approved by APHIS that financially guarantees the operator's ability to cover all costs and other financial liabilities and obligations of the facility, including a worst case scenario in which all quarantined ruminants must be destroyed and disposed of because of an animal health emergency, as determined by the Administrator.

(E) The operator will deposit with the Administrator, prior to commencing quarantine operations, a certified check or U.S. money order to cover the estimated costs, as determined by the Administrator, of professional, technical, and support services to be provided by APHIS at the facility over the duration of the quarantine. If actual costs incurred by APHIS over the quarantine period exceed the deposited amount, the operator will pay for any additional costs incurred by APHIS, based on official accounting records. Payment for all services received in connection with each lot of ruminants in quarantine shall be made prior to release of the ruminants. The operator must pay for any other costs incurred by APHIS with respect to the quarantine following the release of the ruminants, based on official records, within 14 days of receipt of the bill showing the balance due. APHIS will return to the operator any unobligated funds deposited with APHIS, after the release

of the lot of ruminants from the facility and termination or expiration of the compliance agreement, or, if requested, credit to the operator's account such funds to be applied towards payment of APHIS services at a future date.

(ii) Prior to the entry of each subsequent lot of ruminants into the medium or minimum security facility, a new compliance agreement must be executed, and a certified check or U.S. money order to the Administrator must be deposited to cover the estimated costs, as determined by the Administrator, of professional, technical, and support services to be provided by APHIS at the facility over the duration of the quarantine.

(3) *Physical plant requirements.* A privately owned medium or minimum security quarantine facility must meet the following requirements as determined by an APHIS inspection before ruminants may be admitted to it.

(i) *Location.*

(A) The medium or minimum security facility must be located at a site approved by the Administrator, and the specific routes for the movement of ruminants from the port must be approved in advance by the Administrator, based on consideration of whether the site or routes would put the animals in a position that could result in their transmitting communicable livestock diseases.

(B) In the case of a medium security facility, the facility must be located at least one-half mile from any premises holding livestock. In the case of a minimum security facility, the Administrator will establish the required minimum distance between the facility and other premises holding livestock on a case-by-case basis.

(C) If the medium or minimum security facility is to be located more than 1 mile from a designated port, the operator must make arrangements for the imported ruminants to be held in a temporary inspection facility to allow for the inspection of the imported ruminants by a Federal or State veterinarian prior to the animals' movement to the medium or minimum security facility.

(1) The temporary inspection facility must have adequate space for Federal or State veterinarians to conduct examinations and testing of the imported ruminants.

(2) The examination space of the temporary inspection facility must be equipped with appropriate animal restraining devices for the safe inspection of ruminants.

(3) The temporary inspection facility may not hold more than one lot of animals at the same time.

(4) In seeking APHIS approval of the temporary inspection facility, the operator must provide APHIS with the following information: The port of entry; a description of the temporary inspection facility; and the anticipated source(s) of the materials to be used for the facility.

(5) If the ruminants, upon inspection at the temporary inspection facility, are determined to be infected with or exposed to a disease that precludes their entry into the United States, the animals will be refused entry. Ruminants refused entry remain the responsibility of the operator, but subject to further handling or disposition as directed by the Administrator in accordance with § 93.408 of this subpart.

(6) APHIS' approval to build and operate a medium or minimum security facility outside the immediate vicinity of a designated port is contingent upon APHIS' approval of the temporary inspection facility at the port, as well as approval of the routes for the movement of ruminants from the port to the medium or minimum security facility.

(ii) *Construction.* The medium or minimum security facility must be of sound construction, in good repair, and properly designed to prevent the escape of quarantined ruminants. It must have adequate capacity to receive and hold a shipment of ruminants as a lot on an "all-in, all-out" basis and must include the following:

(A) *Loading docks.* The facility must include separate docks for animal receiving and releasing and for general receiving and pickup, or, alternatively, a single dock may be used for both purposes if the dock is cleaned and disinfected after each use in accordance with paragraph (d)(4)(iv)(D) of this section.

(B) *Perimeter fencing.* The facility must be surrounded by double-security perimeter fencing separated by at least 30 feet and of sufficient height and design to prevent the entry of unauthorized persons and animals from outside the facility and to prevent the escape of any ruminants in quarantine.

(C) *Means of isolation.* The facility must provide pens, chutes, and other animal restraining devices, as appropriate, for inspection and identification of each animal, as well as for segregation, treatment, or both, of any ruminant exhibiting signs of illness. The medium or minimum security facility must also have lot-holding areas of sufficient size to prevent overcrowding. A medium security facility may hold more than one lot of ruminants as long as the lots are separated by physical barriers such that ruminants in one lot do not have

physical contact with ruminants in another lot or with their excrement or discharges. A minimum security facility may not hold more than one lot of animals at the same time.

(D) *APHIS space.* The facility must have adequate space for APHIS representatives to conduct examinations and draw samples for testing of ruminants in quarantine, prepare and package samples for mailing, and store duplicate samples and the necessary equipment and supplies for each lot of ruminants. The examination space must be equipped with appropriate animal restraining devices for the safe inspection of ruminants. The facility must also provide a secure, lockable office for APHIS use with enough room for a desk, chair, and filing cabinet.

(E) *Storage.* The facility must have sufficient storage space for equipment and supplies used in quarantine operations. Storage space must include separate, secure storage for pesticides and for medical and other biological supplies, as well as a separate storage area for feed and bedding, if feed and bedding are stored at the facility.

(F) *Other work areas.* The facility must include work areas for the repair of equipment and for cleaning and disinfecting equipment used in the facility.

(iii) *Additional construction requirements for medium security facilities.* For medium security facilities only, the following requirements must also be met:

(A) *Self-contained building.* The medium security facility must be constructed so that the quarantine area is located in a secure, self-contained building that contains appropriate control measures against the spread of livestock diseases biologically transmissible by vectors. All entryways into the nonquarantine area of the building must be equipped with a secure and lockable door. While ruminants are in quarantine, all access to the quarantine area must be from within the building. Each entryway to the quarantine area must be equipped with a solid self-closing door. Separate access must be provided within the quarantine area to each lot-holding area so that it is not necessary to move through one lot-holding area to gain access to another lot-holding area. Entryways to each lot-holding area within the quarantine area would also have to be equipped with a solid lockable door. Emergency exits to the outside may exist in the quarantine area if required by local fire ordinances. Such emergency exits must be constructed so as to permit their

opening from the inside of the facility only.

(B) *Windows and other openings.* Any windows or other openings in the quarantine area must be double-screened with screening of sufficient gauge and mesh to prevent the entry or exit of insects and other vectors of livestock diseases and to provide ventilation sufficient to ensure the comfort and safety of all ruminants in the facility. The interior and exterior screens must be separated by at least 3 inches (7.62 cm). All screening of windows or other openings must be easily removable for cleaning, yet otherwise remain locked and secure at all times in a manner satisfactory to APHIS representatives in order to ensure the biological security of the facility.

(C) *Surfaces.* The medium security facility must be constructed so that the floor surfaces with which ruminants have contact are nonslip and wear-resistant. All floor surfaces with which the ruminants, their excrement, or discharges have contact must slope gradually to the center, where one or more drains of at least 8 inches in diameter are located for adequate drainage, or, alternatively, must be of slatted or other floor design that allows for adequate drainage. All floor and wall surfaces with which the ruminants, their excrement, or discharges have contact must be impervious to moisture and be able to withstand frequent cleaning and disinfection without deterioration. Other ceiling and wall surfaces with which the ruminants, their excrement, or discharges do not have contact must be able to withstand cleaning and disinfection between shipments of ruminants. All floor and wall surfaces must be free of sharp edges that could cause injury to ruminants.

(D) *Ventilation and climate control.* The medium security facility must be constructed with a heating, ventilation, and air conditioning (HVAC) system capable of controlling and maintaining the ambient temperature, air quality, moisture, and odor at levels that are not injurious or harmful to the health of ruminants in quarantine. Air supplied to lot-holding areas must not be recirculated or reused for other ventilation needs. HVAC systems for lot-holding areas must be separate from air handling systems for other operational and administrative areas of the facility. In addition, if the facility is approved to handle more than one lot of ruminants at a time, each lot-holding area must have its own separate HVAC system that is designed to prevent cross-

contamination between the separate lot-holding areas.

(E) *Lighting.* The medium security facility must have adequate lighting throughout, including in the lot-holding areas and other areas used to examine ruminants and conduct necropsies.

(F) *Fire protection.* The medium security facility, including the lot-holding areas, must have a fire alarm and voice communication system.

(G) *Monitoring system.* The medium security facility must have a television monitoring system or other arrangement sufficient to provide a full view of the lot-holding areas.

(H) *Communication system.* The medium security facility must have a communication system between the nonquarantine and quarantine areas of the facility.

(I) *Necropsy area.* The medium security facility must have an area that is of sufficient size to perform necropsies on ruminants and that is equipped with adequate lighting, hot and cold running water, a drain, a cabinet for storing instruments, a refrigerator-freezer for storing specimens, and an autoclave to sterilize veterinary equipment.

(J) *Additional storage requirements.* Feed storage areas in the medium security facility must be vermin-proof. Also, if the medium security facility has multiple lot-holding areas, then separate storage space for supplies and equipment must be provided for each lot-holding area.

(K) *Showers.* In a medium security facility, there must be a shower at the entrance to the quarantine area. A shower also must be located at the entrance to the necropsy area. A clothes-storage and clothes-changing area must be provided at each end of each shower area. There also must be one or more receptacles near each shower so that clothing that has been worn in a lot-holding area or elsewhere in the quarantine area can be deposited in the receptacle(s) prior to entering the shower.

(L) *Restrooms.* The medium security facility must have permanent restrooms in both the nonquarantine and quarantine areas of the facility.

(M) *Break room.* The medium security facility must have an area within the quarantine area for breaks and meals.

(N) *Laundry area.* The medium security facility must have an area for washing and drying clothes, linens, and towels.

(iv) *Sanitation.* To ensure that proper animal health and biological security measures are observed, a privately owned medium or minimum security



quarantine facility must provide the following:

(A) Equipment and supplies necessary to maintain the facility in a clean and sanitary condition, including pest control equipment and supplies and cleaning and disinfecting equipment with adequate capacity to disinfect the facility and equipment.

(B) Separately maintained sanitation and pest control equipment and supplies for each lot-holding area if the facility will hold more than one lot of ruminants at a time (applicable to medium security facilities only).

(C) A supply of potable water adequate to meet all watering and cleaning needs, with water faucets for hoses located throughout the facility. An emergency supply of water for ruminants in quarantine also must be maintained.

(D) A stock of disinfectant authorized in § 71.10(a)(5) of this chapter or otherwise approved by the Administrator that is sufficient to disinfect the entire facility.

(E) The capability to dispose of wastes, including manure, urine, and used bedding, by means of burial, incineration, or public sewer. Other waste material must be handled in such a manner that minimizes spoilage and the attraction of pests and must be disposed of by incineration, public sewer, or other preapproved manner that prevents the spread of disease. Disposal of wastes must be carried out under the direct oversight of APHIS representatives.

(F) The capability to dispose of ruminant carcasses in a manner approved by the Administrator and under conditions that prevent the spread of disease from the carcasses.

(G) For incineration to be carried out at the facility, incineration equipment that is detached from other facility structures and is capable of burning wastes or carcasses as required. The incineration site must include an area sufficient for solid waste holding. Incineration may also take place at a local site away from the facility premises. All incineration activities must be carried out under the direct oversight of an APHIS representative.

(H) The capability to control surface drainage and effluent into, within, and from the facility in a manner that prevents the spread of disease into, within, and from the facility. If the facility is approved to handle more than one lot of ruminants at the same time, there must be separate drainage systems for each lot-holding area in order to prevent cross contamination.

(v) *Security.*

(A) A privately owned medium or minimum security quarantine facility must provide the following security measures:

(1) The facility and premises must be kept locked and secure at all times while the ruminants are in quarantine.

(2) The facility and premises must have signs indicating that the facility is a quarantine area and no visitors are allowed.

(3) The operator must furnish a telephone number or numbers to APHIS at which the operator or his or her agent can be reached at all times.

(4) APHIS is authorized to place seals on any or all entrances and exits of the facility, when determined necessary by APHIS to ensure security, and to take all necessary steps to ensure that the seals are broken only in the presence of an APHIS representative. If the seals are broken by someone other than an APHIS representative, it will be considered a breach in security, and an immediate accounting of all ruminants in the facility will be made by an APHIS representative. If a breach in security occurs, APHIS may extend the quarantine period as long as necessary to determine that the ruminants are free of communicable livestock diseases.

(5) In the event that a communicable livestock disease is diagnosed in quarantined ruminants, the Administrator may require that the operator have the facility guarded by a bonded security company, at the expense of the operator of the facility, in a manner that the Administrator deems necessary to ensure the biological security of the facility.

(B) A privately owned medium security facility also must provide the following security measures:

(1) The medium security facility and premises must be guarded at all times by one or more representatives of a bonded security company, or, alternatively, the medium security facility must have an electronic security system that prevents the entry of unauthorized persons into the facility and prevents animals outside the facility from having contact with ruminants in quarantine;

(2) If an electronic security system is used, the electronic security system must be coordinated through or with the local police so that monitoring of the facility is maintained whenever APHIS representatives are not at the facility. The electronic security system must be of the "silent type" and must be triggered to ring at the monitoring site and, if the operator chooses, at the facility. The operator must provide written instructions to the monitoring agency stating that the police and an

APHIS representative designated by APHIS must be notified by the monitoring agency if the alarm is triggered. The operator also must submit a copy of those instructions to the Administrator. The operator must notify the designated APHIS representative whenever a break in security occurs or is suspected of occurring.

(4) *Operating procedures.* The following procedures must be followed at a privately owned medium or minimum security quarantine facility at all times:

(i) *APHIS oversight.*

(A) The quarantine of ruminants at the facility will be subject to the strict oversight of APHIS representatives authorized to perform the services required by this subpart.

(B) If, for any reason, the operator fails to properly care for, feed, or handle the quarantined ruminants as required in paragraph (d) of this section, or in accordance with animal health and husbandry standards provided elsewhere in this chapter, or fails to maintain and operate the facility as provided in paragraph (d) of this section, APHIS representatives are authorized to furnish such neglected services at the operator's expense, as authorized in paragraph (a) of this section.

(ii) *Personnel.*

(A) The operator must provide adequate personnel to maintain the facility and care for the ruminants in quarantine, including attendants to care for and feed ruminants, and other personnel as needed to maintain, operate, and administer the facility.

(B) The operator must provide APHIS with an updated list of all personnel who have access to the facility. The list must include the names, current residential addresses, and identification numbers of each person, and must be updated with any changes or additions in advance of such person having access to the quarantine facility.

(C) The operator must provide APHIS with signed statements from all personnel having access to the facility in which the person agrees to comply with paragraph (d) of this section and applicable provisions of this part, all terms of the compliance agreement, and any related instructions from APHIS representatives pertaining to quarantine operations, including contact with animals both inside and outside the facility.

(iii) *Authorized access.*

(A) Access to the facility premises as well as inside the quarantine area will be granted only to APHIS representatives and other persons specifically authorized to work at the

facility. All other persons are prohibited from the premises unless specifically granted access by an APHIS representative. Any visitors granted access must be accompanied at all times by an APHIS representative while on the premises.

(B) All visitors, except veterinary practitioners who enter the facility to provide emergency care, must sign an affidavit before entering the quarantine area, if determined necessary by the overseeing APHIS representative, declaring that they will not have contact with any susceptible animals outside the facility for at least 5 days after contact with the ruminants in quarantine, or for a period of time determined by the overseeing APHIS representative as necessary to prevent the transmission of communicable livestock diseases of ruminants.

(iv) *Sanitary practices.*

(A) All persons granted access to the quarantine area must:

(1) Wear clean protective work clothing and footwear upon entering the quarantine area.

(2) Wear disposable gloves when handling sick animals and then wash hands after removing gloves.

(3) Change protective clothing, footwear, and gloves when they become soiled or contaminated.

(4) Be prohibited, if determined necessary by the overseeing APHIS representative, from having contact with any susceptible animals outside the facility for at least 5 days after the last contact with ruminants in quarantine, or for a longer period of time determined necessary by the overseeing APHIS representative to prevent the transmission of livestock diseases.

(B) All equipment (including tractors) must be cleaned and disinfected prior to being used in the quarantine area of the facility with a disinfectant that is authorized in § 71.10(a)(5) of this chapter or that is otherwise approved by the Administrator. The equipment must remain dedicated to the facility for the entire quarantine period. Any equipment used with quarantined ruminants must remain dedicated to that particular lot of ruminants for the duration of the quarantine period or be cleaned and disinfected before coming in contact with ruminants from another lot. Prior to its use on another lot of ruminants or its removal from the quarantine area, such equipment must be cleaned and disinfected to the satisfaction of an APHIS representative.

(C) Any vehicle, before entering or leaving the quarantine area of the facility, must be immediately cleaned and disinfected under the oversight of an APHIS representative with a

disinfectant that is authorized in § 71.10(a)(5) of this chapter or that is otherwise approved by the Administrator.

(D) If the facility has a single loading dock, the loading dock must be immediately cleaned and disinfected after each use under the oversight of an APHIS representative with a disinfectant that is authorized in § 71.10(a)(5) of this chapter or that is otherwise approved by the Administrator.

(E) That area of the facility in which a lot of ruminants had been held or had access must be thoroughly cleaned and disinfected under the oversight of an APHIS representative upon release of the ruminants, with a disinfectant that is authorized in § 71.10(a)(5) of this chapter or that is otherwise approved by the Administrator, before a new lot of ruminants is placed in that area of the facility.

(F) For medium security facilities only, the following additional sanitary practices also must be followed:

(1) All persons granted access to the quarantine area, must:

(i) Shower when leaving the quarantine area.

(ii) Shower before entering a lot-holding area if previously exposed from access to another lot-holding area.

(iii) Shower when leaving the necropsy area if a necropsy is in the process of being performed or has just been completed, or if all or portions of the examined animal remain exposed.

(iv) Be prohibited, unless specifically allowed otherwise by the overseeing APHIS representative, from having contact with any ruminants in the facility, other than the lot or lots of ruminants to which the person is assigned or is granted access.

(2) The operator is responsible for providing a sufficient supply of clothing and footwear to ensure that workers and others provided access to the quarantine area of the facility have clean, protective clothing and footwear before entering the facility.

(3) The operator is responsible for the proper handling, washing, and disposal of soiled and contaminated clothing worn in the quarantine area in a manner approved by an APHIS representative as adequate to preclude the transmission of disease within and from the facility. At the end of each workday, work clothing worn into each lot-holding area and elsewhere in the quarantine area must be collected and kept in bags until the clothing is washed. Used footwear must either be left in the clothes changing area or cleaned with hot water (148 °F minimum) and detergent and

disinfected as directed by an APHIS representative.

(v) *Handling of ruminants in quarantine.*

(A) Each lot of ruminants to be quarantined must be placed in the facility on an "all-in, all-out" basis. No ruminant may be taken out of a lot while the lot is in quarantine, except for diagnostic purposes, and no ruminant may be added to a lot while in quarantine.

(B) The facility must provide sufficient feed and bedding for the ruminants in quarantine, and it must be free of vermin and not spoiled. Feed and bedding must originate from a region that has been approved by APHIS as a source for feed and bedding.

(C) Breeding of ruminants or collection of germ plasm from ruminants is prohibited during the quarantine period unless necessary for a required import testing procedure.

(D) Ruminants in quarantine will be subjected to such tests and procedures as directed by an APHIS representative to determine whether the ruminants are free of communicable livestock diseases. While in quarantine, ruminants may be vaccinated only with vaccines that have been approved by the APHIS representative and licensed in accordance with § 102.5 of this chapter.<sup>8</sup> Vaccines must be administered either by an APHIS veterinarian or an accredited veterinarian under the direct oversight of an APHIS representative.

(E) Any death or suspected illness of ruminants in quarantine must be reported immediately to the overseeing APHIS representative. The affected ruminants must be disposed of as the Administrator may direct or, depending on the nature of the disease, must be cared for as directed by APHIS to prevent the spread of disease.

(F) Quarantined ruminants requiring specialized medical attention or additional postmortem testing may be transported off the quarantine site, if authorized by APHIS. A second quarantine site must be established to house the ruminants at the facility of destination (e.g., veterinary college hospital). In such cases, APHIS may extend the quarantine period until the results of any outstanding tests or postmortems are received.

(G) Should the Administrator determine that an animal health emergency exists at the facility, arrangements for the final disposition of the infected or exposed lot of ruminants must be accomplished within 4

<sup>8</sup> A list of approved vaccines is available from the Center for Veterinary Biologics, USDA, APHIS, VS, 510 south 17th Street6, Suite 104, Ames, IA 50010.

workdays following disease confirmation. Subsequent disposition of the ruminants must occur under the direct oversight of APHIS representatives.

(vi) *Recordkeeping.*

(A) The operator must maintain a current daily log, to record the entry and exit of all persons entering and leaving the facility.

(B) The operator must retain the daily log, along with any logs kept by APHIS and deposited with the operator, for at least 2 years following the date of release of the ruminants from quarantine and must make such logs available to APHIS representatives upon request.

(5) *Environmental quality.* If APHIS determines that a privately owned medium or minimum security quarantine facility does not meet applicable local, State, or Federal environmental regulations, APHIS may deny or suspend approval of the facility until appropriate remedial measures have been applied.

(6) *Other laws.* A privately owned medium or minimum security quarantine facility must comply with other applicable Federal laws and regulations, as well as with all applicable State and local codes and regulations.

(7) *Variations.* The Administrator may grant variations to existing requirements relating to location, construction, and other design features of a privately owned medium security quarantine facility as well as to sanitation, security, operating procedures, recordkeeping, and other provisions in paragraph (d) of this section, but only if the Administrator determines that the variance causes no detrimental impact to the health of the ruminants or to the overall biological security of the quarantine operations. The operator must submit a request for a variance to the Administrator in writing at least 30 days in advance of the arrival of the ruminants to the facility. Any variance also must be expressly provided for in the compliance agreement.

(Approved by the Office of Management and Budget under control number 0579-0232)

■ 7. Section 93.413 is revised to read as follows:

**§ 93.413 Quarantine stations, visiting restricted; sales prohibited.**

Visitors are not permitted in the quarantine enclosures during any time that ruminants are in quarantine unless the APHIS representative or inspector in charge specifically grants access under

such conditions and restrictions as may be imposed by the APHIS representative or inspector in charge. An importer (or his or her accredited agent or veterinarian) may be admitted to the yards and buildings containing his or her quarantined ruminants at such intervals as may be deemed necessary, and under such conditions and restrictions as may be imposed, by the APHIS representative or the inspector in charge of the quarantine facility or station. On the last day of the quarantine period, owners, officers, or registry societies, and others having official business or whose services may be necessary in the removal of the ruminants may be admitted upon written permission from the APHIS representative or inspector in charge. No exhibition or sale shall be allowed within the quarantine grounds.

**§ 93.414 [Amended]**

■ 8. In § 93.414, the first sentence is amended by adding the words “APHIS representative or” immediately before the words “inspector in charge”.

■ 9. In the undesignated center heading “Mexico” before § 93.424, redesignate footnote 9 as footnote 10.

■ 10. In the undesignated center heading “Central America and West Indies” before § 93.422, redesignate footnote 8 as footnote 9.

■ 11. In the undesignated center heading “Canada” before § 93.417, redesignate footnote 7 as footnote 8.

**§ 93.434 [Removed and Reserved]**

■ 12. Section 93.434 is removed and reserved.

Done in Washington, DC, this 19th day of May 2006.

**W. Ron DeHaven,**

*Administrator, Animal and Plant Health Inspection Service.*

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Parts 41, 158, 286 and 349**

**[Docket No. RM06-2-001; Order No. 675-A]**

**Procedures for Disposition of Contested Audit Matters**

Issued May 18, 2006.

**AGENCY:** Federal Energy Regulatory Commission; DOE.

**ACTION:** Final rule, order on rehearing and clarification.

**SUMMARY:** In this Final Rule, the Federal Energy Regulatory Commission (Commission) is amending its regulations to expand due process for certain audited persons who dispute findings or proposed remedies contained in draft audit reports.

**DATES:** *Effective Date:* This Final Rule will become effective June 23, 2006.

**FOR FURTHER INFORMATION CONTACT:** John R. Kroeger, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502-8177. *John.Kroeger@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly.

**Order No. 675-A**

*Order on Rehearing and Clarification*

**I. Introduction**

1. On February 17, 2006, the Commission issued a Final Rule, Order No. 675,<sup>1</sup> that expands the procedural rights of persons subject to all audits conducted by the Commission staff under the Federal Power Act (FPA),<sup>2</sup> the Natural Gas Act (NGA),<sup>3</sup> the Natural Gas Policy Act (NGPA),<sup>4</sup> and the Interstate Commerce Act (ICA),<sup>5</sup> except for audits pertaining to reliability that the Commission authorized in Order No. 672.<sup>6</sup> Prior to the effective date of Order No. 675, audited persons who disagreed with non-financial audit matters approved by the Commission were required to seek rehearing of that order to obtain further Commission review.

2. Pursuant to Order No. 675, audited persons may seek Commission review of disputed matters contained in an audit report or similar document in a procedure that provides additional due process to audited persons subject to non-financial audits. Under this procedure, audited persons may provide in writing to the audit staff a response to a draft notice of deficiency, draft audit report or similar document

<sup>1</sup> *Procedures for Disposition of Contested Audit Matters*, Order No. 675, 71 FR 9698 (Feb. 27, 2006), III FERC Stats. & Regs. ¶ 31,209 (Feb. 17, 2006).

<sup>2</sup> 16 U.S.C. 791a, *et seq.* (2000).

<sup>3</sup> 15 U.S.C. 717, *et seq.* (2000).

<sup>4</sup> 15 U.S.C. 3301, *et seq.* (2000).

<sup>5</sup> 49 U.S.C. App. 1, *et seq.* (2000).

<sup>6</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, 71 FR 8662 (Feb. 17, 2006), III FERC Stats. & Regs. ¶ 31,204 (Feb. 2, 2006); *reh'g granted in part and denied in part*, Order No. 672-A, 71 FR 19814 (Apr. 18, 2006), 114 FERC ¶ 61,328 (Mar. 30, 2006).