

(C) A determination is made in accordance with paragraph (a) of this section that such action will not cause a hardship for participating Food Stamp households.

(iii) Such a Food Stamp disqualification:

(A) Shall be for the same length of time as the WIC disqualification;

(B) May begin at a later date than the WIC disqualification; and

(C) Shall not be subject to administrative or judicial review under the Food Stamp Program.

* * * * *

(i) *Criteria for eligibility for a civil money penalty in lieu of permanent disqualification for trafficking.* * * *

Criterion 4. Firm ownership was not aware of, did not approve, did not benefit from, or was not in any way involved in the conduct or approval of trafficking violations; or it is only the first occasion in which a member of firm management was aware of, approved, benefited from, or was involved in the conduct of any trafficking violations by the firm. Upon the second occasion of trafficking involvement by any member of firm management uncovered during a subsequent investigation, a firm shall not be eligible for a civil money penalty in lieu of permanent disqualification. Notwithstanding the above provision, if trafficking violations consisted of the sale of firearms, ammunition, explosives or controlled substances, as defined in 21 U.S.C. § 802, and such trafficking was conducted by the ownership or management of the firm, the firm shall not be eligible for a civil money penalty in lieu of permanent disqualification. * * *

* * * * *

(n) *Review of determination.* The determination of FNS shall be final and not subject to further administrative or judicial review unless a written request for review is filed within the period stated in § 279.5 of this chapter.

Notwithstanding the above, any FNS determination made on the basis of paragraph (e)(8) of this section shall not be subject to further administrative or judicial review.

* * * * *

5. In § 278.8, paragraph (a) is revised to read as follows:

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or wholesale food concern aggrieved by administrative action under §§ 278.1, 278.6 or 278.7 may, within the period stated in § 279.5 of this chapter, file a written request for review of the administrative action with the review officer. However, disqualification actions taken against firms in accordance with § 278.6(e)(8) shall not be subject to administrative or judicial review. On receipt of the request for

review, the questioned administrative action shall be stayed pending disposition of the request for review by the review officer, except in the case of a permanent disqualification as specified in § 278.6(e)(1). A disqualification for failure to pay a civil money penalty shall not be subject to administrative review.

* * * * *

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

6. In § 279.3, paragraph (a)(2) is revised to read as follows:

§ 279.3 Authority and jurisdiction.

(a) *Jurisdiction.* * * *

(2) Imposition of a fine under §§ 278.6(l) or 278.6(m) of this chapter or disqualification from participation in the program or imposition of a civil money penalty under § 278.6 of this chapter, except for disqualification actions imposed under § 278.6(e)(8) of this chapter;

* * * * *

7. In § 279.7, paragraph (a) is amended to add two new sentences after the first sentence to read as follows:

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* * * * However, in cases of permanent disqualification under § 278.6(e)(1) of this chapter, the administrative action shall not be held in abeyance pending such a review determination. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be held liable for the value of any sales lost during the disqualification period. * * *

* * * * *

8. In § 279.10, the first sentence of paragraph (a) and paragraph (d) are revised to read as follows:

§ 279.10 Judicial review.

(a) *Filing for judicial review.* Except for firms disqualified from the program in accordance with § 278.6(e)(8) of this chapter, a firm aggrieved by the determination of the administrative review officer may obtain judicial review of the determination by filing a complaint against the United States in the U.S. district court for the district in which the owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. * * *

* * * * *

(d) *Stay of action.* During the pendency of any judicial review, or any appeal therefrom, the administrative

action under review shall remain in force unless the firm makes a timely application to the court and after hearing thereon, the court stays the administrative action after a showing that irreparable injury will occur absent a stay and that the firm is likely to prevail on the merits of the case. However, permanent disqualification actions taken in accordance with § 278.6(e)(1) of this chapter shall not be subject to such a stay of administrative action. If the disqualification action is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.

Dated: April 21, 1999.
Samuel Chambers, Jr.,
Administrator, Food and Nutrition Service.
[FR Doc. 99-10736 Filed 4-29-99; 8:45 am]
BILLING CODE 3410-30-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS 1979-99]

RIN 1115-AF43

Additional Authorization to Issue Certificates for Foreign Health Care Workers

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The interim rule amends the regulations of the Immigration and Naturalization Service (Service) to grant, on a temporary basis, authorization to the Commission on Graduates of Foreign Nursing Schools (CGFNS) to issue certificates to foreign health care workers in the occupations of occupational therapy and physical therapy. This rule also grants the Foreign Credentialing Commission on Physical Therapy (FCCPT) the authority to issue certificates to foreign-trained physical therapists. The rule is written in response to formal requests by CGFNS and FCCPT to obtain permission to issue certificates to foreign-trained workers coming to the United States in the occupations of occupational therapy and physical therapy on a permanent basis. This rule ensures that foreign-trained occupational therapists and physical therapists have the same training, education, and licensure as similarly employed United States workers.

This interim rule applies only to aliens seeking admission as immigrants to perform services in these two health care occupations. Aliens seeking temporary admission to the United States as nonimmigrant aliens to perform services in these or other health care occupations are not covered by this interim rule. The Service and the Department of State temporarily have waived the certification requirement of section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) for aliens coming to the United States as nonimmigrant health care workers. This policy will continue until a final rule is published which fully implements section 343.

DATES: *Effective date:* This interim rule is effective June 29, 1999.

Comment date: Written comments must be submitted on or before June 29, 1999.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference the INS No. 1979-99 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Benefits Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514-3228.

SUPPLEMENTARY INFORMATION:

What is Section 343 of IIRIRA?

On September 30, 1996, President Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. 104-208. Section 343 of IIRIRA created new ground of inadmissibility at section 212(a)(5)(C) of the Immigration and Nationality Act (Act) for aliens coming to the United States to perform labor in certain health care occupations.

Pursuant to section 343, any alien coming to the United States for the purpose of performing labor as a health care worker, other than as a physician, is inadmissible unless the alien presents to the consular officer, or, in the case of adjustment of status, the Attorney General, a certificate from the CGFNS, or an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services (HHS).

Under section 343, the certificate must verify that: (1) the alien's education, training, license, and experience meet all applicable statutory and regulatory requirements for admission into the United States under the classification specified in the application; are comparable with that required for an American health care worker; are authentic and, in the case of a license, is unencumbered; (2) the alien has the level of competence in oral and written English considered by the Secretary of HHS, in consultation with the Secretary of Education (DOE), to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write English; and, finally, (3) if a majority of states licensing the profession in which the alien intends to work recognize a test predicting the alien's success on the profession's licensing or certification examination, the alien has passed such a test, or has passed such an examination.

On October 14, 1998, the Service published an interim rule in the **Federal Register** at 63 FR 55007 that implemented certain portions of section 343 of IIRIRA as it related to occupational therapists and nurses coming to the United States on a permanent basis. For purposes of this discussion, the interim rule published on October 14, 1998, is referenced as "the first interim rule."

What provisions were contained in the Service's interim rule published on October 14, 1998?

In the first interim rule, which became effective on December 14, 1998, the Service granted authorization to CGFNS and the National Board for Certification in Occupational Therapy (NBCOT) to issue certificates to foreign-trained health care workers in the fields of nursing and occupational therapy, respectively. The rule, however, limited the authority of CGFNS and the NBCOT to the issuance of certificates to aliens coming permanently to the United States. In addition, the authority granted to CGFNS and NBCOT to issue certificates was granted on a temporary basis until the Service published a final rule implementing all the provisions of section 343 of IIRIRA.

What criteria did the Service use in the first interim rule to grant authorization to CGFNS and NBCOT to issue certificates?

The first interim rule provided that an organization must meet two criteria in

order to be granted authorization to issue certificates pursuant to section 343 of IIRIRA. First, the organization had to establish that there was a sustained level of demand for foreign-trained workers in the occupation and, second, the organization has to show that it had an established track record in providing credentialing services in the occupation.

For purposes of the first interim rule, the Service defined the term "sustained level of demand" as the presence of an existing demand for foreign health care workers in a particular occupation that is expected to continue in the foreseeable future.

The first interim rule defined the term "organization with an established track record" as an organization that has a record of issuing actual certificates, or documents similar to a certificate, that are generally accepted by the state regulatory bodies as certifying that an individual has met certain minimal qualifications.

The rule also provided that, during the period of time that the first interim rule was in effect, the Service would entertain any requests to issue certificates from an organization that could demonstrate that it met the two criteria.

What is the purpose of this interim rule?

The purpose of this interim rule is to provide notice that the Service has granted CGFNS the authority to issue certificates pursuant to section 343 of IIRIRA, on a temporary basis, to foreign-trained health care workers coming to the United States as immigrants or applicants for adjustment of status to work in the occupations of occupational therapist and physical therapist. This rule also provides notice that the Service has granted FCCPT the authority to issue certificates pursuant to section 343 of IIRIRA, on a temporary basis, to foreign-trained health care workers coming to the United States as immigrants, or applicants for adjustment of status to work in the occupation of physical therapist.

This rule does not give authorization to CGFNS or FCCPT to issue certificates to aliens seeking temporary admission to the United States as nonimmigrant aliens to perform services in these or other health care occupations. Aliens' applications for admission as nonimmigrants will be processed pursuant to the Service's temporary policies that were described in the preamble to the Service's first interim rule. The authorization provided for in this interim rule remains in effect until the publication of a final rule.

This interim rule also lists the passing scores for the English language tests for the occupation of physical therapist.

Have CGFNS and FCCPT met the criteria to obtain authorization described in the first interim rule?

Pursuant to the criteria described in the first interim rule, CGFNS and FCCPT have made formal applications to the Service seeking authorization to issue certificates to foreign health care workers. CGFNS has applied for authorization to issue certificates to foreign-trained health care workers in the occupations of occupational therapist and physical therapist. FCCPT has applied for authorization to issue certificates in the occupation of physical therapist. The applications were supported by evidence addressing the two criteria described in the first interim rule.

In order to secure more current and detailed information relating to issues in the field of health care, the Service sought the opinion of the Secretary of HHS as to whether CGFNS and FCCPT met the two criteria described in the first interim rule. Based on the Secretary's opinion and the evidence submitted, the Service finds CGFNS has met the two criteria discussed in the rule for the occupations of occupational therapist and physical therapist. Likewise, FCCPT has met the two criteria for the occupation of physical therapist.

Does CGFNS have a proven track record?

The Service finds that CGFNS has an established track record in issuing certificates because it has experience in administering the examination that predicted success of foreign-trained educated nurses under the previous H-1A visa category. In addition, CGFNS has experience beyond nursing with regard to educational comparability and credentials evaluation. CGFNS, through their credential evaluation service, has evaluated foreign credentials, including educational degrees and foreign licenses, for psychiatric technicians, physician assistants, emergency medical technicians, and other occupations.

The CGFNS has an extensive database covering health-related academic programs in foreign countries, much of which is applicable beyond nursing. Finally, with the establishment of "Professional Standards Committees," CGFNS has developed certification standards that may be used to assess comparability for the occupation of physical therapy and occupational therapy.

Does FCCPT have a proven track record?

The FCCPT is the credentialing organization of the Federation of State Boards of Physical Therapy (the Federation). The membership of the Federation, established 1986, includes all of the state regulatory bodies responsible for the examination and licensure of physical therapist in all 50 states. The Federation develops and recommends educational, English language proficiency, and other standards adopted by state regulatory agencies.

The FCCPT currently performs credential evaluations for individuals entering on temporary visas that are accepted by 17 states. As part of the evaluation, the organization reviews English language proficiency, licensure status and proof that a current license is in good standing with the licensure authorities, and, finally, equivalency of education. Based on the credentials evaluation provided by FCCPT, these states will issue temporary licenses pending the taking of the National Physical Therapy Examination.

Further, the Federation developed the Course Work Evaluation Tool to establish educational standards for credentialing foreign-educated physical therapists that are currently used by 19 states. The Federation worked with the NBCOT to jointly develop common English language proficiency standards, including the identification of necessary examinations and passing scores for English language proficiency examinations administered by the Educational Testing Service. HHS adopted these standards in its recommendation to the Attorney General regarding appropriate English language proficiency tests scores for physical therapists and occupational therapists as set forth in the first interim rule.

Is There a Sustained Level of Demand for Physical Therapists?

According to data compiled by the Department of Labor, the number of job openings for physical therapists continues to remain high. The second highest number of job openings certified under the H-1B program is for the occupation of therapist. Physical therapists, in turn, comprise the largest component of this occupation. Based on these findings, the Service has determined that the second criteria relating to the demand of foreign-trained workers for the occupation of physical therapists has been met.

The Service previously determined in the first interim rule that there was a

sustained level of demand in the field of occupational therapy for foreign-trained health care workers.

Based on the foregoing, it is the decision of the Service that CGFNS should be granted authorization to issue certificates to foreign health care workers in the fields of occupational therapist and physical therapist subject to the terms and conditions of the first interim rule. Further, the FCCPT, as the credentialing unit associated with the Federation, is granted the authority to issue certificates to foreign health care workers in the field of physical therapist.

What are the Passing English Test Scores for Physical Therapists?

The HHS has determined that physical therapists must obtain the following scores on the English tests administered by the Educational Testing Service (ETS): Test of English as a Foreign Language (TOEFL): paper-based 560, computer-based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50.

HHS has advised that the Michigan English Language Assessment Battery (MELAB) is not an appropriate test for physical therapists or occupational therapists. HHS has advised that MELAB scores are not acceptable to the licensing and accrediting organizations involved with these two occupations. In addition, the exemptions for the English language tests described in § 212.15(g)(2) apply to the occupation of physical therapy.

Does this Interim Rule Alter any of the Service's Policies With Respect to the Admission of Nonimmigrant Health Care Workers?

No. This rule merely grants authorization to CGFNS and the FCCPT to issue certificates to foreign-trained health care workers seeking admission as immigrants or adjustment of status in two additional occupations. It does not alter any of the Service's policies with respect to the admission of nonimmigrant aliens coming to perform services in health care occupations that were described in the first interim rule.

How does This Rule Amend the Existing Regulation?

This interim rule amends the regulation at § 212.15(c) by adding the occupation of physical therapist to the list of occupations.

This interim rule also amends the regulation at § 212.15(e) to add the occupations of physical therapist and occupational therapist to the list of occupations for which CGFNS can issue certificates. This rule also adds FCCPT

as an organization authorized to issue certificates in the occupation of physical therapist.

Finally, this regulation amends the regulation at § 212.15(g) to list the passing English scores for the occupation of physical therapist.

Good Cause Exception

This interim rule is effective 60 days from the date of publication in the **Federal Register**. The Service invites post-promulgation comments and will address any such comments in a proposed rule or the resulting final rule. For the following reasons, the Service finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553. Although section 343 went into effect on September 30, 1996, due to the complexities of the requirements of section 343, and the need to coordinate the interests and concerns of a great number of Federal agencies, the health care sector, and members of the affected public, the Service is still in the process of developing a more comprehensive proposed rule to implement section 343 in order to solicit comment from the public. A continued delay in the implementation of this provision in the particular manner set out in this interim rule, however, could have a negative effect on the availability of health care in this country, particularly in medically under-served areas for nursing and occupational therapy, and will create a further backlog with respect to pending applications filed by aliens seeking to immigrate to perform labor in a health care occupation.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted in a way to minimize the economic impact that it has on small business while meeting its intended objective. The health care workers who will be issued certificates are not considered small entities as the term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year, and it will not significantly or uniquely affect small

governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget (OMB) for review.

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects 8 CFR Part 212

Administrative practice and procedures, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 212.15 is amended by:

- a. Revising paragraph (c) introductory text;
- b. Adding a new paragraph (c)(3);
- c. Revising paragraph (e); and by
- d. Revising paragraph (g)(4)(i), to read as follows:

§ 212.15 Certificates for foreign health care workers.

* * * * *

(c) *Occupations affected by this provision.* With the exception of the aliens described in paragraph (b) of this section, any alien seeking admission to the United States as an immigrant or any alien applying for adjustment of status to a permanent resident to perform labor in one of the following health care occupations, regardless of where he or she received his or her education or training, is subject to this provision:

* * * * *

(3) Physical Therapists.

* * * * *

(e) *Organizations approved by the Service to issue certificates for health care workers.*

(1) The Commission on Graduates of Foreign Nursing Schools is authorized to issue certificates under section 343 for the occupations of nurse, physical therapist, and occupational therapist.

(2) The National Board for Certification in Occupational Therapy is authorized by the Service to issue certificates under section 343 for the occupation of occupational therapist.

(3) The Foreign Credentialing Commission on Physical Therapy is authorized by the Service to issue certificates under section 343 for the occupation of physical therapist.

* * * * *

(g) * * *

(4) *Passing scores for various occupations.* (i) *Occupational and physical therapists.* An alien seeking to perform labor in the United States as an occupational therapist or physical therapist must obtain the following scores on the English tests administered by ETS: Test Of English as a Foreign Language (TOEFL), Paper-Based 560, Computer-Based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50. Certifying organizations shall not accept the results of the MELAB for the occupation of occupational therapist or physical therapist. Aliens seeking to obtain a certificate to work as an occupational or physical therapist must take the test

offered by the ETS. The MELAB scores are not acceptable for these occupations.

* * * * *

Dated: April 27, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99-10819 Filed 4-27-99; 4:39 pm]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 98

[Docket No. 98-102-1]

Limited Ports; Memphis, TN

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the animal importation regulations by adding Memphis, TN, to the list of limited ports of entry for semen, embryos, and products of horses, ruminants, and swine. We have determined that this port has inspection facilities for this purpose and that Animal and Plant Health Inspection Service personnel are available to provide service at this location. This action will provide importers with an alternative port of entry for semen, embryos, and products of horses, ruminants, and swine.

DATES: This rule will be effective on June 29, 1999 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 1, 1999.

ADDRESSES: Please send your comment and three copies to: [Docket No. 98-102-1], Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 98-102-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are

available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Morley H. Cook, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-8686; or e-mail: morley.h.cook@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) restrict the importation of specified animals and animal products into the United States to prevent the introduction of communicable animal diseases. Subpart C—Horses, §§ 93.300 through 93.326 of the regulations, covers the importation of horses. Section 93.303 designates ports approved for the importation of horses. Section 93.303, paragraph (d), lists limited ports that have inspection facilities for the importation of horses and horse products, such as horse test specimens, that do not appear to require restraint and holding facilities for inspection at the port of entry.

Subpart D—Ruminants, 93.400 through 93.435 of the regulations, covers the importation of ruminants. Section 93.403 designates ports approved for the importation of ruminants. Section 93.403, paragraph (e), lists limited ports that have inspection facilities for the entry of ruminants and ruminant products, such as ruminant test specimens, that do not appear to require restraint and holding inspection facilities for inspection at the port of entry.

Subpart E—Swine, 93.500 through 93.523 of the regulations, covers the importation of swine. Section 93.503 designates ports approved for the importation of swine. Section 93.503, paragraph (e), lists limited ports that have inspection facilities for the entry of swine and swine products, such as swine test specimens, that do not appear to require restraint and holding inspection facilities for inspection at the port of entry.

The regulations in 9 CFR part 98 restrict the importation of certain animal embryos and animal semen. Subpart C—Certain Animal Semen, 98.30 through 98.37 of the regulations, covers the importation of certain animal semen. Section 98.33 designates ports for the importation of certain animal semen. Section 98.33, paragraph (d), lists limited ports that have inspection facilities for the entry of animal semen.

This rule will amend 93.303(d), 93.403(e), 93.503(e), and 98.33(d), in accordance with the procedures explained below under "Dates," by adding Memphis, TN, to the list of limited ports set forth in each of those paragraphs. However, the Memphis, TN, entry in each of the amended paragraphs in part 93 will specify that the port is not designated a limited port for the entry of live animals (98.33 deals only with animal semen). This is because, although the port has inspection facilities and Animal and Plant Health Inspection Service (APHIS) personnel to provide service for the entry of semen, embryos, and products, it does not have adequate facilities for the entry of any live animals covered by the regulations. Other ports already designated in part 93 as limited ports are able to handle some live animals, but not those animals requiring restraint and holding facilities.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.