

(e) *Compliance agreement and cancellation*—(1) Any person engaged in the business of handling or disposing of garbage in accordance with this section must first enter into a compliance agreement with the Animal and Plant Health Inspection Service (APHIS). Compliance agreement forms (PPQ Form 519) are available without charge from local USDA/APHIS/Plant Protection and Quarantine offices, which are listed in telephone directories.

(2) A person who enters into a compliance agreement, and employees or agents of that person, must comply with the following conditions and any supplemental conditions which are listed in the compliance agreement, as deemed by the Administrator to be necessary to prevent the introduction and dissemination into or within the United States of plant pests and livestock or poultry diseases:

(i) Comply with all applicable provisions of this section;

(ii) Allow inspectors access to all records maintained by the person regarding handling or disposal of garbage, and to all areas where handling or disposal of garbage occurs;

(iii)(A) If the garbage is regulated under paragraph (c) of this section, remove garbage from a means of conveyance only in tight, covered, leak-proof receptacles;

(B) If the garbage is regulated under paragraph (d) of this section, transport garbage interstate in sealed, leak-proof packaging approved by the Administrator;

(iv) Move the garbage only to a facility approved by the Administrator; and

(v) At the approved facility, dispose of the garbage in a manner approved by the Administrator and described in the compliance agreement.

(3) Approval for a compliance agreement may be denied at any time if the Administrator determines that the applicant has not met or is unable to meet the requirements set forth in this section. Prior to denying any application for a compliance agreement, APHIS will provide notice to the applicant thereof, and will provide the applicant with an opportunity to demonstrate or achieve compliance with requirements.

(4) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this section. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator. This administrative remedy must be exhausted before a person can file suit in court challenging the cancellation of a compliance agreement.

(5) Where a compliance agreement is denied or canceled, the person who entered into or applied for the compliance agreement may be prohibited, at the discretion of the Administrator, from handling or disposing of regulated garbage.

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[71 FR 49317, Aug. 23, 2006]

§ 94.6 Carcasses, meat, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds; importations from regions where exotic Newcastle disease or highly pathogenic avian influenza is considered to exist.

(a) *Disease status of regions for exotic Newcastle disease (END) and highly pathogenic avian influenza (HPAI)*—(1) *Regions in which END is not considered to exist.* (i) END is considered to exist in all the regions of the world except the following: Argentina, Australia, Canada, Chile, Costa Rica, Denmark, Fiji,

Finland, France, Great Britain (England, Scotland, Wales, and the Isle of Man), Greece, Iceland, Luxembourg, Mexico (States of Campeche, Quintana Roo, and Yucatan), New Zealand, Republic of Ireland, Spain, Sweden, and Switzerland. APHIS has evaluated these regions for the presence of END. Regions not listed may have END, or may not have been evaluated for END status.

(ii) APHIS will remove a region from the list in paragraph (a)(1)(i) of this section upon determining that END exists there based on reports APHIS receives of outbreaks of the disease in commercial birds or poultry from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. APHIS will add a region to this list after it conducts an evaluation of the region and finds that END is not likely to be present in its commercial bird or poultry populations. In the case of a region formerly on this list that is removed due to an outbreak, the region may be returned to the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

(2) *Regions in which HPAI is considered to exist.* (i) A list of such regions is maintained on the APHIS National Center for Import and Export Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or e-mail upon request to Sanitary Trade Issue Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, Maryland 20737.

(ii) APHIS will consider a region to have HPAI and add it to this list referenced in paragraph (a)(2)(i) of this section upon determining that HPAI exists in commercial birds or poultry in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the OIE, or from other sources the Administrator determines to be reliable. APHIS will remove a region from this list only after

it conducts an evaluation of the region and finds that HPAI is not likely to be present in its commercial bird or poultry populations.

(b) *Carcasses, and parts or products of carcasses, including meat, from regions where END or HPAI is considered to exist.* This paragraph applies to carcasses, and parts or products of carcasses,⁴ including meat, of poultry, game birds, or other birds that were raised or slaughtered in any region where END or any subtype of HPAI is considered to exist (*see* paragraph (a) of this section); are imported from any such region; or are moved into or through any such region at any time before importation or during shipment to the United States.

(1) Carcasses of game birds, if eviscerated with heads and feet removed, may be imported from regions where END is considered to exist. Carcasses of game birds may not be imported from regions where any subtype of HPAI is considered to exist. Viscera, heads, and feet removed from game birds in any of these regions are ineligible for entry into the United States.

(2) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds may be imported for consignment to any museum, educational institution or other establishment which has provided the Administrator with evidence that it has the equipment, facilities, and capabilities to store, handle, process, or disinfect such articles so as to prevent the introduction or dissemination of END or HPAI into the United States, and which is approved by the Administrator.⁵

(3) Carcasses, or parts or products of carcasses, including meat, of poultry, game birds, or other birds, may be imported if packed in hermetically sealed containers and if cooked by a commercial method after such packing to produce articles that are shelf stable without refrigeration.

⁴Animal byproducts are regulated under part 95 of this subchapter.

⁵The names and addresses of approved establishments may be obtained from, and requests for approval may be made to the National Center for Import-Export, Veterinary Services, APHIS, 4700 River Road, Unit 38, Riverdale, Maryland 20737-1231.

(4) Carcasses and parts or products of carcasses, including meat, of poultry, game birds, or other birds, may be imported if they are accompanied by a certificate that is signed by a full-time, salaried veterinarian of the government agency responsible for animal health in the region and that specifies that the articles were cooked throughout to reach a minimum internal temperature of 74 °C (165 °F).

(5) Carcasses, and parts or products of carcasses, including meat, of poultry, game birds, or other birds, that originated in a region considered to be free of END and any subtype of HPAI, and that are processed (cut, packaged, or other processing) in a region where END or HPAI is considered to exist, may be imported under the following conditions:

(i) *Shipment to processing establishments.* All poultry, game bird, or other bird products from such regions shall be shipped from the END and HPAI-free region where they originated to a processing establishment⁶ in the region where END or HPAI is considered to exist in closed containers sealed with serially numbered seals applied by an official of the national government of that region. They must be accompanied by a certificate that is signed by a full-time, salaried veterinarian of the government agency responsible for animal health in the region and that specifies the products' region of origin, the processing establishment to which the carcasses or parts or products are consigned, and the numbers of the seals applied to the shipping containers.

(A) The poultry, game bird, or other bird carcasses or parts or products may be removed from containers at the processing establishment in the region where END or HPAI is considered to exist only after an official of the na-

tional government has determined that the seals are intact and free of any evidence of tampering. The official must attest to this fact by signing the certificate accompanying the shipment.

(B) [Reserved]

(ii) *Handling of poultry, game bird, or other bird carcasses or parts or products.* Establishments in regions where END or HPAI is considered to exist that process poultry, game bird, or other bird carcasses or parts or products for export to the United States:

(A) May not receive or handle any live poultry or birds.

(B) Must keep any records required by this section on file at the facility for a period of at least 2 years after export of processed products to the United States, and must make those records available to USDA inspectors during inspections.

(C) May process carcasses or parts or products that originate in any region, provided that:

(1) All areas, utensils, and equipment likely to contact the carcasses or parts or products to be processed, including skinning, deboning, cutting, and packing areas, are cleaned and disinfected between processing carcasses or parts or products from regions where END or HPAI is considered to exist and processing those from END and HPAI-free regions.

(2) Carcasses or parts or products intended for export to the United States are not handled, cut, or otherwise processed at the same time as any carcasses or parts or products not eligible for export to the United States.

(3) Carcasses or parts or products intended for export to the United States are packed in clean new packaging that is clearly distinguishable from that containing any carcasses or parts or products not eligible for export to the United States.

(4) Carcasses or parts or products are stored in a manner that ensures that no cross-contamination occurs.

(iii) *Cooperative service agreement.* Operators of processing establishments must enter into a cooperative service agreement with APHIS to pay all expenses incurred by APHIS in inspecting the establishment. APHIS anticipates that such inspections will occur once a year. The cooperative service account

⁶As a condition of entry into the United States, poultry species and poultry products addressed by the Poultry Products Inspection Act (PPIA, 21 U.S.C. 451 *et seq.*) and regulations thereunder (9 CFR, chapter III, part 381), must also meet all of the requirements of the PPIA and part 381, including requirements that the poultry or poultry products be prepared only in establishments approved by FSIS. Species subject to these requirements include chickens, turkeys, ducks, geese, guineas, ratites, or squabs.

must always contain a balance that is at least equal to the cost of one inspection. APHIS will charge the cooperative service account for travel, salary, and subsistence of APHIS employees, as well as administrative overhead and other incidental expenses (including excess baggage charges up to 150 pounds).

(iv) *Shipment to the United States.* Poultry, game bird, or other bird carcasses or parts or products to be imported into the United States must be shipped from the region where they were processed in closed containers sealed with serially numbered seals applied by an official of the national government of that region. The shipments must be accompanied by a certificate signed by an official of the national government of the region where articles were processed that lists the numbers of the seals applied and states that all of the conditions of this section have been met. A copy of this certificate must be kept on file at the processing establishment for at least 2 years.

(6) Poultry, game bird, or other bird carcasses or parts or products that do not otherwise qualify for importation under paragraphs (b)(1) through (5) of this section may be imported only if the importer applies to, and is granted a permit by, the Administrator, authorizing such importation. A permit will be given only when the Administrator determines that such importation will not constitute a risk of introduction or dissemination of END or HPAI into the United States. Application for a permit may be made in accordance with paragraph (d) of this section.

(c) *Eggs (other than hatching eggs) from regions where END is considered to exist.* Eggs (other than hatching eggs⁷) from poultry, game birds, or other birds may be imported only in accordance with this section if they: Are laid by poultry, game birds, or other birds that are raised in any region where END is considered to exist (see paragraph (a) of this section); are imported from any region where END is considered to exist; or are moved into or

through any region where END is considered to exist at any time before importation or during shipment to the United States.

(1) *With a certificate.* The eggs may be imported if they are accompanied by a certificate signed by a salaried veterinary officer of the national government of the region of origin or, if exported from Mexico, accompanied either by such a certificate or by a certificate issued by a veterinarian accredited by the national government of Mexico and endorsed by a full-time salaried veterinary officer of the national government of Mexico, thereby representing that the veterinarian issuing the certificate was authorized to do so, and:

(i) The eggs are imported in cases marked with the identity of the flock of origin and sealed with the seal of the national government of the region of origin.

(ii) The certificate accompanying the eggs is presented to an authorized inspector when the eggs reach the port of arrival in the United States.

(iii) The certificate identifies the flock of origin and shows the region of origin, the port of embarkation, the port of arrival, the name and address of the exporter and importer, the total number of eggs, and cases of eggs, shipped with the certificate, and the date the certificate was signed.

(iv) The certificate states that the eggs qualify for importation in accordance with this section.

(v) The certificate states that no more than 90 days before the certificate was signed, a salaried veterinary officer of the national government of the region of origin or, if exported from Mexico, by a veterinarian accredited by the national government of Mexico, inspected the flock of origin and found no evidence of communicable diseases of poultry.

(vi) The eggs were washed, to remove foreign material from the surface of the shells, and sanitized on the premises of origin with a hypochlorite solution of from 100 ppm to 200 ppm available chlorine.

(vii) The eggs were packed on the premises of origin in previously unused cases.

⁷The requirements for importing hatching eggs are contained in part 93 of this chapter.

(viii) Before leaving the premises of origin, the cases in which the eggs were packed were sealed with a seal of the national government of the region of origin by the salaried veterinarian of the national government of the region of origin who signed the certificate or, if exported from Mexico, by the veterinarian accredited by the national government of Mexico who signed the certificate.

(ix) In addition, if the eggs were laid in any region where END is considered to exist (see paragraph (a) of this section), the certificate must also state:

(A) No END occurred on the premises of origin or on adjoining premises during the 90 days before the certificate was signed.

(B) There is no evidence that the flock of origin was exposed to END during the 90 days before the certificate was signed.

(C) The eggs are from a flock of origin found free of END as follows: On the seventh and fourteenth days of the 21-day period before the certificate is signed, at least 1 cull bird (a sick or dead bird, not a healthy bird that was killed) for each 10,000 live birds occupying each poultry house certified for exporting table eggs was tested for END virus using embryonated egg inoculation technique. The weekly cull rate of birds of every exporting poultry house within the exporting farm does not exceed 0.1 percent. The tests present no clinical or immunological evidence of END by embryonated egg inoculation technique from tissues of birds that were culled and have been collected by a salaried veterinary officer of the national government of the region of origin or by a veterinarian accredited by the national government of Mexico. All examinations and embryonated egg inoculation tests were conducted in a laboratory located in the region of origin, and the laboratory was approved to conduct the examinations and tests by the veterinary services organization of the national government of that region. All results were negative for END.

(D) Egg drop syndrome is notifiable in the region of origin and there have been no reports of egg drop syndrome in the flocks of origin of the eggs, or within a 50 kilometer radius of the

flock of origin, for the 90 days prior to the issuance of the certificate.

(2) *To an approved establishment for breaking and pasteurization.* The eggs may be imported if they are moved from the port of arrival in the United States, under seal of the United States Department of Agriculture, to an approved establishment for breaking and pasteurization. Establishments will be approved when the Administrator determines that pasteurization and sanitation procedures for handling the eggs, and for disposing of egg shells, cases, and packing materials, are adequate to prevent the introduction of END into the United States.

(3) *For scientific, educational, or research purposes.* The eggs may be imported if they are imported for scientific, educational, or research purposes and the Administrator has determined that the importation can be made under conditions that will prevent the introduction of END into the United States. The eggs must be accompanied by a permit obtained from APHIS prior to the importation in accordance with paragraph (f) of this section, and they must be moved and handled as specified on the permit to prevent the introduction of END into the United States.

(4) *Other.* The eggs may be imported when the Administrator determines that the eggs have been cooked or processed or will be handled in a manner that will prevent the introduction of END into the United States. The eggs must be accompanied by a permit obtained from APHIS prior to the importation in accordance with paragraph (f) of this section, and they must be moved and handled as specified on the permit to prevent the introduction of END into the United States.

(d) To apply for a permit, contact the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import-Export, 4700 River Road Unit 38, Riverdale, Maryland 20737-1231.

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 94.6, see the List of CFR

§ 94.7

Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 94.7 Disposal of animals, meats, and other articles ineligible for importation.

(a) Ruminants and swine, and fresh (chilled or frozen) meats, prohibited importation under §§ 94.1, 94.8, 94.9, 94.10, 94.12, 94.14, or 94.18, which come into the United States by ocean vessel and are offered for entry and refused admission into this country, shall be destroyed or otherwise disposed of as the Administrator may direct, unless they are exported by the consignee within 48 hours, and meanwhile are retained under such isolation and other safeguards as the Administrator may require to prevent the introduction or dissemination of livestock diseases into the United States.

(b) Ruminants and swine, and fresh (chilled or frozen) meats, prohibited importation under §§ 94.1, 94.8, 94.9, 94.10, 94.12, 94.14, or 94.18, which come into the United States aboard an airplane or railroad car and are offered for entry and refused admission into this country, shall be destroyed or otherwise disposed of as the Administrator may direct, unless they are exported by the consignee within 24 hours, and meanwhile are retained under such isolation and other safeguards as the Administrator may require to prevent the introduction or dissemination of livestock diseases into the United States.

(c) Ruminants and swine, and fresh (chilled or frozen) meats, prohibited importation under §§ 94.1, 94.8, 94.9, 94.10, 94.12, 94.14, or 94.18, which come into the United States by any means other than ocean vessel, airplane, or railroad car and are offered for entry and refused admission into this country, shall be destroyed or otherwise disposed of as the Administrator may direct, unless they are exported by the consignee within 8 hours, and meanwhile are retained under such isolation and other safeguards as the Administrator may require to prevent the introduction or dissemination of livestock diseases into the United States.

(d) Ruminants and swine, and fresh (chilled or frozen) meats, prohibited importation under §§ 94.1, 94.8, 94.9, 94.10, 94.12, 94.14, or 94.18, which come

9 CFR Ch. I (1–1–13 Edition)

into the United States by any means but are not offered for entry into this country, and other animals, meats, and other articles prohibited importation under other sections of this part, which come into the United States by any means, whether they are offered for entry into this country or not, shall be immediately destroyed or otherwise disposed of as the Administrator may direct at any time.

[68 FR 6345, Feb. 7, 2003]

§ 94.8 Pork and pork products from regions where African swine fever exists or is reasonably believed to exist.

(a) African swine fever exists or the Administrator has reason to believe that African swine fever exists in the regions listed under paragraph (a)(2) of this section.

(1) The Administrator bases the reason to believe African swine fever exists in a region on the following factors:

(i) When a region allows the importation of host animals, pork or pork products, or vectors of African swine fever from a region in which African swine fever exists under conditions which the Administrator has determined are less stringent than those prescribed by this chapter for importing host animals, pork or pork products, or vectors of African swine fever into the United States from a region in which African swine fever exists; or

(ii) When a region allows the importation or use of African swine fever virus or cultures under conditions which the Administrator has determined are less stringent than those prescribed by this chapter for the importation or use of African swine fever virus or cultures into or within the United States; or

(iii) When a region has a contiguous border with, or is subject to commercial exchange or natural spread of African swine fever host animals, host materials, or vectors with, another region with known outbreaks of African swine fever; or

(iv) A region's lack of a disease detection, control, or reporting system capable of detecting or controlling African swine fever and reporting it to the United States in time to allow the