

jurisdiction meets the food safety requirements of § 210.13.

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PART 220—SCHOOL BREAKFAST PROGRAM

■ 6. The authority citation for 7 CFR part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 7. In § 220.7:

■ a. Add a new paragraph (a)(3); and

■ b. Revise paragraph (e)(8).

The addition and revision read as follows:

§ 220.7 Requirements for participation.

(a) * * *

(3) A school food authority must implement a food safety program meeting the requirements of § 210.13(c) and § 210.15(b)(5) of this chapter at each of the food preparation and service facilities under its jurisdiction serving breakfasts.

* * * * *

(e) * * *

(8) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations, and comply with the food safety requirements in paragraph (a)(2) and paragraph (a)(3) of this section;

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Dated: December 4, 2009.

Kevin W. Concannon,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. E9-29799 Filed 12-14-09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS-2008-0032]

RIN 0579-AC80

Importation of Cooked Pork Skins

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to allow for the importation of cooked pork skins from regions affected with foot-and-mouth disease, swine vesicular disease, African swine fever, and classical swine fever under certain conditions. We are taking this

action after preparing a risk assessment that concluded that the cooking methods examined are sufficient to inactivate the pathogens of concern. This action will relieve restrictions on the importation of cooked pork skins while continuing to protect against the introduction of those diseases of concern.

DATES: *Effective Date:* January 14, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Karen A. James-Preston, Director, Technical Trade Services-Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of communicable diseases of livestock and poultry. The regulations in §§ 94.4, 94.8, 94.9, and 94.12, among others, contain requirements for the importation of cured or cooked meat and pork or pork products from regions where rinderpest, foot-and-mouth disease (FMD), African swine fever (ASF), classical swine fever (CSF), and swine vesicular disease (SVD) exist.

On July 2, 2008, we published a proposed rule¹ in the **Federal Register** (73 FR 37892-37896, Docket No. APHIS-2008-0032) in which we proposed to allow for the importation of cooked pork skins from regions affected with FMD, ASF, CSF, and SVD under certain conditions. Specifically, we proposed to amend the FMD-related provisions in § 94.4, the ASF-related provisions in § 94.8, the CSF-related provisions in § 94.9, and the SVD-related provisions in § 94.12 by adding a new paragraph to each section that authorizes the importation of pork skins if they have been cooked using one of the two cooking methods described in the proposed rule.

We solicited comments on the proposed rule for 60 days ending September 2, 2008. We received six comments by that date, from State agriculture departments, a pork industry association, and a snack food manufacturer. The commenters raised several issues related to the proposed rule. These issues are discussed below.

All the commenters expressed concern that importing cooked pork

skins into the United States would increase the risk of introducing swine diseases into the United States. Some commenters expressed concern that disease could be introduced through contaminated packaging as well as through the product itself.

As we explained in the proposed rule, cooked pork skins imported into the United States must meet the other requirements of our regulations as well as the provisions of the Federal Meat Inspection Act and the regulations in 9 CFR part 327. These safeguards include requirements for pork and pork products from regions where ASF exists to be packed in clean new packaging that is clearly distinguishable from packaging used for pork or pork products not eligible for export to the United States. These safeguards have been effective in preventing the introduction of swine diseases into the United States.

One commenter stated that the cooking processes do not alter protein functionality in pork skins. The commenter expressed concern that pork skin pellets could be rehydrated to their original consistency and could therefore present a risk of spreading disease.

As we explained in the proposed rule, cooked pork skins would be fully cooked by one of two cooking processes, both of which exceed the heat inactivation requirements for the pathogens of concern. In addition, the low levels of water activity in the pellets would make it unlikely that the pathogens would survive, since viruses prefer moist conditions. Rehydrating the pellets would not reactivate the pathogens.

One commenter stated that when pork skins are cooked in accordance with the proposed processes, there would be a temperature discrepancy between the temperature of the oven or cooking oil and internal temperature of the product. The commenter was concerned that, without proper validation, the internal temperature of the product would not be held high enough for long enough to inactivate viruses.

The product in this case consists of small pieces of skin which are typically 1 to 6 centimeters in width and half a centimeter thick. Given both the size of the pieces of skin and the length of the prescribed cooking times, we are confident that the interior temperature of the product will reach a temperature that will be near that of the oven or cooking oil and that will be sufficient to inactivate all the pathogens of concern.

One commenter stated that the Animal and Plant Health Inspection Service (APHIS) underestimated the likelihood of the imported pork skins

¹ To view the proposed rule and the comments we received, go to (<http://www.regulations.gov/jdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0032>).

being fed to swine. The commenter stated that in pork rind frying operations, spent or uncooked pellets would be sent to rendering facilities that would then sell their products to swine feedlots. The commenter stated that because the import request was for cooked product that would need further processing, not for fried product, this represented a risk of spreading disease to domestic swine.

APHIS notes that both cooking processes include cooking in oil, or deep frying, at temperatures which exceed the inactivation requirements for the pathogens of concern. Furthermore, while we acknowledge that commercial operations may send waste pellets to rendering facilities, we also note that any waste pellets used as feed would be regulated under 9 CFR part 166, which includes requirements that any garbage intended for use as swine feed must be treated to kill disease organisms. We are making no changes to the rule in response to this comment.

One commenter stated that the process for approving facilities required only one-time inspection and was inadequate to assure that a facility met the requirements in the regulations.

We disagree. In addition to APHIS inspection and approval of facilities, the Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture, also conducts periodic inspections and audits of overseas facilities. We are confident that these reviews will be effective in ensuring that foreign processing facilities meet the requirements of the regulations.

Several commenters asked for an explanation of how we would know if the requirements set forth in the regulations have been met. One commenter specifically asked how

quality control at foreign plants would be documented.

Cooked pork skins to be imported into the United States would have to be produced at a facility that meets both APHIS and FSIS requirements, and would have to be accompanied by both the foreign meat inspection certificate required by 9 CFR part 327 and certificates issued by the national government of the region of origin that state that the cooked pork skins meet the requirements of our regulations. Products that do not meet these requirements are not allowed entry into the United States. These procedures are the same as those currently required for other meat and meat products imported into the United States and have been effective in preventing the introduction of foreign animal diseases.

One commenter asked if there was a need for sampling of products and packaging at the port of entry.

Such sampling will not be necessary. To be allowed entry into the United States, pork skins must be fully cooked according to one of the two cooking processes described in the proposed rule. Sampling cooked products would not provide any additional protection for U.S. animal health because the cooking processes will inactivate the pathogens of concern.

Two commenters raised the issue that States are held to a higher standard of meat inspection than exporting countries.

We are not making any changes in response to these comments, as the issue is outside APHIS' statutory authority.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final 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.

We are amending the regulations to allow for the importation of cooked pork skins from regions affected with FMD, SVD, ASF, and CSF under certain conditions. We are taking this action after preparing a risk assessment that concluded that the cooking methods examined are sufficient to inactivate the pathogens of concern. This action will relieve restrictions on the importation of cooked pork skins while continuing to protect against the introduction of those diseases of concern. In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

Pork rinds are a snack food that is made from deep-fried pork rind pellets (cooked pig skins). The size of the pork rind snack manufacturing industry is considered to be relatively small. Available Economic Census data do not provide specific information on the pork rind snack industry. The Census categorizes the pork rind industry with certain other snack foods (excluding potato chips, corn chips, and related products) under "other snack food manufacturing," and the product classification code is 311919.² As table 1 shows, the industry is comprised of a relatively small number of establishments. On average, these establishments employ fewer than 100 employees and therefore most, if not all, of the establishments can be considered to be small entities.³

TABLE 1.—SNACK FOOD MANUFACTURING, EXCLUDING POTATO CHIPS, CORN CHIPS, AND RELATED PRODUCTS, 2002

Number of establishments	Number of employees	Payroll (\$ million)	Total cost of materials (\$ million)	Total value of shipments (\$ million)
47	4,284	\$131	\$365	\$959

Source: 2002 Economic Census (<http://www.census.gov/prod/ec02/ec0231i311919.pdf>).

Although no clear-cut method exists to disaggregate the pork rind snack manufacturers from the other snack manufacturers in the Census data, we can use available sales information for pork rind snack food to approximate the

size of this segment of the industry. Currently two trade associations keep track of pork rind snack sales: The Snack Food Association of Alexandria, VA, reported sales of \$562 million (-21.6 percent)⁴ and Information

Resources, Inc., of Chicago, IL, reported sales of \$98 million (-16.8 percent).⁵

Comparing these trade association data to the \$959 million shipment value reported in the Census data for "other snack food manufacturing," sales by the

² The products included within this code are other chips, sticks, hard pretzels, bacon rinds, popcorn (except candied), etc., excluding crackers, soft pretzels, and nuts.

³ The U.S. Small Business Administration (SBA) defines establishments engaged in other snack food

manufacturing (North American Industry Classification System code 311919) as small if their employees number no more than 500.

⁴ Sales in 2005, which includes all distribution channels. Percentage shows the change from previous year.

⁵ Total supermarket, drug store, and mass merchandising sales for the 52 weeks ending May 21, 2006, excluding Wal-Mart. Percentage shows the change from previous year.

pork rind snack manufacturers may represent as much as one-half of sales for this product category. In terms of the sales trend, it is notable that both trade associations reported about 20 percent declines in sales from the previous year. The slowdown in sales may at least partially reflect a shift in consumers'

orientation away from the high-protein/low-carbohydrate diet that seems to have peaked in 2004.

Pork Rind Pellet Manufacturers

Pork rind pellets are made from cooked pork skins and are the main material used in making pork rind

snacks. The number and size of the pork rind pellet manufacturers (including manufacturers of pork cracklings⁶) are relatively small. Only 17 establishments compose this industry, and they had a total shipment value in 2002 of \$196 million, as shown in table 2.

TABLE 2.—PORK RIND PELLET MANUFACTURERS, 2002

Product code	Product description	Number of companies with shipments of \$100,000 or more	Shipment value (\$ million)	Estimated shipment volume ¹
311611R121	Pork rind pellets, including pork cracklings, made in slaughtering plants	5	\$45	155.9 million pounds (70,715 metric tons)
311612A441	Pork rind pellets, including pork cracklings, made from purchased carcasses	12	151	56 million pounds (91,580 metric tons)

¹ Although shipment volumes for pork rind pellets are not available in the 2002 Census data, the 1997 Census data indicate that 123.7 million pounds were shipped for product code 311612A441, with a total shipment value of \$130 million. The 2002 figures are calculated based on this information.

Source: 2002 Economic Census.

U.S. Imports and Exports of Pork Rind Products

Trade data⁷ specific to pork rinds are not available; instead, three harmonized tariff schedule (HTS) data for the edible offal of swine are examined and summarized.^{8, 9} Tables 3 and 4

summarize the import and export trends for these three HTS codes.¹⁰

The United States has imported a relatively small volume of edible offal of swine, including pork rinds, at an average of 7,000 metric tons annually with a value of \$12 million over the past 5 years. Although the import of swine

offal peaked in 2005 and has declined since, U.S. exports are relatively stable. The United States exported, on an average, about 24,000 metric tons with an average value of \$24 million, and the United States has been a consistent net exporter of the edible offal of swine over the past 5 years.

TABLE 3.—U.S. IMPORTS OF EDIBLE OFFAL OF SWINE, FROZEN, PREPARED, OR PRESERVED

Country	2002		2003		2004		2005		2006	
	Million dollars	Metric ton								
Canada	2.9	2,901	4.3	3,553	10.5	4,481	7.0	6,635	5.7	6,274
Denmark	8.1	2,183	6.8	2,281	7.5	1,893	2.1	2,247	2.1	1,127
Mexico	0.0	0	1.1	0	0.6	108	0.0	79	0.0	0
Others	0.0	177	0.0	144	0.1	102	0.1	174	0.0	27
Total	11.3	5,261	12.8	5,978	19.2	6,584	9.5	9,135	7.8	7,428

Source: U.S. International Trade Commission, HTS 0206490000, 0206490050, 1602494000

TABLE 4.—U.S. EXPORTS OF EDIBLE OFFAL OF SWINE, FROZEN, PREPARED, OR PRESERVED

Country	2002		2003		2004		2005		2006	
	Million dollars	Metric tons								
Mexico	10.1	15,405	11.0	16,747	19.4	24,325	18.3	21,235	16.5	22,078
Japan	9.4	3,102	3.3	1,410	0.9	272	1.4	435	4.4	1,494
Korea	0.5	358	1.6	776	1.8	848	2.2	1,029	3.0	1,330

⁶ Cracklings are produced from pellets — cooked pork skins — that are thicker and meatier than rinds.

⁷ Source: U.S. International Trade Commission Interactive Tariff and Trade Dataweb.

⁸ HTS 020649 — Edible offal of swine, frozen: Other; HTS 0206490050 — Edible offal of swine, frozen, pork rind (Note: This classification is no longer available in the 2007 HTS); HTS 1602494000 — Other prepared or preserved meat, meat offal, or blood of swine: Other, not containing cereals or vegetables, other.

⁹ Of those, only one HTS is specifically for pork rind (frozen). The other two include other edible offal of frozen, prepared, or preserved swine.

¹⁰ "Landed Duty-Paid Value," which is the sum of the cost, insurance, and freight (CIF) value plus calculated duties, is used for the trade data.

TABLE 4.—U.S. EXPORTS OF EDIBLE OFFAL OF SWINE, FROZEN, PREPARED, OR PRESERVED—Continued

Country	2002		2003		2004		2005		2006	
	Million dollars	Metric tons								
Hong Kong	2.3	1,097	1.4	679	1.2	353	1.1	261	1.5	330
Others	3.8	2,518	2.3	2,720	1.1	1,584	1.1	853	0.8	695
Total	26.1	22,120	19.6	22,332	24.4	27,382	24.1	23,813	26.2	25,927

Source: U.S. International Trade Commission.

Exports of Pork Rind Products from Brazil

Two HTS categories that include pork skins are used to examine the status of Brazilian exports of pork rinds: 160249 (Meat, Meat Offal or Mixtures of Swine,

Prepared or Preserved, NESOI¹¹) and 020649 (Offal of Swine Except Livers, Edible, Frozen).

TABLE 5.—EXPORTS OF SWINE OFFAL FROM BRAZIL

Country	2003			2004			2005			
	Million dollars	Metric tons	Per metric ton	Million dollars	Metric tons	Per metric ton	Million dollars	Metric tons	Per metric ton	% share of volume
Hong Kong	\$7.2	9,199	781.9	\$9.5	10,347	916.9	\$15.2	14,537	1,046.9	65.2%
Russia	3.4	4,621	725.3	2.2	2,897	750.1	4.1	4,689	876.8	21.0%
Others	2.3	3,882	602.7	3.3	3,493	942.7	3.0	3,064	960.1	13.7%
World Total	12.9	17,702	727.8	15.0	16,737	893.4	22.3	22,290	999.2	100%

Source: U.S. Census Bureau, as reported by Global Trade Information Services, Inc.

Brazil exports a relatively small amount of swine offal products. On an average, it exports about 19,000 metric tons annually with a total value of \$17 million. Hong Kong is by far the largest buyer of Brazilian swine offal, accounting for almost two-thirds of total exports. Russia is the second largest buyer; however, its imports are limited to frozen swine offal (HTS 0206491).

In terms of the aggregate world export of swine offal products, Brazil is ranked around tenth in both HTS categories with its share accounting for about 1 percent of world trade.¹²

Expected Economic Impact

The expected impact of the final rule on the U.S. economy is illustrated under two scenarios: 3 million pounds (1,361 metric tons) and 4 million pounds (1,814 metric tons) of pork rind pellets imported from Brazil.¹³ These scenarios reflect the initial plan of the U.S. importer who requested the rule.

Table 6 summarizes the estimated price effects and impacts for U.S. producers and consumers under these two scenarios, using a nonspatial, partial equilibrium welfare model. The

changes are minor; the model estimates that the net welfare benefit would be about \$19,000 under the first scenario (3 million pounds imported) and \$30,000 under the second scenario (4 million pounds imported). These welfare measures reflect a reduction in domestic production that would be more than offset by an increase in consumption. The changes in domestic production and consumption would be less than 1 percent. It is, therefore, safely assumed that the final rule will not have a significant economic impact on small entities in the pork rind industry.

TABLE 6.—ESTIMATED IMPACT ON THE U.S. ECONOMY OF PORK OFFAL IMPORTS FROM BRAZIL

	Pork rind pellets imported from Brazil	
	1,361 metric tons (3 million pounds)	1,814 metric tons (4 million pounds)
Change in U.S. consumption, metric ton	680.8	840.8
Change in U.S. production, metric ton	-730.2	-973.2
Change in price of pork rind pellets, dollars per metric ton	-\$17.08	-\$22.76

¹¹ Not Elsewhere Specified Or Indicated.

¹² Top exporters of HTS 020649 in 2005 were the United States (18 percent share), Germany (16 percent), Canada (13 percent), and Denmark (11 percent). For HTS 160249, top exporters were China

(25 percent), Denmark (14 percent), Germany (12 percent), and the United States (8 percent).

¹³ We used a nonspatial, partial equilibrium welfare model to quantify the economic effects of this rule. In addition to the importer's plan to

import 3 to 4 million pounds, the price and quantity data explained in previous sections are used as inputs.

TABLE 6.—ESTIMATED IMPACT ON THE U.S. ECONOMY OF PORK OFFAL IMPORTS FROM BRAZIL—Continued

	Pork rind pellets imported from Brazil	
	1,361 metric tons (3 million pounds)	1,814 metric tons (4 million pounds)
Change in consumer welfare, thousand dollars	\$1,577	\$2,104
Change in annual net welfare, thousand dollars	\$19	\$30

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) Has no retroactive effect; and (2) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

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

Authority: 7 U.S.C. 450, 7701-7772, 7781-7786, and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 94.4 is amended as follows:

■ a. In paragraph (b)(7), by removing the citation “§ 94.4(b)(4) or (b)(5)” and adding the words “paragraph (b)(4) or (b)(5) of this section” in its place.

■ b. By redesignating paragraphs (b)(8) and (b)(9) as paragraphs (b)(9) and (b)(10), respectively, and adding a new paragraph (b)(8) to read as set forth below.

■ c. In newly redesignated paragraph (b)(9)(ii), by removing the citation

“(b)(8)(i)” and adding the citation “(b)(9)(i)” in its place.

§ 94.4 Cured or cooked meat from regions where rinderpest or foot-and-mouth disease exists.

* * * * *

(b) * * *

(8) *Pork rind pellets (pork skins)*. Pork rind pellets (pork skins) must be cooked in one of the following ways:

(i) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(ii) *Two-step process*. The pork skins must be dry-cooked at 260 °C for approximately 210 minutes after which they must be cooked in hot oil (deep-fried) at 104 °C for an additional 150 minutes.

* * * * *

■ 3. Section 94.8 is amended as follows:

■ a. In paragraph (a)(3)(i), by removing the citation “(a)(4)” and adding the words “(a)(5) of this section” in its place.

■ b. By redesignating paragraph (a)(4) as paragraph (a)(5), and by adding a new paragraph (a)(4) to read as set forth below.

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

* * * * *

(a) * * *

(4) The pork product is pork rind pellets (pork skins) that were cooked in one of the following ways in an establishment that meets the requirements in paragraph (a)(5) of this section:

(i) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(ii) *Two-step process*. The pork skins must be dry-cooked at a minimum of 260 °C for approximately 210 minutes after which they must be cooked in hot oil (deep-fried) at a minimum of 104 °C for an additional 150 minutes.

* * * * *

■ 4. Section 94.9 is amended as follows:

■ a. In paragraph (c)(1)(ii)(B), by removing the word “or” the second time it appears.

■ b. In paragraph (c)(1)(iii)(C)(2), by removing the period at the end of the paragraph and adding “; or” in its place.

■ c. By adding a new paragraph (c)(1)(iv) to read as set forth below.

■ d. In paragraph (c)(2), by removing the citation “(c)(1)(ii) or (iii)” and adding the citation “(c)(1)(ii), (iii), or (iv)” in its place.

■ e. In paragraph (c)(3), by removing the citation “(c)(1)(ii) or (iii)” both places it occurs and adding the citation “(c)(1)(ii), (iii), or (iv)” in its place.

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

* * * * *

(c) * * *

(1) * * *

(iv) Pork rind pellets (pork skins) originating in regions where classical swine fever is known to exist may be imported into the United States provided they have been cooked in one of the following ways:

(A) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(B) *Two-step process*. The pork skins must be dry-cooked at a minimum of 260 °C for approximately 210 minutes after which they must be cooked in hot oil (deep-fried) at a minimum of 104 °C for an additional 150 minutes.

* * * * *

■ 5. In § 94.12, a new paragraph (b)(1)(vi) is added to read as follows:

§ 94.12 Pork and pork products from regions where swine vesicular disease exists.

* * * * *

(b) * * *

(1) * * *

(vi) Pork rind pellets (pork skins) must be cooked in one of the following ways:

(A) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(B) *Two-step process.* The pork skins must be dry-cooked at a minimum of 260 °C for approximately 210 minutes after which they must be cooked in hot oil (deep-fried) at a minimum of 104 °C for an additional 150 minutes.

* * * * *

Done in Washington, DC, this 9th day of December 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-29797 Filed 12-14-09; 8:33 am]

BILLING CODE 3410-34-S

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 95

[Docket No. APHIS-2006-0113]

RIN 0579-AC11

Importation of Swine Hides and Skins, Bird Trophies, and Ruminant Hides and Skins

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of animal byproducts to require that untanned swine hides and skins from regions with African swine fever and bird trophies from regions with exotic Newcastle disease meet certain requirements or go directly to an approved establishment upon importation into the United States. We are also setting out certain requirements for the importation of untanned bovine, deer, and other ruminant hides and skins into the United States from Mexico to prevent the spread of bovine babesiosis. These requirements will provide for the importation of these articles under conditions intended to prevent the introduction of African swine fever, bovine babesiosis, and exotic Newcastle disease.

DATES: *Effective Date:* January 14, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Tracye Butler, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-7476.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the

regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever (ASF), and exotic Newcastle disease (END). The regulations in § 95.5 set out requirements for the entry of untanned hides and skins. Section 95.6 sets out restrictions for those hides or skins that do not meet the requirements for entry in § 95.5.

On August 4, 2006, we published in the **Federal Register** (71 FR 44234-44239, Docket No. APHIS-2006-0113) a proposal¹ to provide specific conditions under which untanned swine hides and skins from regions not considered free of ASF and bovine, deer and other ruminant hides and skins from Mexico could be imported into the United States in order to protect the U.S. livestock populations from incursions of ASF and bovine babesiosis. We also proposed to restrict the importation of bird trophies in order to protect U.S. bird populations against the introduction of END. For greater clarity, we also proposed to reorganize the provisions of § 95.5.

We solicited comments concerning our proposal for 60 days ending October 3, 2006. We received three comments by that date. They were from a representative of a consortium of scientific societies, a representative of a foreign government, and a private citizen. They are discussed below.

One commenter suggested that we prohibit all imports mentioned in this proposed rule, because, according to the commenter, neither our treatment and certification requirements nor our inspections are rigorous enough to prevent the introduction of disease.

The commenter did not provide specific information indicating how the proposed requirements or our inspection procedures were insufficient to prevent the introduction of ASF, bovine babesiosis, and END into the United States. Our existing requirements and inspection procedures have been effective in preventing the introduction of rinderpest and FMD, and we believe that the requirements of this rule will be effective in preventing the introduction of ASF, bovine babesiosis, and END into the United States.

One commenter pointed out an inconsistency between our explanation

¹ To view the proposed rule and the comments we received, go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0113>).

of the proposed regulations in the preamble of the proposed rule and the proposed regulatory text.

We proposed to revise § 95.5 by redesignating paragraphs (a) through (e), which contain general provisions to allow the importation of ruminant hides and skins, as paragraphs (a)(1) through (a)(5). To address the specific risk of infestation with ticks carrying bovine babesiosis, we proposed to allow the importation of ruminant hides and skins from Mexico under proposed paragraph (b)(1) if they are hard dried in accordance with proposed paragraph (a)(2); have been pickled in a solution of salt containing mineral acid which has a pH of less than or equal to 5 and placed in containers while wet in accordance with proposed paragraph (a)(4); have been treated with lime so as to have become dehaired and ready for preparation into rawhide products in accordance with proposed paragraph (a)(5); have been frozen solid for 24 hours; are certified to be free of ticks; or were taken from cattle subjected to a tickicidal dip prior to slaughter.

However, as the commenter correctly noted, the proposed regulatory text in paragraph (b)(1) incorrectly referred to subjecting ruminant hides or skins from Mexico to one of the treatments listed in proposed § 95.5(a)(2), (a)(3), or (a)(4); paragraph (a)(3) contains a certification process that does not address the risk associated with ticks. Accordingly, the regulatory text in § 95.5(b)(1) in this final rule refers to the treatments in paragraphs (a)(2), (a)(4), and (a)(5) of § 95.5.

We proposed to add paragraph (c) in § 95.5 to provide for the importation of bird trophies from END-free regions. Under this paragraph, bird trophies from END-free regions may be imported without further restriction if they are accompanied by a certificate of origin issued by the national government of the region of export.

One commenter suggested two changes to the manner in which the proposed rule addressed bird trophies.

The commenter's first suggested change was to add a definition of "bird trophy" to the regulations in order to distinguish between bird carcasses or skins imported for ornamental or decorative display and those bird carcasses or skins imported for the purpose of research or display in a museum or educational institution. The commenter stated that adding such a definition to the regulations would help port inspectors to distinguish a bird trophy from research material.

We agree that defining "bird trophy" may make distinguishing a bird trophy from material of avian origin intended