

Some Federal employees have suggested that OPM change the timing of the tropical area surveys to the winter months. OPM reviewed information from the Bureau of Labor Statistics; the Department of Defense Per Diem, Travel, and Transportation Allowance Committee; the Puerto Rico Department of Labor and Human Resources, and the Guam Department of Commerce. With one exception, OPM did not find evidence of significant seasonal variation in prices in the tropical allowance areas or in the Washington, DC, area. The exception was hotel and motel prices, which appear to vary significantly by season in Kauai, Hawaii; Maui, Hawaii; San Juan, Puerto Rico; and the U.S. Virgin Islands. In terms of lodging prices, the "peak tourist season" for these areas seems generally to be the months of January through March.

Although lodging prices may vary significantly by season in some areas, the evaluation of available information leads OPM to believe that most other prices do not. Therefore, changing the timing of the tropical area surveys should have little effect on the COLA rates and will address suggestions made by some COLA recipients. In addition, the change should reduce the survey's public burden and cost. If both the tropical areas and the Alaska areas are surveyed in the January through March time frame, Washington, DC, area prices would be surveyed only once—not twice, as is currently the case. This will reduce the reporting burden of the respondents in the DC area and some of the Government's costs associated with the surveys. Therefore, in view of the COLA recipients' suggestions, the potential benefit to the public and the Government, and anticipated minimal impact, OPM plans to conduct living-cost surveys in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands in the first quarter of the calendar year beginning with the next survey, which will be conducted in the first quarter of calendar year 1996.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that this regulation would not have a significant economic impact on a substantial number of small entities because the regulation would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office of Personnel Management

James B. King,

Director.

Accordingly, OPM proposes to amend 5 CFR part 591 as follows:

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

1. The authority citation for subpart B of Part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; E.O. 12510, 3 CFR, 1985 Comp., p. 338.

2. Section 591.205 is amended by removing the word "several" in paragraphs (b) and (b)(1) and by adding the words "one or more" in its place; in paragraph (b)(3) by removing the second and third sentences and adding in their place the sentence, "Standard shelter specifications (type and size) and appropriate living communities are selected for survey."; and in paragraph (c) by revising the third sentence to read as follows:

§ 591.205 Comparative cost index.

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(c) * * * When two or more income levels are used in the analyses, the dollar amounts for each income level are weighted into one average amount to reflect the GS grade distribution for the allowance area. * * *

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§ 591.210 [Amended]

3. In § 591.210, paragraph (d) is removed; and paragraphs (e), (f), and (g) are redesignated as paragraphs (d), (e), and (f), respectively.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 92 and 98

[Docket No. 94–085–2]

Importation of Sheep and Goats and Germ Plasm From Sheep and Goats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the animal importation regulations to revise who may issue health certificates for ruminants offered for importation.

This amendment would make the regulations more consistent with regard to different animals and countries and would provide for an alternative method of issuing health certificates. We are also proposing to amend the animal importation regulations to revise the conditions for importing sheep and goats. Likewise, we are proposing to amend the animal germ plasm regulations to revise the conditions for importing germ plasm from sheep and goats. These changes appear necessary to prevent the importation of sheep and goats, and germ plasm from sheep and goats, that may be affected with scrapie.

In addition, we are proposing to amend the animal importation regulations to allow imported goats to be quarantined in privately operated quarantine facilities that meet the requirements that now apply to privately operated quarantine facilities for sheep. This amendment would provide uniform rules for the quarantine of animals which pose an identical disease risk.

Lastly, we are proposing to remove from the regulations health certificate requirements with regard to the importation of sheep from New Zealand. Since it appears that sheep from New Zealand pose no greater disease risk than sheep from other countries, it is no longer necessary to require such sheep to meet special health certificate requirements.

COMMENTS: Consideration will be given only to comments received on or before July 10, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 94–085–2, Animal and Plant Health Inspection Service, Policy and Program Development, Regulatory Analysis and Development, 4700 River Road Unit 118, Riverdale, MD 20737–1228. Please state that your comments refer to Docket No. 94–085–2.

Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Bowling, Staff Veterinarian, or Dr. Roger Perkins, Staff Veterinarian, Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import and Export, 4700 River Road Unit 38, Riverdale, MD 20737–1228. Telephone: (301) 734–8170.

SUPPLEMENTARY INFORMATION:**Background**

The regulations in 9 CFR part 92 govern the importation into the United States of live animals, including sheep and goats, which are regulated in part to prevent those infected with scrapie from transmitting the disease to livestock in the United States. The regulations in 9 CFR part 98 govern the importation into the United States of germ plasm (semen and embryos), including germ plasm from sheep and goats.

Scrapie is a progressive degenerative disease of the central nervous system of sheep and goats. Scrapie occurs more often in certain flocks and herds and certain bloodlines, indicating that these animals may be genetically predisposed to become infected with or develop the disease. Scrapie may also be transmitted by breeding and other physical contact between animals.

The disease develops slowly, with an incubation period lasting up to 5 years. The signs which then become manifest may include nervousness, incoordination, slight muscular tremors, visible weight loss, lack of luster in the animals' wool, and itching. Affected animals become debilitated and die. There is no diagnostic test for confirming the presence of the disease in a live animal or in germ plasm. Therefore, presence of the disease cannot be detected until an animal becomes clinically ill. There is no known treatment for the disease. The impact of the disease in the United States could increase if spread of the disease is not controlled, or if incidence of the disease increases. For these reasons, our regulations are intended to prevent the importation of animals and germ plasm that could transmit scrapie, while controlling spread of the disease as it exists in the United States and eliminating foci of infection.

The regulations in 9 CFR parts 92 and 98 are designed, in part, to prevent the importation of scrapie-infected animals and germ plasm into the United States. Other regulations concerning scrapie are contained in 9 CFR parts 54 and 79. The regulations in part 54 deal with controlling scrapie in the United States, and include, among other things, the Voluntary Scrapie Flock Certification Program. The regulations in part 79 concern identification of sheep and goats in the United States that are or may be affected with scrapie, and restrict the interstate movement of sheep and goats so as to prevent the interstate spread of scrapie.

In this document we are proposing to amend the regulations in parts 92 and 98, as they pertain to the importation of

sheep and goats and of germ plasm from sheep and goats. In our discussion, we refer to the regulations in both these parts of the CFR as "the regulations." Proposed amendments to each part are discussed separately.

Changes to Part 92

Under part 92 regulations, sheep and goats may enter the United States only if they meet certain conditions intended to prevent the importation of sheep and goats that may be affected with scrapie. The regulations have varying and sometimes inconsistent requirements concerning the source of the animals, the length of time animals must have been in scrapie-free locations, and whether they must be accompanied by a health certificate.

We believe the regulations should be amended to better target the animals most likely to be infected with scrapie and not unduly restrict the animals which do not pose a significant threat of disease. We also believe the regulations should be amended to clarify them and make them more uniform. We are therefore proposing various amendments, which are discussed individually below.

Certificates—Issuance

We are proposing to amend the regulations concerning certificates. Under our current regulations, most ruminants imported into the United States must be accompanied by a certificate containing health information. Our existing regulations state that most certificates must be issued by "a salaried veterinary officer of the national government of the country of origin," unless the animal is imported from Mexico, in which case, as an alternative, the certificate can also be 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 (see existing § 92.405(a)). Other sections of the regulations, concerning specific animals from specific countries, contain slightly different requirements. For example, existing § 92.418(a), concerning cattle from Canada, states that a certificate "issued or endorsed by a salaried veterinarian of the Canadian Government" is required. Section 92.419(a), concerning sheep and goats from Canada, states that a "certificate either issued by a salaried veterinarian of the Canadian Government or issued by a veterinarian authorized by the Canadian Government to issue such certificates and subsequently endorsed by a salaried veterinarian of the Canadian Government" is required.

Section 92.423(a), concerning ruminants from Central America and the West Indies, requires a "certificate of a salaried veterinarian of the national government of the country of origin."

We believe our regulations should be as consistent as possible. We also believe an alternative method of issuing certificates, such as is available for ruminants imported from Mexico, should be available to importers of ruminants from all countries. Such a change would not affect the risk of spreading animal diseases to the United States. Therefore, we are proposing to amend the certificate requirements in § 92.405(a) to state that certificates must be either: (1) Issued by a salaried veterinary officer of the national government of the country of origin, or, alternatively; (2) issued by a veterinarian accredited or designated by the national government of the country of origin and endorsed by a full-time salaried veterinary officer of the national government of the country of origin, thereby representing that the veterinarian issuing the certificate was authorized to do so.

Like the United States, Mexico accredits veterinarians to act on behalf of the national government and perform functions required under these regulations. Other countries "designate" veterinarians to perform such work. For this reason, we propose to use both terms in our regulations. In addition, we would amend existing §§ 92.418(a), 92.419(a), 92.423(a), 92.427, 92.428(a), and 92.429 to remove the requirements concerning who may issue a certificate and to refer instead to the requirements in proposed § 92.405(a). As explained above, these amendments would not have any effect on disease risk. These amendments would, however, allow importers more flexibility, and would make the certificate issuance requirements uniform while consolidating them in one section of the regulations.

Health Requirements

Section 92.405(b) contains requirements for certifying the health status, with respect to scrapie, of sheep and goats intended for importation into the United States. We propose to amend § 92.405(b) to require that the certificate accompanying the sheep or goats state that:

- (1) The sheep or goats have not been in any flock or herd nor had contact with sheep or goats which have been in any flock or herd where scrapie has been diagnosed or suspected during the 5 years immediately prior to shipment;
- (2) None of the female sheep or goats in the flock or herd from which the

sheep or goats will be imported was impregnated, during the 5 years immediately preceding shipment of the sheep or goats to the United States, with embryos or semen from another country other than the United States or from a flock or herd of unknown scrapie status;

(3) The veterinarian issuing the certificate has inspected the sheep or goats in the flock or herd from which the sheep or goats will be imported and found the flock or herd to be free of clinical symptoms of scrapie, and of any other infectious or contagious disease;

(4) None of the sheep or goats in the flock or herd from which the sheep or goats will be imported is the progeny of a sire or dam that has been affected with scrapie or that has produced offspring that have been affected with scrapie; and

(5) As far as it is possible for the veterinarian who inspects the animals to determine, none of the sheep or goats in the flock or herd from which the sheep or goats will be imported has been exposed to scrapie or any other infectious or contagious disease during the 60 days immediately preceding shipment to the United States.

For reasons explained below, these requirements appear necessary to help ensure that animals to be imported into the United States are not infected with scrapie and have not been exposed to scrapie.

Currently, our regulations require that sheep and goats come from a scrapie-free "district." This requirement was designed to ensure that scrapie is not imported through sheep and goats originating in districts where scrapie exists. However, because scrapie is apparently transmitted through close physical contact, it is necessary to determine the health status of the sheep or goats with which the imported animal has had such contact. Therefore, we believe it is unnecessary to require that animals come from a scrapie-free "district," and our proposed regulations focus instead on the animals' flock or herd.

Our regulations also currently require, in different sections, that sheep and goats, to be eligible for importation into the United States, must have been in scrapie-free locations for the preceding 3 years or for the preceding 42 months (e.g., §§ 92.405(b)(iii) and 92.419(a)(3)). However, an animal can be over 4 years of age before it shows symptoms of scrapie. The age when signs first appear is variable. We believe that 5 years, or 60 months, would be adequate to ensure that an animal is not infected.

We are proposing to require that inspections be conducted by the veterinarian who issues the certificate in

order to ensure that the animals are inspected by a veterinarian qualified to detect scrapie and other diseases. The proposed requirements concerning the health of the sire and dam, and other progeny of the sire and dam are intended to help ensure that the animals to be imported are not infected with scrapie. In addition, the proposed restriction on the use of embryos or semen from other countries or from flocks or herds of unknown scrapie status is intended to ensure that scrapie has not been introduced into the flock or herd from which the animals are to be imported into the United States.

We are proposing to use both "flock" and "herd", although the terms are synonymous. This usage is standard in the livestock industry: "flock" is used in connection with sheep, and "herd" is used in connection with goats. In connection with this proposed amendment, we are also proposing to amend the definition of *herd* in § 92.400. We would make the wording identical to the definition of *flock* in § 54.1, which reads: "All animals maintained on any single premises; and all animals under common ownership or supervision on two or more premises which are geographically separated, but among which there is an interchange or movement of animals." We would also add the same definition of *flock* to § 92.400 and to the regulations in part 98. These changes are intended to make our regulations consistent and avoid possible different interpretations. Later in this document, under the heading *Part 98*, we discuss our proposal to add a definition of *flock* to that part.

Additional Requirements

To further ensure that imported sheep and goats do not transmit scrapie to sheep and goats in the United States, we are proposing to add a new set of requirements in proposed § 92.435. Proposed § 92.435 would not apply to Australia, Canada, and New Zealand since we do not believe sheep and goats imported from these countries pose a risk of transmitting scrapie into the United States. Australia and New Zealand are recognized by the United States Department of Agriculture and the Office International des Epizooties (Office of International Epizootics) as scrapie-free countries. Therefore, sheep and goats from these countries pose no risk of importing scrapie into the United States. Although Canada is not free of scrapie, Canada employs reporting and surveillance requirements equivalent to the United States. Such requirements include, but are not limited to: (1) Reporting incidence of scrapie; (2) restriction of animal movement within the country because of scrapie; (3)

identification of flocks or herds with scrapie; and (4) depopulation mechanisms for scrapie (i.e., removal of high-risk animals). Canadian regulations are distinctly designed to control the spread of scrapie within that country. Furthermore, APHIS and Canadian animal health authorities closely coordinate scrapie control efforts. Under these circumstances, it appears unnecessary and unproductive to impose the requirements proposed in new § 92.435 upon sheep and goats imported from Australia, Canada or New Zealand.

With certain exceptions, we propose to allow sheep or goats to be imported into the United States only if they meet one of the following two conditions: (1) They are placed in a flock or herd that participates in the Voluntary Scrapie Flock Certification Program and qualifies at the "Certified" level; or (2) they are placed in a flock or herd that participates in the Voluntary Scrapie Flock Certification Program and the owner of the flock or herd has agreed in writing to continue to do so until the flock or herd meets the conditions for being "Certified."

The Voluntary Scrapie Flock Certification Program (see 9 CFR part 54, subpart B, §§ 54.10–54.13 and the "Uniform Methods and Rules—Voluntary Scrapie Flock Certification Program" (UM&R))¹ is designed to reduce the incidence and control the spread of scrapie. It was established after several years of discussion and input from industry representatives, members of the public, and other affected and interested parties. Among other things, it establishes an official tamper-proof identification system for sheep and goats in the Program. It also requires that participating animals be regularly inspected and that flock and herd owners keep records of sales and dispersals. The long-term goal of the Program is to reduce the incidence of scrapie in the United States.

Herds and flocks participating in the Voluntary Scrapie Flock Certification Program are classified according to the risk of their being infected with scrapie. Each herd receives an identifying number. From greatest to least risk (referred to also as from lowest to highest level), the classes are: Certifiable Class C, Certifiable Class B, Certifiable Class A, and Certified.

Under proposed § 92.435, prospective importers would have to provide the Volunteer Scrapie Flock Certification

¹ Individual copies of the UM&R may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import and Export, 4700 River Road Unit 38, Riverdale, MD 20737–1231.

Program identification number of the receiving flock or herd as part of their permit application. A permit would not be issued unless the permit application identified a flock or herd to receive the imported animals. Wethers, sheep and goats imported for immediate slaughter, and wild sheep and goats imported to an approved zoological park for exhibition purposes would be exempt from this requirement. These animals, provided they have met all applicable permit, certificate, and other requirements of the regulations, would not present any significant risk of transmitting scrapie.

Under option 1, only animals from flocks or herds in the country of origin which were participating in a program that is equivalent to our Voluntary Scrapie Flock Certification Program, and which were at a level equivalent to the "Certified" level, could qualify to be imported. Animals imported into "Certified" flocks or herds could be removed from the flocks or herds at any time, at the option of the owner. This is in accordance with the terms of the Voluntary Scrapie Flock Certification Program, which allows participants to leave the program at any time. Animals in "Certified" flocks or herds pose little or no risk of transmitting scrapie.

Likewise, under option 2, receiving flocks and herds would have to participate in the Voluntary Scrapie Flock Certification Program. However, owners of receiving flocks and herds would have to agree, in writing, to abide by the requirements of the Program for a minimum of 5 years, or until the flock or herd reached "Certified" status. At that time, animals in the flock or herd could be removed to any location. Prior to that, animals could only be removed to other flocks or herds which have met the requirements of § 92.435 for receiving sheep or goats imported under option 2 and which have reached the same certification level or are at a lower level (i.e., are at an equal or greater risk). For example, sheep and goats in receiving herds at the Certifiable Class B level could be moved to other complying herds at the Certifiable Class B or Class C level. They could not be moved to flocks or herds at the Certified or Certifiable Class A level.

Under current requirements of the Voluntary Scrapie Flock Certification Program, such animals would have to remain in a "Certifiable" flock or herd until the flock or herd achieved "Certified" status, which would vary from 2 years (animals entering Certifiable Class A herds), 4 years (animals entering Certifiable Class B herds), and 5 years (animals entering Certifiable Class C herds). If the

classification status of the receiving herd fell after the animals were added to the flock or herd, the animals would have to remain in that flock or herd, or another complying flock or herd of equal or lower status (i.e., greater risk), until the flock or herd achieved "Certified" status.

Animals imported under option 2 would have to be placed in Certifiable Class C flocks or herds, unless: (1) They came from flocks or herds that were participating in a program in the country of origin that was equivalent to our Voluntary Scrapie Flock Certification Program; and (2) the flock or herd was participating at a level equivalent to "Certifiable Class B" or "Certifiable Class A." The animals would then be placed in either a certifiable Class B or A flock or herd, depending upon the level in the country of origin.

In addition to meeting the requirements of § 92.405, the certificate accompanying all sheep and goats imported under proposed § 92.435, except sheep and goats placed in Certifiable Class C flocks or herds, would have to state that: "The animals identified on this certificate have been monitored by a salaried veterinary officer of [*name of country of origin*], for [*number of months*], in the same source flock or herd which had been determined by the Administrator, APHIS, prior to the exportation of these animals to the United States, to be equivalent to [*certification level*] of the Voluntary Scrapie Flock Certification Program authorized under 9 CFR Part 54, subpart B."

The Administrator of the Animal and Plant Health Inspection Service (APHIS) would determine, in advance of the importation, whether a country from which the animals are to be imported has a scrapie control program equivalent to our Voluntary Scrapie Flock Certification Program. The Administrator also would determine, in advance of the importation, the participation status of the flock or herd. Prospective importers who wish to import sheep and goats into flocks or herds in the United States would have to supply certain information to APHIS, at the time they apply for an import permit, in order for the Administrator to make these determinations. We intend to recommend that prospective importers apply for permits no less than 1 month prior to the anticipated date of importation.

The information provided would have to include the name, title, and address of a knowledgeable official in the veterinary services of the country of origin, and details of scrapie control

programs in the country of origin, including information on disease surveillance and border control activities and the length of time these activities have been in effect. We would also require information concerning additions to the herd or flock from which the sheep or goats would be imported during the 5 years immediately preceding shipment to the United States. Additionally, we would require any available data concerning disease incidence, during the 5 years immediately preceding shipment, in the flock or herd from which the sheep or goats would be imported, including, but not limited to, the results of diagnostic tests, especially histopathology tests, conducted on any animals in the flock or herd. The prospective importer would also be asked to include information concerning the health of other ruminants, flocks, and herds with which the imported sheep and goats, and with which animals in the sheep or goats' flock or herd, might have had physical contact over the 5 years immediately preceding shipment of the sheep or goats to the United States, and a description of the type and frequency of the physical contact. This information appears necessary to make a determination of the disease status of the flock or herd from which the sheep or goats would be imported. The Administrator could require additional information as needed in specific cases to make a final determination.

The Administrator would determine that a program was equivalent only if the requirements of the program equalled or exceeded the management practices required under our Voluntary Scrapie Flock Certification Program. We have determined, based on experience, that if these practices are followed, they effectively ensure that flocks and herds remain free of scrapie. Sheep and goats imported from flocks and herds that meet equivalent standards are unlikely to have been exposed to scrapie.

Any violation of the import requirements set forth in proposed § 92.435 would be a basis for an enforcement action, including, but not limited to, the removal from the United States of the animals imported.

Miscellaneous Amendments

We also propose to remove § 92.433 and to amend § 92.411. Section 92.433 concerns importation of sheep from New Zealand; § 92.411 contains cross-references to § 92.433 and sheep from New Zealand.

The provisions of current § 92.433 first became effective on June 10, 1988 (see 53 FR 21794-21809, Docket 88-057). At that time, there appeared to be

considerable interest in importing large numbers of sheep from New Zealand. It was anticipated that more sheep would be imported from New Zealand than could be handled at existing Federal quarantine facilities. The regulations were therefore amended to provide for privately operated quarantine facilities for sheep, including sheep from New Zealand, and to add health certification requirements concerning sheep from New Zealand.

We propose to remove the health certification requirements. Not only are large numbers of sheep from New Zealand not currently imported into the United States, but our experience has shown that sheep imported from New Zealand do not pose any disease or pest risk not also posed by sheep from other countries. We therefore believe that requiring sheep from New Zealand to meet special health certification requirements is unnecessary. We are therefore proposing to remove § 92.433. In addition, we would amend § 92.411(b) to remove references to § 92.433 and sheep from New Zealand.

Section 92.411(b)(1) also provides that certain ruminants imported into the United States must be quarantined for not less than 15 days. We propose to amend § 92.411 to require quarantine of not less than 30 days for all ruminants that must be quarantined under the regulations. A minimum of 30 days, which is already the minimum time required for cattle, is necessary to ensure that there is adequate time to complete required testing.

We also propose to amend § 92.434. This section contains requirements for privately operated quarantine facilities for sheep. We would amend this section so that the same requirements would apply to privately operated quarantine facilities for goats. Goats are normally raised under similar conditions and are subject to the same diseases and pests as sheep. They therefore pose the same disease risks as sheep. Under these circumstances, we believe goats can be safely handled in privately operated quarantine facilities that meet the same requirements that apply to privately operated quarantine facilities for sheep.

Changes to Part 98

The regulations in part 98 for importation of embryos from countries free of rinderpest and foot-and-mouth disease are contained in subpart A. These regulations require, among other things, that embryos may be imported if the donor sire and donor dam meet all the requirements they would have to meet under part 92 for a health certificate for importation into the United States (§ 98.3 (d) and (e)). The

regulations in part 98 for importation of animal semen are contained in subpart C. These regulations do not contain provisions for health certification of the donor sire, except when the animal semen is imported from a country where rinderpest or foot-and-mouth disease exists (§ 98.34(c)(1)(i)). We are proposing to amend the regulations in part 98, subparts A and C, to add specific requirements concerning the importation of germ plasm from sheep and goats, to prevent importations of germ plasm that could transmit scrapie.

We are proposing that sheep and goat germ plasm from any country be accompanied by a health certificate either issued by a salaried veterinary officer of the national government of the country of origin, or issued by a veterinarian accredited or designated by the national government of the country of origin and endorsed by a full-time salaried veterinary officer of the national government of the country of origin, thereby representing that the veterinarian issuing the certificate was authorized to do so.

The certificate would have to state that:

(1) The semen donor, or the embryos' sire and dam, have not been in any flock or herd nor had contact with sheep or goats which have been in any flock or herd where scrapie has been diagnosed or suspected during the 5 years prior to the date of collection of the semen or embryos;

(2) The semen donor, or the embryos' sire and dam, showed no evidence of scrapie at the time of collection of the semen or embryos;

(3) Scrapie has not been suspected nor confirmed in any progeny of the embryos' donor dam; and

(4) The parents of the semen donor, or the embryos' sire and dam, are not, nor were not, affected with scrapie.

These requirements appear necessary to help ensure that imported sheep and goat germ plasm is not affected with scrapie. Although it would be useful to confirm the absence of scrapie in the progeny of semen donors, we are not proposing to require this information. Obtaining it would be impracticable, as semen donors may have thousands of progeny. Consequently, as provided above in (3), we are only requiring the certificate to state such information with regard to the progeny of the embryos' donor dam.

To further ensure that sheep and goat germ plasm imported into the United States does not transmit scrapie to sheep and goats in the United States, we are proposing additional requirements for sheep and goat germ plasm from all countries except Australia, Canada, and

New Zealand. As explained above, we do not believe sheep, goats, or germ plasm thereof, pose a risk of transmitting scrapie into the United States if imported from Australia, Canada, or New Zealand. Australia and New Zealand are recognized by the United States Department of Agriculture and the Office of International Epizootics as scrapie-free countries. Therefore, germ plasm from sheep and goats in these countries poses no risk of importing scrapie into the United States. Although Canada is not free of scrapie, Canada employs reporting and surveillance requirements equivalent to the United States. Such requirements include, but are not limited to: (1) Reporting incidence of scrapie; (2) restriction of animal movement within the country because of scrapie; (3) identification of flocks or herds with scrapie; and (4) depopulation mechanisms for scrapie (i.e., removal of high-risk animals). Canadian regulations are distinctly designed to control the spread of scrapie within that country. Furthermore, APHIS and Canadian animal health authorities closely coordinate scrapie control efforts. Under these circumstances, it appears unnecessary and unproductive to impose restrictions on the germ plasm of sheep and goats which is imported from Australia, Canada, or New Zealand.

We are proposing to allow the germ plasm to be imported into the United States only if it is transferred into females in a flock or herd in the United States that meets one of the following two conditions: (1) The flock or herd participates in the Voluntary Scrapie Flock Certification Program and qualifies at the "Certified" level; or (2) the flock or herd participates in the Voluntary Scrapie Flock Certification Program, and the owner of the flock or herd has agreed in writing to continue to do so until the flock or herd, including all progeny resulting from the imported germ plasm, meets the conditions for being "Certified."

Prospective importers would be required to provide the Volunteer Scrapie Flock Certification Program identification number of the receiving flock or herd as part of the application for an import permit for the germ plasm.

Under option 1, only germ plasm from animals in flocks or herds in the country of origin which were participating in a program that is equivalent to our Voluntary Scrapie Flock Certification Program, and which were at a level equivalent to the "Certified" level, could qualify to be imported. Animals in the receiving flock or herd, including animals born of females who received

the imported germ plasm, could be removed from the flock or herd at any time, at the option of the owner. This is in accordance with the terms of the Voluntary Scrapie Flock Certification Program, which allows participants to leave the program at any time. Animals in "Certified" flocks or herds pose little or no risk of transmitting scrapie.

Germ plasm imported under option 2 would have to be transferred to females in Certifiable Class C flocks or herds, unless: (1) The germ plasm came from animals in a flock or herd that was participating in a program in the country of origin that was equivalent to our Voluntary Scrapie Flock Certification Program; and (2) the flock or herd was participating at a level equivalent to "Certifiable Class B" or "Certifiable Class A."

Animals in "Certifiable" flocks or herds, including all progeny from the imported germ plasm, would have to remain in the flock or herd, or a flock or herd of the same or lower status (i.e., greater risk), until the flock or herd met the conditions for being "Certified." (See the explanation given under "Changes to Part 92, Additional Requirements")

In addition, the certificate accompanying all embryos imported under options 1 or 2, except embryos transferred to a female in a flock or herd at the Certifiable Class C level, would have to state that: "The embryos identified on this certificate are the progeny of a dam and sire that have been monitored by a salaried veterinary officer of [name of country of origin], for [number of months], in the same source flock or herd which had been determined by the Administrator, APHIS, prior to the exportation of the embryos to the United States, to be equivalent to [certification level (of dam or sire) presenting greater risk] of the Voluntary Scrapie Flock Certification Program authorized under 9 CFR part 54, subpart B." The certificate accompanying all semen imported under options 1 or 2, except semen transferred to a female in a flock or herd at the Certifiable Class C level, would have to state that: "The semen identified on this certificate has been collected from a sire that has been monitored by a salaried veterinary officer of [name of country of origin], for [number of months], in the same source flock or herd which had been determined by the Administrator, APHIS, prior to the exportation of the semen to the United States, to be equivalent to [certification level] of the Voluntary Scrapie Flock Certification Program authorized under 9 CFR part 54, subpart B."

The Administrator would determine, in advance of the importation, whether a country from which the germ plasm is to be imported has a scrapie control program equivalent to our Voluntary Scrapie Flock Certification Program. The Administrator would also determine, in advance of the importation, the participation status of the flock or herd. Prospective importers who wish to import sheep or goat germ plasm into flocks or herds in the United States would have to supply certain information to APHIS at the time they apply for an import permit. We intend to recommend that prospective importers apply for permits no less than 1 month prior to the anticipated date of importation.

The information provided would have to include the name, title, and address of a knowledgeable official in the veterinary services of the country of origin, and the details of scrapie control programs in the country of origin, including information on disease surveillance and border control activities and the length of time that these activities have been in effect. We would also require information concerning additions to the herd or flock of the embryos' sire and dam, and the flock or herd of the semen donor, during the 5 years preceding collection of the germ plasm. Additionally, we would require any available data concerning disease incidence during the 5 years preceding collection of the germ plasm in the flock or herd of the embryos' sire and dam, and the flock or herd of the semen donor, including, but not limited to, the results of any diagnostic tests, especially histopathology tests, conducted on any animals in the flock or herd. The prospective importer would also be asked to include information concerning the health of other ruminants, flocks, and herds with which the embryos' sire and dam, the semen donor, the animals in the flock or herd of the embryos' sire and dam, and the animals in the flock or herd of the semen donor, might have had physical contact over the 5 years preceding collection of the germ plasm, and a description of the type and frequency of the physical contact. This information appears necessary to make a determination of the disease status of the flock or herd of the embryos' sire and dam, and the flock or herd of the semen donor. The Administrator could require additional information as needed in specific cases to make a final determination.

The Administrator would determine that a program was equivalent only if the requirements of the program equalled or exceeded the management

practices required under our Voluntary Scrapie Flock Certification Program. We have determined, based on experience, that if these practices are followed, they effectively ensure that flocks and herds remain free of scrapie. Germ plasm from animals in flocks or herds that meet equivalent standards is unlikely to present a risk of transmitting scrapie.

Any violations of the requirements set forth above for the importation of sheep or goat germ plasm would be a basis for an enforcement action, including, but not limited to, the removal from the United States of the imported germ plasm and any resulting animals.

These amendments are all consistent with amendments we are proposing to part 92, as explained above. We believe our proposed requirements are necessary to help ensure that imported sheep and goat germ plasm and animals resulting from the imported germ plasm, are not affected with scrapie.

Miscellaneous

We are proposing to add a definition of "flock" to part 98, subparts A and C. As explained earlier, "flock" is used in the industry in connection with sheep, and "herd" is used in connection with goats. The regulations in part 98 do not include a definition of "flock."

We are also proposing to make minor nonsubstantive, editorial amendments to the regulations in both parts 92 and 98.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Our economic analysis indicates that the proposed amendments would have a positive economic impact on U.S. importers of sheep, goats and their germ plasm, since importation into the United States would be easier. The current requirements surrounding the importation of sheep, goats, and their germ plasm are confusing and considered by many interested parties to be too restrictive.

In 1993, there were 98,230 operations with sheep in the United States. Under Small Business Administration criteria, 99 percent of them are believed to be small entities (having less than \$0.5 million in gross annual receipts for domestic producers and fewer than 100 employees for importers). No information is available on the number or U.S. operations with goats.

If the proposed amendments are adopted, additional certification information would be required under the new rules for sheep, goats, and germ plasm. However, no direct charges or user fees would be assessed by APHIS. The cost impact would be minimal.

We anticipate that participation in the Voluntary Scrapie Flock Certification Program will increase if these amendments are adopted, as germ plasm and breeding stock from countries other than Australia, Canada, and New Zealand, would be allowed to be introduced only into Program flocks and herds. Because of the termination by the U.S. government of the subsidy to wool and mohair growers, the expected shift from wool and mohair production to meat production in sheep and goats should create additional demand for breeding stock and germ plasm imports. Wider participation in the Program would better safeguard the U.S. sheep and goat industry against a scrapie outbreak. Participation requires operations to maintain records on their animals, although it is likely that potential importers of breeding animals or germ plasm are already keeping such records. There would be no increase in costs for sheep and goat operations if they participate in the Voluntary Scrapie Flock Certification Program.

In addition, if the proposed rule is adopted: (1) Sheep and goat imports from New Zealand would no longer be required to meet special health certification requirements, and (2) regulations governing privately operated quarantine facilities for imported sheep would apply to privately operated quarantine facilities for imported goats as well. These changes would not have a significant impact on importers or producers. We believe any impact would be positive, in that the changes would facilitate importation of sheep and goats.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Docket No. 94-085-2, Animal and Plant Health Inspection Service, Policy and Program Development, Regulatory Analysis and Development, 4700 River Road Unit 118, Riverdale, MD 20737-1228, and (2) Clearance Officer, OIRM, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects

9 CFR Part 92

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

9 CFR Part 98

Animal diseases, Imports.

Accordingly, 9 CFR parts 92 and 98 would be amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 92.400 would be amended by revising the definition of *herd* and by adding a definition for *flock*, in alphabetical order, to read as follows:

§ 92.400 Definitions.

* * * * *

Flock. A herd.

Herd. All animals maintained on any single premises; and all animals under common ownership or supervision on two or more premises which are geographically separated, but among which there is an interchange or movement of animals.

* * * * *

3. Section 92.405 would be amended as follows:

a. In paragraph (a), by revising the first sentence, up to and including the

words "stating that", to read as set forth below.

b. By revising paragraph (b) to read as set forth below.

§ 92.405 Certificate for ruminants.

(a) All ruminants intended for importation from any part of the world, except as provided in §§ 92.418(a), 92.419(a), 92.423(c), and 92.428(d) of this part, shall be accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the country of origin, or issued by a veterinarian designated or accredited by the national government of the country of origin and endorsed by a full-time salaried veterinary officer of the national government of the country of origin, thereby representing that the veterinarian issuing the certificate was authorized to do so. The certificate shall state that * * *

(b) The certificate accompanying sheep and goats intended for importation from any part of the world shall, in addition to the statements required by paragraph (a) of this section, state that:

(1) The sheep or goats have not been in any flock or herd nor had contact with sheep or goats which have been in any flock or herd where scrapie has been diagnosed or suspected during the 5 years immediately prior to shipment;

(2) None of the female sheep or goats in the flock or herd from which the sheep or goats will be imported was impregnated, during the 5 years immediately preceding shipment of the sheep or goats to the United States, with embryos or semen from another country other than the United States or from a flock or herd of unknown scrapie status;

(3) The veterinarian issuing the certificate has inspected the sheep or goats in the flock or herd from which the sheep or goats will be imported and found the flock or herd to be free of clinical symptoms of scrapie, and of any other infectious or contagious disease;

(4) None of the sheep or goats in the flock or herd from which the sheep or goats will be imported is the progeny of a sire or dam that has been affected with scrapie or that has produced offspring that have been affected with scrapie; and

(5) As far as it is possible for the veterinarian who inspects the animals to determine, none of the sheep or goats in the flock or herd from which the sheep or goats will be imported has been exposed to scrapie or any other infectious or contagious disease during the 60 days immediately preceding shipment to the United States.

* * * * *

4. Section 92.411 would be revised to read as follows:

§ 92.411 Quarantine requirements.

(a) Except for cattle from Central America and the West Indies, and except for ruminants from Canada and Mexico, all ruminants imported into the United States shall be quarantined for not less than 30 days counting from the date of arrival at the port of entry.

(b) Wild ruminants shall be subject, during their quarantine, to such inspections, disinfection, blood tests, or other tests as may be required by the Administrator to determine their freedom from disease.

5. In § 92.418, paragraph (a) would be revised to read as follows:

§ 92.418 Cattle from Canada.

(a) *Health certificates.* Except for cattle imported for immediate slaughter in accordance with § 92.420, cattle intended for importation from Canada shall be accompanied by a certificate issued in accordance with § 92.405(a). The certificate shall state that the cattle have been inspected and found to be free from any evidence of communicable disease and that, as far as can be determined, they have not been exposed to any such disease during the preceding 60 days. Cattle found unqualified upon inspection at the port of entry will be refused entry into the United States.

* * * * *

6. Section 92.419 would be amended by revising paragraph (a) to read as follows:

§ 92.419 Sheep and goats from Canada.

(a) Except for sheep and goats imported for immediate slaughter in accordance with § 92.420, sheep and goats intended for importation from Canada shall be accompanied by a certificate issued in accordance with § 92.405 (a) and (b).

* * * * *

7. Section 92.423 would be amended as follows:

a. In paragraph (a), by revising the first sentence, up to and including the words "country of origin", to read as set forth below.

b. By revising paragraph (b) to read as set forth below.

§ 92.423 Ruminants from Central America and the West Indies.

(a) Ruminants intended for importation from Central America and the West Indies, except as provided in paragraph (c) of this section, must be accompanied by a certificate issued in accordance with § 92.405(a) * * *

(b) The certificate accompanying sheep and goats intended for

importation from Central America and the West Indies must, in addition to the statements required by paragraph (a) of this section, meet all the requirements of § 92.405(b).

* * * * *

§ 92.427 [Amended]

8. Section 92.427 would be amended as follows:

a. In paragraph (b)(1), by revising the first sentence, up to and including the words "inspected the said cattle", to read as set forth below.

b. By revising paragraph (b)(2)(i), up to and including the words "inspected the cattle", to read as set forth below.

c. By revising paragraph (b)(2)(ii) to read as set forth below.

d. In paragraph (c)(1), the last sentence, by removing the words "issued by a salaried veterinarian of the Government of Mexico, or 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 adding in their place "issued in accordance with § 92.405(a) and".

e. By revising paragraph (d)(1), introductory text, to read as set forth below.

f. In paragraph (e)(2), by removing the words "by a salaried veterinarian of the Government of Mexico, or 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 adding in their place "in accordance with § 92.405(a) and".

§ 92.427 Cattle from Mexico.

* * * * *

(b) *Fever ticks.* (1) Except as provided in paragraph (b)(2), all cattle intended for importation from Mexico, for purposes other than immediate slaughter, shall be accompanied by a certificate issued in accordance with § 92.405(a), and showing that the veterinarian issuing the certificate inspected the cattle * * *

(2) * * *

(i) The cattle shall be accompanied by a certificate issued in accordance with § 92.405(a), and showing that the veterinarian issuing the certificate has inspected the cattle * * *

(ii) The cattle shall be shown by a certificate issued in accordance with § 92.405(a) to have been dipped in a

tickicidal dip within 7 to 12 days before being offered for entry.

* * * * *

(d) * * *

(1) Are accompanied by a certificate issued in accordance with § 92.405(a) stating:

* * * * *

9. Section 92.428 would be amended by revising paragraph (a) to read as follows:

§ 92.428 Sheep and goats and wild ruminants from Mexico.

(a) Sheep and goats intended for importation from Mexico shall be accompanied by a certificate issued in accordance with § 92.405 (a) and (b) and stating, if such sheep or goats are shipped by rail or truck, that such animals were loaded into cleaned and disinfected cars or trucks for transportation direct to the port of entry. Notwithstanding such certificate, such sheep and goats shall be detained as provided in § 92.427(a) and shall be dipped at least once in a permitted scabies dip under supervision of an inspector.

* * * * *

§ 92.429 [Amended]

10. In § 92.429, the first sentence would be amended by removing the words "issued by a salaried veterinarian of the Government of Mexico, or 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, stating" and adding in their place the words "issued in accordance with § 92.405 (a) and (b) and stating that the veterinarian who issued the certificate has inspected the animals in the herd from which the ruminants will be imported,".

§ 92.433 [Removed and Reserved]

11. Section 92.433, *Sheep from New Zealand*, would be removed and reserved.

§ 92.434 [Amended]

12. Section 92.434 would be amended as follows:

a. By revising the heading to read "*Standards for approval of privately operated quarantine facilities for sheep or goats, and handling procedures for the importation of sheep or goats.*"

b. In paragraph (b), introductory text, by redesignating footnote 20 and the reference to it as footnote 16.

c. In paragraph (d)(1), by redesignating footnote 21 and the reference to it as footnote 17.

d. By adding the words "or goats" after the word "sheep" in the following places:

1. In paragraph (a).
2. In paragraph (b)(2)(i)(B).
3. In paragraph (b)(2)(ii)(A).
4. In paragraph (b)(2)(ii)(B).
5. In paragraph (b)(2)(ii)(D).
6. In paragraph (b)(2)(ii)(E).
7. In paragraph (b)(2)(ii)(F).
8. In paragraph (b)(2)(iii)(G), after only the third time "sheep" appears.
9. In paragraph (b)(2)(iii)(K).
10. In paragraph (b)(2)(iii)(L).
11. In paragraph (b)(3)(i)(A)(5).
12. In paragraph (b)(3)(ii).
13. In paragraph (b)(3)(iv), in the heading and text.
14. In paragraph (b)(3)(iv)(A), in the first sentence.
15. In paragraph (b)(3)(iv)(B).
16. In paragraph (b)(3)(v).
17. In paragraph (b)(5).
18. In paragraph (c).
19. In paragraph (d)(2).
20. In paragraph (d)(2)(iv).
21. In paragraph (d)(4).

e. by adding the words "or goat" after the word "sheep" in the following places:

1. In paragraph (b)(2)(iii)(G), after the first and second time "sheep" appears.
2. In paragraph (b)(3)(iv)(A), in the second sentence.

f. By removing the word "sheep-holding" and adding the words "sheep-or goat-holding" in the following places:

1. In paragraph (b)(2)(ii)(K).
2. In paragraph (b)(2)(iii)(J).
3. In paragraph (b)(3)(i)(A).
4. In paragraph (b)(3)(i)(A)(1).
5. In paragraph (b)(3)(i)(A)(3).
6. In paragraph (b)(3)(ii).
13. A new § 92.435 would be added to read as follows:

§ 92.435 Sheep and goats from countries other than Australia, Canada, and New Zealand.

(a) Except for sheep and goats from Australia, Canada, or New Zealand, sheep and goats may only be imported into the United States if they meet all applicable provisions of this subpart and one of the following conditions:

(1) The animals are wethers, or sheep or goats imported for immediate slaughter, or wild sheep or goats imported for exhibition purposes to an approved zoological park in accordance with § 92.404(c); or

(2) The animals are placed in a flock or herd in the United States that participates in the Voluntary Scrapie Flock Certification Program (see 9 CFR part 54, subpart B) and qualifies as a "Certified" flock or herd; or

(3) The animals are placed in a flock or herd in the United States that participates in the Voluntary Scrapie Flock Certification Program (see 9 CFR part 54, subpart B), and the flock or herd owner must agree, in writing, to maintain the flock or herd in compliance with all requirements of the Voluntary Scrapie Flock Certification Program until the flock or herd would qualify as a "Certified" flock or herd.

(b) Sheep or goats may be imported under paragraphs (a)(2) or (a)(3) of this section only if the importer provides the Voluntary Scrapie Flock Certification Program identification number of the receiving flock or herd as part of the application for an import permit.

(c) Sheep and goats may be imported under paragraph (a)(2) of this section only if they come from a flock or herd in the country of origin that participates in a program determined by the Administrator to be equivalent to the Voluntary Scrapie Flock Certification Program, and the flock or herd has been determined by the Administrator to be at a level equivalent to "Certified" in the Voluntary Scrapie Flock Certification Program.

(d) Sheep and goats may be imported under paragraph (a)(3) of this section only if they are placed in a Certifiable Class C flock or herd participating in the Voluntary Scrapie Flock Certification Program; *Except*, that if the sheep and goats come from a flock or herd in the country of origin that participates in a program determined by the Administrator to be equivalent to the Voluntary Scrapie Flock Certification Program, then the sheep and goats may be placed in a herd or flock in the United States which would be classified at a level equivalent to or lower (i.e., at a greater risk) than the certification level, as determined by the Administrator, of the flock or herd from which the sheep or goats are to be imported.

(e) Sheep and goats imported under paragraph (a)(3) of this section must be monitored for scrapie disease until the flock or herd qualifies as a "Certified" flock or herd.

(f) Except for imported sheep and goats being placed in Certifiable Class C flocks or herds, the certificate accompanying sheep or goats imported under paragraphs (a)(2) or (a)(3) of this section must contain the following statement: "The animals identified on this certificate have been monitored by a salaried veterinary officer of [*name of country of origin*], for [*number of months*], in the same source flock or herd which had been determined by the Administrator, APHIS, prior to the exportation of these animals to the

United States, to be equivalent to [*certification level*] of the Voluntary Scrapie Flock Certification Program authorized under 9 CFR part 54, subpart B."

(1) The Administrator will determine, based upon information supplied by the importer, whether the flock or herd from which the animals are to be imported participates in a program in the country of origin that is equivalent to the Voluntary Scrapie Flock Certification Program, and if so, at what level the source flock or herd should be classified.

(2) In order for the Administrator to make a determination, the importer must supply the following information with the application for an import permit no less than 1 month prior to the anticipated date of importation:

(i) The name, title, and address of a knowledgeable official in the veterinary services of the country of origin;

(ii) The details of scrapie control programs in the country of origin, including information on disease surveillance and border control activities and the length of time such activities have been in effect;

(iii) Any available information concerning additions, within the 5 years immediately preceding shipment to the United States, to the flock or herd from which the sheep and goats will be imported;

(iv) Any available data concerning disease incidence, within the 5 years immediately preceding shipment to the United States, in the flock or herd from which the sheep or goats are to be imported, including, but not limited to, the results of diagnostic tests, especially histopathology tests, conducted on any animals in the flock or herd;

(v) Information concerning the health, within the 5 years immediately preceding shipment to the United States, of other ruminants, flocks, and herds with which the imported sheep and goats, and with which animals in the sheep or goats' flock or herd might have had physical contact, and a description of the type and frequency of such physical contact; and

(vi) Any other information requested by the Administrator in specific cases as needed to make a determination.

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

14. The authority citation for part 98 would be revised to read as follows:

Authority: 7 U.S.C. 1622; 21 U.S.C. 103, 104, 105, 111, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

15. Section 98.2 would be amended by adding definitions for *flock* and *herd*, in alphabetical order, to read as follows:

§ 98.2 Definitions.

* * * * *

Flock. A herd.

Herd. All animals maintained on any single premises; and all animals under common ownership or supervision on two or more premises which are geographically separated, but among which there is an interchange or movement of animals.

* * * * *

16. In § 98.5, paragraphs (a), (b), (c), (d), and (e) would be redesignated as paragraphs (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5); the introductory text would be designated as paragraph (a) and revised to read as follows; and a new paragraph (b) would be added to read as follows:

§ 98.5 Health certificate.

(a) Except as provided in subpart B of this part, an animal embryo shall not be imported into the United States unless it is accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the country of origin, or issued by a veterinarian designated or accredited by the national government of the country of origin and endorsed by a full-time salaried veterinary officer of the national government of the country of origin, thereby representing that the veterinarian issuing the certificate was authorized to do so. The certificate shall state:

* * * * *

(b) The certificate accompanying sheep or goat embryos intended for importation from any part of the world shall, in addition to the statements required by paragraph (a) of this section, state that:

(1) The embryos' sire and dam have not been in any flock or herd nor had contact with sheep or goats which have been in any flock or herd where scrapie has been diagnosed or suspected during the 5 years prior to the date of collection of the embryos;

(2) The embryos' sire and dam showed no evidence of scrapie at the time the embryos were collected;

(3) Scrapie has not been suspected nor confirmed in any progeny of the embryos' donor dam; and

(4) The parents of the embryos' sire and dam are not, nor were not, affected with scrapie.

17. In part 98, subpart A, a new § 98.10a would be added to read as follows:

§ 98.10a Embryos from sheep and goats in countries other than Australia, Canada, and New Zealand.

(a) Except for embryos from sheep and goats in Australia, Canada, or New Zealand, embryos from sheep and goats may only be imported into the United States if they comply with all applicable provisions of this subpart and one of the following conditions:

(1) The embryos are transferred to females in a flock or herd in the United States that participates in the Voluntary Scrapie Flock Certification Program (see 9 CFR part 54, subpart B) and qualifies as a "Certified" flock or herd; or

(2) The embryos are transferred to females in a flock or herd in the United States that participates in the Voluntary Scrapie Flock Certification Program (see 9 CFR part 54, subpart B) and the flock or herd owner must agree, in writing, to maintain the flock or herd, and all progeny resulting from embryos imported in accordance with this section, in compliance with all requirements of the Voluntary Scrapie Flock Certification Program until the flock or herd, including all progeny resulting from embryos imported in accordance with this section, would qualify as a "Certified" flock or herd.

(b) Sheep or goat embryos may be imported under paragraphs (a)(1) or (a)(2) of this section only if the importer provides the Voluntary Scrapie Flock Certification Program identification number of the receiving flock or herd as part of the application for an import permit.

(c) Sheep and goat embryos may be imported under paragraph (a)(1) of this section only if they are the progeny of a dam and sire that are part of flocks or herds in the country of origin that participates in a program determined by the Administrator to be equivalent to the Voluntary Scrapie Flock Certification Program, and the flocks or herds have been determined by the Administrator to be at a level equivalent to "Certified" in the Voluntary Scrapie Flock Certification Program.

(d) Sheep and goat embryos may be imported under paragraph (a)(2) of this section only if they are transferred to animals in a Certifiable Class C flock or herd participating in the Voluntary Scrapie Flock Certification Program: *Except*, that if the embryos are the progeny of a dam and sire whose flock or herd in the country of origin participates in a program determined by the Administrator to be equivalent to the Voluntary Scrapie Flock Certification Program, then the embryos may be placed in a herd or flock in the United States which would be classified at a level equivalent to or lower (i.e., at

a greater risk) than the certification level, as determined by the Administrator, of either the flock or herd of the dam or the flock or herd of the sire, whichever one presents the greater risk.

(e) The flock or herd to which the sheep and goat embryos are transferred pursuant to paragraph (a)(2) of this section, must be monitored for scrapie disease until the flock or herd, and all progeny resulting from the embryos imported in accordance with this section, qualifies as a "Certified" flock or herd.

(f) Except for sheep and goat embryos being placed in Certifiable Class C flocks or herds, the certificate accompanying sheep or goat embryos imported under paragraphs (a)(1) or (a)(2) of this section must contain the following statement: "The embryos identified on this certificate are the progeny of a dam and sire that have been monitored by a salaried veterinary officer of [name of country of origin], for [number of months], in the same source flock or herd which had been determined by the Administrator, APHIS, prior to the exportation of these embryos to the United States, to be equivalent to [certification level (of dam or sire) presenting greater risk] of the Voluntary Scrapie Flock Certification Program authorized under 9 CFR part 54, subpart B."

(1) The Administrator will determine, based upon information supplied by the importer, whether the flock or herd of the embryos' dam and sire participates in a program in the country of origin that is equivalent to the Voluntary Scrapie Flock Certification Program, and if so, at what level the source flock or herd would be classified.

(2) In order for the Administrator to make a determination, the importer must supply the following information with the application for an import permit, no less than 1 month prior to the anticipated date of importation:

(i) The name, title, and address of a knowledgeable official in the veterinary services of the country of origin;

(ii) The details of scrapie control programs in the country of origin, including information on disease surveillance and border control activities and the length of time such activities have been in effect;

(iii) Any available information concerning additions, within the 5 years immediately preceding collection of the embryos, to the flock or herd of the embryos' sire and dam;

(iv) Any available data concerning disease incidence, within the 5 years immediately preceding collection of the embryos, in the flock or herd of the

embryos' sire and dam, including, but not limited to, the results of diagnostic tests, especially histopathology tests, conducted on any animals in the flock(s) or herd(s);

(v) Information concerning the health, within the 5 years immediately preceding collection of the embryos, of other ruminants, flocks, and herds with which the embryos' sire and dam and the flock or herd of the embryos' sire and dam might have had physical contact, and a description of the type and frequency of the physical contact; and

(vi) Any other information requested by the Administrator in specific cases as needed to make a determination.

(g) All progeny resulting from embryos imported under this section are subject to the requirements of 9 CFR part 54 and all other applicable regulations.

18. In part 98, subpart C, § 98.30 would be amended by adding definitions for *flock* and *herd*, in alphabetical order, to read as follows:

§ 98.30 Definitions.

* * * * *

Flock. A herd.

Herd. All animals maintained on any single premises; and all animals under common ownership or supervision on two or more premises which are geographically separated, but among which there is an interchange or movement of animals.

* * * * *

19. In § 98.35, paragraph (c) would be revised and a new paragraph (e) would be added to read as follows:

§ 98.35 Declaration, health certificate, and other documents for animal semen.

* * * * *

(c) All animal semen intended for importation into the United States shall be accompanied by a health certificate issued by a full-time salaried veterinary officer of the national government of the country of origin, or issued by a veterinarian designated or accredited by the national government of the country of origin and endorsed by a full-time salaried veterinary officer of the national government of the country of origin, thereby representing that the veterinarian issuing the certificate was authorized to do so.

* * * * *

(e) The certificate accompanying sheep or goat semen intended for importation from any part of the world shall, in addition to the statements required by paragraph (d) of this section, state that:

(1) The semen donor has not been in any flock or herd nor had contact with

sheep or goats which have been in any flock or herd where scrapie has been diagnosed or suspected during the 5 years prior to the date of collection of the semen;

(2) The semen donor showed no evidence of scrapie at the time the semen was collected; and

(3) The parents of the semen donor are not, nor were not, affected with scrapie.

§ 98.36 [Amended]

20. In § 98.36, paragraph (a), introductory text, would be amended by adding the words "is not a sheep or goat and" immediately before the colon.

21. A new § 98.37 would be added to read as follows:

§ 98.37 Semen from sheep and goats in countries other than Australia, Canada, and New Zealand.

(a) Except for semen from sheep and goats in Australia, Canada, and New Zealand, semen from sheep and goats may only be imported into the United States if it complies with all applicable provisions of this subpart and one of the following conditions:

(1) The semen is transferred to females in a flock or herd in the United States that participates in the Voluntary Scrapie Flock Certification Program (see 9 CFR part 54, subpart B) and qualifies as a "Certified" flock or herd; or

(2) The semen is transferred to females in a flock or herd in the United States that participates in the Voluntary Scrapie Flock Certification Program (see 9 CFR part 54, subpart B), and the flock or herd owner must agree, in writing, to maintain the flock or herd, and all progeny resulting from semen imported in accordance with this section, in compliance with all requirements of the Voluntary Scrapie Flock Certification Program until the flock or herd, including all progeny resulting from semen imported in accordance with this section, would qualify as a "Certified" flock or herd.

(b) Sheep or goat semen may be imported under paragraphs (a)(1) or (a)(2) of this section only if the importer provides the Voluntary Scrapie Flock Certification Program identification number of the receiving flock or herd as part of the application for an import permit.

(c) Sheep or goat semen may be imported under paragraph (a)(1) of this section only if it comes from a donor animal in a flock or herd in the country of origin that participates in a program determined by the Administrator to be equivalent to the Voluntary Scrapie Flock Certification Program, and the flock or herd has been determined by

the Administrator to be at a level equivalent to "Certified" in the Voluntary Scrapie Flock Certification Program.

(d) Sheep or goat semen may be imported under paragraph (a)(2) of this section only if it is transferred to animals in a Certifiable Class C flock or herd participating in the Voluntary Scrapie Flock Certification Program; *Except*, that if the semen comes from a donor animal whose flock or herd in the country of origin participates in a program determined by the Administrator to be equivalent to the Voluntary Scrapie Flock Certification Program, then the semen may be used in a herd or flock in the United States which would be classified at a level equivalent to or lower (i.e., at greater risk) than the certification level, as determined by the Administrator, of the flock or herd of the donor animal.

(e) The flock or her to which the sheep and goat semen is transferred pursuant to paragraph (a)(2) of this section, must be monitored for scrapie disease until the flock or herd, and all progeny resulting from the semen imported in accordance with this section, qualifies as a "Certified" flock or herd.

(f) Except for sheep and goat semen being placed in Certifiable Class C flocks or herds, the certificate accompanying the sheep or goat semen imported under paragraphs (a)(1) or (a)(2) of this section must contain the following statement: "The semen identified on this certificate has been collected from a sire that has been monitored by a salaried veterinary officer of [*name of country of origin*], for [*number of months*], in the same source flock or herd which had been determined by the Administrator, APHIS, prior to the exportation of the semen to the United States, to be equivalent to [*certification level*] of the Voluntary Scrapie Flock Certification Program authorized under 9 CFR part 54, subpart B."

(1) The Administrator will determine, based upon information supplied by the importer, whether the donor animal's flock or herd participates in a program in the country of origin that is equivalent to the Voluntary Scrapie Flock Certification Program, and if so, at what level the source flock or herd would be classified.

(2) In order for the Administrator to make a determination, the importer must supply the following information with the application for an import permit, no less than 1 month prior to the anticipated date of importation:

(i) The name, title, and address of a knowledgeable official in the veterinary services of the country of origin;

(ii) The details of scrapie control programs in the country of origin, including information on disease surveillance and border control activities and the length of time these activities have been in effect;

(iii) Any available information concerning additions, within the 5 years immediately preceding collection of the semen, to the flock or herd of the semen donor;

(iv) Any available data concerning disease incidence, within the 5 years immediately preceding collection of the semen in the donor animal's flock or herd, including, but not limited to, the results of diagnostic tests, especially histopathology tests, conducted on any animals in the flock or herd;

(v) Information concerning the health, within the 5 years immediately preceding collection of the semen, of other ruminants, flocks, and herds with which the donor animal and the donor animal's flock or herd might have had physical contact, and a description of the type and frequency of the physical contact; and

(vi) Any other information requested by the Administrator in specific cases as needed to make a determination.

(g) All progeny resulting from semen imported under this section are subject to the requirements of 9 CFR part 54 and all other applicable regulations.

Done in Washington, DC, this 3rd day of May 1995.

George O. Winegar,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-11561 Filed 5-10-95; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1710

RIN 2550-AA01

Releasing Information

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is issuing a proposed rule to set forth the basic policies of OFHEO regarding information it maintains and the procedures for obtaining access to such

information. The rule contains regulations of OFHEO implementing the Freedom of Information Act (FOIA) and establishes a schedule of fees which will be charged for the processing of document requests under the FOIA. In addition, the proposed rule sets forth procedures to be followed with respect to testimony and the production of documents in legal proceedings in which OFHEO is not a named party as well as procedures for service of process upon OFHEO in any legal proceeding.

DATES: Written comments on the proposed rule must be received by July 10, 1995.

ADDRESSES: All comments concerning the proposed rule should be addressed to Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Fourth Floor, Washington, DC 20552. Copies of all communications received will be available for public inspection and copying at the same location.

FOR FURTHER INFORMATION CONTACT: Christine C. Dion, Associate General Counsel, 1700 G Street NW., Fourth Floor, Washington, DC 20552 (202/414-3800) (not a toll-free number).

SUPPLEMENTARY INFORMATION: Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 *et seq.*, established OFHEO as an independent office within the Department of Housing and Urban Development. The primary function of OFHEO is to ensure the financial safety and soundness and the capital adequacy of the nation's two largest housing finance institutions—the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises). OFHEO proposes to adopt this rule to explain matters relating to the availability of information generated and maintained by OFHEO and to set forth procedures for accessing such information. The proposed rule, among other things, implements the Freedom of Information Act. The rule establishes procedures by which the public may inspect OFHEO records, request and obtain copies of materials, and appeal denials of such requests. This rule includes a schedule of fees and procedures for determining when fees should be waived or reduced. The fee schedule conforms to guidelines published in the **Federal Register** by the Office of Management and Budget on March 27, 1987 (52 FR 10012). The proposed rule also implements Executive Order 12600 by providing

predisclosure notification procedures for confidential commercial or financial information.

In addition, the proposed rule sets forth the procedures to be followed with respect to testimony concerning official matters and production of official documents of OFHEO in legal proceedings in which OFHEO is not a named party. The proposed rule establishes the procedures for effecting service upon OFHEO in any legal process, including service of process by litigants seeking access to OFHEO records.

SECTION-BY-SECTION ANALYSIS

I. Information and Records Generally

Subpart A of the proposed rule contains general provisions relating to disclosure of information and records in the possession of OFHEO. Section 1710.1 sets forth procedures for disclosure of such materials by OFHEO employees. Section 1710.2 provides that the disclosure requirements of the FOIA and the proposed rule apply to all OFHEO records. It also provides that if another statute sets forth procedures for the disclosure of specific types of records, OFHEO will process a request for those records in accordance with the procedures that apply to those specific records. However, in cases where the record is not required to be released under the specific procedures set forth in another statute, OFHEO will consider the request under the FOIA. In addition, section 1710.2 describes the relationship between the FOIA and the Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, and explains that records that are available through an established distribution system should preferably be obtained through that system, rather than pursuant to the provisions of the FOIA.

Section 1710.3 of subpart A contains a general provision providing that reports of examinations prepared by OFHEO are the property of OFHEO and may only be disclosed in accordance with this section or with the prior written consent of the Director of OFHEO. The section further provides that any unauthorized use or disclosure of such reports may be subject to penalties under federal law. Section 1710.3 explains that the Director will make available to each Enterprise a copy of the examination report of that Enterprise and that the Enterprise may not disclose or use such reports except as expressly permitted by the Director. The section also explains that the Director has discretion to make the examination reports available for the confidential use of governmental