Authority: 7 U.S.C. 2011–2036.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.6, paragraphs (g) and (h) are revised to read as follows:

§ 272.6 Nondiscrimination compliance.

* * * * *

(g) *Data collection.* The State agency must obtain racial and ethnic data on participating households in the manner specified by FNS. The application form must clearly indicate that the information is voluntary, that it will not affect the eligibility or the level of benefits, and that the reason for the information is to assure that program benefits are distributed without regard to race, color, or national origin. The State agency must develop alternative means of collecting the ethnic and racial data on households, such as by observation during the interview, when the information is not provided voluntarily by the household on the application form.

(h) *Reports.* As required by FNS, the State agency must report the racial and ethnic data on participating household contacts on forms or formats provided by FNS.

Dated: November 22, 2002.

Roberto Salazar,

Administrator.

[FR Doc. 02–30112 Filed 11–26–02; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 99–017–1]

RIN 0579–AB13

Blood and Tissue Collection at Slaughtering Establishments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to establish requirements for the collection of blood and tissue samples from livestock (horses, cattle, bison, captive cervids, sheep and goats, swine, and other farm animals) and poultry at slaughtering establishments when it is necessary for disease surveillance. We also propose that any person who moves or causes the movement of livestock or poultry interstate for slaughter may only move the animals to a slaughtering establishment that has been listed by the Administrator. The Administrator would list a slaughtering establishment after determining that the establishment provides the type of space and facilities specified by the regulations to safely collect blood and tissue samples for disease testing. The actual testing of samples could occur either at the establishment or at another location, as determined by the Administrator. Alternatively, the Administrator could list a slaughtering establishment that does not supply such space and facilities if the Administrator determines that it is not necessary to conduct testing of animals slaughtered at the establishment because the data collected through such testing would not significantly assist APHIS disease surveillance programs.

This collection of blood and tissue samples would enable us to identify animals at slaughter that are affected by various communicable diseases of concern. This change would affect persons moving livestock or poultry interstate for slaughter, slaughtering plants that receive animals in interstate commerce, and, in cases where test-positive animals are successfully traced back to their herd or flock of origin, the owners of such herds or flocks. The long-term effects of this change would be to improve surveillance programs for animal diseases and to contribute to the eventual control or eradication of such diseases.

DATES: We will consider all comments that we receive on or before January 27, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 99–017–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1231. Please state that your comment refers to Docket No. 99–017–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 99–017–1'' on the subject line.

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

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Adam Grow, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–4363.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), has many programs to protect the health of livestock and poultry in the United States. These include programs to prevent endemic diseases and pests from spreading within the United States and programs to prevent the introduction of foreign animal diseases, as well as programs to control or eradicate certain animal diseases from the United States.

Regulations governing the interstate movement of animals for the purpose of preventing the dissemination of animal diseases within the United States are contained in 9 CFR, subchapter C—''Interstate Transportation of Animals (Including Poultry) and Animal Products.''

The legal authority for USDA to conduct testing was recently restated in the Animal Health Protection Act of 2002 (Subtitle E of the Farm Security and Rural Investment Act of 2002, Public Law 107–171). Section 10409 states that the Secretary of Agriculture ''may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.''

Proposed Changes to the Regulations

We are proposing to amend the regulations in subchapter C, part 71, ''General Provisions,'' to provide for the collection of blood and tissue samples from livestock (horses, cattle, bison, captive cervids, sheep and goats, swine, and other farmed animals) and poultry at slaughter. We propose to require that persons moving livestock and poultry interstate for slaughter may only move the animals to slaughtering establishments that have been listed by the Administrator of APHIS. We do not

propose to collect samples from all livestock or poultry at slaughter, but to collect samples whenever we believe it is necessary for effective surveillance. Some establishments slaughter relatively few animals, or process animals that are not susceptible to testing (*e.g.*, sheep and goats that are too young to test for scrapie), or receive animals from sources for which we already have sufficient epidemiological data, and it would not substantially aid our surveillance to require testing at these establishments. Therefore, the Administrator would list some establishments to receive livestock or poultry without conducting testing at those establishments. For establishments where it is necessary to conduct testing, the Administrator would list the establishment only if it allows APHIS, FSIS, or APHIS contractors to collect blood and tissue samples from animals at the establishment. To be listed, a slaughtering establishment where testing is required would have to grant access to the personnel conducting the tests and provide certain space and equipment necessary to collect and process test samples. Slaughtering establishments that are not listed could not receive livestock moving in interstate commerce.

In conjunction with this rulemaking, APHIS will develop a list of slaughtering establishments. Establishments will not have to actively contact APHIS in order to be placed on the list; APHIS will contact the plants where we intend to collect samples, and work with them to meet the requirements for listing. APHIS will list all plants that meet the qualifications, and will also list those plants at which APHIS has determined sample collection is not needed. There are 1,341 meat packing firms included in the North American Industry Classification System (NAICS) code of 311611, of which 1,260 are small businesses. Many of these small businesses are local operations that do not receive animals moving interstate, and thus do not need to be listed. We expect to conduct sampling at roughly 50 to 100 of the 1341 meat packing firms included in NAICS 311611. Since some of these firms have multiple plants, testing could occur at several hundred plants. In almost all cases, some testing already occurs at these plants; this rule would allow us to increase the level of testing as needed. While we will focus primarily on testing at the plants of large business firms, we will also test at some small plants, as necessary to ensure a valid representative sample for disease surveillance.

We are particularly seeking comments on the standards APHIS should apply in identifying the plants where APHIS should conduct sampling. Our goal is to collect samples at a representative number of plants in each region, so that sample testing will provide a statistically valid nationwide profile of diseased animals sent to slaughter plants. Because sample collection imposes some financial and operational burden on plants, we wish to keep the number of plants sampled down to the minimum number required to provide the data we need. Therefore, we urge commenters to address how APHIS should select plants for sampling; *e.g.*, their size, fraction of the regional market, proximity to other sampled plants, source of animals, and other characteristics.

The provisions regarding the collection of blood and tissue samples would be set out in a new § 71.21, ''Tissue and blood testing at slaughter.''

In § 71.1, we would amend the definition of livestock so that it includes horses, cattle, bison, captive cervids, sheep and goats, swine, and other farmed animals. (We would not include non-captive cervids in the definition because most such animals that go to slaughter plants are brought there by hunters, to a local slaughter plant, and do not thereafter move interstate in commerce. Also, the hunters generally gut and clean the animals in the field, reducing the opportunity to collect useful samples.)

We would also define *recognized slaughtering establishment* to be ''Any slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State meat inspection act. A list of recognized slaughtering establishments in any State may be obtained from an APHIS representative, the State animal health official, or a State representative.'' This definition is consistent with other APHIS and FSIS regulations addressing slaughtering plants. We need this defined term as part of the explanation in § 71.21 of what types of establishments must be listed by the Administrator for interstate movement. Listing applies to both recognized slaughtering establishments, which are under mandatory inspection under the Federal Meat Inspection Act, and other specialty plants (*e.g.*, for cervids and bison) that undergo voluntary inspection under the provisions of the Agricultural Marketing Act (12 U.S.C. 1141 *et seq.*)).

We would also add a definition of *move (moved)* to § 71.1, to make it clear that the requirements of the rule would apply to both persons transporting livestock and poultry and persons who cause the livestock or poultry to be moved. This definition, which is identical to one used in part 78 of our regulations, would read ''Shipped, transported, delivered, or otherwise aided, induced, or caused to be moved.''

We propose that the Administrator may list slaughtering establishments either when sample collection and testing is not needed at them to meet APHIS epidemiological surveillance needs, or when testing is needed and the establishment meets the following standards with regard to sample collection activities. The slaughtering plant would have to allow APHIS, FSIS, or APHIS contractors to collect and record any individual animal identification on animals, retain any identification devices on or in the animals (backtags, electronic implants, etc.), and take tissue and blood samples from animals at the facility. Slaughtering plants must allow samples to be collected at no cost to the United States; that is, they would not be able to charge the government for access to collect samples, or for the value of the samples collected. These are the basic tasks that need to be performed to test the animals for disease and collect the information that may be needed to trace back the animals.

In terms of the specific space for sample collection activities, the slaughtering plant would have to space where samples could be safely and efficiently collected. The plant would have to provide office and sample collection space, including necessary furnishings, light, heat, and janitor service, rent free, for use by APHIS, FSIS, or APHIS contractors collecting samples for blood and tissue testing. At the discretion of the Administrator, small plants would not have to furnish facilities if adequate facilities exist in a nearby convenient location. The space provided by the slaughtering establishment would be subject to the approval of the Administrator. In many cases the facilities that establishments already provide for use by FSIS will also suffice for additional sample collection conducted under this proposed rule.

When approving the space provided by a slaughtering plant in which testing is required, the Administrator would consider whether the space:

1. Is conveniently located, properly ventilated, and provided with lockers suitable for the protection and storage of supplies;

2. Has sufficient light to be adequate for proper conduct of sample collection and processing;

3. Includes racks, receptacles, or other suitable devices for retaining such parts as the head, glands, and viscera, and all parts and blood to be collected, until after the post-mortem examination is completed;

4. Includes tables, benches, and other equipment on which sample collection and processing are to be performed, of such design, material, and construction as to enable sample collection and processing in a ready, efficient, and clean manner;

5. Has adequate arrangements, including liquid soap and cleansers, for cleansing and disinfecting hands, dissection tools, floors, and other articles and places that may be contaminated by diseased carcasses or otherwise; and

6. Has adequate facilities, including denaturing materials, for the proper disposal of tissue, blood, and other waste generated during test sample collection.

We believe the space provided by the slaughtering plant should have these characteristics in order to allow APHIS, FSIS, or APHIS contractor personnel to collect and process test samples in an accurate, efficient, and safe manner.

We also propose that the Administrator or his or her designee would give the owner of a slaughtering establishment notice as to when we would be collecting test samples at the plant. The Administrator would give the operator of the slaughtering establishment as much advance notice as possible. However, the actual amount of notice would depend on the specific situation.

We also propose to include language allowing the Administrator to deny or withdraw listing of a slaughtering establishment if the establishment does not comply with the requirements of the regulations. This language is essentially the same as existing language in § 71.20 concerning denial and withdrawal of approval of livestock facilities.

Effects on Slaughter Plants Where APHIS Conducts Sampling

Under our proposal, sample collection would be done on the premises of the slaughtering plant. Full testing of samples might sometimes occur on the premises, although APHIS often will elect to send the samples offsite for testing. APHIS employees, FSIS employees, or a contractor hired by APHIS would collect the samples. There would be no personnel cost to slaughtering plants, although they would incur some expenses in providing the space and equipment used by APHIS, FSIS, or contractors. In some cases, the slaughtering plant itself may be the contractor employed by APHIS to collect samples.

The difficulty and expense of collecting the samples would depend on the type of testing. The most difficult sampling involves the collection of tissue from sheep to test for scrapie. We may wish to test any slaughtered sheep or goat after we determine that it has sufficient animal identification to trace it back to its flock of origin. Collecting the sample involves removing the brainstem from an animal through the spinal opening and sending it to a laboratory for histopathological procedures, and may involve collecting other tissue or blood samples as well, depending on the tests in use at the time.

Collecting samples to test for tuberculosis is also difficult, involving necropsy to collect multiple tissue samples. Collecting samples to test for brucellosis and pseudorabies is a relatively simple matter of collecting blood samples.

We realize that collection of tissue and blood samples at slaughter may affect slaughtering plant operations by disrupting or slowing down the work. While many samples can be collected without slowing down production lines, there would be occasional slowdowns. We also realize that plants would have to set aside, or make available, adequate and suitable space for us to work. This could be inconvenient and involve additional expense. APHIS intends to be as flexible as possible in adapting the proposed requirements to the needs of individual slaughtering plants. When it is possible, we would share space and facilities at the plant that are already devoted to other Federal or State inspection activities, and when this is not possible, we would work with slaughtering plant management to minimize their expenses. The proposed rule would also allow sample processing to occur outside the slaughtering plant in some cases; *e.g.*, at some small sheep plants, it may be possible for APHIS to simply collect the heads of animals to be tested and take them to a nearby laboratory or other facility for processing.

Also, we are not proposing to test all slaughtered livestock all the time. We believe our more limited proposal—to test when we believe it is necessary and to test only those animals we believe are necessary, based on epidemiological information—is justified because it would substantially enhance the control of livestock diseases, particularly brucellosis, tuberculosis, scrapie, and pseudorabies, in the United States. We anticipate that the sampling of sheep would occur only at plants that kill sheep old enough to test for scrapie, so operations at plants that slaughter only lambs would not be significantly affected. Also, APHIS would be able to modify its sampling to some degree to accommodate special needs at individual plants, *e.g.*, to avoid damaging the heads of sheep when there is a contract to sell the heads as meat, or to suspend sampling when plant renovations are underway.

Background on the Scope and Purpose of Sample Collection in APHIS Programs

As described in the preceding section, the essential changes proposed by this rule are a requirement that persons moving livestock and poultry interstate for slaughter may only move the animals to slaughtering establishments that have been listed by the Administrator of APHIS, and a requirement that slaughtering establishments where we choose to collect samples must grant access to the personnel conducting the tests and provide certain space and equipment necessary to collect and process test samples. This rule would therefore chiefly affect slaughtering establishments that must allow us to collect samples.

This section provides additional background to help interested persons understand the role of sampling and testing in various APHIS animal disease programs, and the difficulties and costs involved in different types of sample collection and testing.

Testing animals' blood or tissue for diseases is an important component of APHIS regulations. Although the regulations in subchapter C do not require testing for most animals moving interstate, testing with negative results is often one of several options for qualifying an animal for interstate movement. In some programs (*e.g.*, brucellosis), APHIS regulations also require that certain animals and herds be tested, including at slaughter, in order for a State or area to achieve or maintain a particular disease status. At other times, voluntary testing allows the owners of animals to achieve a market advantage by certifying their animals free of particular diseases.

In support of both mandatory and voluntary testing programs, APHIS cooperates with State and local governments, as well as individuals and businesses. In some situations, APHIS personnel collect blood or tissue samples to be tested immediately or sent to laboratories for testing. In other situations, accredited veterinarians, State or local veterinary officials, or

other individuals may collect the samples.

APHIS uses epidemiological data from many mandatory and voluntary tests to assess the prevalence of disease and to identify sources of diseases. When testing is coupled with animal identification, we can trace a positive animal's movements and identify other animals it may have been in contact with that were exposed to the disease. We call this process ''traceback.'' We can then test source herds or flocks and exposed animals and take other measures to ensure that the disease does not spread.

Testing at slaughter is extremely important. Not only is it the last point in normal channels for animal movement when we can test an animal, but for some diseases for which there is no validated live-animal test, like bovine spongiform encephalopathy or chronic wasting disease, it is the only time we can conduct routine diagnostic testing. For other diseases, such as tuberculosis in cattle and bison, brucellosis in cattle, bison, and swine, and exotic Newcastle disease in poultry, testing at slaughter provides a cost-effective means of monitoring the extent of the diseases and detecting areas where the diseases are highly prevalent. APHIS has not been able to use voluntary cooperation by slaughter plants to obtain all the samples it needs for optimal disease surveillance. For instance, APHIS has been allowed to collect some samples in 45 of the 50 major swine processing plants, but we need samples from all 50 plants to construct a valid model of swine disease incidence. Also, when APHIS collectors have gone into plants to replace voluntary collection by the slaughtering plants, the number of samples collected has increased two fold, indicating that voluntary collection has not been effective.

APHIS has held substantial discussions with animal industry groups to explore options for collecting all the samples we need for optimal disease surveillance. Most recently, we participated in a National Dialogue on Animal Disease Surveillance on March 12, 2002, that was sponsored by the National Institute for Animal Agriculture in Arlington, VA. We also participated in a follow-up conference call for interested industry members on April 9, 2002. The approach of this proposed rule has taken those discussions and the concerns of industry members into account.

The reasons why slaughter testing is important in the control of various diseases are discussed below. This discussion does not attempt to identify every disease for which APHIS may want to test animals at slaughter, but is intended to identify the benefits of such testing with regard to certain diseases of major concern, and to identify where testing might help us determine whether other diseases have a greater effect than is currently understood.

There is no simple answer to the question ''How much slaughter testing is needed for proper surveillance of a disease?'' If the animals continually passing through slaughter plants constituted a true random sample of animal populations in the United States, it would be possible to identify a statistically valid number of animals to test, in order to detect animal diseases in U.S. animal populations at whatever prevalence we choose, with whatever confidence we choose. However, the animals passing through a slaughter plant at any given time do not constitute a random sample of the national population. The desirable level of testing at slaughter is also affected by the amount of data already available from non-slaughter testing (*e.g.*, federal and State herd and flock testing, and voluntary testing by animal owners). Finally, the amount of slaughter testing required for proper surveillance will vary with increasing or decreasing national animal inventories each year.

For informational purposes, this document projects certain levels of sample collection at slaughter that we currently believe are required for optimal surveillance of various animal diseases. These estimates of the number of samples required take into account the factors mentioned above—biases in the composition of animals at slaughter plants that make them non-random samples; availability of test data from non-slaughter testing for various diseases; and varying animal populations.

To illustrate the requirements of APHIS sample collection programs, the following discussion examines programs for several major animal diseases: tuberculosis, brucellosis, pseudorabies, and scrapie.

Tuberculosis

Bovine tuberculosis is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts, causes weight loss and general debilitation, and can be fatal. At the beginning of this century, bovine tuberculosis caused more losses of livestock than all other livestock diseases combined.

While cooperation with USDA's Food Safety and Inspection Service (FSIS) and slaughtering plants already allows us to perform a large amount of tuberculosis testing, this proposal would allow us to perform additional testing of animals at slaughtering plants if and when we determine such testing is necessary to improve our knowledge of the distribution of tuberculosis. The data gained through additional testing would improve our ability to administer national tuberculosis programs and to design effective program improvements. Because the activities of FSIS inspectors address primarily human food safety risks rather than animal disease risks, APHIS has never been able to rely completely on sample collection by FSIS inspectors to provide all the samples needed for a statistically valid evaluation of the animal disease profile of animals passing through a slaughter plant. Testing by APHIS rather than FSIS will become increasingly important as FSIS continues to implement its Hazard Analysis Critical Control Point (HACCP) approach to food safety at slaughter plants. The critical control points implemented by slaughter plants to ensure food safety and verified by FSIS do not necessarily provide the sample collection and testing APHIS needs for animal disease surveillance purposes. Therefore, APHIS needs the proposed authority to design and perform its own testing at slaughter plants.

Brucellosis

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus Brucella. In its principal animal hosts, brucellosis is characterized by abortion and impaired fertility. The brucellosis regulations, contained in 9 CFR part 78, prescribe conditions for the interstate movement of cattle, bison, and swine, and provide a system for classifying States or portions of States (areas) according to the rate of *Brucella abortus* infection present and the general effectiveness of the brucellosis control and eradication program conducted in the State or area.

This proposal would allow us to perform additional testing of animals for brucellosis at slaughtering plants if and when we determine such testing is necessary to improve our knowledge of the distribution of brucellosis. The data gained through additional testing would improve our ability to properly classify herds and States, to administer national brucellosis programs, and to design effective program improvements.

Under existing programs to detect brucellosis, two primary surveillance procedures are used to locate infection without having to test each animal in every herd. Milk from dairy herds is checked two to four times a year by testing a small sample obtained from creameries or farm milk tanks for evidence of brucellosis, and some animals from bison herds and cattle herds that do not produce milk for sale are tested for brucellosis at livestock markets or at slaughter. While these surveillance programs are valuable in monitoring brucellosis, the availability of slaughter testing under this proposal is critical to provide complete coverage in the data provided by current surveillance efforts.

Pseudorabies

Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine, and other animals. The disease is caused by a herpes virus. Our regulations in 9 CFR part 85 govern the interstate movement of swine and other livestock in order to help prevent the spread of pseudorabies.

A great many feeder pigs and butcher hogs move to slaughter each year, and such swine are not currently required to be tested for pseudorabies. This proposal would allow APHIS to test such swine at slaughter if we find it necessary to do so to improve our knowledge of the prevalence and distribution of pseudorabies. Such testing could also help us assess the success of the recent indemnification program to reduce the incidence of pseudorabies by destroying affected animals.

Scrapie

Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats. Currently, to definitively test for scrapie, the brainstem of an animal must be removed through the spinal opening and sent to a laboratory for histopathological procedures. In the near future, testing may involve collecting other tissue or blood samples as well, depending on the tests in use at the time.

APHIS is attempting to improve the effectiveness of its scrapie control program. On August 21, 2001, we published a final rule (Docket No. 97–093–5, 66 FR 43963) in the **Federal Register** that encourages improvement of State quarantine programs for scrapie, reinstituted a Federal indemnity program for scrapie, and made other changes to strengthen scrapie control. Slaughter testing for scrapie would dramatically improve surveillance for scrapie and is an important and necessary part of the broader efforts to improve scrapie control.

Currently, slaughter testing is not required for sheep and goats. There is a small amount of voluntary testing of sheep and goats at slaughter, where we have made special arrangements with slaughtering establishments. However, this is not sufficient because so few sheep are tested at slaughter. Although we do not believe it is necessary to test all sheep and goats at slaughter, we believe that additional animals must be tested at slaughter if we are to have an effective surveillance program and, in turn, control and eventually eradicate the disease.

Other Diseases

There are many other animal diseases that APHIS may test for at slaughter to gain better data about their extent and their effects on productivity. For example, The National Poultry Improvement Plan (NPIP), described in 9 CFR parts 145 and 147, is a cooperative Federal-State-industry mechanism that includes slaughter testing to control certain poultry diseases, particularly those caused by various species of *Salmonella, Mycoplasma gallisepticum, M. synoviae, M. meleagridis,* and avian influenza viruses.

Equine infectious anemia (EIA), also known as swamp fever, is a viral disease of equines that is characterized by sudden fever, swelling of the legs and lower parts of the body, severe weight loss, and anemia. Approximately 1 million live horses are tested for EIA each year, and approximately 0.2 percent of these test positive. However, no comprehensive testing for EIA is currently done at slaughter.

Johne's disease, also known as paratuberculosis, is a disease caused by *Mycobacterium paratuberculosis*. This disease primarily affects cattle, sheep, goats, elk, and other domestic, exotic, and wild ruminants. Improved testing at slaughter for Johne's disease would improve our baseline knowledge of the distribution and extent of Johne's disease and would allow us to better calculate the true cost of this disease to animal industries.

Slaughter testing can also yield valuable information about reservoirs of bluetongue, can help distinguish the prevalence of different strains of this virus, and can also distinguish bluetongue from epizootic hemorrhagic disease. Slaughter testing could also help us better understand the significance of diseases such as porcine reproductive and respiratory syndrome, chronic wasting disease, and other diseases of emerging importance. In addition, if bovine spongiform encephalopathy (BSE) or other transmissible spongiform encephalopathies (TSE's) ever become established in the United States, slaughter testing would be essential for their control. It should be noted that extensive testing for TSE's, should it ever be needed, would raise the overall cost of our testing program considerably, since these tests require necropsy and tissue collection rather than a simple blood sample.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. The economic analysis prepared for this proposed rule is set out below. It includes both a cost-benefit analysis as required by Executive Order 12866 and an analysis of the economic effects on small entities as required by the Regulatory Flexibility Act.

APHIS is proposing to require persons moving horses, cattle, bison, sheep, swine, cervids, or poultry interstate to slaughter to move them only to slaughtering establishments that have been listed by the Administrator. The Administrator would list an establishment after determining that it is not necessary to conduct testing there, or determining that testing is necessary and that the establishment provides access and facilities for the collection of tissue and blood samples from the animals slaughtered. We are proposing this action to increase the effectiveness of our surveillance for livestock diseases. Collection of samples currently occurs on a small, voluntary scale, but it needs to be expanded and to include both large and small slaughtering plants. Samples are currently collected by personnel employed by APHIS, FSIS, or the slaughtering plants themselves.

According to NASS and FSIS statistics for slaughtering establishments that may receive animals in interstate movement, there are approximately 795 plants slaughtering cattle, 757 plants slaughtering swine, and 350 plants slaughtering poultry. Fourteen of the cattle plants and 11 of the swine plants are very large operations that account for 50 percent of the cattle and swine slaughtered each year. Several dozen of the plants are of moderate size; the rest are small businesses. Some of these plants slaughter both cattle and swine, and some slaughter other animals as

well (sheep, horses, cervids, etc.). Some degree of sample collection already occurs at virtually all of the cattle plants, *e.g.*, to collect the 12 million blood samples required each year under Part 78 for States to maintain their brucellosis classifications. Sample collection also occurs at virtually all of the poultry plants in accordance with the National Poultry Improvement Plan. Some sample collection already occurs at about 20–25 of the largest swine plants to collect blood samples for pseudorabies testing.

This proposed rule would allow us to collect samples at plants where sampling does not now occur, but where sampling is needed to fill information gaps in our animal disease programs. We expect to initiate testing at several large plants, primarily swine plants, where testing has not occurred before, and at approximately 20 small businesses.

As noted above, many slaughtering plants already voluntarily cooperate with APHIS to allow us to collect samples for testing. Because of the relatively small number of additional animals that would be tested and the relatively small number of cases of disease expected to be identified, we do not expect that this rule would have a significant economic effect on any affected entities. Based on discussions with livestock industry groups and slaughter industry groups, and the fact that most slaughtering plants accepting animals in interstate commerce already cooperate with voluntary testing programs, we expect there will be minimal effects on most slaughtering plants in complying with the proposed standards. While this proposal may increase costs slightly for some slaughtering plants, prices for agricultural products vary for many reasons, and it is unlikely that additional testing for this disease would have any measurable effect on costs for producers or consumers.

The primary economic effects of this proposal would be direct costs to those slaughter plants that would have to provide us with access, workspace, and equipment to collect samples. We do not have reliable data to document these costs, but we estimate that they would average no more than a few thousand dollars a year per plant, for 20 to 30 plants that have not already been providing access under voluntary sampling programs. We particularly invite small businesses that may be affected by this proposed rule to comment on its economic impacts. We are seeking additional data on whether small businesses that must provide space and access for sample collection will incur additional expenses for rents, facility costs, or salaries. We are also seeking data on costs that slaughter plants might incur if it is necessary to slow the production line to collect some types of samples (*e.g.*, tissue samples).

In the following sections we discuss potential economic effects on the various categories of slaughtering plants, based on the types of animals each processes. First, we present two tables summarizing the per-unit costs and the total industry costs estimated to result from the blood and tissue sampling requirements in this proposed rule for cattle, swine, and sheep. Bear in mind that the major costs of sample collection are borne by the Federal government, and that the costs to slaughter plants are limited to costs associated with providing access for sample collection.

TABLE 1.—PER-UNIT COST OF BLOOD AND TISSUE SAMPLING—ANNUAL BASIS

Animal	Number slaughtered (millions)	Disease	Samples currently collected	Samples needed	Cost of collection (per unit)	Cost of testing (per unit)
Cattle	35.5	Brucellosis	12 million	12 million	[1] $0.50–1	$0.10–0.50
Cattle	35.5	Tuberculosis	1,200	4,000	[2] 11–14	20
Swine	101.1	Pseudorabies	750,000	1.2 million	0.45–0.90	1–1.50
Swine	101.1	Brucellosis	750,000	1.2 million	([3])	1–1.50
Sheep	4.0	Scrapie	12,000	75,000	[4] 5–10	30

[1] Contracts for collecting brucellosis samples are negotiated individually, prices vary widely.

[2] To collect a sample for tuberculosis testing takes a veterinarian about a half-hour. An approximate hourly wage rate for a veterinarian employed in a slaughtering facility would range from $22 to $28 per hour. (Veterinarians in this type of job would typically be at a GS–12 level). Additionally, the plant incurs a cost because the speed at which the processing line moves is slowed or stopped for a sample to be taken. Also, the carcass must be held by the plant while the testing is done, which typically takes 3 days. If the test is negative, the carcass is released. If the test is positive, the carcass cannot be sold and steps are taken to trace the disease back to its source.

[3] No cost because the same blood sample is used to test for pseudorabies and brucellosis.

[4] Animal health technicians normally collect scrapie test samples. An animal health technician can collect approximately 10 samples for scrapie testing per hour. Adjusting for time spent bagging samples for shipment, collecting identification devices, other administrative duties, and varying levels of efficiency at different facilities based on their layout and slaughter volume, the actual average collection rate would probably be 2 to 3 samples per hour. An approximate hourly wage rate for a technician employed in a slaughtering facility would range from $16 per hour to $21 per hour, based on the GS–7 pay scale plus benefits. Additionally, the plant would incur a cost because the processing line may be slowed or stopped for a sample to be taken.

TABLE 2.—TOTAL COST OF BLOOD AND TISSUE SAMPLING—ANNUAL BASIS

Animal disease	Samples needed	Per-unit cost of collection	Per-unit cost of testing	Estimated total cost (millions)–lower bound	Estimated total cost (millions)–upper bound
Cattle brucellosis	12 million	$0.50–1	$0.10–0.50	$7.2	$18
Cattle tuberculosis	4,000	11–14	20	0.124	0.136
Swine pseudorabies	1.2 million	0.45–0.90	1–1.50	1.74	2.88
Swine brucellosis	1.2 million		1–1.50	1.2	1.8
Sheep scrapie	75,000	5–10	30	2.625	3
Totals				12.889	25.816

Note: Only approximately 25% of these costs come from increases in sampling resulting from the proposed rule; the remainder represent sampling already occurring under previous authorizations.

Profile of Cattle and Swine Slaughtering Plants

APHIS is trying to increase surveillance for brucellosis, pseudorabies, and tuberculosis at these plants. Collection of samples needs to be expanded to include both large and small slaughtering plants. Under this proposed rule, samples would be collected by APHIS or FSIS personnel, contractors, or the slaughtering plants themselves.

The meat packing industry is included in the North American Industry Classification System code of 311611. The Small Business Administration (SBA) definition of small business for NAICS 311611 is a firm with less than 500 employees.

In 1996, 91 percent (1,260) of the total number of firms (1,341) in the meat packing business qualified as small businesses. Only firms with more than $100 million in sales average more than 500 employees. Eighty-one firms had sales of more than $100 million in 1996. (SBA Office of Advocacy, *http://www.sba.gov/advo/stats/int_data.html.*)

There are 795 federally inspected plants that slaughtered at least one head of cattle in 1998. Fourteen plants account for over 50 percent of the total cattle killed. (Agricultural Statistics Board, National Agricultural Statistics Service (NASS), Livestock Slaughter 1998 Summary, March 1999.) There are 757 plants that slaughter hogs. Eleven plants account for 48 percent of the total hogs killed.

Cost of Testing Additional Tissue Samples for Tuberculosis

Currently, FSIS collects about 1,200 tissue samples from slaughter cattle each year to be tested for tuberculosis. There are approximately 100 positive test results per year. It is estimated that .0002 percent of all U.S. cattle may be infected with tuberculosis. There were 98.5 million head of cattle in the United States as of January 1, 1999. Therefore, it is estimated that fewer than 200 head of cattle are infected with tuberculosis at any one time.

Under this proposed rule, the direct costs of collecting a tissue sample and testing it for tuberculosis would be borne by APHIS, in either salary or contractor costs. It takes a veterinarian about a half-hour to collect a sample for tuberculosis testing. An approximate hourly wage rate for a Federal or contractor veterinarian to do these duties would be $22 to $28 per hour. The cost of laboratory analysis to test for tuberculosis is about $20.00.

A slaughtering plant may incur a cost if the speed at which the processing line moves is slowed or stopped for a sample to be taken. Usually, samples can be collected without slowing the line. Also, the carcass must be held by the plant while the testing is done, which typically takes 3 days. Currently about 0.003 percent (1,200) of cattle slaughtered are tested for tuberculosis, and this rule proposes to initially increase testing to 4,000 head annually. Because of the small number of additional tests for tuberculosis, this aspect of the proposed rule would not have a material effect on small business entities.

If a tuberculosis test is negative, the carcass is released. If the test is positive, the carcass cannot be sold and steps are taken to trace the disease back to its source. If this traceback is successful, the herd has to be quarantined while it is tested and may be depopulated if found positive. However, economic effects related to herd quarantine and depopulation are not reasonably linked to this proposal, since herds are already quarantined and depopulated under other APHIS regulations.

Cost of Testing Additional Blood Samples for Cattle Brucellosis

This proposed rule would not change the number of brucellosis test samples collected from cattle or the way in which they are processed. This proposed rule would have no significant economic effect with regard to cattle tested for brucellosis.

Currently there are approximately 12 million blood samples collected each year to test for brucellosis. Under part 78, States must collect these samples in order to maintain their brucellosis status.

There are 795 federally inspected plants that slaughtered at least one head of cattle in 1998. Fourteen plants account for over 50 percent of the total cattle killed. (Agricultural Statistics Board, NASS, Livestock Slaughter 1998 Summary, March 1999.) All slaughtering plants that ship product across State lines are subject to Federal inspection.

In 1998, there were 35.5 million head of cattle slaughtered; 98.1 percent were subject to Federal inspection. Only cattle that are 2 years old or older are tested for brucellosis.

Most of the blood sample collection is done by plant personnel or by FSIS. APHIS personnel collect only a small percentage of the total samples, approximately 50,000 samples per year, or 0.4 percent of the total.

Testing of the samples for brucellosis costs between $0.10 and $0.50 per sample. The high range of costs would cover follow-up tests from a positive result.

Cost of Testing Additional Blood Samples for Swine Pseudorabies

Currently there are about 750,000 samples collected per year. An estimated 1.2 million samples are needed for more complete testing. We estimate that less than 1 percent of swine herds are infected with pseudorabies.

At a large plant, two people would be needed to do the collection of blood samples on a full-time basis, at a cost to the government of $25,000 to $30,000 per year.

At smaller plants, where not enough swine are slaughtered to warrant having an employee collect blood samples full time, APHIS pays for each sample collected. Rates range from $.45 to $.90 cents per sample.

The sample is sent to a lab for testing. It costs approximately $1.00 per sample for testing. APHIS has some contracts and cooperative agreements with universities to do some testing. The cost is negotiated with each lab separately. The rate can be up to $1.50 per sample.

One reason for some firms' reluctance to participate in collecting blood samples is concern about liability. Collection is often done in potentially hazardous conditions; for example, the floors may be wet, the quarters may be cramped, and there are sharp knives and equipment present.

It is difficult to estimate the average cost incurred because of liability issues. The relevant issue here is the marginal increase in liability costs due to this regulation. Slaughtering plants are already involved in a potentially hazardous activity. Adding the requirement to collect blood and tissue samples would not add significantly to the liability incurred by a plant; but a small increase in liability costs may be expected.

There are 757 plants that slaughter swine. Eleven plants account for 48 percent of the total swine killed. In 1998, 101.1 million swine were slaughtered; 98.3 percent of all swine slaughtered are slaughtered under federal inspection. (Agricultural Statistics Board, NASS, Livestock Slaughter 1998 Summary, March 1999.) All slaughtering plants that ship products across State lines are subject to Federal inspection. Some 96 percent of the Federally inspected swine at slaughter was barrows and gilts (younger pigs, with less fat, that are used for higher quality cuts of pork). There were about 4 million sows and boars slaughtered in 1998. For testing for pseudorabies, these are the swine

that we are concerned about. There is about a 40 percent turnover in sows per year.

If a herd tests positive, it is then quarantined. The swine can be sold for slaughter but cannot be sold for breeding stock. Swine sold for breeding stock are typically twice as expensive as swine sold for slaughter.

Costs of Testing for Scrapie at Sheep Slaughtering Plants

The slaughtering plant industry is included in NAICS code 311611. The SBA's definition of small business for NAICS 311611 is a firm with less than 500 employees. Only firms with more than $100 million in sales average more than 500 employees. Two slaughtering plants that process sheep had sales of more than $100 million in 1998. (SBA Office of Advocacy, *http://www.sba.gov/advo/stats/int_data.html.*)

There are 556 federally inspected plants that slaughtered at least one sheep in 1998. Two plants account for over 40 percent of the total sheep slaughtered (Agricultural Statistics Board, NASS, Livestock Slaughter 1998 Summary, March 1999). In 1998, 4.429 million sheep were slaughtered, of which 94.8 percent were subject to Federal inspection. Only about 212,000 of these were mature sheep suitable for scrapie testing.

It is estimated that roughly 1.2 percent of all U.S. sheep flocks are infected with scrapie. In 1998, there were only 63 cases of scrapie reported. Given this incidence, approximately 15,000 animals should be sampled at slaughter each year for optimal monitoring for scrapie. Five distinct tissue samples are collected from each animal's head, resulting in about 75,000 samples to be collected. This level of sampling will detect the incidence and distribution of scrapie with a confidence of over 95 percent.

This proposed rule would not have a significant adverse economic effect on small businesses. Blood and tissue samples would be collected either by APHIS, FSIS, or a contractor paid for by USDA. Firms could incur secondary costs for collecting tissue samples for testing as a result of production lines that may have to be slowed down or stopped temporarily. Firms would also incur costs for providing the space, furnishings, and equipment required for the personnel collecting samples, although we believe many firms will be able to minimize these costs by utilizing some of the space and equipment already provided for Federal and State inspectors and firms' quality assurance personnel.

The primary direct costs would be the cost of collecting samples and the cost of testing samples, both of which would be borne by USDA. Over the long term, samples will cost about $5 to $10 each to collect and $30 each to test. Additionally, the plant could incur a cost because the speed at which the processing line moves may be slowed or stopped for a sample to be taken, similar to the effects already caused by FSIS inspections. The sheep or goat carcass would not have to be held by the plant while the testing is done, so it would continue along on the processing line, and the processor would not incur the cost of having to hold the carcass.

Additional testing for scrapie would provide a better record of diseases and enhance our ability to limit the infection of additional flocks with scrapie. While the costs of additional testing are visible, the benefits often are not. The true economic benefit of additional testing is that it will contribute to control and eventual eradication of scrapie, resulting in better overall flock productivity, a reduction in flocks depopulated due to scrapie, and expanded market opportunities for animals that can be marketed as scrapie-free. Production of agricultural commodities varies for many reasons, and it would be difficult to determine the change in production due to additional testing. Because the percentage of animals currently infected with scrapie is small, we expect that slaughter testing will result in the identification and quarantine of very few additional infected flocks. Quarantining the animals in these flocks is not likely to have a statistically significant effect on current or future production.

TABLE 3.—PER-UNIT COST OF COLLECTING AND TESTING SHEEP AND GOAT SAMPLES FOR SCRAPIE

Animals slaughtered (1998)	Samples to be collected (2000)	Samples needed	Cost of collection[1] (per unit)	Cost of testing (per sample)
4.03 million	12,000	75,000	$5–10	$30

[1] See footnote 4 to table 1.

TABLE 4.—TOTAL ANNUAL COST OF COLLECTING AND TESTING SHEEP AND GOAT SAMPLES FOR SCRAPIE

Samples needed	Cost of collection (per sample)	Cost of testing (per sample)	Total cost (millions)
75,000	$5–10	$30	$2.625–3

Costs of Testing Captive Cervids at Slaughter

Captive cervids might be tested at slaughter for tuberculosis and for chronic wasting disease (CWD). The cost per animal of testing cervids for tuberculosis is similar to the cost per animal of testing cattle for this disease. The cost per animal of testing cervids for CWD is similar to the cost per animal of testing sheep for scrapie.

The number of cervids farmed is small compared to cattle, swine, or sheep. Because it is a small industry, NASS does not collect data about cervid production or slaughter. According to the North American Elk Breeders Association, there are 150,000 to 160,000 elk being raised on farms in North America. This number includes elk raised in Canada and Mexico. The number of deer raised on farms is uncertain, but it is also a very small industry compared to cattle, swine, or sheep.

As stated earlier, the meat packing industry is included in NAICS code 311611. The SBA's definition of small business for NAICS 311611 is a firm with less than 500 employees.

In 1996, 91 percent (1,260) of the total number of firms (1,341) in the meat packing business qualified as small businesses. Only firms with more than $100 million in sales average more than

500 employees. Eighty-one firms had sales of more than $100 million in 1996. (SBA Office of Advocacy, *http://www.sba.gov/advo/stats/int_data.html.*)

Plants that slaughter captive cervids would qualify as small businesses. It seems that, currently, there are not enough cervids slaughtered per year to motivate large meat packing businesses to devote production lines to the slaughter of cervids.

This proposed rule would not have an adverse effect on small businesses that slaughter cervids. Blood samples would be collected either by APHIS, by FSIS, by contractors, or by the firms themselves. Firms would be compensated on a per unit basis for collecting the samples. The costs of testing captive cervids would be similar to the costs of testing cattle. Because of the small number of tests that are expected to be done, this proposed rule would not have a material effect on small business entities.

Costs of Testing Poultry at Slaughter

In 1997, there were 315 poultry processing firms (NAICS 311615) according to SBA statistics. To qualify as a small business, firms engaged in meat processing must have less than $500,000 in annual receipts. Even the smallest classification of poultry processing firms, those with less than 20 employees, averaged over $1 million in annual receipts in 1999. While this does not exclude the possibility that there may be poultry processing firms that qualify as small businesses, we have been unable to locate any such firms. This proposed rule would not have a significant adverse effect on small businesses.

It is estimated that this proposed rule, if adopted, could result in the collection of a maximum of 300 samples per quarter, collected from about 100 different poultry plants, to conduct adequate testing for exotic Newcastle disease, avian influenza, or other diseases that APHIS may wish to monitor. Blood samples would be collected either by APHIS, by FSIS, by contractors, or by the firms themselves. Firms would be compensated on a per unit basis for collecting the samples.

Additional testing that would be conducted under this proposed rule would be an insignificant amount compared to the testing and inspection already performed at poultry plants. The NASS Agricultural Statistics Board report entitled ''Poultry Slaughter,'' dated February 4, 2000, gives representative figures for the amount of poultry that is inspected or tested at processing plants, and the fraction that is condemned for failing inspection. In December 1999, the preliminary total live weight of poultry inspected was 3.95 billion pounds, up fractionally from the previous year. Ante-mortem condemnations during December 1999 totaled 15.3 million pounds. Condemnations were 0.39 percent of the live weight inspected. Post-mortem condemnations, at 62 million pounds (N.Y. dressed weight), were 1.75 percent of quantities inspected.

In contrast, even if APHIS tested poultry plants at the maximum level envisioned under this proposed rule, and if such testing always resulted in destruction of the poultry tested rather than just collection of a test sample, the total effects would be collection of under 120,000 samples per year, and the loss of under 600,000 pounds of poultry per year.

Benefits of Additional Testing

Additional testing would provide a better record of diseases and enhance our ability to prevent potential outbreaks of diseases. While the costs of additional testing are visible, the benefits often are not. The true economic benefit of additional testing would be the amount by which production is increased or the amount by which production is not lost due to herds being depopulated because of disease. The benefits of this program include better animal disease control, greater productivity in flocks and herds, fewer animals lost to disease, and greater opportunity to develop export markets for animals and products that can have their disease status backed up by an effective slaughter testing program. Increased testing of slaughter samples will allow us to more quickly identify and isolate herds or flocks affected by disease, reducing the number of animals lost to disease control. Production of agricultural commodities varies for many reasons, and it would be difficult to determine the change in production due to additional testing. Because the percentages of animals currently infected with diseases such as pseudorabies and tuberculosis are very small, additional testing for these diseases resulting in the quarantine of some additional herds may not have a statistically significant effect on current or future swine and cattle production, but effective surveillance for these diseases can dramatically increase export markets, increasing the value of herds. Another benefit of additional testing would be that it would contribute to lowering the overall costs of animal disease control programs by generating epidemiological data to make these programs more effective. APHIS alone has spent hundreds of millions of dollars in the past decade on these programs, and more hundreds of millions of dollars on indemnity programs to buy and destroy diseased animals. Over time, a more effective slaughter testing program could reduce these costs. However, in the short-term, a more effective slaughter testing program may detect a higher incidence of diseases, and so may generate greater costs. Gains would accrue in the long-term from improved herd and flock health, reduced disease costs, reduced prophylactic costs, and expanded export opportunities.

Cattle Industry Benefits

This proposed rule would not affect the amount of samples from cattle collected to test for brucellosis or the way in which the testing is conducted. There would be no economic effect due to this proposed rule with respect to collecting blood samples for cattle brucellosis. With regard to cattle tuberculosis, on average one herd per year has to be eradicated because of a positive tuberculosis test. The value of the average size herd in 1996 and 1997 ranged from $46,200 to $52,976. The value of a herd that has to be eradicated can vary widely depending on the size of the herd and market prices. If one cow is found to be tuberculosis positive, the entire herd is quarantined and may be depopulated. Eliminating the cost of depopulating a herd would represent only a small part of the benefit of additional testing. One benefit of this proposed rule would be the value of the herds that do not have to be depopulated. As discussed above, another benefit to both the cattle industry and the general public would result from improved disease control and resultant increased productivity.

Swine Industry Benefits

Elimination of pseudorabies directly impacts producer income. Producers who are able to eliminate this disease from their herds are able to earn up to $4 more per hog. In addition, pseudorabies kills numerous young piglets and causes reproductive problems in sows. Historically, each year pseudorabies has cost several billion dollars in lost producer revenues and the cost of control measures. To the extent that collecting blood samples and testing contributes to faster elimination of pseudorabies, this rule will have a positive economic impact on producer incomes. APHIS hopes to eliminate pseudorabies within the next year. Additional slaughter testing should allow pseudorabies to be eliminated from U.S. swine herds, or reduced to an

insignificant level, several months earlier than would otherwise be possible. The additional slaughter testing that would be allowed if this proposal is adopted would also help establish baseline data that could be used to develop disease control programs to reduce the impact on industry of other swine diseases such as porcine reproductive and respiratory syndrome.

Sheep Industry Benefits

Improved surveillance would aid eradication of scrapie, which would directly affect producer income. Producers who are able to eliminate this disease from their flocks lose fewer animals to disease and can, therefore, maintain more animals at a lower production cost per animal. They can also sell their animals at a higher price and with fewer regulatory costs and may be able to sell to additional foreign markets. To the extent that collecting samples and testing contributes to elimination of scrapie, this proposed rule would have a positive economic effect on producer incomes. The additional slaughter testing that would be conducted if this proposal is adopted would also help establish baseline data that could be used to develop disease control programs to reduce the economic effect on industry of other sheep diseases.

Poultry Industry Benefits

As noted above, the additional testing that would be conducted under this proposed rule would serve as a minor but valuable supplement to the poultry testing already conducted in accordance with the National Poultry Improvement Plan.

The poultry industry, like other animal industries, would benefit in the form of increased productivity and possible expansion of overseas markets. More effective disease surveillance is particularly important in the poultry industry because outbreaks of severe avian disease frequently must be controlled by destroying a number of poultry houses in a flock or the entire flock. This often means the loss of tens of thousands of poultry to control a single outbreak.

Cervid Industry Benefits

In addition to the benefits cited above for other industries, the cervid industry at present faces the possibility that its major export markets will be cut off unless there is an effective slaughter testing surveillance program for chronic wasting disease (CWD). The Republic of Korea recently banned importation of elk antlers from the United States due to concerns about this disease, and other countries may follow. The elk industry depends on foreign markets for a large part of its revenue, and these markets have indicated that they may not import U.S. elk products unless there is a reasonably effective testing program to ensure the products are not from CWD-positive elk.

Overall Summary

The total direct cost of the testing this proposed rule envisions for cattle, swine, and sheep is between $12.889 million and $25.816 million, borne by APHIS. However, as noted above, APHIS already conducts some of this testing on a voluntary basis, although we collect only a fraction of the samples we believe are needed for an effective testing program. If we subtract the cost of testing APHIS is already conducting, the new total direct costs are between about $4 million and $12 million. In addition to these direct costs for cattle, swine, and sheep, there will be direct testing costs for slaughter testing of horses, cervids and poultry. The extent of testing to be done in this area is still uncertain, but it will be much smaller than the program for cattle, sheep, and swine, and should not amount to more than a few million dollars in annual direct costs. In addition to direct testing costs borne by APHIS, slaughtering plants will bear certain direct costs related to providing space and access for sample collection, and possible losses if production lines must be slowed for sample collection. We are requesting comments providing data on costs that slaughter plants might incur if it is necessary to slow the production line to collect some types of sample.

The benefits of this program include better animal disease control, greater productivity in flocks and herds, fewer animals lost to disease, and greater opportunity to develop export markets for animals and products that can have their disease status backed up by an effective slaughter testing program.

The overall costs of this program that are borne by industry are expected to be relatively minor, though further information is needed to assess costs for those plants that need to make adjustments to their operations to comply. In most cases, small businesses will have to do little more than to allow sample collectors to have access to their production lines.

In the following table, costs are compared for the level of slaughter sampling and testing APHIS currently conducts and the increase in such activities we expect would result if this proposed rule is adopted. This table does not include the benefits achieved by current and proposed sampling activity levels, because data are not available to quantify the benefits. As discussed above, the benefits result from avoiding animal disease outbreaks, and there are too many possible outbreak scenarios to allow a meaningful calculation of a benefits range. The expected benefits result from the expectation that sampling and testing helps APHIS avoid some additional animal disease outbreaks, thereby avoiding: (1) The direct cost of dealing with an outbreak (cleaning and disinfection, compensation to producers, quarantine enforcement, etc.); (2) production losses; (3) induced price changes, and (4) the effect of the outbreak on other sectors of the economy. In view of the fact that the economic output of U.S. livestock industries exceeds $100 billion, an avoided impact of even a fraction of 1 percent on this sector would substantially exceed the total sampling costs estimated in Table 5.

TABLE 5—COSTS OF SAMPLING FOR CATTLE BRUCELLOSIS AND TUBERCULOSIS, SWINE PSEUDORABIES AND BRUCELLOSIS, AND SHEEP SCRAPIE

	Low Range	High Range
Current sampling costs	$9,494,700	$21,224,800
Additional sampling costs	3,394,300	4,591,200

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 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance

under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict 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 section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 99–017–1. Please send a copy of your comments to: (1) Docket No. 99–017–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is responsible for preventing the dissemination of any contagious or communicable disease of animals or live poultry from one State to another. Disease surveillance plays an important role in the APHIS mission of protecting the health of the U.S. livestock and poultry populations, and testing animals for disease is an important surveillance tool. We can use epidemiological data from tests to assess the prevalence of disease and to identify sources of disease. When testing is coupled with animal identification, we can trace a positive animal's movements and identify other animals with which it may have come into contact.

To enhance our surveillance capabilities, we are publishing this proposed rule to provide for the collection of blood and tissue samples from livestock (horses, cattle, bison, captive cervids, sheep and goats, swine, and other farmed animals) and poultry at slaughter. We would not collect samples from all livestock and poultry at slaughter; we would collect samples whenever we believe it is necessary for effective surveillance.

Implementing a test-at-slaughter program will necessitate the use of a specimen submission form. We are asking OMB to approve, for 3 years, our use of this information collection activity in connection with our efforts to perform testing at slaughter and thus prevent the spread of animal diseases within the United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.3333 hours per response.

Respondents: Slaughtering plant personnel assigned to collect blood and tissue samples.

Estimated number of respondents: 100.

Estimated number of responses per respondent: 120.

Estimated annual number of responses: 12,000.

Estimated total annual burden on respondents: 4,000 hours.

(Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 9 CFR Part 71

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

Accordingly, we propose to amend 9 CFR part 71 as follows:

PART 71—GENERAL PROVISIONS

1. The authority citation for part 71 would be revised to read as follows:

Authority: 7 U.S.C. 8304–8306, 8308, 8310, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

2. In § 71.1, the definition of *livestock* would be revised and three new definitions would be added in alphabetical order to read as follows:

§ 71.1 Definitions.

* * * * *

Food Safety and Inspection Service (FSIS). The Food Safety and Inspection Service, United States Department of Agriculture.

* * * * *

Livestock. Horses, cattle, bison, captive cervids, sheep and goats, swine, and other farmed animals.

* * * * *

Move (moved). Shipped, transported, delivered, or otherwise aided, induced, or caused to be moved.

* * * * *

Recognized slaughtering establishment. Any slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State meat inspection act. A list of recognized slaughtering establishments in any State may be obtained from an APHIS representative, the State animal health official, or a State representative.

* * * * *

3. A new § 71.21 would be added to read as follows:

§ 71.21 Tissue and blood testing at slaughter.

(a) Any person moving livestock or poultry interstate for slaughter may only move the animals to a slaughtering establishment that has been listed by the Administrator [1] for the purposes of this part. A slaughtering establishment may receive livestock or poultry in interstate commerce only if the slaughtering establishment has been listed by the Administrator. The Administrator may list a slaughtering establishment after determining that collecting samples for testing from the establishment is not necessary for the purposes of APHIS disease surveillance programs. Otherwise, the Administrator will list a slaughtering establishment after determining that it is a recognized slaughtering establishment or a

[1] A list of these slaughtering establishments may be obtained by writing to National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

slaughtering establishment that undergoes voluntary inspection under the provisions of the Agricultural Marketing Act (12 U.S.C. 1141 *et seq.*), and that it:

(1) Provides space and equipment in accordance with paragraph (b) of this section within their facility for blood and tissue sample collection;

(2) Allows APHIS, FSIS, or APHIS contractors to take blood and tissue samples from all livestock or poultry at the facility without cost to the United States, and specifically allows these personnel access to the processing line to collect samples; and

(3) Allows APHIS, FSIS, or APHIS contractors to record the identification of individual animals and retain any external or internal identification devices.

(b) The slaughtering establishment must provide office and sample collection space, including necessary furnishings, light, heat, and janitor service, rent free, for the use by APHIS, FSIS, or APHIS contractors collecting samples for blood and tissue testing under this section. The Administrator will inform each slaughtering establishment of the exact amount and type of space required, taking into account whether APHIS will be conducting complete tests at the facility, or only collecting samples and sending them elsewhere for testing. At the discretion of the Administrator, small plants need not furnish facilities as prescribed in this section if adequate facilities exist in a nearby convenient location. In granting or denying listing of a slaughtering establishment, the Administrator will consider whether the space at the facility:

(1) Is conveniently located, properly ventilated, and provided with lockers suitable for the protection and storage of supplies;

(2) Has sufficient light to be adequate for proper conduct of sample collection and processing;

(3) Includes racks, receptacles, or other suitable devices for retaining such parts as the head, glands, and viscera, and all parts and blood to be collected, until after the post-mortem examination is completed;

(4) Includes tables, benches, and other equipment on which sample collection and processing are to be performed, of such design, material, and construction as to enable sample collection and processing in a safe, ready, efficient, and clean manner;

(5) Has adequate arrangements, including liquid soap and cleansers, for cleansing and disinfecting hands, dissection tools, floors, and other articles and places that may be contaminated by diseased carcasses or otherwise; and

(6) Has adequate facilities, including denaturing materials, for the proper disposal of tissue, blood, and other waste generated during test sample collection.

(c) The Administrator will give the operator of the slaughtering establishment actual notice that APHIS, FSIS, or an APHIS contractor will be taking blood and/or tissue samples at the establishment. The Administrator may give the operator of the slaughtering establishment notice in any form or by any means that the Administrator reasonably believes will reach the operator of the establishment prior to the start of sample collection.

(1) The notice will include the anticipated date and time sample collection will begin. The notice will also include the anticipated ending date and time.

(2) The Administrator will give the operator of the slaughtering establishment as much advance notice as possible. However, the actual amount of notice will depend on the specific situation.

(d) *Denial and withdrawal of listing.* The Administrator may deny or withdraw the listing of a slaughtering establishment upon a determination that the establishment is not in compliance with the requirements of this section.

(1) In the case of a denial, the operator of the slaughtering establishment will be informed of the reasons for the denial and may appeal the decision in writing to the Administrator within 10 days after receiving notification of the denial. The appeal must include all of the facts and reasons upon which the person relies to show that the slaughtering establishment was wrongfully denied listing. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(2) In the case of withdrawal, before such action is taken, the operator of the slaughtering establishment will be informed of the reasons for the proposed withdrawal. The operator of the slaughtering establishment may appeal the proposed withdrawal in writing to the Administrator within 10 days after being informed of the reasons for the proposed withdrawal. The appeal must include all of the facts and reasons upon which the person relies to show that the reasons for the proposed withdrawal are incorrect or do not support the withdrawal of the listing. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, withdrawal shall become effective pending final determination in the proceeding when the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the slaughtering establishment. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

Done in Washington, DC, this 21st day of November, 2002.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 02–30093 Filed 11–26–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–23–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200B and –200F Series Airplanes Powered by Pratt & Whitney JT9D–70 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–200B and –200F series airplanes powered by Pratt & Whitney JT9D–70 series engines. This proposal would require repetitive detailed inspections of the pylon skin and internal structure of the nacelle struts adjacent to and aft of the precooler exhaust vent for heat damage (discoloration), wrinkling, and cracking; and corrective action, if necessary. This action is necessary to find and fix such damage, which could result in cracking