

county or State level, a regional level, or a national level, and what role should the Federal Government play?

- Is there a need to particularly address disposal of sheep and goats with regard to scrapie, and disposal of captive elk and deer with regard to CWD? What dead stock disposal issues are common to all species, and what issues are of particular importance to different types of producers?

Done in Washington, DC, this 15th day of January 2003.

**Bill Hawks,**

*Under Secretary for Marketing and Regulatory Programs.*

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BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 02-003-1]

#### Importation of Pork-Filled Pasta

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations regarding the importation of pork and pork products from regions affected with swine vesicular disease by establishing procedures for the importation of pork-filled pasta into the United States. The proposed procedures would require that the product contain only cooked or dry-cured pork otherwise eligible to enter the United States under the current regulations; that the product not be commingled, directly or indirectly, with products ineligible to enter the United States; and that the product be accompanied by an official veterinary certificate confirming that the product has been prepared in accordance with the regulations. This action would provide for the importation of pork-filled pasta under conditions designed to prevent the introduction of swine vesicular disease into the United States.

**DATES:** We will consider all comments that we receive on or before March 24, 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. 02-003-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River

Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-003-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto: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. 02-003-1" 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. Masoud Malik, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-3277.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to prevent the introduction into the U.S. livestock population of certain contagious animal diseases, including swine vesicular disease (SVD). Section 94.12 of the regulations provides requirements for the importation into the United States of pork and pork products from regions where SVD is known to exist. Section 94.17 of the regulations provides requirements for the importation into the United States for dry-cured pork products from regions where SVD, hog cholera (also known as classical swine fever), foot-and-mouth disease (FMD), rinderpest, and African swine fever exist.

SVD is a highly contagious disease caused by an enterovirus that shows extraordinary resistance to both environmental factors and common disinfectants. SVD rarely results in mortality in infected swine and does not cause severe production losses. Still, the disease can have a major economic

impact because eradication is costly and because SVD-free regions often prohibit imports of swine, pork, and pork products from affected regions.

Italy is considered to be affected with SVD and thus is not among those regions designated in § 94.12 as free of the disease. Similarly, Italy is not included among the regions designated in §§ 94.9 and 94.10 as free of hog cholera. Therefore, cooked and dry-cured pork and pork products imported from Italy are subject to the requirements set forth in §§ 94.12 and 94.17.

The Italian Government has requested that facilities in Italy be allowed to export to the United States tortellini (pasta) that is filled with pork. In order to allow this product to enter the United States without increasing the risk of the introduction of SVD, we are proposing to amend § 94.12 to establish procedures that processing facilities in SVD-affected regions would have to follow to ensure that this particular product would be safe to import into the United States. While a specific request from Italy provided the impetus for this proposed rule, the requirements we are proposing would apply to pork-filled pasta products imported into the United States from any region affected by SVD.

Specifically, we are proposing to add a new paragraph (c) to § 94.12 that would delineate processing, recordkeeping, and certification requirements for pork-filled pasta products exported to the United States from SVD-affected regions. Paragraph (c)(1) would stipulate that pork-filled pasta products processed for export to the United States would have to contain only pork or pork products that are otherwise eligible for importation into the United States, *i.e.*, that meet all requirements that apply to cooked pork products under § 94.12 (b)(1)(i), (ii), or (v)<sup>1</sup> or to dry-cured pork products under § 94.17.

The provisions of proposed paragraphs (c)(2), (c)(3), and (c)(4) are intended to prevent contamination via the commingling of ineligible pork or other meat products with pork or pork products eligible for use in pork-filled pasta products for export to the United States. Paragraph (c)(2) would stipulate that pork intended to be used for pork-filled pasta products for export to the

<sup>1</sup> While pork and pork products that meet the requirement of § 94.12(b)(1)(iii) and (iv) are also eligible for importation into the United States, proposed paragraph (c)(1) would not provide for their use in pork-filled pasta products. As neither paragraph requires the pork or pork products to be fully processed in the region of origin, such pork and pork products are not suitable for inclusion in a completed product such as pork-filled pasta.

United States must be stored in a separate room or facility from any meat or meat products not eligible for export to the United States. Paragraph (c)(3) would state that all equipment and machinery that will come in contact with the pork or other ingredients of pork-filled pasta products intended for export to the United States must be cleaned and disinfected before each use. Paragraph (c)(4) would state that processing lines working with pork-filled pasta products for export to the United States must process only pasta containing pork eligible for such exports and that when such lines are working with these pasta products, the remaining lines may work only on pasta products that do not contain meat.

Paragraph (c)(5) would set out cooking and other requirements for pork-filled pasta being exported to the United States to ensure that the product would be shelf stable without refrigeration. Specifically, we would require that during processing, the pork-filled pasta would have to be steam-heated to a minimum internal temperature of 90 °C, then dried, cooled, and packed to make the product shelf stable without refrigeration.

Paragraph (c)(6) would give the Animal and Plant Health Inspection Service the right to conduct periodic inspections of establishments that manufacture pork-filled pasta products for export to the United States in order to verify compliance by these establishments with the regulations in this section.

Paragraph (c)(7) would set out recordkeeping requirements for pork or pork products used in pork-filled pasta products being exported to the United States. A processing facility would have to maintain under lock and key, for a minimum of 2 years, an original record of each lot of pork or pork products used for meat-filled pasta products for U.S. export. Each record would have to include the date that the cooked or dry-cured pork product was received in the processing facility; information on the number of packages, the number of hams or cooked pork products per package, and the weight of each package; a lot number or other identification marks; the health certificate that accompanied the cooked or dry-cured pork product from the slaughter/processing facility to the meat-filled pasta product processing facility; and the date that the product started dry curing (if the product used is a dry-cured ham) or the date that the product was cooked (if the product used is a cooked pork product). These recordkeeping requirements would be consistent with those set out in § 94.17

for exports of dry-cured pork products to the United States.

Finally, paragraph (c)(8) would require that pork-filled pasta arriving in the United States be accompanied by a certificate issued by an official veterinarian of the National Government of the region in which the pasta product is processed stating that the product has been processed in accordance with the requirements discussed in the preceding paragraphs. This certificate would provide further assurance that the processing facilities are complying with our regulations.

#### **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 the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would amend the regulations in § 94.12 that deal with the importation of pork and pork products from regions affected with SVD by establishing procedures for the safe importation of pork-filled pasta into the United States from Italy and other affected regions. These proposed procedures would allow the importation of this product into the United States while ensuring that the health of the U.S. swine population and the economic viability of the U.S. swine and pork and pork products industries would not be threatened by an incursion of SVD.

These industries play an important role in the U.S. economy. There was a total inventory of 58.698 million swine in the United States as of March 1, 2002.<sup>2</sup> Cash receipts from swine farming in 2001 were about \$12.1 billion.<sup>3</sup> The industry marketed 26.7 billion pounds of pork in 2001. Additionally, the United States earned a substantial amount of money from exports of swine and swine products. The United States exported 1.075 billion pounds of pork, valued at \$1.283 billion, in 2001. Also 64,912 live swine were exported, which were valued at about \$12 million. The United States also imported 717 million pounds of pork in 2001, valued at \$771 million, and imported 5,337,088 live swine, all from Canada, valued at \$349 million. Domestically, other related agricultural and non-agricultural sectors are dependent on the swine and the swine-product industries for their

<sup>2</sup> USDA/NASS, Quarterly Hogs and Pigs, Agricultural Statistics Board, March 2002.

<sup>3</sup> USDA/ERS, U.S. farm sector cash receipts from sales of agricultural commodities, 1998–2002, February 2002.

economic activity. These activities provide employment and income to many households. Maintaining the stability of these industries depends in part on continued efforts to prevent any introduction of SVD into the United States.

The Regulatory Flexibility Act requires that agencies specifically consider the economic impact of their rules on small entities. The domestic entities most likely to be affected by allowing importation of pork-filled pasta products from Italy are durum wheat producers and pasta manufacturing companies.

In 1997, 6,887 farms, over 99 percent of which were considered small,<sup>4</sup> produced about 5.160 billion pounds of durum wheat.<sup>5</sup> In 2001 durum wheat production was estimated at about 5.013 billion pounds on 2.789 million harvested acres.<sup>6</sup> In 2001, the United States exported 3 billion pounds of durum wheat, valued at \$215 million. The major destinations were Italy (39 percent), Tunisia (10 percent), Algeria (9 percent), and Mexico (7 percent).<sup>7</sup>

As a new product, dry, shelf-stable, pork-filled tortellini is expected to have a small market. The impact, if any, on durum wheat producers of importation of this product into the United States is also likely to be small. Producers of durum wheat could benefit in the future from any expansion of product range that results from these imports.

There were 141 pasta manufacturing plants in the United States in 2000. Of these, five companies accounted for 55 percent of the sales. The total domestic capacity is estimated to be about 3.4 billion pounds of pasta.<sup>8</sup> Pasta producers are considered small businesses if they employ 500 workers or fewer.<sup>9</sup> Most U.S. pasta manufacturers can be considered small.

<sup>4</sup> North American Industry Classification System (NAICS) code 111140, Wheat Farming. The Small Business Administration has established guidelines for determining which types of firms are to be considered small under the Regulatory Flexibility Act. A wheat farm is considered small if it has annual receipts of \$750,000 or less.

<sup>5</sup> USDA/NASS, 1997 Census of Agriculture (for AZ, CA, MN, MT, ND, and SD). These are durum wheat-producing States.

<sup>6</sup> USDA/NASS, Crop Production 2001 Summary, Agricultural Statistics Board, January 2002.

<sup>7</sup> Global Trade Information Services, Inc., World Trade Atlas, United States Edition, December 2001.

<sup>8</sup> Michael Boland and David Barton, "How Dakota Growers Pasta co-op found success in a highly competitive market," July 2001 ([www.rurdev.usda.gov/rbs/pub/jul01/niche.htm](http://www.rurdev.usda.gov/rbs/pub/jul01/niche.htm)). About 80 million bushels of durum wheat were allocated for food use in 2001. Assuming a bushel of wheat yields 42 pounds of pasta, the amount of wheat in food use equals 3,360 million pounds of pasta.

<sup>9</sup> NAICS code 311823, dry pasta manufacturers.

Compared to total imports of pasta, valued at \$324 million in 2001, imports of stuffed pasta make up a relatively small proportion.<sup>10</sup> Additionally, tortellini is just one of the many varieties of stuffed pasta. Other varieties include agnolotti, calazoncelli, cappelletti, fazzoletti, ravioli, and tordelli. Each of these has variations, depending on whether the filling ingredients are fish-based, ground meat, vegetables, cheese, mushrooms, or herbs and spices. Although information on the exact amount of each type imported is not available, the share of each is likely to be small.

As a new variant of these products, dry, shelf-stable, pork-filled tortellini is also likely to have a small market. Imports of this product are likely to be too small to have any price effect at the industry level. No direct price competition would be expected if imports were to be initiated because there are no known domestic producers of pork-filled tortellini. Price competition with other filled pasta products is also considered unlikely because, as a new product with a small market, pork-filled tortellini is unlikely to have a major impact on consumer demand for those other products. Allowing imports of pork-filled tortellini may eventually stimulate new competition by encouraging domestic pasta manufacturers to develop a similar product. Consumers could also benefit from having their choices of pasta products expanded.

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 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 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 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. 02-003-1. Please send a copy of your comments to: (1) Docket No. 02-003-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 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.

Under this proposed rule, a processing facility that produces pork-filled pasta products for export to the United States would have to keep an original record of each lot of pork or pork products used in such pasta products. In addition, the pork-filled pasta would have to be accompanied by a certificate issued by an official of the National Government of the region in which the pasta product is processed who is authorized to issue the foreign meat inspection certificate required under 9 CFR 327.4, stating that the pork-filled pasta product has been processed in accordance with the requirements of paragraphs (c)(1) through (c)(5) of § 94.12.

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 1.25 hours per response.

*Respondents:* Officials of the National Government of the region in which the meat-filled pasta product is processed.

*Estimated annual number of respondents:* 5.

*Estimated annual number of responses per respondent:* 20.

*Estimated annual number of responses:* 100.

*Estimated total annual burden on respondents:* 125 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.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### List of Subjects in 9 CFR Part 94

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

Accordingly, we propose to amend 9 CFR part 94 as follows:

#### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

**Authority:** 7 U.S.C. 450, 7711-7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

2. In § 94.12, a new paragraph (c) would be added to read as follows:

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

\* \* \* \* \*

(c) Requirements for pork-filled pasta products from regions affected with

<sup>10</sup> Global Trade Information Services, Inc., World Trade Atlas, United States Edition, December 2001.

*swine vesicular disease.* (1) Pork-filled pasta products processed for export to the United States may only be filled with pork or pork products that are otherwise eligible to be exported to the United States and that meet the requirements of paragraph (b)(1)(i), (ii), or (v) of this section or of § 94.17.

(2) At the pasta processing establishment, pork intended to be used for pork-filled pasta products for export to the United States must be stored in a separate room or facility from any meat or meat products not eligible for export to the United States.

(3) All equipment and machinery that will come in contact with the pork or other ingredients of pork-filled pasta products intended for export to the United States must be cleaned and disinfected before each use.

(4) Processing lines working with pork-filled pasta products for export to the United States must process only pasta containing pork eligible for export to the United States. When such processing lines are working with pasta products containing pork for export to the United States, other lines may work only on pasta products that do not contain meat.

(5) During processing, the pork-filled pasta must be steam-heated to a minimum internal temperature of 90 °C, then dried, cooled, and packed to make the product shelf stable without refrigeration.

(6) The processing facility must allow periodic inspections by inspectors from the Animal and Plant Health Inspection Service of its facilities, records, and operations.

(7) The processing facility must maintain under lock and key, for a minimum of 2 years, an original record of each lot of pork or pork products used for pork-filled pasta products for export to the United States. Each record must include the following:

(i) The date that the cooked or dry-cured pork product was received in the processing facility;

(ii) The number of packages, the number of hams or cooked pork products per package, and the weight of each package;

(iii) A lot number or other identification marks;

(iv) The health certificate that accompanied the cooked or dry-cured pork product from the slaughter/processing facility to the meat-filled pasta product processing facility; and

(v) The date that the pork or pork product used in the pasta started dry curing (if the product used is a dry-cured ham) or the date that the product was cooked (if the product used is a cooked pork product).

(8) The pork-filled pasta must be accompanied by a certificate issued by an official of the National Government of the region in which the pasta product is processed who is authorized to issue the foreign meat inspection certificate required under § 327.4 of this title, stating that the pork-filled pasta product has been processed in accordance with the requirements of paragraphs (c)(1) through (c)(5) of this section. Upon arrival of the pork-filled pasta in the United States, the certificate must be presented to an inspector at the port of arrival.

Done in Washington, DC, this 14th day of January 2003.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03-1213 Filed 1-17-03; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-SW-05-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Eurocopter France Model AS350B3 Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS350B3 helicopters. This proposal would require inspecting the ASU No. 2 printed circuit board (PCB) to determine if the resistor R8 is installed, and if it is not installed, replacing the PCB with an airworthy PCB with that resistor installed. This proposal is prompted by the discovery of a PCB without a critical resistor that polarizes the voltage regulator that regulates electrical power to a critical warning light, a critical caution light, and the main rotor revolutions per minute (RPM) signal to the vehicle engine management display (VEMD). The actions specified by the proposed AD are intended to prevent the malfunction of the two critical lights and the rotor RPM signal to the VEMD, failure of these components to timely alert the pilot to the associated malfunctions, further helicopter damage because of these malfunctions, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before March 24, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002-SW-05-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: [9-asw-adcomments@faa.gov](mailto:9-asw-adcomments@faa.gov). Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Carroll Wright, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193-0111, telephone (817) 222-5120, fax (817) 222-5961.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2002-SW-05-AD." The postcard will be date stamped and returned to the commenter.

##### **Discussion**

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS350B3 helicopters.