

participant by a proportion that reflects the good faith effort of the participant to comply with the contract or the hardships beyond the participant's control that have prevented compliance with the contract.

(4) The participant may voluntarily terminate a contract if NRCS determines that termination is in the public interest.

(5) In carrying out its role in this section, NRCS may consult with the local conservation district.

#### **§ 1466.27 Conservation Innovation Grants.**

[Reserved]

### **Subpart C—General Administration**

#### **§ 1466.30 Appeals.**

A participant may obtain administrative review of an adverse decision under EQIP in accordance with 7 CFR parts 11 and 614. Determination in matters of general applicability, such as payment rates, payment limits, and cost-share percentages, the designation of identified priority natural resource concerns, and eligible conservation practices are not subject to appeal.

#### **§ 1466.31 Compliance with regulatory measures.**

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary for the implementation, operation, and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

#### **§ 1466.32 Access to operating unit.**

Any authorized NRCS representative shall have the right to enter an operating unit or tract for the purpose of ascertaining the accuracy of any representations made in a contract or in anticipation of entering a contract, as to the performance of the terms and conditions of the contract. Access shall include the right to provide technical assistance, inspect any work undertaken under the contract, and collect information necessary to evaluate the performance of conservation practices in the contract. The NRCS representative shall make a reasonable effort to contact the participant prior to the exercise of this provision.

#### **§ 1466.33 Performance based upon advice or action of representatives of NRCS.**

If a participant relied upon the advice or action of any authorized representative of NRCS and did not

know, or have reason to know, that the action or advice was improper or erroneous, NRCS may accept the advice or action as meeting the requirements of the program and may grant relief, to the extent it is deemed desirable by NRCS, to provide a fair and equitable treatment because of the good-faith reliance on the part of the participant. The financial or technical liability for any action by a participant that was taken based on the advice of a non-USDA certified technical service provider will remain with the certified technical service provider and will not be assumed by NRCS or NRCS when NRCS or NRCS authorizes payment.

#### **§ 1466.34 Offsets and assignments.**

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at 7 CFR part 1403 shall be applicable to contract payments.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at 7 CFR part 1404.

#### **§ 1466.35 Misrepresentation and scheme or device.**

(a) A producer who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part shall not be entitled to contract payments and must refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403.

(b) A producer who is determined to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination, shall refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403 received by such producer with respect to all contracts. The producer's interest in all contracts shall be terminated.

Signed in Washington, DC on January 28, 2003.

**Bruce I. Knight,**

*Vice President, Commodity Credit Corporation, Chief, Natural Resources Conservation Service.*

[FR Doc. 03-2642 Filed 2-7-03; 8:45 am]

**BILLING CODE 3410-16-P**

## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

#### **9 CFR Part 94**

[Docket No. 02-109-1]

#### **Importation of Beef From Uruguay**

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations governing the importation of certain animals, meat, and other animal products by allowing, under certain conditions, the importation of fresh (chilled or frozen) beef from Uruguay. Based on the evidence in a recent risk assessment, we believe that fresh (chilled or frozen) beef can be safely imported from Uruguay provided certain conditions are met. This action would provide for the importation of beef from Uruguay into the United States while continuing to protect the United States against the introduction of foot-and-mouth disease.

**DATES:** We will consider all comments that we receive on or before April 11, 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. 02-109-1, 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. 02-109-1. 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. 02-109-1" 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. Hatim Gubara, Senior Staff Veterinarian, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are considered free of rinderpest or free of both rinderpest and FMD. The Animal and Plant Health Inspection Service (APHIS) considers rinderpest or FMD to exist in all regions of the world not listed.

On November 1, 1995, we published in the **Federal Register** a final rule (60 FR 55440-55443, Docket No. 95-050-2) adding Uruguay to the list in § 94.1 of regions considered to be free of rinderpest and FMD and to the list in § 94.11 of regions that, although free of rinderpest and FMD, are subject to certain restrictions on importation of meat and other animal products. On October 26, 2000, Uruguay's Ministry of Livestock, Agriculture and Fisheries notified us of an FMD outbreak in the northern Uruguayan department of Artigas and immediately prohibited the movement of all animals and animal products throughout the department. On November 20, 2000, Uruguay sent a team of veterinary officials to the United States to provide us with detailed information on the outbreak history, measures taken to eradicate the disease, movement controls, monitoring and surveillance, and other relevant activities. In an interim rule published in the **Federal Register** on December 13, 2000 (65 FR 77771-77773, Docket No. 00-111-1), and effective retroactively to

October 1, 2000, we removed the Uruguayan department of Artigas from the list of regions considered to be free of rinderpest and FMD.

On April 24, 2001, FMD was clinically confirmed in the Uruguayan department of Soriano, near Uruguay's border with Argentina. The disease subsequently spread to additional departments. Uruguay's Ministry of Livestock, Agriculture and Fisheries notified the United States Department of Agriculture and the Office International des Epizooties that, as of August 21, 2001, there had been 2,057 confirmed cases of FMD in 18 departments of Uruguay, including Artigas and Soriano. In response to the outbreak, the Ministry of Livestock, Agriculture and Fisheries began a stamping out campaign on April 24, 2001, that continued until it was suspended on April 30, 2001. The government of Uruguay also issued a ban on the movement of all animals susceptible to FMD; began an emergency ring vaccination campaign on April 26, 2001; established a containment zone with strategic vaccination; applied strict sanitary measures within the outbreak areas; placed fixed control and disinfection posts on the main access routes to the affected areas; and suspended all export health certificates for ruminants and swine.

On July 13, 2001, we published in the **Federal Register** an interim rule (66 FR 36695-36697, Docket No. 00-111-2), effective retroactively to April 2, 2001, that amended the regulations by removing Uruguay from the list of regions considered free of rinderpest and FMD and from the list of regions that, although rinderpest and FMD-free, are subject to certain restrictions on the importation of meat and other animal products. That action was necessary because FMD had been confirmed in 18 departments of Uruguay. The effect of the interim rule was to prohibit or restrict the importation of any ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Uruguay.

Although we removed Uruguay from the list of regions considered to be free of rinderpest and FMD, we recognized in the interim rule that Uruguay's Ministry of Livestock, Agriculture, and Fisheries responded immediately to the detection of the disease by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from the affected areas and by initiating measures to control and eradicate the disease. We also stated that we intended to reassess the situation to determine whether it was

necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from Uruguay.

Under the current regulations, the importation of fresh (chilled or frozen) beef from Uruguay is prohibited. Because Uruguay took immediate, effective measures to control and eradicate FMD after the initial outbreak; continues to employ control measures, including a vaccination program, movement controls (especially control of movement to slaughter), maturation, de-boning, ante- and post-mortem inspections, pH testing, and national and international border controls; and has not had a confirmed case of FMD in over a year, the government of Uruguay requested that APHIS consider allowing the export of fresh (chilled or frozen) beef to the United States.

In response to this request, APHIS prepared a risk assessment, which can be viewed on the Internet at <http://www.aphis.usda.gov/vs/ncie/reg-request.html>. To view the document, follow the link entitled, "Information previously submitted by Regions requesting export approval and their supporting documentation." At the next screen, click on the triangle beside "Uruguay/Animals and Animal Products/Foot-and-Mouth Disease," then on the triangle beside "Response by APHIS." A link will then appear for "Risk Assessment—Importation of Fresh (chilled or frozen) Beef from Uruguay (November 2002)." Following that link will allow you to view the assessment. You may also request paper copies of this document by calling or writing the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to Docket No. 02-109-1 when requesting copies. The risk assessment is also available in our reading room. (Information on the location and hours of the reading room may be found at the beginning of this document under **ADDRESSES**.) The risk assessment process also included a site visit in July 2002 during which a team of APHIS representatives reviewed Uruguay's animal health infrastructure, vaccination program, movement controls, slaughter procedures, and national and international border controls. (The site visit report is available along with the risk assessment as discussed above). Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture may prohibit the importation of any animal or article if the Secretary determines that the prohibition is necessary to prevent the introduction into or dissemination within the United States

of any pest or disease of livestock. Based on the risk assessment, the site visit, and information provided by the government of Uruguay, we have determined that it is not necessary to prohibit the importation of fresh (chilled or frozen) beef from Uruguay, provided certain stringent requirements are met.

On May 5, 2001, the government of Uruguay initiated the first round of a vaccination program. Four rounds have been completed to date, and one round of calf vaccinations for calves born between 2000 and 2001 was completed in November of 2001. The vaccination program will continue until May 2003, at which time the government of Uruguay plans to evaluate its vaccination policy. Although there has not been a confirmed case of FMD in Uruguay since August 21, 2001, this ongoing vaccination program makes additional mitigating measures necessary in order to ensure protection against the introduction of FMD into the United States from the importation of fresh (chilled or frozen) beef from Uruguay. When animals are vaccinated for FMD, it can be difficult to distinguish between serological responses that are caused by the FMD virus and responses that are caused by the vaccinations. Further, if the disease is present in a region, symptoms in a vaccinated animal can be suppressed and may not manifest themselves at a clinical level. To mitigate these additional risk factors, we are proposing to require the mitigating measures discussed below, which we have determined will protect against the introduction of FMD into the United States from the importation of fresh (chilled or frozen) beef from Uruguay.

#### *Mitigation Measures*

The proposed changes to the regulations include several additional conditions that would have to be met before importation of fresh (chilled or frozen) beef from Uruguay into the United States would be allowed. An authorized veterinary official of the government of Uruguay would have to certify that the following conditions have been met:

- The meat is beef from bovines that have been born, raised, and slaughtered in Uruguay;
- FMD has not been diagnosed in Uruguay within the previous 12 months;
- The beef came from bovines that originated from premises where FMD has not been present during the lifetime of any bovines slaughtered for the export of meat to the United States;
- The beef came from bovines that were moved directly from the premises

of origin to the slaughtering establishment without any contact with other animals;

- The beef came from bovines that received ante- and post-mortem veterinary inspections, paying particular attention to the head and feet, at the slaughtering establishment, with no evidence found of vesicular disease;
- The beef consists only of bovine parts that are, by standard practice, part of the animal's carcass that is placed in a chiller for maturation after slaughter. Bovine parts that may not be imported include all parts of bovine heads, feet, hump, hooves, and internal organs;
- All bone and visually identifiable blood clots and lymphoid tissue have been removed from the beef;
- The beef has not been in contact with meat from regions other than those listed in § 94.1(a)(2); and
- The beef came from bovine carcasses that have been allowed to mature at 40 to 50 °F (4 to 10 °C) for a minimum of 36 hours after slaughter and have reached a pH of 5.8 or less in the loin muscle at the end of the maturation period. Any carcass in which the pH does not reach 5.8 or less may be allowed to mature an additional 24 hours and be retested, and, if the carcass still has not reached a pH of 5.8 or less after 60 hours, the meat from the carcass may not be exported to the United States.

In addition to these proposed requirements, § 94.21(l) of this proposed rule would also require the establishment in which the bovines are slaughtered to allow periodic on-site evaluation and subsequent inspection of its facilities, records, and operations by an APHIS representative.

#### *Ante- and Post-Mortem Inspections*

Among the proposed additional requirements that would have to be met for the importation of fresh (chilled or frozen) beef from Uruguay is the proposed requirement in § 94.21(e) of this proposed rule that the beef come from bovines that received ante-mortem and post-mortem veterinary inspections, paying particular attention to the head and feet, at the slaughtering establishment. Because FMD has a short incubation period, if animals were infected with FMD at a premises of origin, it is likely that lesions would be visible in at least a few of those animals at the slaughtering establishment prior to slaughter. Similarly, post-mortem inspection of carcasses would be likely to identify any lesions and vesicles in animals infected with FMD. Since the lesions associated with FMD occur primarily on the feet and in the mouth, particular attention must be paid to the

head and feet during these inspections. Because ante- and post-mortem inspections are important in reducing disease risk, we are proposing explicit requirements for ante- and post-mortem inspections for bovines slaughtered for the export of fresh (chilled or frozen) beef from Uruguay to the United States.

#### *Restrictions on Certain Bovine Parts*

In this proposed rule, § 94.21(f) would provide that certain bovine parts would continue to be prohibited importation into the United States. Specifically, no part of the animal's head, feet, hump, hooves, or internal organs would be allowed entry into the United States. While portions of a bovine's head, feet, hump, hooves, and internal organs may reach the necessary pH level during the required maturation process (*see* "Maturation Process"), these items can contain lymph tissue, depot fat, and blood clots that may potentially harbor FMD virus that is not inactivated. When we refer to fresh (chilled or frozen) beef in proposed § 94.21, we mean only the traditional cuts of meat obtained from a bovine's carcass.

#### *Bone, Blood Clots, and Lymphoid Tissue*

The proposed requirement in § 94.21(g) of this proposed rule states that all bone, blood clots, and lymphoid tissue must be removed from the beef that is to be exported from Uruguay to the United States. The removal of these parts is necessary because any FMD virus these parts might potentially harbor may not be inactivated by the maturation process described in the following paragraph. Although we consider the removal of these parts necessary, we recognize that meat may contain small portions of blood clots or lymphoid tissue that are not visually identifiable as such. Because such small parts are unlikely to harbor any FMD virus that is not inactivated by the maturation process, and because we recognize that it would be difficult, if not impossible, to remove parts of blood clots or lymphoid tissue that are not recognizable as such, we have specified in the proposed requirement that all bone and "visually identifiable" blood clots and lymphoid tissue be removed.

#### *Maturation Process*

Paragraph (i) of proposed § 94.21 provides that the beef must come from bovine carcasses that have been allowed to mature at 40 to 50 °F (4 to 10 °C) for a minimum of 36 hours after slaughter and that have reached a pH of 5.8 or less in the loin muscle at the end of the maturation period. Any carcass in which the pH does not reach 5.8 or less may be allowed to mature an

additional 24 hours and be retested. This proposed provision goes on to state that if the meat does not meet this pH level after 60 hours, it may not be exported to the United States. This proposed requirement is based on the fact that the FMD virus in meat is inactivated by acidification, which occurs naturally during maturation. An acid environment of a pH of 5.8 or less destroys the virus quickly.

*APHIS Inspection of Slaughtering Establishments*

Although the proposed conditions in § 94.21 include a provision in paragraph (j) that an authorized veterinary official of the government of Uruguay certify that the required conditions for importation have been met, we are proposing an additional condition in paragraph (k) that would require establishments in which bovines are slaughtered to allow periodic APHIS inspection of their facilities, records, and operations. We continue to believe that, in the great majority of cases,

certification by an authorized veterinary official of Uruguay will be sufficient verification. However, because of the possibility of occasional differing interpretations of the regulations, we consider it advisable to enable APHIS representatives to have access to slaughtering establishments for periodic inspections of the establishments and their records and operations.

Based on our assessment, and considering the effective control measures employed by the government of Uruguay after the initial outbreak and their ongoing control measures, we have determined that it is not necessary to prohibit the importation of fresh (chilled or frozen) beef from Uruguay, as long as the beef meets certain stringent conditions.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 1286

and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would amend the regulations governing the importation of certain animals, meat, and other animal products by allowing, under certain conditions, the importation of fresh (chilled or frozen) beef from Uruguay. Based on the evidence documented in our recent risk assessment, we believe that fresh (chilled or frozen) beef can be safely imported from Uruguay provided certain conditions are met. This action would provide for the importation of beef from Uruguay into the United States while continuing to protect the United States against the introduction of FMD.

This proposed rule would reopen the U.S. market to Uruguayan beef producers. Beef producers and importers in the United States should not experience any notable economic effects as a result of these proposed changes because the United States has imported only a small amount of beef from Uruguay in the past (Table 1).

TABLE 1.—VALUE OF U.S. SUPPLY AND IMPORTS OF FRESH (CHILLED OR FROZEN) BEEF AND URUGUAY'S SHARE

	U.S. imports from Uruguay	Total U.S. imports		U.S. supply (domestic production + imports - exports)	
	(in millions of dollars)	(in millions of dollars)	Uruguay's share (in percent)	(in millions of dollars)	Uruguay's share (in percent)
1997 .....	37.5	1,407.9	2.7	22,941	0.2
1998 .....	29.2	1,609.8	1.8	23,184	0.1
1999 .....	43.5	1,907.7	2.3	23,846	0.2
2000 .....	40.9	2,221.0	1.8	24,000	0.2

Sources: Imports and Exports: U.S. Department of Commerce, Bureau of the Census, as reported by the World Trade Atlas. Domestic production: Calculated from quantities reported in Table 7-72 of Agricultural Statistics 2000, with a wholesale price for the 3 years conservatively approximated at \$90 per hundredweight.

Uruguay's share in the value of U.S. imports of fresh (chilled or frozen) beef has been very small. From 1997 to 2000, Uruguayan exports accounted for only 1.8 to 2.7 percent of total U.S. imports of fresh (chilled or frozen) beef. During the same period, imports from Uruguay accounted for 0.2 percent or less of the value of the U.S. supply (domestic production plus imports minus exports) of fresh (chilled or frozen) beef.

**Impact on Small Entities**

According to the Small Business Administration's (SBA) size classification, beef cattle ranches and farms having \$750,000 or less in annual revenues, and cattle feedlots having \$1,500,000 or less in annual revenues are considered small entities. The number of farms and ranches with beef herds in the United States in 1997 was reported to be 766,991, and 99.8 percent

of these beef farms could be categorized as small according to the SBA's criteria.<sup>1</sup>

It is impossible to determine from published data how many U.S. cattle feedlots could be categorized as small according to the SBA's criteria. Industry analysts suggest that feedlots with a capacity of roughly 1,000 head of cattle would have annual revenues of approximately \$1,500,000. In 2000, roughly 18 percent (2,508) of cattle feedlots in the United States would have been considered small by SBA standards.<sup>2</sup>

Although this proposed rule could potentially affect a large number of

small beef farms and a relatively small number of small feedlots by allowing Uruguayan beef into the U.S. market, it is not expected to have a significant economic effect on these entities because the import volumes involved are low.

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) 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

<sup>1</sup>USDA, National Agricultural Statistics Service, 1997, Census of Agriculture—United States Data, table 28, page 32.

<sup>2</sup>Unpublished National Agriculture Statistics Service data, from *Changes in the U.S. Feedlot Industry 1994-1999*, USDA/APHIS/NAHMS, August 2000.

will not be required before parties may file suit in court challenging this rule.

### Paperwork Reduction Act

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

### List of Subjects in 9 CFR Part 94

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

Accordingly, we are proposing 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, 7701-7772, and 8301-8317; 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 § 94.1, a new paragraph (b)(4) would be added to read as follows:

#### § 94.1 Regions where rinderpest or foot-and-mouth disease exists; importations prohibited.

\* \* \* \* \*

(b) \* \* \*

(4) Except as provided in § 94.21 for fresh (chilled or frozen) beef from Uruguay.

\* \* \* \* \*

3. A new § 94.21 would be added to read as follows:

#### § 94.21 Restrictions on importation of beef from Uruguay.

Notwithstanding any other provisions of this part, fresh (chilled or frozen) beef from Uruguay may be exported to the United States under the following conditions:

(a) The meat is beef from bovines that have been born, raised, and slaughtered in Uruguay.

(b) Foot-and-mouth disease has not been diagnosed in Uruguay within the previous 12 months.

(c) The beef came from bovines that originated from premises where foot-and-mouth disease has not been present during the lifetime of any bovines slaughtered for the export of beef to the United States.

(d) The beef came from bovines that were moved directly from the premises of origin to the slaughtering

establishment without any contact with other animals.

(e) The beef came from bovines that received ante-mortem and post-mortem veterinary inspections, paying particular attention to the head and feet, at the slaughtering establishment, with no evidence found of vesicular disease.

(f) The beef consists only of bovine parts that are, by standard practice, part of the animal's carcass that is placed in a chiller for maturation after slaughter. Bovine parts that may not be imported include all parts of bovine heads, feet, hump, hooves, and internal organs.

(g) All bone and visually identifiable blood clots and lymphoid tissue have been removed from the beef.

(h) The beef has not been in contact with meat from regions other than those listed in § 94.1(a)(2).

(i) The beef came from bovine carcasses that were allowed to mature at 40 to 50° F (4 to 10° C) for a minimum of 36 hours after slaughter and that reached a pH of 5.8 or less in the loin muscle at the end of the maturation period. Any carcass in which the pH does not reach 5.8 or less may be allowed to mature an additional 24 hours and be retested, and, if the carcass still has not reached a pH of 5.8 or less after 60 hours, the meat from the carcass may not be exported to the United States.

(j) An authorized veterinary official of the Government of Uruguay certifies on the foreign meat inspection certificate that the above conditions have been met.

(k) The establishment in which the bovines are slaughtered allows periodic on-site evaluation and subsequent inspection of its facilities, records, and operations by an APHIS representative.

Done in Washington, DC, this 5th day of February, 2003.

**Kevin Shea,**

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

[FR Doc. 03-3228 Filed 2-7-03; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2003-14348; Airspace Docket No. 03-ACE-5]

### Proposed Establishment of Class E Surface Area Airspace; and Modification of Class D Airspace; Topeka, Forbes Field, KS

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to create a Class E surface area at Topeka, Forbes Field, KS for those times when the air traffic control tower (ATCT) is closed. It also proposes to modify the Class D airspace at Topeka, Forbes Field, KS.

**DATES:** Comments for inclusion in the Rules Docket must be received on or before March 25, 2003.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2003-14348/Airspace Docket No. 03-ACE-5, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2525.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. FAA-2003-14348/Airspace Docket No. 03-ACE-5." The postcard will be date/time stamped and returned to the commenter.