

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 02–083–1]

#### Importation of Meat That Originates in an FMD Region and Is Cured or Cooked in Another Region

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the animal and animal product import regulations by adding provisions for the importation of cured or cooked shelf-stable meat derived from ruminants or swine that originate in a region where rinderpest or foot-and-mouth disease exists if the meat is cured or cooked in another region. This action would provide for the importation of these commodities while continuing to protect the U.S. ruminant and swine populations against incursions of rinderpest and foot-and-mouth disease.

**DATES:** We will consider all comments that we receive on or before December 27, 2005.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the “Search for Open Regulations” box, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click on “Submit.” In the Docket ID column, select APHIS–2005–0087 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the “Advanced Search” function in *Regulations.gov*.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 02–083–1, 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. 02–083–1.

**Reading Room:** 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.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**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 40, Riverdale, MD 20737–1231; (301) 734–3277.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), bovine spongiform encephalopathy, swine vesicular disease, classical swine fever, and African swine fever. These are dangerous and destructive communicable diseases of ruminants and swine.

Section 94.4 sets out conditions under which cured or cooked meat derived from ruminants or swine originating in regions where rinderpest or FMD exists may be imported into the United States. Paragraph (a) contains requirements for cured meat, and paragraph (b), for cooked meat.

Currently, the regulations in § 94.4 do not specifically address the issue of cured or cooked shelf-stable meat that originates in a region with FMD or rinderpest but is cured or cooked in another region. Current § 94.4(a)(4) states that the certificate that must accompany imported cured meat originating in a region with FMD or rinderpest must be issued by an official

of the national government of the region of origin. Similarly, current § 94.4(b)(8) states that the certificate that must accompany imported cooked meat originating in a region with FMD or rinderpest must be issued by an official of the national government of the region of origin. No provision is made for the issuance of certificates by governments other than those where the products originate. We are proposing to amend § 94.4(a) and (b) to add such provisions, while maintaining existing safeguards against incursions of rinderpest and FMD. While it is our primary objective in this rulemaking to provide for the importation of meat that originates in a region affected by FMD or rinderpest but is then cured or cooked in a region recognized as free of those diseases, the changes we are proposing would also allow the importation of shelf-stable meat that originates in an FMD- or rinderpest-affected region and is then cured or cooked according to the regulations in another region where FMD or rinderpest is present. It is our view that cured or cooked shelf-stable meat originating in a region with FMD or rinderpest may be safely imported into the United States, regardless of where it is cured or cooked, if the curing or cooking is done in accordance with the regulations in § 94.4.

Currently, the introductory text of § 94.4(a) prohibits the importation of cured meat derived from any ruminants or swine that originate in a region where rinderpest or FMD exists unless the meat is prepared in accordance with the conditions specified in the ensuing paragraphs ((a)(1) through (a)(4)). We would amend that introductory text to indicate that the same restrictions also apply when meat derived from any ruminant or swine that originates in a region where rinderpest or FMD exists is cured in another region.

We are proposing to amend § 94.4(a)(4) in a similar manner. Current paragraph (a)(4) stipulates that cured meat imported from regions with rinderpest or FMD must be accompanied by a certificate issued by an official of the national government of the region of origin who is authorized to issue the foreign meat inspection certificate required by 9 CFR 327.4, stating that the meat has been prepared in accordance with § 94.4(a)(1), (a)(2), and (a)(3)(i). The certificate must be presented to an authorized inspector at

the port of arrival in the United States. We would amend paragraph (a)(4) to indicate that the certificate may either be issued by an authorized official of the national government of the region of origin or, if the meat was cured in another region, by an authorized official of the national government of the region in which the meat was cured.

Conditions for the importation of cooked meat derived from any ruminants or swine that originate in a region where rinderpest or FMD exists are provided in § 94.4(b). Current paragraph (b)(3) provides a blanket exemption from these requirements for canned meat, which is defined, in part, in the regulations of the Food Safety and Inspection Service of the U.S.

Department of Agriculture (USDA) in 9 CFR 318.300(d) as a “meat food product with a water activity above 0.85 which receives a thermal process either before or after being packed in a hermetically sealed container.”

Paralleling our changes to the provisions for imported cured meat in proposed § 94.4(a), we are proposing to amend § 94.4(b)(3) to provide for the importation into the United States of shelf-stable canned meat that is derived from any ruminants or swine originating in an FMD-or rinderpest-affected region and is then cooked and sealed in another region. Additionally, we would amend § 94.4(b)(3) to be more specific regarding cooking and sealing requirements for canned meat. Specifically, proposed § 94.4(b)(3)

would state that such meat, whether cooked and sealed in the region of origin or in another region, is exempt from the requirements of § 94.4 if the meat or meat product has been fully cooked by a commercial method in a container hermetically sealed promptly after filling but before such cooking, so that such cooking and sealing produce a fully sterilized product that is shelf-stable without refrigeration.<sup>1</sup> In specifying that only shelf-stable canned meats that are prepared in this manner would be exempt from the other requirements of § 94.4, our proposal would offer greater protection to the U.S. ruminant and swine populations against the introduction of rinderpest or FMD than do the current regulations.

Certification requirements for cooked meat imported into the United States from regions where rinderpest or FMD exists are contained in current paragraph (b)(8). Such meat must be accompanied by a certificate issued by an official of the national government of the region of origin who is authorized to issue the required foreign meat inspection certificate, stating that the cooked meat satisfies the requirements of § 94.4(b). The certificate must be presented to an inspector at the port of arrival in the United States. We would amend this paragraph so that it would reflect our proposed changes to § 94.4(b)(3). Under our proposed § 94.4(b)(8), the certificate could either be issued by an authorized official of the national government of the region of

origin or, if the meat being imported is shelf-stable canned meat that was cooked in accordance with § 94.4(b)(3) in another region, by an authorized official of the national government of the region in which the meat was cooked.

**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 by adding provisions in § 94.4 for the importation of cured or cooked shelf-stable meat derived from any ruminants or swine that originate in a region with rinderpest or FMD if the meat is then cured or cooked in another region.

As shown in table 1, the amount of processed red meat (beef, veal, and pork) imported into the United States in 2003 accounted for 2.4 percent of the total of U.S. red meat imports and was equivalent to less than 1 percent of U.S. production of red meat. We do not anticipate that the amount of processed red meat imported into the United States would increase significantly as a result of the proposed changes. Therefore, the proposed action is not likely to have any significant economic effect on any U.S. entities.

TABLE 1.—U.S. PRODUCTION AND U.S. IMPORTS OF RED MEAT IN 2003 (HS 4-DIGIT)

U.S. production of red meat	U.S. imports of all red meat (fresh and processed)	U.S. imports of processed red meat
21,038,527.2 metric tons .....	2,024,907.0 metric tons .....	47,697.4 metric tons.

Source: USDA, Economic Research Service, Livestock, Dairy, & Poultry Outlook/ LDP-M-135/September 16, 2005, and USDA, Foreign Agricultural Service, HS-4 digit imports (<http://www.fas.usda.gov/ustrdscrip>s).

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. Among the small entities that could be affected by this proposed rule are beef cattle ranchers, dairy cattle producers, and processors of red meat. Beef cattle ranchers and dairy cattle producers are considered small entities, according to the criteria of the Small Business Administration, as long as their annual sales are less than or equal to \$750,000. Producers of cattle on feedlots are considered small entities if their annual revenues are less than or equal to \$1.5 million. According to the

U.S. Agricultural Census, in 1997, 99 percent of beef cattle ranchers, dairy cattle producers, and cattle producers on feedlots qualified as small entities. For the reasons discussed earlier, however, we do not expect that this proposed rule would have any significant economic effect on any of these entities or on any other U.S. entities, small or large.

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**

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork

<sup>1</sup> While this process is relatively standardized, other cooking processes described in § 94.4(b) are

very specific and complicated, requiring USDA inspection and verification in the region in which

the meats are cooked. Therefore, this proposed rule does not extend to those other cooking processes.

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 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, CLASSICAL SWINE FEVER, 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, 7781-7786, and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. In § 94.4, the introductory text of paragraph (a), paragraph (a)(4), paragraph (b)(3), and paragraph (b)(8)(i) would be revised to read as follows:

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

(a) Whether the meat is cured in the region of origin or in another region, the importation of cured meats derived from any ruminant or swine that originates in a region where rinderpest or foot-and-mouth disease exists, as designated in § 94.1, is prohibited unless the following conditions have been fulfilled:

\* \* \* \* \*

(4) The cured meat shall be accompanied by a certificate stating that such meat has been prepared in accordance with paragraphs (a)(1), (a)(2), and (a)(3)(i) of this section. The certificate shall be issued by an official of the national government of the region of origin or, if the meat was cured in another region, by an official of the national government of the region in which the meat was cured, who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title. Upon arrival of the cured meat in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(b) \* \* \*

(3) Shelf-stable canned meat. Shelf-stable canned meat, whether cooked and sealed in the region of origin or in another region, is exempt from the requirements of this section if cooked and sealed in the following manner: The

meat or meat product has been fully cooked by a commercial method in a container hermetically sealed promptly after filling but before such cooking, so that such cooking and sealing produce a fully sterilized product that is shelf-stable without refrigeration.

\* \* \* \* \*

(8) \* \* \* (i) The cooked meat must be accompanied by a certificate stating: "This cooked meat produced for export to the United States meets the requirements of title 9, Code of Federal Regulations, § 94.4(b)." The certificate must be issued by an official of the national government of the region of origin or, if the meat is shelf-stable canned meat that was cooked and sealed in accordance with § 94.4(b)(3) in another region, by an official of the national government of the region in which the meat was cooked and sealed, who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title. Upon arrival of the cooked meat in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

\* \* \* \* \*

Done in Washington, DC, this 19th day of October 2005.

Elizabeth E. Gaston, Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05-21306 Filed 10-24-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-20970; Directorate Identifier 2004-NM-53-AD]

RIN 2120-AA64

Airworthiness Directives; Cessna Model 500, 501, 550, S550, 551, and 560 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier proposed airworthiness directive (AD) for certain Cessna Model 500, 501, 550, S550, 551, and 560 airplanes. The original NPRM would have required revising the airplane flight manual (AFM) to prohibit use of the wing fuel boost pumps for defueling under certain

conditions; installing a placard; doing other specified investigative and corrective actions as necessary; and modifying the boost pumps. The original NPRM also would have required the subsequent removal of the AFM revision and placard. The original NPRM resulted from a report of a chafed electrical wiring harness, which was arcing inside the fuel tank. This action revises the original NPRM by identifying certain service information not identified in the original NPRM. We are proposing this supplemental NPRM to prevent potential fuel vapor ignition in a fuel tank, which could result in explosion and loss of the airplane.

DATES: We must receive comments on this supplemental NPRM by November 21, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this supplemental NPRM.

• DOT Docket Web site: Go to http://dms.dot.gov and follow the instructions for sending your comments electronically.

• Government-wide rulemaking Web site: Go to http://www.regulations.gov and follow the instructions for sending your comments electronically.

• Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL-401, Washington, DC 20590.

• Fax: (202) 493-2251. • Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277.

FOR FURTHER INFORMATION CONTACT: Bryan Easterwood, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE-119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4132; fax (316) 946-4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the ADDRESSES section. Include the docket number "Docket No. FAA-2005-20970; Directorate Identifier 2004-NM-53-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We