

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Parts 93, 94, and 95**

[Docket No. 03-080-8]

RIN 0579-AB97

**Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Unsealing of Means of Conveyance and Transloading of Products****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Interim rule and request for comments.

**SUMMARY:** In a final rule published in the **Federal Register** on January 4, 2005, we amended the regulations regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy into the United States via live ruminants and ruminant products and byproducts, and added Canada to this category. We also established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions. In this document, we are amending the regulations to broaden who is authorized to break seals on means of conveyances carrying certain ruminants of Canadian origin. Additionally, we are amending the regulations regarding the transiting through the United States of certain ruminant products from Canada to allow for direct transloading of the products from one means of conveyance to another in the United States under Federal supervision. These actions will contribute to the humane treatment of ruminants shipped to the United States from Canada and remove an impediment to international trade, without increasing the risk of the BSE disease agent entering the United States.

**DATES:** This interim rule is effective November 28, 2005. We will consider all comments that we receive on or before January 27, 2006.

**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-2005-0003 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. 03-080-8, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 03-080-8.

**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:** For information regarding ruminant products, contact Dr. Karen James-Preston, Director, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

For information concerning live ruminants, contact Lee Ann Thomas, Director, Technical Trade Services, Animals, Organisms and Vectors, and Select Agents, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

**SUPPLEMENTARY INFORMATION:****Background**

In a final rule published in the **Federal Register** on January 4, 2005 (70 FR 460-553, Docket No. 03-080-3), we amended the regulations in 9 CFR parts 93, 94, 95, and 96 regarding the importation of animals and animal products (referred to below as the regulations) to establish a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy (BSE) into the United States via live ruminants and ruminant products and byproducts, to add Canada to this category, and to provide conditions for the importation of live ruminants and ruminant products and byproducts from Canada.

Following publication of the final rule, it came to our attention that certain

provisions in the rule could create conditions that either are not conducive to the humane treatment of livestock or that unnecessarily hinder international trade. In this interim rule, we are amending the regulations to remedy these situations. We discuss below the changes we are making.

**Breaking of Seals on Means of Conveyance at Feedlots and Slaughtering Establishments**

The regulations in §§ 93.419, 93.420, and 93.436, which were established or amended by our January 2005 final rule, include requirements governing the importation of bovines, sheep, and goats from Canada, either for immediate slaughter in the United States or for movement to a feedlot or designated feedlot in the United States and then to slaughter.

Those importation requirements provide that bovines, sheep, and goats entering the United States from Canada must be transported to the United States in a means of conveyance that is sealed in Canada with seals of the Canadian Government. The final rule specified who in the United States was authorized to break the Canadian seals, as follows:

- Under §§ 93.419, 93.420, and 93.436, only Animal and Plant Health Inspection Service (APHIS) port veterinarians are authorized to break the seals at the port of entry.

• Under § 93.419(d)(4), the official seals on a means of conveyance used to transport sheep and goats from Canada to a designated feedlot in the United States must be broken at the feedlot only by an accredited veterinarian or a State or U.S. Department of Agriculture (USDA) representative or his or her designee. Similarly, under § 93.436(b)(7), the seals on a means of conveyance used to transport bovines from Canada or other minimal risk region to a U.S. feedlot must be broken only by an accredited veterinarian or a State or USDA representative or his or her designee.

- Under § 93.420(a), which deals with the importation of ruminants in general from Canada for immediate slaughter, the seals on a means of conveyance used to transport such ruminants to slaughter may be broken at a recognized slaughtering establishment only by an accredited veterinarian or a State or USDA representative or his or her designee. However, this provision is inconsistent with provisions in § 93.436(a)(4) that apply specifically to bovines, which state that seals on means of conveyance used to transport bovines from Canada or other minimal risk region to the United States for immediate slaughter must be broken at

the slaughtering establishment only by a USDA representative.

- Under §§ 93.419(d)(5) and 93.436(b)(10), the seals on a means of conveyance used to transport sheep, goats, and bovines from Canada from a U.S. feedlot to a recognized slaughtering establishment must be broken at the recognized slaughtering establishment only by a USDA representative.

Requiring that a means of conveyance be sealed during movement from one location to another helps ensure that the cargo area of the means of conveyance has not been entered while in transit and to ensure that the integrity of the shipment has been maintained (i.e., nothing was removed from or added to the shipment and the commodities have not been tampered with). Therefore, it is necessary that the means of conveyance be unsealed by an individual who has been properly trained regarding the requirements for sealing and removing the seals.

It has come to our attention that the restrictions described above regarding who may break the official seals on a means of conveyance carrying live ruminants can, in some cases, create a situation that is not conducive to the humane treatment of livestock. Means of conveyance carrying livestock often arrive at feedlots or at slaughtering establishments at night or on weekends, frequently when accredited veterinarians or State or USDA representatives are not present. Under the regulations in place before this interim rule, such livestock needed to be held on the means of conveyance until one of the authorized individuals became available.

We do not consider it necessary or acceptable to require such extended holding of the animals on the means of conveyance. To address this situation, we are providing in this interim rule that authorized USDA representatives may break the seals on the means of conveyance. Such individuals include any of the following: An APHIS Veterinary Services employee, a USDA Food Safety and Inspection Service inspector, a State representative, an accredited veterinarian, or an employee of an accredited veterinarian, slaughtering establishment, or feedlot who is designated by the accredited veterinarian or management of the slaughtering establishment or feedlot to unseal the means of conveyance.

To make this change in the regulations, we are providing in each of the following paragraphs that the official seals on a means of conveyance must be broken only by an authorized USDA representative:

- § 93.419(d)(4) regarding sheep and goats from Canada that are moved to a designated feedlot in the United States;

- § 93.419(d)(5) regarding sheep and goats from Canada that are moved from a designated feedlot in the United States to a recognized slaughtering establishment;

- § 93.420(a) regarding ruminants from Canada that are moved to a recognized slaughtering establishment in the United States for immediate slaughter;

- § 93.436(a)(4) regarding bovines from Canada that are moved to a recognized slaughtering establishment in the United States for immediate slaughter;

- § 93.436(b)(7) regarding bovines from Canada that are moved to a feedlot in the United States; and

- § 93.436(b)(10) regarding bovines from Canada that are moved from a feedlot in the United States to a recognized slaughtering establishment.

In § 93.400, we are removing the definition of *USDA representative* and adding a definition of *authorized USDA representative* to mean an APHIS Veterinary Services employee, a USDA Food Safety and Inspection Service inspector, a State representative, an accredited veterinarian, or an employee of an accredited veterinarian, slaughtering establishment, or feedlot who is designated by the accredited veterinarian or management of the slaughtering establishment or feedlot to perform the function involved. In the definition, we are also providing that, in order to designate an employee to break official seals, an accredited veterinarian or the management of a slaughtering establishment or feedlot must first supply in writing the name of the designated individual to the APHIS area veterinarian in charge in the State where the seals will be broken. Additionally, we are providing in the definition that the management of a slaughtering establishment or feedlot wishing to designate an employee to break the seals must enter into an agreement with Veterinary Services in which the management of the facility agrees that only designated individuals will break the seals, that the facility will contact an APHIS representative or USDA Food Safety and Inspection Service inspector immediately if the seals are not intact when the means of conveyance arrives or if the animals being transported appear to be sick or injured due to transport conditions, and that the facility will cooperate with APHIS representatives, USDA Food Safety and Inspection Service inspectors, and State representatives in maintaining records of sealed shipments received.

We are making such an agreement one of the criteria for designating employees to break seals at feedlots and slaughtering establishments in order to ensure that USDA will be notified in a timely manner of any violations of the requirements in § 93.419, § 93.420, and § 93.436 regarding sealed means of conveyance carrying ruminants from Canada or any other BSE minimal-risk region, that adequate records of such sealed shipments will be maintained, and that USDA will be notified in a timely manner of any apparent violations of the regulations in 9 CFR part 89 regarding the humane transport of livestock. Because accredited veterinarians have already entered into an agreement with APHIS to carry out functions in accordance with the regulations, it is not necessary to require accredited veterinarians who wish to designate an employee to break seals to additionally enter into the agreement described above.

We are adding a definition of *area veterinarian in charge (AVIC)* to mean the veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

#### Sealing of Means of Conveyance

In this interim rule, we are clarifying the wording in §§ 93.419(d)(5) and 93.436(b)(10) regarding who is authorized to apply official seals to means of conveyance carrying ruminants of Canadian origin, in order to eliminate possible confusion from our using similar terms to mean different things. In our January 2005 final rule, we indicated that the only individuals authorized to apply a U.S. Government seal to a means of conveyance carrying live ruminants from Canada from a designated feedlot (§ 93.419(d)(5) regarding sheep and goats) or feedlot (§ 93.436(b)(10) regarding bovines) to a slaughtering establishment are accredited veterinarians, State representatives, and USDA representatives. We defined *USDA representative* as a veterinarian or other individual employed by USDA who is authorized to perform the services required by part 93. In practice, in the situations described in §§ 93.419(d)(5) and 93.436(b)(10), a *USDA representative* will be an APHIS official.

As noted above, in this interim rule, we are using the term “authorized USDA representative” to indicate who must unseal means of conveyance at feedlots and slaughtering establishments. In order to avoid possible confusion between the use of similar terms with different meanings

(i.e., *authorized USDA representative* with regard to who is allowed to “unseal” means of conveyance at feedlots and slaughtering establishments and *USDA representative* with regard to who is allowed to “seal” means of conveyance at feedlots), we are specifying in §§ 93.419(d)(5) and 93.436(b)(10) that means of conveyance carrying live ruminants from a feedlot or designated feedlot to a slaughtering establishment must be sealed with seals of the U.S. Government by an accredited veterinarian, a State representative, or an APHIS representative. *APHIS representative* is defined in § 93.400 as a veterinarian or other individual employed by APHIS, USDA, who is authorized to perform the services required by part 93.

#### Transloading of Ruminant Products From Canada Being Transported Through the United States for Immediate Export

Section 94.18 of the regulations includes restrictions on the importation of meat and edible products of ruminants due to BSE, and § 95.4 includes restrictions on the importation of animal byproducts due to BSE. Paragraph (d) of § 94.18 and paragraph (h) of § 95.4 include conditions governing the overland shipment through the United States for immediate export of products and byproducts that are derived from bovines, sheep, and goats in Canada and that are eligible for entry into the United States. Among the provisions in §§ 94.18(d)(5) and 95.4(h)(4) governing such overland transiting is a prohibition on the transloading of these products while in the United States. By “transloading,” we mean the transfer in the United States of the cargo from the means of conveyance that carried it into the United States to another means of conveyance, either directly from the first means of conveyance to another means of conveyance or indirectly from the first means of conveyance to a storage area and then to a second means of conveyance.

In our final rule, we prohibited the transloading of bovine, sheep, and goat products and byproducts transiting the United States from Canada in order to ensure that such commodities are, in fact, moved out of the country and are not diverted for use in the United States.

It has come to our attention that, historically, one of the standard industry practices for shipments transiting overland from Canada to Mexico has been the transloading of products in the United States at the U.S.-Mexican border from the means of conveyance that carried the products

through the United States directly into a waiting means of conveyance for delivery into Mexico.

Such limited direct transloading, if carried out under Federal supervision, can be done with adequate assurance that all of the products are exported from the United States. Therefore, we are amending the regulations in §§ 94.18(d)(5) and in 95.4(h)(4) to allow such direct transloading, provided it is carried out under the supervision of an authorized inspector (as defined in § 94.0) or an inspector (as defined in § 95.1). (Under the current regulations, *authorized inspector* is defined in § 94.0, and *inspector* is defined in § 95.1, to mean any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations of part 94 or part 95, respectively. We are retaining those definitions in the regulations.)

We are also providing in §§ 94.18(d)(5) and 95.4(h)(4) that an authorized inspector or an inspector must break the seals of the national government of the region of origin on the means of conveyance that carried the commodities into the United States and seal the means of conveyance that will carry the commodities out of the United States with seals of the U.S. Government.

We are defining *direct transloading* in §§ 94.0 and 95.1 to mean the transfer of cargo directly from one means of conveyance to another. Direct transloading does not include the removal of cargo from the first means of conveyance for storage in the United States and subsequent reloading to a second means of conveyance.

#### Immediate Action

Immediate action is warranted to facilitate the humane treatment of livestock and to remove unnecessary hindrances to international trade. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule. (See **DATES** above.) After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

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

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. We have prepared an initial regulatory flexibility analysis, which is set forth below.

This interim rule amends the provisions that were established by our January 2005 final rule regarding (1) the breaking of official seals on shipments of ruminants from Canada, and (2) the transloading of ruminant products and byproducts transiting overland from Canada to Mexico. As discussed above, we are providing in this interim rule that the seals on means of conveyance moved from Canada either to a feedlot or to a slaughtering establishment must be broken by an authorized USDA representative, which can include an APHIS Veterinary Services employee, a USDA Food Safety and Inspection Service inspector, a State representative, an accredited veterinarian, or an employee of an accredited veterinarian or employee of a slaughtering establishment or feedlot who is designated by the accredited veterinarian or management of the slaughtering establishment or feedlot to perform the function involved.

Regarding the overland transit of commodities from Canada to Mexico, firms have historically often transloaded products in the United States at the U.S.-Mexican border from the means of conveyance that carried the products through the United States directly into a waiting means of conveyance for delivery to Mexico. However, the final rule established a prohibition of the transloading in the United States of Mexico-bound shipments of Canadian ruminant products and byproducts. This interim rule will allow, under Federal supervision, the direct transloading at the U.S.-Mexican border of Canadian ruminant products and byproducts destined for Mexico.

This rule corrects two unforeseen effects of the final rule by removing unnecessary restrictions on (1) who is allowed to break official seals on shipments of Canadian ruminants received at feedlots and at recognized slaughtering facilities, and (2) the transit shipment through the United States of Canadian ruminant products and

byproducts destined for Mexico. The Animal Health Protection Act (7 U.S.C. 8301–8317) provides the basis for the rule.

Entities that will be directly affected by the interim rule are feedlots and recognized slaughtering facilities that receive ruminants from Canada, and firms that provide for the overland transit of Canadian ruminant products and byproducts to Mexico. These industries are predominantly composed of small entities, as described below.

A feedlot is considered to be a small entity by the Small Business Administration (SBA) if its annual receipts total no more than \$1.5 million. In 2004, 88,000 of the 90,176 feedlots in the United States (97 percent) had capacities of less than 1,000 head.<sup>1</sup> The average annual number of cattle marketed by these feedlots of smaller capacity was fewer than 44 head.<sup>2</sup> Based on a market price per fed animal of \$84.75 per hundredweight (100 pounds) and a slaughter weight of 1,250 pounds, annual receipts for the 97 percent of U.S. feedlots that have capacities of less than 1,000 head average about \$46,600.<sup>3</sup> Clearly, most feedlot operations are small entities.

In 2002, there were a total of 1,869 animal slaughtering establishments in the United States, excluding establishments for poultry. Ninety-six percent of them (1,796) employed not more than 500 employees and, therefore, are considered small by SBA standards.<sup>4</sup>

The SBA considers a firm engaged in long-distance livestock trucking to be small if its annual receipts are not more than \$21.5 million. In 2002, the average payroll of establishments engaged in long-distance specialized freight trucking was less than \$421,000, and the average number of employees per establishment was fewer than 12 people.<sup>5</sup> Based on these payroll and employee averages, we expect that most firms engaged in long-distance trucking firms—including enterprises that transport livestock—earn annual

<sup>1</sup> USDA NASS. "Cattle on Feed" (February 18, 2005). North American Industry Classification System (NAICS) code 112112, Cattle Feedlots.

<sup>2</sup> Ibid.

<sup>3</sup> \$84.75 per cwt was the 2004 annual price for choice steers in Nebraska, as reported in USDA "Livestock, Dairy, and Poultry Outlook," LDP-M-134, August 18, 2005. \$84.75 per cwt × 12.5 cwt per head marketed × 44 head marketed per feedlot = \$46,612.50 per feedlot.

<sup>4</sup> U.S. Census Bureau, 2002 Economic Census. NAICS code 311611, Animal (except Poultry) Slaughtering.

<sup>5</sup> U.S. Census Bureau, 2002 CBP United States Economic Profiles. NAICS code 484230, Specialized Freight (except Used Goods) Trucking, Long-Distance.

receipts well below the small-entity threshold.

We do not know the number of feedlots or slaughtering establishments that will receive Canadian ruminants, nor do we know the number of trucking firms that will transload Canadian ruminant products or byproducts at the U.S.-Mexican border. Most of the affected businesses are likely small entities, and they are expected to benefit from the interim rule's lessening of regulatory restrictions. APHIS welcomes information that the public may provide regarding the number of small entities to which the interim rule will apply.

For feedlots and recognized slaughtering facilities receiving Canadian ruminants, the interim rule allows certain personnel designated by an accredited veterinarian or the facilities' managers to unseal the means of conveyance and unload the animals. The requirements that the names of such designated employees first be submitted by the accredited veterinarians or facility managers and that feedlots and slaughtering establishments enter into an agreement with APHIS are addressed below under the heading "Paperwork Reduction Act."

There are no significant alternatives to this rule that would accomplish the stated objectives. Without the interim rule, affected small entities would continue to be unnecessarily burdened by (1) costly off-loading delays that endanger the welfare of Canadian ruminants moved to U.S. feedlots and recognized slaughtering facilities, and (2) unnecessary inefficiencies at the U.S.-Mexican border in the overland transit of Canadian ruminant products and byproducts destined for Mexico.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0277 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 03-080-8, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 03-080-8 and send your comments within 60 days of publication of this rule.

This interim rule amends the regulations governing the importation of ruminants into the United States to broaden who is authorized to break seals on means of conveyances carrying certain ruminants of Canadian origin. We are providing that individuals authorized to break the seals on the means of conveyance can, in addition to a USDA employee (of APHIS Veterinary Services or a Food Safety and Inspection Service inspector), include any of the following: A State representative, an accredited veterinarian, or an employee of an accredited veterinarian, slaughtering establishment, or feedlot who is designated by the accredited veterinarian or management of the slaughtering establishment or feedlot to unseal the means of conveyance. If an accredited veterinarian or the management of a feedlot or slaughtering establishment designates an employee to break the seals, the accredited veterinarian or management of the facility must supply the name of the designated employee to the APHIS area veterinarian in charge. Additionally, the management of a slaughtering establishment or feedlot must enter into an agreement with Veterinary Services in which the management of the facility agrees that only designated individuals will break the seals, that the facility will contact an APHIS representative or USDA Food Safety and Inspection Service inspector immediately if the seals are not intact when the means of conveyance arrives or if the animals being transported appear to be sick or injured due to transport conditions, and that the facility will cooperate with APHIS representatives, USDA Food Safety and Inspection Service inspectors, and State representatives in maintaining records of sealed shipments received. We are soliciting comments from the public (as well as affected agencies) concerning this information collection requirement. These comments will help us:

(1) Evaluate whether the 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 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 0.25 hours per response.

*Respondents:* Accredited veterinarians, feedlot managers, and slaughter facility managers.

*Estimated annual number of respondents:* 900.

*Estimated annual number of responses per respondent:* 12.

*Estimated annual number of responses:* 10,800.

*Estimated total annual burden on respondents:* 2,700 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 interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### List of Subjects

##### 9 CFR Part 93

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

##### 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry

and poultry products, Reporting and recordkeeping requirements.

##### 9 CFR Part 95

Animal feeds, Hay, Imports, Livestock, Reporting and recordkeeping requirements, Straw, Transportation.

■ Accordingly, we are amending 9 CFR parts 93, 94, and 95 as follows:

#### PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 1. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622 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. Section 93.400 is amended by removing the definition of *USDA representative* and adding definitions of *area veterinarian in charge* and *authorized USDA representative* in alphabetical order to read as follows:

##### § 93.400 Definitions.

\* \* \* \* \*

*Area veterinarian in charge (AVIC).* The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

\* \* \* \* \*

*Authorized USDA representative.* An APHIS Veterinary Services employee, a USDA Food Safety and Inspection Service inspector, a State representative, an accredited veterinarian, or an employee of an accredited veterinarian, slaughtering establishment, or feedlot who is designated by the accredited veterinarian or management of the slaughtering establishment or feedlot to perform the function involved. In order to designate an employee to break official seals, an accredited veterinarian or the management of a slaughtering establishment or feedlot must first supply in writing the name of the designated individual to the APHIS AVIC in the State where the seals will be broken. Additionally, the management of a slaughtering establishment or feedlot must enter into an agreement with Veterinary Services in which the management of the facility agrees that only designated individuals will break the seals, that the facility will contact an APHIS representative or USDA Food Safety and Inspection Service inspector immediately if the seals are not intact when the means of

conveyance arrives or if the animals being transported appear to be sick or injured due to transport conditions, and that the facility will cooperate with APHIS representatives, USDA Food Safety and Inspection Service inspectors, and State representatives in maintaining records of sealed shipments received.

\* \* \* \* \*

■ 3. In § 93.419, in paragraph (d)(4), the first sentence, the words “accredited veterinarian or a State or USDA representative or his or her designee” are removed and the words “authorized USDA representative” are added in their place, and paragraph (d)(5) and the parenthetical reference to the Office of Management and Budget paperwork approval at the end of the section are revised to read as follows:

##### § 93.419 Sheep and goats from Canada.

\* \* \* \* \*

(d) \* \* \*

(5) The animals must remain at the designated feedlot until transported to a recognized slaughtering establishment. The animals must be moved directly to the recognized slaughtering establishment in a means of conveyance sealed with seals of the U.S. Government by an accredited veterinarian, a State representative, or an APHIS representative. The seals must be broken at the recognized slaughtering establishment only by an authorized USDA representative;

\* \* \* \* \*

(Approved by the Office of Management and Budget under control numbers 0579-0040, 0579-0234, and 0579-0277)

##### § 93.420 [Amended]

■ 4. In § 93.420, paragraph (a), the second sentence, the words “accredited veterinarian or a State or USDA representative or his or her designee” are removed and the words “authorized USDA representative” are added in their place, and a reference to the Office of Management and Budget paperwork approval is added at the end of the section to read “(Approved by the Office of Management and Budget under control number 0579-0277)”.

■ 5. Section 93.436 is amended as follows:

■ a. In paragraph (a)(4), the second sentence, the words “a USDA representative” are removed and the words “an authorized USDA representative” are added in their place.

■ b. In paragraph (b)(7), the first sentence, the words “accredited veterinarian or a State or USDA representative or his or her designee” are removed and the words “authorized

USDA representative" are added in their place.

■ c. Paragraph (b)(10) is revised to read as follows:

**§ 93.436 Ruminants from regions of minimal risk for BSE.**

\* \* \* \* \*

(b) \* \* \*

(10) The bovines must be moved directly from the feedlot identified on APHIS Form VS 17-130 to a recognized slaughtering establishment in conveyances that must be sealed at the feedlot with seals of the U.S. Government by an accredited veterinarian, a State representative, or an APHIS official. The seals may be broken at the recognized slaughtering establishment only by an authorized USDA representative;

\* \* \* \* \*

**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**

■ 6. The authority citation for part 94 continues 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; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

■ 7. Section 94.0 is amended by adding a definition of *direct transloading*, in alphabetical order, to read as follows:

**§ 94.0 Definitions.**

\* \* \* \* \*

*Direct transloading.* The transfer of cargo directly from one means of conveyance to another.

\* \* \* \* \*

■ 8. In § 94.18, paragraph (d)(5)(ii) is revised to read as follows:

**§ 94.18 Restrictions on importation of meat and edible products from ruminants due to bovine spongiform encephalopathy.**

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*

(ii) The commodities may not be transloaded while in the United States, except for direct transloading under the supervision of an authorized inspector, who must break the seals of the national government of the region of origin on the means of conveyance that carried the commodities into the United States and seal the means of conveyance that will carry the commodities out of the United States with seals of the U.S. Government;

\* \* \* \* \*

**PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES**

■ 9. The authority citation for part 95 continues to read as follows:

**Authority:** 7 U.S.C. 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 10. Section 95.1 is amended by adding a definition of *direct transloading*, in alphabetical order, to read as follows:

**§ 95.1 Definitions.**

\* \* \* \* \*

*Direct transloading.* The transfer of cargo directly from one means of conveyance to another.

\* \* \* \* \*

■ 11. Section 95.4 is amended by revising paragraph (h)(4)(ii) to read as follows:

**§ 95.4 Restrictions on the importation of processed animal protein, offal, tankage, fat, glands, certain tallow other than tallow derivatives, and serum due to bovine spongiform encephalopathy.**

\* \* \* \* \*

(h) \* \* \*

(4) \* \* \*

(ii) The commodities are not transloaded while in the United States, except for direct transloading under the supervision of an inspector, who must break the seals of the national government of the region of origin on the means of conveyance that carried the commodities into the United States and seal the means of conveyance that will carry the commodities out of the United States with seals of the U.S. Government;

\* \* \* \* \*

Done in Washington, DC, this 21st day of November 2005.

**Elizabeth E. Gaston,**

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

[FR Doc. 05-23334 Filed 11-25-05; 8:45 am]

**BILLING CODE 3410-34-P**

**FEDERAL RESERVE SYSTEM**

**12 CFR Parts 210 and 229**

[Regulations J and CC; Docket No. R-1226]

**Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire and Availability of Funds and Collection of Checks**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors is adopting a final rule amending Regulation CC to define "remotely created checks" and to create transfer and presentment warranties for such checks. The purpose of the amendments is to shift liability for unauthorized remotely created checks to the depositary bank, which is generally the bank for the person that initially created and deposited the remotely created check. The Board is also adopting conforming cross-references to the new warranties in Regulation J.

**EFFECTIVE DATE:** July 1, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Adrienne G. Threatt, Counsel (202-452-3554), or Joshua H. Kaplan, Attorney, (202-452-2249), Legal Division; or Jack K. Walton, II, Associate Director (202-452-2660), or Joseph P. Baressi, Senior Financial Services Analyst (202-452-3959), Division of Reserve Bank Operations and Payment Systems; for users of Telecommunication Devices for the Deaf (TDD) only, contact 202-263-4869.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Existing Law and the Board's Proposed Rule*

"Remotely created checks" typically are created when the holder of a checking account authorizes a payee to draw a check on that account but does not actually sign the check.<sup>1</sup> In place of the signature of the account-holder, the remotely created check generally bears a statement that the customer authorized the check or bears the customer's printed or typed name. Remotely created checks can be useful payment devices. For example, a debtor can authorize a credit card company to create a remotely created check by telephone, which may enable the debtor to pay his credit card bill in a timely

<sup>1</sup> There is no commonly accepted term for these items. The terms "remotely created check," "telecheck," "preauthorized drafts," and "paper draft" are among the terms that describe these items.