

be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the committee's meeting was widely publicized throughout the California date industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the June 21, 2007 meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on September 7, 2007 (72 FR 51354). Copies of that rule were also mailed or sent via facsimile to all date handlers. Finally, the interim final rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on November 6, 2007, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

PART 987—DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 987 which was published at 72 FR 51354 on September 7, 2007, is adopted as a final rule without change.

Dated: January 15, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8-878 Filed 1-17-08; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93, 94, and 95

[Docket No. APHIS-2006-0026]

RIN 0579-AC45

Bovine Spongiform Encephalopathy; Minimal-Risk Regions; Identification of Ruminants, and Processing and Importation of Commodities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations regarding the importation of animals and animal products to remove several restrictions regarding the identification of animals and the processing of ruminant materials from regions that present a minimal risk of introducing bovine spongiform encephalopathy into the United States. We are removing these restrictions because they are not necessary to prevent the introduction of bovine spongiform encephalopathy into the United States.

DATES: Effective Date: February 19, 2008.

FOR FURTHER INFORMATION CONTACT: For information regarding ruminant products, contact Dr. Karen James-Preston, Director, Technical Trade Services, Animal Products, 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 Dr. Freeda Isaac,

Director, AOVSA, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737-1231; (301) 734-8364.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations in 9 CFR parts 93, 94, and 95 prohibit or restrict the importation into the United States of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including bovine spongiform encephalopathy (BSE).

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 regarding the importation of animals and animal products to establish a category of regions that present a minimal risk of introducing BSE 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. These regulations are in 9 CFR parts 93, 94, 95, and 96.

On November 28, 2005, we published in the **Federal Register** an interim rule (70 FR 71213-71218, Docket No. 03-080-8) that (1) broadened who is authorized to break the seals on a means of conveyance carrying certain ruminants from Canada and (2) amended the provisions regarding the transiting through the United States of certain ruminant products from Canada to allow for limited direct transloading of the products from one means of conveyance to another in the United States.

On March 14, 2006, we published in the **Federal Register** a technical amendment (71 FR 12994-12998, Docket No. 03-080-9) that clarified our intent with regard to certain provisions in the January 2005 final rule and corrected several inconsistencies within the rule.

On August 9, 2006, we published in the **Federal Register** a proposed rule¹ (71 FR 45439-45444, Docket No.

¹ To view the proposed rule and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0026>.

APHIS-2006-0026) to amend the regulations in 9 CFR parts 93, 94, and 95 to remove several restrictions regarding the identification of ruminants and the processing of ruminant materials from BSE minimal-risk regions, as well as BSE-based restrictions on gelatin derived from bovine hides.

We solicited comments concerning our August 2006 proposed rule (referred to below as the “proposed rule”) for 60 days ending October 10, 2006. In a document published in the **Federal Register** on November 9, 2006 (71 FR 65758–65759, Docket No. APHIS-2006-0026), we reopened and extended the deadline for comments until November 24, 2006.

We received 10 comments in response to our proposed rule. They were from organizations representing U.S. producers of livestock and livestock products, renderers, and other members of the public. The comments dealt with live animals as well as animal products. We discuss the comments below by topic.

Changes to This Final Rule Based on a September 2007 Final Rule

On September 18, 2007, we published in the **Federal Register** a final rule (72 FR 53113–53379, Docket No. APHIS-2006-0041; effective November 19, 2007) that established conditions for the importation into the United States from BSE minimal-risk regions of certain bovines and bovine commodities that had not been made eligible for importation by our January 2005 final rule. Some of the changes we made to the regulations in our September 2007 final rule affected regulatory text we had proposed to change in our August 2006 proposed rule, either by rewording text, deleting provisions that would have been changed by our August 2006 proposed rule, or redesignating CFR paragraph references. Consequently, we have made changes to this final rule to reflect the changes made by our September 2007 final rule. In our discussion of this final rule, we identify where those changes occur.

Comments Received in Response to Our August 2006 Proposed Rule

Identification of Live Ruminants Exported to the United States From BSE Minimal-Risk Regions

One of the changes to the regulations we proposed in our August 2006 proposed rule was a broadening of the options of acceptable forms of individual identification of bovines, sheep, and goats exported to the United States from BSE minimal-risk regions

(currently only Canada). Under the current regulations in § 93.436, live bovines imported from a BSE minimal-risk region must be individually identified by means of an official eartag of the country of origin. The eartag must be determined by the APHIS Administrator to meet standards equivalent to those for official eartags in the United States, as defined in 9 CFR part 71, and to be traceable to the premises of origin. There is a similar requirement for sheep and goats in § 93.419. However, because § 93.419 refers specifically to sheep and goats from Canada, that section requires that sheep and goats from Canada be individually identified by an official Canadian Food Inspection Agency eartag.

In our proposed rule, we proposed to allow for means of individual identification other than eartags for the imported bovines, sheep, and goats. We proposed to provide that the animals must be officially identified with individual identification before the animals’ arrival at the port of entry into the United States. We proposed to define *officially identified* to mean “individually identified by means of an official identification device or method.” In § 93.400 of the current regulations, *official identification device or method* is defined as a means of officially identifying an animal or group of animals using devices or methods approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority. We proposed to add a sentence at the end of that definition to make it clear that, for animals intended for importation into the United States, the particular device or method of identification must have been approved by the Administrator for that type of import before the animal is exported to the United States.

Several commenters expressed concern that our proposed change regarding animal identification would hinder the ability to conduct rapid traceback of cattle to their herd of origin in the event BSE is diagnosed in an animal imported from a BSE minimal-risk region. One of the commenters recommended that the identification requirements in the current regulations be retained. Another commenter recommended that the regulations explicitly require that all cattle from a BSE minimal-risk region be individually identified with a device or method that is visible and readable and that includes a unique animal identification number

that enables traceback to the herd of origin.

We agree with the commenters that the individual identification of cattle—and sheep and goats—imported from a BSE minimal-risk region must be unique to individual animals and allow for rapid traceback of an animal to its herd of origin. The intent of the change we proposed was not to remove that requirement from the regulations, but simply to allow, in addition to eartags, other forms of individual identification that meet those criteria. That is the reason we proposed to provide in the definition of *official identification device or method* that the identification used must have been approved by the Administrator for that type of import before the animal is exported to the United States.

To ensure that there is no misunderstanding of our intent, in this final rule we are specifying in § 93.436(a)(2) and (b)(3) that, before arrival at the port of entry into the United States, each bovine imported into the United States from a BSE minimal-risk region must be officially identified with unique individual identification that is traceable to the premises of origin of the animal.² In § 93.419(c), we are including a similar identification requirement for sheep and goats imported from Canada.

In our August 2006 proposed rule, we proposed to replace the word “eartag” with the term “official identification” in what, at that time, were paragraphs (b)(8) and (b)(11) of § 93.436. However, our September 2007 final rule removed § 93.436(b)(8) and (b)(11).

In addition to addressing the issue of the types of allowable individual identification, two commenters expressed support for identification provisions of the current regulations that we did not propose to change. These are: (1) The provision that no person may alter, deface, remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at slaughter; and (2) the requirement that cattle imported from a BSE minimal-risk region for other than immediate slaughter be identified, before export to the United States, with a permanent mark that indicates the country of origin.

² Note: Paragraphs (a)(2) and (b)(3) of § 93.436 were designated as paragraphs (a)(3) and (b)(4), respectively, in our proposed rule, but are redesignated in this final rule to reflect the changes made in our September 2007 final rule.

Gelatin

In § 94.19(f)(2) of our proposed rule, we proposed to allow the importation into the United States of gelatin derived from the hides of bovines from BSE minimal-risk regions, provided the gelatin has not been commingled with materials ineligible for entry into the United States. In accordance with the regulations as amended by our September 2007 final rule, gelatin imported into the United States from a BSE minimal-risk region must either (1) be derived from the bones of bovines subject to a ruminant feed ban equivalent to the requirements established by the U.S. Food and Drug Administration at 21 CFR 589.2000 and from which specified risk materials were removed (§ 94.19(f)), or (2) be imported for use in human food, human pharmaceutical products, photography, or some other use that will not result in the gelatin coming into contact with ruminants in the United States (§ 94.18(c)).

A number of commenters supported allowing the importation of gelatin derived from the hides of bovines from BSE minimal-risk regions.

One commenter stated that it does not make sense to allow the importation of gelatin derived from hides of bovines from BSE minimal-risk regions at the same time the regulations restrict the importation of gelatin derived from bones. We disagree that it does not make sense to allow the importation of gelatin derived from hides. Bovine hides have not demonstrated BSE infectivity, even in infected animals, and the safety of bovine hides with regard to BSE is recognized internationally. The World Organization of Animal Health (commonly referred to as the OIE) supported that conclusion in its recommendation that gelatin derived exclusively from the hides of bovines not be subject to import restrictions (OIE Terrestrial Animal Health Code (the Code), 2006, Article 2.3.13.1). The European Commission Scientific Steering Committee reached a similar conclusion regarding the lack of BSE infectivity in hide-derived gelatin, provided contamination with potentially infected materials is avoided (European Commission's Updated Opinion on the Safety with Regard to TSE Risk of Gelatine Derived from Ruminant Bones or Hides, December 2002).

In contrast, gelatin derived from the bones of bovines from BSE minimal-risk regions can pose a risk of infectivity unless the risk mitigation measures in §§ 94.18(c) and 94.19(f), described above, are taken. The higher BSE risk of

bone-derived gelatin is recognized internationally. The OIE Code contains BSE risk mitigation guidelines for gelatin derived from bovines (Article 2.3.13.15). The European Commission Scientific Steering Committee concluded in its Updated Opinion that "the risk of transmissible spongiform infectivity is much higher with bones, as compared to hides."

Therefore, we are making no changes based on this comment.

Processing of Non-Ruminant Material in BSE Minimal-Risk Regions

The current regulations in § 95.4(c) allow the importation of certain materials derived from nonruminants from BSE minimal-risk regions only if all steps of processing and storing the material are carried out in a facility that has not been used for the processing and storage of materials derived from ruminants that have been in any region listed in § 94.18(a) of the regulations. The regions listed in § 94.18(a) include BSE minimal-risk regions, as well as regions in which BSE exists and regions that present an undue risk of introducing BSE into the United States.

In our proposed rule, we proposed to amend § 95.4(c) so that nonruminant materials processed or stored in BSE minimal-risk regions would no longer need to be processed or stored in facilities separate from those used to process or store materials derived from ruminants from BSE minimal-risk regions.

Several commenters supported the proposed change to § 95.4(c).

One commenter stated that our intent regarding the proposed change to § 95.4(c) was not easily understandable from the wording we used in the regulatory text of the proposed rule. In § 95.4(c)(2) and (3) of the proposed rule, we made reference to regions listed in § 94.18(a)(1), (a)(2), and (a)(3). Those paragraphs list the following types of regions: § 94.18(a)(1) lists regions in which BSE exists; § 94.18(a)(2) lists regions that, because of import requirements less restrictive than those that would be acceptable for import into the United States and/or because of inadequate surveillance, present an undue risk of introducing BSE into the United States; and § 94.18(a)(3) lists BSE minimal-risk regions (currently only Canada). The commenter stated that the regulations would be clearer if, when referring to § 94.18(a)(1), (a)(2), and (a)(3), we also indicated the BSE category of regions listed in those paragraphs.

Because in § 95.4(c) as proposed we reference paragraphs that contain lists that can be easily described, we agree it

would be useful to the reader if those references included a description of the content of each of those paragraphs. Therefore, we are including such descriptions in § 95.4(c)(2) and (c)(3) in this rule.

Tallow

One commenter addressed the provisions in § 95.4 regarding the importation of tallow. The commenter stated that APHIS should follow the OIE guideline of allowing the importation from BSE minimal-risk regions of tallow with no more than 0.15 percent impurities.

We did not propose to make any changes to the regulations regarding the importation of tallow from BSE minimal-risk regions. However, the commenter is correct that the wording in § 95.4 regarding tallow differs from the OIE guidelines in one respect. One of the criteria in § 95.4 for the importation of tallow derived from bovines from BSE minimal-risk regions is that the tallow be composed of less than 0.15 percent insoluble impurities. This differs slightly from the OIE guidelines, which recommend allowing the importation of tallow with a maximum level of insoluble impurities of 0.15 percent in weight.

The intent of our January 2005 final rule, as indicated on page 501 of the preamble to that rule, was to allow the importation of tallow composed of a maximum level of insoluble impurities of 0.15 percent in weight. However, the amendatory text of that rule incorrectly used the phrase "less than 0.15 percent." Therefore, to make the wording of the regulations consistent with our stated intent, in this rule we are amending § 95.4 to require that bovine-derived tallow imported from a BSE minimal-risk region be composed of a maximum level of insoluble impurities of 0.15 percent in weight.

Other Comments

In our proposed rule, we proposed to specify in § 94.19(f)(1) (redesignated as § 94.19(g)(1) in our September 2007 final rule) as one of the conditions for the importation of gelatin derived from the bones of bovines from BSE minimal-risk regions that the gelatin not have been commingled with materials ineligible for entry into the United States. Other than that, we did not propose to change the provisions regarding gelatin derived from bones. One commenter, however, objected to the current regulations that allow the importation of bone-derived gelatin from BSE minimal-risk regions (currently only Canada). The commenter contended that the current regulations

are erroneously based on the determination that Canada is a BSE minimal-risk region, and that Canada should instead be considered a country of undetermined BSE risk according to OIE recommendations.

For similar reasons, a commenter opposed our proposal to no longer require that nonruminant materials processed or stored in BSE minimal-risk regions be processed or stored in facilities separate from those used to process or store materials derived from ruminants from BSE minimal-risk regions. The commenter expressed concern regarding what the commenter termed the “undetermined prevalence” of BSE in Canada and the detection of BSE in cows that were born after Canada implemented its feed ban. The commenter stated that APHIS should reconsider the proposed change on the basis that BSE infectivity is known to have circulated in Canada as recently as 2002.

We are making no changes based on these comments. APHIS recognized Canada as a BSE minimal-risk region in our January 2005 final rule that was published following notice-and-comment rulemaking. We did not propose to revisit that determination in our August 2006 proposed rule and do not consider such a change to the BSE risk status of Canada to be scientifically supportable or appropriate. One of the conditions for being recognized by APHIS as a BSE minimal-risk region is that the region have in place and maintain risk mitigation measures adequate to prevent widespread exposure and/or establishment of the disease. In classifying Canada as a BSE minimal-risk region in our January 2005 final rule, we determined that such mitigation measures are in place and are maintained in Canada.

We do not consider the diagnosis of BSE in several cows born after the establishment of the Canadian feed ban to be unexpected. Experience worldwide has demonstrated that, even in countries with an effective feed ban in place, BSE has occurred in cattle born after a feed ban was implemented. No regulatory effort can ensure 100 percent compliance. Isolated incidents, such as feed made from nonprohibited material being contaminated with prohibited material during processing, can occur due to human error. However, such isolated incidents are not epidemiologically significant and do not contribute to further spread of BSE, especially when considered in light of the entire risk pathway and its attendant risk mitigations.

One commenter made the general request that APHIS delete from the

regulations the provisions regarding imports from BSE minimal-risk regions until further research and surveillance is done regarding all transmissible spongiform encephalopathies. The commenter did not address any specific provision of our proposal, and we are making no changes based on the comment.

One commenter requested that APHIS not require that products imported from a BSE minimal-risk region under the provisions of § 95.4 be accompanied by original signed certification, provided certain specified risk mitigation measures are in place. We consider the issue raised by the commenter to be outside the scope of the proposed rule, and are making no changes based on the comment. However, we will take the commenter's request into consideration in assessing the need for future rulemaking.

Several commenters expressed general opposition to the importation of ruminants from Canada, but did not specifically address provisions of the proposed rule. We are making no changes based on those comments.

Additional Nonsubstantive Changes

In addition to those discussed above, we are making several other nonsubstantive changes in this final rule to be consistent with wording changes and paragraph redesignations made in our September 2007 final rule.

Adoption of the Proposed Rule With Changes

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

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 a final regulatory flexibility analysis, which is set forth below.

In a final rule published in January 2005, we established a category of regions that present a minimal risk of introducing BSE into the United States via live ruminants and ruminant products and byproducts, and added Canada to that category. We also

established conditions for the importation of certain live ruminants and ruminant products and byproducts from such regions. A final rule published in September 2007 included conditions for the importation of additional commodities from BSE minimal-risk regions.

In this rule, we are removing certain restrictions on imports from BSE minimal-risk regions that concern animal identification, the derivation of bovine gelatin, and the processing of ruminant and nonruminant materials. We have determined these restrictions are not necessary to prevent the introduction of BSE into the United States.

Instead of limiting the type of allowable individual identification on bovines, sheep, and goats imported from a BSE minimal-risk region to an official eartag of the country of origin, we are allowing unique individual identification of animals by means other than eartags, provided the APHIS Administrator has approved the manner of identification for the type of animal intended for importation and the identification is traceable to the premises of origin of the animal.

Instead of limiting the importation of bovine-derived gelatin from BSE minimal-risk regions to gelatin derived from bones, we are allowing the importation of hide-derived gelatin, provided certain conditions are met.

We are also allowing nonruminant material that is processed in BSE minimal-risk regions—such as processed animal protein, tankage, offal, certain tallow, processed fats and oils, and derivatives of processed animal protein, tankage, and offal—to be processed in facilities that also process material derived from ruminants from the minimal-risk region.

We address below the potential economic effect of each of these changes.

Animal Identification

Giving owners of bovines, sheep, and goats in BSE minimal-risk regions the option of individually identifying animals being exported to the United States by means other than eartags is not expected to affect U.S. small entities. This amendment simply acknowledges that there are effective means of individual identification other than eartags, as long as the chosen device or method has been approved by the APHIS Administrator before the animal is exported to the United States. The unique individual identification must be traceable to the premises of origin of the animal (as is required of the eartags currently used), a disease control

measure that will benefit all U.S. cattle producers, the majority of which are small entities.

Hide-Derived Gelatin

This amendment, by allowing the importation of gelatin derived from bovine hides in addition to gelatin derived from bovine bones, could affect U.S. entities by providing an additional source of gelatin imported from Canada.

Gelatin is derived from collagen, an insoluble fibrous protein that is the principal constituent of connective tissues and bones. The main raw materials used in gelatin production are cattle bones, cattle hides, and porkskins. Gelatin recovered from bone is used primarily in photographic applications. Porkskin is currently the most significant raw material source for production of edible gelatin in North America. Cattle hides are the least used raw material for gelatin in North America today. Cattle hides sourced by member companies of the Gelatin Manufacturers Institute of America for the production of gelatin for food use are purchased from a small number of tanneries in the United States.

We do not have information about the quantity of hide-derived gelatin that would be imported from Canada because of this rule, nor do we have an estimate of the number of U.S. small entities that would be affected. Production of animal hides is classified by the North American Industry Classification System (NAICS) under "Animal (except Poultry) Slaughtering" (NAICS 311611), for which the small entity definition is businesses with not more than 500 employees. In the initial regulatory flexibility analysis we conducted for our August 2006 proposed rule, we requested information that would allow us to better understand the number and size of entities that might be affected by allowing hide-derived bovine gelatin to be imported from BSE minimal-risk regions (currently only Canada), but we received no information of this type.

Nonruminant Material

This amendment removes the requirement that nonruminant material that is processed in BSE minimal-risk regions be processed in a facility that does not also process material derived from ruminants from the minimal-risk region. If this amendment results in changes in the amounts of nonruminant material imported by the United States, then U.S. entities could be affected. Affected nonruminant material may include processed animal protein, tankage, offal, certain tallow, processed fats and oils, and derivatives of

processed animal protein, tankage, and offal.

Facilities that produce these commodities are classified under "Rendering and Meat By-product Processing" (NAICS 311613), for which the small entity definition is businesses with not more than 500 employees. We do not have a basis for estimating the change in imports of Canadian nonruminant materials that might result from this rule, nor do we know the number or size of U.S. entities that will be affected. In our initial regulatory flexibility analysis, we requested information from the public regarding the number of small entities that might be affected and the likely magnitude of the effect, but we received no information of this type.

We do not foresee any significant economic effects on small entities because of this rule. There are no significant alternatives to this rule that would accomplish the stated objectives. Without the rule, unnecessary restrictions on certain exports to the United States from BSE minimal-risk regions will continue. With the rule, animal exporters in BSE minimal-risk regions will have the option of individually identifying bovines, sheep, and goats being exported to the United States by means other than eartags; U.S. entities will be allowed to import hide-derived, in addition to bone-derived, gelatin from BSE minimal-risk regions; and ruminant and nonruminant materials that are processed in the same facility in a BSE minimal-risk region will be allowed to be exported to the United States.

Executive Order 12988

This final 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

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

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, FISH, 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 revising the definition of *official identification device or method* and adding a definition of *officially identified*, in alphabetical order, to read as follows:

§ 93.400 Definitions.

* * * * *

Official identification device or method. A means of officially identifying an animal or group of animals using devices or methods approved by the Administrator, including, but not limited to, official tags, tattoos, and registered brands when accompanied by a certificate of inspection from a recognized brand inspection authority. For animals intended for importation into the United States, the device or method of identification used must have been approved by the Administrator for that type of import before the animal is exported to the United States.

* * * * *

Officially identified. Individually identified by means of an official identification device or method.

* * * * *

§ 93.405 [Amended]

- 3. In § 93.405, paragraph (a)(4) is amended by removing the word "eartag" and adding in its place the words "official identification".

- 4. Section 93.419 is amended by revising paragraph (c) and paragraphs (e)(2), (e)(5), (e)(7)(i), and (e)(7)(iii) to read as follows:

§ 93.419 Sheep and goats from Canada.

* * * *

(c) Any sheep or goats imported from Canada must not be pregnant, must be less than 12 months of age when imported into the United States and when slaughtered, must be from a flock or herd subject to a ruminant feed ban equivalent to the requirements established by the U.S. Food and Drug Administration at 21 CFR 589.2000, and, before the animal's arrival at the port of entry into the United States, must be officially identified with unique individual identification that is traceable to the premises of origin of the animal. No person may alter, deface, remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at the time of slaughter. The animals must be accompanied by the certification issued in accordance with § 93.405 that states, in addition to the statements required by § 93.405, that the conditions of this paragraph have been met. Additionally, for sheep and goats imported for immediate slaughter, the certificate must state that the conditions of paragraphs (d)(1) through (d)(3) of this section have been met, and, for sheep and goats imported for other than immediate slaughter, the certificate must state that the conditions of paragraphs (e)(1) and (e)(2) of this section have been met.

* * * *

(e) * * *

* * * *

(2) The animals may be moved from the port of entry only to a feedlot designated in accordance with paragraph (e)(7) of this section and must be accompanied from the port of entry to the designated feedlot by APHIS Form VS 17-130 or other movement documentation deemed acceptable by the Administrator, which must identify the physical location of the feedlot, the individual responsible for the movement of the animals, and the individual identification of each animal, which includes the official identification required under paragraph (c) of this section and any other identification present on the animal, including registration number, if any:

* * * *

(5) The animals must be accompanied to the recognized slaughtering establishment by APHIS Form VS 1-27 or other documentation deemed acceptable by the Administrator, which must identify the physical location of the recognized slaughtering establishment, the individual

responsible for the movement of the animals, and the individual identification of each animal, which includes the official identification required under paragraph (c) of this section and any other identification present on the animal, including registration number, if any;

* * * *

(7) * * *

(i) Will not remove official identification from animals unless medically necessary, in which case new official identification will be applied and cross referenced in the records;

* * * *

(iii) Will maintain records of the acquisition and disposition of all imported sheep and goats entering the feed lot, including the official identification number and all other identifying information, the age of each animal, the date each animal was acquired and the date each animal was shipped to slaughter, and the name and location of the plant where each animal was slaughtered. For Canadian animals that die in the feedlot, the feedlot will remove the official identification device if affixed to the animal, or will record any other official identification on the animal and place the official identification device or record of official identification in a file with a record of the disposition of the carcass;

* * * *

■ 5. Section 93.436 is amended by revising paragraphs (a)(2) and (b)(3) to read as set forth below.

§ 93.436 Ruminants from regions of minimal risk for BSE.

* * * *

(a) * * *

(2) Before the animal's arrival at the port of entry into the United States, each bovine imported into the United States from a BSE minimal-risk region must be officially identified with unique individual identification that is traceable to the premises of origin of the animal. No person may alter, deface, remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at slaughter;

* * * *

(b) * * *

(3) Before the animal's arrival at the port of entry into the United States, each bovine imported into the United States from a BSE minimal-risk region must be officially identified with unique individual identification that is traceable to the premises of origin of the animal. No person may alter, deface,

remove, or otherwise tamper with the official identification while the animal is in the United States or moving into or through the United States, except that the identification may be removed at slaughter;

* * * *

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; 7 CFR 2.22, 2.80, and 371.4.

■ 7. In § 94.19, paragraph (f) is revised to read as follows:

§ 94.19 Restrictions on importation from BSE minimal-risk regions of meat and edible products from ruminants.

* * * *

(f) *Gelatin other than that allowed importation under § 94.18(c).* The gelatin is derived from:

(1) The bones of bovines subject to a ruminant feed ban equivalent to the requirements established by the U.S. Food and Drug Administration at 21 CFR 589.2000 and from which SRMs were removed, and the gelatin has not been commingled with materials ineligible for entry into the United States; or

(2) The hides of bovines, and the gelatin has not been commingled with materials ineligible for entry into the United States.

* * * *

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

■ 8. 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.

■ 9. Section 95.4 is amended as follows:

■ a. Paragraph (c)(2) is revised to read as set forth below.

■ b. Paragraphs (c)(3) through (c)(7) are redesignated as paragraphs (c)(4) through (c)(8), respectively.

■ c. A new paragraph (c)(3) is added to read as set forth below.

- d. Newly redesignated paragraph (c)(7) is revised to read as set forth below.
- e. Paragraph (g)(2) is revised to read as set forth below.

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

* * * *

(c) * * *

(2) In regions listed in § 94.18(a)(1) or (a)(2) of this subchapter as regions in which BSE exists or that present an undue risk of introducing BSE into the United States, all steps of processing and storing the material are carried out in a facility that has not been used for the processing and storage of materials derived from ruminants that have been in any region listed in § 94.18(a) of this subchapter.

(3) In regions listed in § 94.18(a)(3) of this subchapter as BSE minimal-risk regions, all steps of processing and storing the material are carried out in a facility that has not been used for the processing and storage of materials derived from ruminants that have been in any region listed in § 94.18(a)(1) or (a)(2) of this subchapter as a region in which BSE exists or a region that presents an undue risk of introducing BSE into the United States.

* * * *

(7) Each shipment to the United States is accompanied by an original certificate signed by a full-time, salaried veterinarian of the government agency responsible for animal health in the region of export certifying that the conditions of paragraphs (c)(1) through (c)(4) of this section have been met; except that, for shipments of animal feed from a region listed in § 94.18(a)(3) of this subchapter, the certificate may be signed by a person authorized to issue such certificates by the veterinary services of the national government of the region of origin.

* * * *

(g) * * *

(2) The tallow is composed of a maximum level of insoluble impurities of 0.15 percent in weight;

* * * *

Done in Washington, DC, this 14th of January 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8-883 Filed 1-17-08; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE281; Special Conditions No. 23-221-SC]

Special Conditions: Embraer S.A., Model EMB-500; Fire Extinguishing for Aft Fuselage Mounted Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Embraer Model EMB-500 airplane. This airplane will have a novel or unusual design feature(s) associated with aft mounted engine fire protection. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is January 7, 2008. Comments must be received on or before February 19, 2008.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE-7, Attention: Rules Docket CE281, 901 Locust, Room 506, Kansas City, Missouri 64106; or delivered in duplicate to the Regional Counsel at the above address. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Peter L. Rouse, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE-111, 901 Locust, Room 301, Kansas City, Missouri 64106; 816-329-4135, fax 816-329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Identify the regulatory docket or special condition number and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments

received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. If you wish the FAA to acknowledge receipt of the comments submitted in response to this notice, include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE281." The postcard will be date stamped and returned to the commenter.

Background

On October 5, 2005, Embraer S.A. applied for a type certificate for their new Model EMB-500. The Model EMB-500 is a normal category, low-winged monoplane with "T" tailed vertical and horizontal stabilizers, retractable tricycle type landing gear and twin turbofan engines mounted on the aircraft fuselage. Its design characteristics include a predominance of metallic construction. The maximum takeoff weight is 9,700 pounds, the V_{MO}/M_{MO} is 275 KIAS/M 0.70 and maximum altitude is 41,000 feet.

14 CFR part 23 has historically addressed fire protection through prevention, identification, and containment. Prevention has been provided through minimizing the potential for ignition of flammable fluids and vapors. Identification has been provided by locating engines within the pilots' primary field of view and/or with the incorporation of fire detection systems. This has provided both rapid detection of a fire and confirmation when it was extinguished. Containment has been provided through the isolation of designated fire zones, through flammable fluid shutoff valves, and firewalls.

This containment philosophy also ensures that components of the engine control system will function effectively to permit a safe shutdown of an engine. However, containment has only been demonstrated for 15 minutes. If a fire occurs in traditional part 23 airplanes, the appropriate corrective action is to land as soon as possible. For a small, simple airplane originally envisioned by part 23, it is possible to descend and land within 15 minutes; thus, the occupants can safely exit the airplane before the firewall is breached. These simple airplanes normally have the engine located away from critical flight control systems and primary structure. This has ensured that, throughout a fire event, a pilot can continue safe flight, and it has made the prediction of fire