

(2) The tomatoes may be shipped from the Souss-Massa region of Morocco only between December 1 and April 30, inclusive;

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure, or other approved protein bait, inside the greenhouses at a rate of 8 traps per hectare, with a minimum of 4 traps in each greenhouse. All traps must be checked every 7 days;

(4) DPVCTRF must maintain records of trap placement, checking of traps, and any Medfly captures, and make the records available to APHIS upon request. DPVCTRF must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for 1 year for APHIS review;

(5) Capture of a single Medfly in a registered greenhouse during the 2 months prior to export and continuing through the duration of the harvest, or detection of a Medfly in a consignment which is traced back to a registered greenhouse, will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Exports will not be reinstated until APHIS and DPVCTRF mutually determine that risk mitigation has been achieved;

(6) No shade trees are permitted within 10 meters of the entry door of the greenhouse or packinghouse, and no Medfly host material is permitted within 50 meters of the entry door of the greenhouse or packinghouse. Ground applications of an approved protein bait spray pesticide for Medfly must be used on all shade trees and host plants within 200 meters surrounding the greenhouses as required by APHIS. Application must occur every 6 to 10 days starting at least 30 days before and during harvest;

(7) The tomatoes must be packed within 24 hours of harvest and must be pink at the time of packing. They must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. They must be packed in insect-proof cartons or containers, or covered by insect-proof mesh or plastic tarpaulin for transit to the airport or ship and export to the United States. These safeguards must be intact upon arrival in the United States. Sea containers must be kept closed if stored

within 20 meters of Medfly host materials prior to loading; and

(8) DPVCTRF is responsible for export certification inspection and issuance of phytosanitary certificates. Each consignment of tomatoes must be accompanied by a phytosanitary certificate issued by DPVCTRF and bearing the declaration, "These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco, and were pink at the time of packing" or "These tomatoes were grown in registered greenhouses in the Souss-Massa region and were pink at the time of packing."

Done in Washington, DC, this 7th day of May 2008.

**Cindy J. Smith,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8-10923 Filed 5-15-08; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. APHIS-2007-0141]

#### Importation of Horses, Ruminants, Swine, and Dogs; Remove Panama From Lists of Regions Where Screwworm Is Considered To Exist

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations regarding the importation of live horses, ruminants, swine, and dogs by removing Panama from the lists of regions where screwworm is considered to exist. We are taking this action because the eradication of screwworm from Panama has been confirmed. This action would relieve certain screwworm-related certification and inspection requirements for live animals imported into the United States from Panama.

**DATES:** We will consider all comments that we receive on or before July 15, 2008.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/main?main=DocketDetail&d=APHIS-2007-0141> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS-2007-0141, 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. APHIS-2007-0141.

*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. Julia Punderson, Regionalization Evaluation Services—Import, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-0757.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals into the United States to prevent the introduction of pests and diseases of livestock and poultry, including New World screwworm (*Cochliomyia hominivorax*). Screwworm, a pest native to tropical areas and currently found in South America and the Caribbean, causes extensive damage to livestock and other warm-blooded animals. Subparts C, D, E, and F of the regulations govern the importation of horses, ruminants, swine, and dogs, respectively, and include provisions for the inspection and treatment of these animals if imported from any region of the world where screwworm is considered to exist. Sections 93.301, 93.405, 93.505, and 93.600 list all the regions of the world where screwworm is considered to exist.

The regulations include provisions that the animals be inspected, quarantined, and, if necessary, treated for screwworms, and require that the animals be accompanied to the United States by a certificate signed by a full-time salaried veterinary official of the exporting region attesting that the above conditions have been met. Additionally,

on arrival, horses must be quarantined at an animal import center for a minimum of 7 days and must be examined prior to release from quarantine.

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) has responsibility for taking actions to exclude, eradicate, and control agricultural pests, such as screwworm, in the United States. Eradication of indigenous screwworm in the United States using systematic releases of sterile adult screwworm flies was completed in 1966. Sporadic screwworm outbreaks continued to occur and, in 1972, a large outbreak occurred in southwestern States as a result of screwworms entering the United States on livestock from Mexico. This outbreak led to plans that were then developed to progressively eradicate screwworm in Mexico and establish a biological barrier to prevent incursion of screwworm into the United States. In 1972, USDA began a cooperative screwworm program to help Mexico eradicate screwworm. This program was later expanded with the goal of covering the entire Central American Isthmus and Panama, eventually reaching the Darien Gap area on Panama's border with Colombia. Successful cooperative screwworm eradication programs were completed in Mexico in 1991, Belize and Guatemala in 1994, El Salvador in 1995, Honduras in 1996, Nicaragua in 1999, and Costa Rica in 2000.

USDA began a cooperative screwworm eradication program in Panama in 1994 and, in 2006, Panama requested that APHIS evaluate the animal disease status of Panama with respect to screwworm and provided information in support of that request in accordance with 9 CFR part 92, "Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions." Using information submitted to us by the Commission for the Eradication and Prevention of Screwworm (COPEG), Panama's Ministry of Agriculture and Livestock Development (MIDA), and USDA, we have reviewed and analyzed the animal health status of Panama with respect to screwworm. Our determinations concerning this request, based on the information submitted to us and the information we gathered, are set forth below.

#### *Risk Analysis*

APHIS conducted a risk analysis to examine the risk of introducing screwworm into the United States from the importation of live horses,

ruminants, swine, and dogs from Panama. We summarize our findings for each of the 11 factors in 9 CFR 92.2 below and summarize our risk considerations of these findings following our discussions of the factors.

#### *Authority, Organization, and Veterinary Infrastructure*

In Panama, the eradication and prevention of screwworm has been accomplished through the efforts of COPEG, a cooperative program involving MIDA and USDA. COPEG serves as the veterinary authority, and in this role directly controls the specifics of the eradication and prevention program, with the full cooperation of Panama's veterinary infrastructure, as well as financial and scientific support from USDA. COPEG applied the preexisting infrastructure and legal framework developed within Panama for the eradication of foot-and-mouth disease (FMD), and shares many of the FMD program resources developed under the Panama-U.S. Commission for the Prevention of Foot-and-Mouth Disease (COPFA). APHIS has determined that Panama has available the necessary legal authority, infrastructure, budget, and supporting resources to carry out the program and maintain its screwworm-free status.

#### *Disease Status in the Region*

The last reported native case of screwworm outside the permanent biological barrier in the area of the Darien Gap occurred in 2001. The continued, but extremely low, finding of screwworm within the buffer area adjoining the border with Colombia is an expected occurrence. The established permanent biological barrier and continued intensive surveillance will act to prevent the spread of screwworm into the rest of Panama and Central America. APHIS could not identify any risks associated with this factor that would pose an unacceptable risk to the United States if trade with Panama in live animals were to occur.

#### *Disease Status of Adjacent Regions*

Panama shares borders with Costa Rica and Colombia. While screwworm has been eradicated in Costa Rica, Colombia is still considered to be affected. The existence of a common land border with a screwworm-affected region presents a risk for reintroducing screwworm into Panama from Colombia. However, APHIS has determined that Panama's active disease control and surveillance program and maintenance of the permanent biological barrier with continuous distribution of sterile screwworm flies

serves to mitigate the risk of reinfestation of Panama with screwworm.

#### *Extent of Active Disease Control Program*

As previously noted, the eradication and prevention of screwworm in Panama was the result of cooperative efforts of USDA and Panama through COPEG, and involved the use of the sterile fly release method and the establishment of a permanent biological barrier between Central America and the South American Continent. APHIS has determined that Panama has an effective prevention program in place based upon Panama's active disease control and surveillance program and maintenance of the permanent biological barrier with continuous distribution of sterile screwworm flies. These findings are described in further detail in the risk analysis.

#### *Vaccination*

Vaccination is not an applicable control method for screwworm. Treating wounds and spraying or dipping animals with an approved product such as organophosphates or other insecticide will provide protection against screwworm for up to 7 to 10 days. However, the most effective way to control screwworm infestation remains eradication.

#### *Separation From Adjacent Regions of Higher Risk*

The Darien Province forms the border between Panama and Colombia. This border is characterized by mountainous rainforest on the Panamanian side and flat marsh and swamp on the Colombian side of the border. This area is called the Darien Gap and is roughly 100 miles long and 30 miles wide. The land supports very little agriculture and is sparsely populated. There are no major roads crossing the Darien Gap, which limits land crossing from Central America to South America. The natural physical characteristics of the area enhance its effectiveness as a biological barrier. The remote nature of the Darien Gap was first utilized over 40 years ago in the eradication and control effort for FMD because it serves as a natural barrier to dissemination of infectious diseases such as FMD.

APHIS finds that the natural and biological barriers of the Darien Gap limit the movement of fertile screwworm flies or potentially affected animal species from the South American Continent into Panama, effectively controlling the risk of screwworm introduction into Panama

outside of the permanent biological barrier.

#### *Movement Controls*

The movement controls established previously as part of FMD legislation continue to be implemented and enforced by COPEG and MIDA officials. These established movement controls limit the illegal movement of livestock from the inspection and control zones in Darien Province and the Kuna Yala region into the rest of Panama. The continuous monitoring of the permanent biological barrier in the Darien Gap is a strong feature of the cooperative FMD and screwworm eradication and prevention programs. The system of inspection posts and monitoring throughout Panama significantly limits the risk of introduction and spread of screwworm in Panama. These findings are described in further detail in the risk analysis.

#### *Livestock Demographics and Marketing Practices*

Panama has a total human population of approximately 3 million, with 45 percent of the populations living in rural areas. More than 70 percent of Panamanian exports are agricultural products; however, the vast majority of these imports are plant products such as sugar and bananas. Nonetheless, livestock raising (cattle, pigs, and poultry) is an important and long-established economic activity in Panama, and beef and hides are exported. Panama has about 1.5 million head of cattle on 40,000 holdings. Cattle are primarily raised in the southwestern provinces of Chiriquí, Los Santos, and Veraguas. There are 300,000 swine on 28,000 holdings, located primarily in the central and western provinces of Panamá, Los Santos, Chiriquí, and Veraguas. Cattle are only allowed to be raised in the control zone area of Darien Province where the cattle population density is low and involves roughly 8 percent of the province, with an estimated 0.9 animals per hectare. In the inspection zone area of Darien Province, commercial cattle rearing is prohibited and agricultural production is limited to swine raised for local consumption.

The poultry population in Panama is approximately 14 million chickens on 150,000 holdings located primarily in the central provinces of Panamá, Coclé and Colón. There are an additional 200,000 turkeys, ducks, and geese on 20,000 holdings throughout Panama as well as a small population of horses and mules (135,000 head on 46,000 holdings), and sheep and goats (12,000 head on 1,000 holdings). Few

screwworm-susceptible live animals are exported.

Currently, the exportation of live animals is not a large part of Panama's agricultural economy. Screwworm larvae are not able to survive in nonviable tissue, so the importation of meat or other animal products would not pose a risk for introduction of screwworm into the United States.

#### *Disease Surveillance*

The infrastructure developed for FMD surveillance has been applied effectively to the screwworm eradication and control program. The measures in place in the inspection and control zones, which includes the Darien Province and the Emera and Kuna Yala indigenous comarcas, are adequate to rapidly detect and eradicate screwworm and prevent the reintroduction of screwworm into the rest of Panama. Sample submission from all parts of Panama reflects both targeted surveillance within the inspection and control areas and surveillance in the livestock production areas. APHIS finds that the active surveillance program in Panama is sufficient to detect the presence of screwworm if it were to be reintroduced into Panama.

#### *Diagnostic Laboratory Capabilities*

Laboratory diagnosis of screwworm in Panama is the responsibility of the central Laboratory for the Diagnosis of Vesicular Disease in Toucaman. APHIS considers Panama to have the diagnostic capabilities to adequately diagnose the presence of screwworm.

#### *Emergency Response Capacity*

Panama has in place a contingency plan for screwworm outbreaks under the supervision of COPEG. The contingency plans are supplemented by official instructions and guidelines detailing procedures for disease notification and confirmation, sampling methods, and diagnostic procedures.

APHIS has determined that Panama has in place the infrastructure and legal authority to declare an emergency and take appropriate action in case of a screwworm outbreak. The emergency response capability was proven to be effective in 2003 following an accidental release of fertile flies. The emergency response plan is comprehensive and allowed COPEG to respond rapidly with extensive resources, utilizing the cooperation of several government agencies to rapidly contain and eradicate the accidental infestation. APHIS was unable to identify specific limitations in this system that would pose a risk to the United States.

These findings are described in further detail in a risk analysis that may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** and may be viewed on the Internet on the Regulations.gov Web site. (A link to Regulations.gov is provided under the heading **ADDRESSES** at the beginning of this proposed rule.) The evaluation documents the factors that have led us to conclude that Panama has successfully eradicated screwworm. Therefore, we are proposing to remove Panama from the lists in §§ 93.301(j), 93.405(a)(3), 93.505(b), and 93.600(a) of regions where screwworm is considered to exist.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This proposed rule would amend the regulations regarding the importation of live horses, ruminants, swine, and dogs by removing Panama from the lists of regions where screwworm is considered to exist. We are taking this action because the eradication of screwworm from Panama has been confirmed. This action would relieve certain screwworm-related certification and inspection requirements for live animals imported into the United States from Panama.

No significant change in program operations is anticipated as a result of this proposed rulemaking, nor will this action affect other Federal agencies, State governments, or local governments. The cost of all technical support activities, including establishment of animal quarantine control measures, treatment stations, maintenance of livestock census, screwworm surveillance, establishment and maintenance of laboratory support, and aerial dispersion of sterile screwworm flies in Panama is provided by COPEG and the cooperative agreement funded by the USDA and MIDA. When importing live animals from a region where screwworm is considered to exist, the cost of any required testing (and treatment, if needed) would be paid by the owner of the animals being shipped. Our proposal to remove Panama from the list of regions where screwworm is considered to exist would reduce the cost for producers and others in Panama to export ruminants, swine, horses, and dogs to the United States.

The economic effects associated with the proposed changes are likely to be

limited. This is because the amount of live animals exported into the United States from Panama is likely to remain small. Trade statistics indicate that since 2001, the United States has not imported any ruminants, swine, or dogs from Panama. Equine imports from Panama over this period have numbered only 163, which is approximately 0.06 percent of all horse imports.<sup>1</sup>

According to Small Business Administration size standards for beef cattle ranching and farming (North American Industry Classification System (NAICS) 112111), dairy cattle and milk production (NAICS 112120), hog and pig farming (NAICS 112210), sheep farming (NAICS 112410), goat farming (NAICS 112420), and horse and other equine production (NAICS 112920), as well as the commercial production of dogs, which is classified under "all other animal production" (NAICS 112990),<sup>2</sup> operations with not more than \$750,000 in annual sales are considered small entities. We do not expect that these producers, small or otherwise, would be affected significantly by the proposed change in Panama's screwworm status. This is because, for the reasons discussed above, live ruminants, swine, horses and dogs from Panama do not play much, if any, of a role in their operations, and few susceptible live animals are expected to be exported.

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

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 93

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

Accordingly, we propose to amend 9 CFR part 93 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.

##### § 93.301 [Amended]

2. In § 93.301, paragraph (j) is amended by removing the word "Panama,".

##### § 93.405 [Amended]

3. In § 93.405, paragraph (a)(3) is amended by removing the word "Panama,".

##### § 93.505 [Amended]

4. In § 93.505, paragraph (b) is amended by removing the word "Panama,".

##### § 93.600 [Amended]

5. In § 93.600, paragraph (a) is amended by removing the word "Panama,".

Done in Washington, DC, this 7th day of May 2008.

**Cindy J. Smith,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8–10918 Filed 5–15–08; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF ENERGY

### 10 CFR Parts 600 and 1024

**RIN 1991–AB77**

#### Assistance Regulations

**AGENCY:** Department of Energy.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Energy (DOE) is proposing to amend its Assistance Regulations to make changes to streamline and simplify its procedures for soliciting, awarding, and administering its financial assistance

agreements. These changes are being made to make technical corrections, to revise sections affected by the Energy Policy Act of 2005, and to further DOE's implementation of the Federal Financial Assistance Management Improvement Act of 1999. DOE is also proposing to remove Part 1024, Procedures for Financial Assistance Appeals, in its entirety.

**DATES:** Interested parties should submit written comments on or before July 15, 2008.

**ADDRESSES:** This proposed rule is available and comments may be submitted online at <http://www.regulations.gov>. Comments may also be submitted electronically to [Jacqueline.kniskern@hq.doe.gov](mailto:Jacqueline.kniskern@hq.doe.gov). Comments may be mailed to: Jacqueline Kniskern, Procurement Policy Analyst; MA–61/Forrestal Building; U.S. Department of Energy; 1000 Independence Avenue, SW., Washington, DC 20585. Electronic submissions are encouraged to ensure timely receipt.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jacqueline Kniskern, Office of Procurement and Assistance Policy, U.S. Department of Energy, at 202–287–1342 or [Jacqueline.kniskern@hq.doe.gov](mailto:Jacqueline.kniskern@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Explanation of Changes
- III. Procedural Requirements
  - A. Review Under Executive Order 12866
  - B. Review Under the Regulatory Flexibility Act of 1980
  - C. Review Under the Paperwork Reduction Act of 1995
  - D. Review Under the National Environmental Policy Act
  - E. Review Under Executive Order 13132
  - F. Review Under Executive Order 12988
  - G. Review Under the Unfunded Mandates Reform Act of 1995
  - H. Review Under the Treasury and General Government Appropriations Act, 1999
  - I. Review Under the Treasury and General Government Appropriations Act, 2001
  - J. Review Under Executive Order 13211
  - K. Approval by the Office of the Secretary of Energy

#### I. Background

DOE has been actively engaged in the government-wide effort to streamline and simplify the application, administrative and reporting procedures for Federal financial assistance programs pursuant to the Federal Financial Assistance Management Improvement Act of 1999, Public Law No. 106–107.

As part of this initiative, DOE has solicited comments and suggestions from the grant community and made

<sup>1</sup> Based on U.S. Census Bureau data, as presented by Foreign Agricultural Service, USDA: [http://www.fas.usda.gov/ustrade/USTImHS10.asp?QI=online\\_trade\\_dataTRad](http://www.fas.usda.gov/ustrade/USTImHS10.asp?QI=online_trade_dataTRad).

<sup>2</sup> The "all other animal production" classification also includes the production of other animals, such as adornment birds (swans, peacocks, flamingos), alpacas, birds for sale, buffalos, cats, crickets, deer, elk, laboratory animals, llamas, rattlesnakes, worms, and breeding of pets.