

Proposed Rules

Federal Register

Vol. 73, No. 128

Wednesday, July 2, 2008

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS-2008-0032]

RIN 0579-AC80

Importation of Cooked Pork Skins

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to allow for the importation of cooked pork skins from regions affected with foot-and-mouth disease, swine vesicular disease, African swine fever, and classical swine fever under certain conditions. We are taking this action after preparing a risk assessment that concluded that the cooking methods examined are sufficient to inactivate the pathogens of concern. This action would relieve restrictions on the importation of cooked pork skins while continuing to protect against the introduction of those diseases of concern.

DATES: We will consider all comments that we receive on or before September 2, 2008.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008&-0032> 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-2008-0032, 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-2008-0032.

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. Karen A. James-Preston, Director, Technical Trade Services—Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of communicable diseases of livestock and poultry. The regulations in §§ 94.4, 94.8, 94.9, and 94.12 contain requirements for the importation of cured or cooked meat and pork and pork products from regions where rinderpest, foot-and-mouth disease (FMD), African swine fever (ASF), classical swine fever (CSF), and swine vesicular disease (SVD) exist.

Currently, the regulations provide that pork and pork products may be imported into the United States from regions where these diseases exist only if they have been cooked or cured as specified in our regulations. Acceptable cooking or curing methods include curing and drying so that the product does not require refrigeration, cooking in a hermetically sealed container so that the final product is shelf-stable, cooking in tubes so the internal temperature of the meat reaches 175 °F (79.4 °C), or, in the case of perishable canned hams, cooking by method other than flash heating to an internal temperature of 156 °F (69 °C). These cooking and curing processes protect the United States against an introduction of the diseases of concern

by inactivating the viruses which cause them.

The Animal and Plant Health Inspection Service (APHIS) has received a request from a United States importer for permission to import cooked pork skins (pork rinds) from Brazil, a region affected with FMD, SVD, ASF, and CSF. Such imports are not permitted under our current regulations. However, a risk assessment¹ performed by the Centers for Epidemiology and Animal Health of APHIS' Veterinary Services program indicates that pork skins cooked in the manner described by the requester are not a potential pathway for entry of foreign animal disease agents into the United States. This is because the cooking process is sufficient to deactivate the pathogens in question.

Two methods of cooking pork skins were examined. The first method is a one-step cooking process, during which the pork skins are held in cooking oil that is maintained at a temperature of 237–240 °F (114–116 °C) for at least 80 minutes. Including heating and cooling times, the cooking time for the one-step process is about 2.5 hours. The second is a two-step process in which the pork rinds are dry cooked at 500–750 °F (260–399 °C) for approximately 210 minutes after which they are cooked in hot oil at 220–250 °F (104–121 °C) for an additional 150 minutes. The total cooking time in the two-step process is about 6 hours.

Both these cooking processes exceed the heat inactivation requirement commonly cited in the literature for the four viruses of concern. They also exceed the requirements for cooked meat described in the regulations.

We are, therefore, proposing to amend the regulations in part 94 to allow for the importation of cooked pork skins from regions with FMD, SVD, ASF, and CSF under the conditions described in this proposed rule. Specifically, we would amend the FMD-related provisions in § 94.4, the ASF-related provisions in § 94.8, the CSF-related provisions in § 94.9, and the SVD-related provisions in § 94.12 by adding a new paragraph to each section that authorizes the importation of pork skins

¹ The risk assessment, titled "Risk Assessment of Pork Rinds from Brazil," can be viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) or in our reading room. A copy may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

if they have been cooked using one of the methods described above. Each of those sections also contains additional requirements that must be met in order for pork or pork products to be imported into the United States from regions where these diseases exist. These additional requirements include provisions that the pork or pork products be processed at an approved facility which is eligible to have its products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations in 9 CFR part 327, and that shipments of cooked pork or pork products must be accompanied by a certificate issued by an official of the National Government of the region of origin who is authorized to issue the foreign meat inspection certificate required under 9 CFR part 327.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to amend the regulations to allow for the importation of cooked pork skins from regions affected with FMD, SVD, ASF, and CSF under certain conditions. We are taking this action after preparing a risk assessment that concluded that the cooking methods examined are sufficient to inactivate the pathogens of concern. This action would relieve restrictions on the importation of cooked pork skins while continuing to

protect against the introduction of those diseases of concern.

Pork rinds are a snack food that is made from deep-fried or microwavable pork rind pellets (cooked pig skins). The size of the pork rind snack manufacturing industry is considered to be relatively small. Available Economic Census data do not provide specific information on the pork rind snack industry. The Census categorizes the pork rind industry with certain other snack foods (excluding potato chips, corn chips, and related products) under "other snack food manufacturing," and the product classification code is 311919.² As table 1 shows, the industry is composed of a relatively small number of establishments. On average, these establishments employ fewer than 100 employees and therefore most, if not all, of the establishments can be considered to be small entities.³

TABLE 1.—SNACK FOOD MANUFACTURING, EXCLUDING POTATO CHIPS, CORN CHIPS, AND RELATED PRODUCTS, 2002

Number of establishments	Number of employees	Payroll (\$ million)	Total cost of materials (\$ million)	Total value of shipments (\$ million)
47	4,284	\$131	\$365	\$959

Source: 2002 Economic Census (<http://www.census.gov/prod/ec02/ec02311919.pdf>).

Although no clear-cut method exists to disaggregate the pork-rind snack manufacturers from the other snack manufacturers in the Census data, we can use available sales information for pork-rind snack food to approximate the size of this segment of the industry. Currently two trade associations keep track of pork-rind snack sales: The Snack Food Association of Alexandria, VA, reported sales \$562 million (– 21.6 percent)⁴ and Information Resources, Inc. of Chicago, IL, reported sales of \$98 million (– 16.8 percent).⁵

Comparing these trade association data to the \$959 million shipment value reported in the Census data for "other snack food manufacturing," sales by the pork-rind snack manufacturers may represent as much as one-half of sales for this product category. In terms of the sales trend, it is notable that both trade associations reported about 20 percent declines in sales from the previous year. The slowdown in sales may at least partially reflect a shift in consumers' orientation away from the high-protein/

low-carbohydrate diet that seems to have peaked in 2004.

Pork Rind Pellet Manufacturers

Pork rind pellets are made from cooked pork skins and are the main material used in making pork rind snacks. The number and size of the pork rind pellet manufacturers (including manufacturers of pork cracklings⁶) are relatively small. Only 17 establishments comprise this industry, and they had a total shipment value in 2002 of \$196 million, as shown in table 2.

TABLE 2.—PORK RIND PELLET MANUFACTURERS, 2002

Product code	Product description	Number of companies with shipments of \$100,000 or more	Shipment value (\$ million)	Estimated shipment volume ¹
311611R121	Pork rind pellets, including pork cracklings, made in slaughtering plants.	5	\$45	155.9 million pounds (70,715 metric tons).
311612A441	Pork rind pellets, including pork cracklings, made from purchased carcasses.	12	151	56 million pounds (91,580 metric tons).

¹ Although shipment volumes for pork rind pellets are not available in the 2002 Census data, the 1997 Census data indicate that 123.7 million pounds were shipped for product code 311612A441, with a total shipment value of \$130 million. The 2002 figures are calculated based on this information.

² The products included within this code are other chips, sticks, hard pretzels, bacon rinds, popcorn (except candied), etc., excluding crackers, soft pretzels, and nuts.

³ The U.S. Small Business Administration (SBA) defines establishments engaged in other snack food

manufacturing (North American Industry Classification System code 311919) as small if their employees number no more than 500.

⁴ Sales in 2005, which includes all distribution channels. Percentage shows the change from previous year.

⁵ Total supermarket, drug store, and mass merchandising sales for the 52 weeks ending May 21, 2006, excluding Wal-Mart. Percentage shows the change from previous year.

⁶ Cracklings are produced from pellets—cooked pork skins—that are thicker and meatier than rinds.

Source: 2002 Economic Census.

U.S. Import and Export of Pork Rind Products

Trade data⁷ specific to pork rinds are not available; instead, three harmonized tariff schedule (HTS) data for the edible offal of swine are examined and summarized.^{8,9} Tables 3 and 4

summarize the import and export trend for these three HTS codes.¹⁰

The United States has imported a relatively small volume of edible offal of swine, including pork rinds, at an average of 7,000 metric tons annually with a value of \$12 million over the past 5 years. Although the import of swine

offal peaked in 2005 and has declined since, U.S. exports are relatively stable. The United States exported, on an average, about 24,000 metric tons with an average value of \$24 million, and the United States has been a consistent net exporter of the edible offal of swine over the past 5 years.

TABLE 3.—U.S. IMPORTS OF EDIBLE OFFAL OF SWINE, FROZEN, PREPARED, OR PRESERVED

Country	2002		2003		2004		2005		2006	
	Million dollars	Metric tons	Million dollars	Metric tons	Million dollars	Metric tons	Million dollars	Metric tons	Million dollars	Metric tons
Canada	\$2.9	2,901	\$4.3	3,553	\$10.5	4,481	\$7.0	6,635	\$5.7	6,274
Denmark	8.1	2,183	6.8	2,281	7.5	1,893	2.1	2,247	2.1	1,127
Mexico	0.0	0	1.1	0	0.6	108	0.0	79	0.0	0
Others	0.3	177	0.6	144	0.6	102	0.4	174	0.0	27
Total	11.3	5,261	12.8	5,978	19.2	6,584	9.5	9,135	7.8	7,428

Source: U.S. International Trade Commission, HTS 0206490000, 0206490050, 1602494000.

TABLE 4.—U.S. EXPORTS OF EDIBLE OFFAL OF SWINE, FROZEN, PREPARED, OR PRESERVED

Country	2002		2003		2004		2005		2006	
	Million dollars	Metric tons	Million dollars	Metric tons	Million dollars	Metric tons	Million dollars	Metric tons	Million dollars	Metric tons
Mexico	\$10.1	15,405	\$11.0	16,747	\$19.4	24,325	\$18.3	21,235	\$16.5	22,078
Japan	9.4	3,102	3.3	1,410	0.9	272	1.4	435	4.4	1,494
Korea	0.5	358	1.6	776	1.8	848	2.2	1,029	3.0	1,330
Hong Kong	2.3	1,097	1.4	679	1.2	353	1.1	261	1.5	330
Others	3.8	2,518	2.3	2,720	1.1	1,584	1.1	853	0.8	695
Total	26.1	22,120	19.6	22,332	24.4	27,382	24.1	23,813	26.2	25,927

Source: U.S. International Trade Commission.

Export of Pork Rind Products From Brazil

Two HTS categories that include pork skins are used to examine the status of

Brazilian exports of pork rinds: 160249 (Meat, Meat Offal or Mixtures of Swine, Prepared or Preserved, Nesoi¹¹) and

020649 (Offal of Swine Except Livers, Edible, Frozen).

⁷ Source: U.S. International Trade Commission Interactive Tariff and Trade Dataweb.

⁸ HTS 020649—Edible offal of swine, frozen; Other; HTS 0206490050—Edible offal of swine, frozen, pork rind (Note: This classification is no longer available in the 2007 HTS); HTS

1602494000—Other prepared or preserved meat, meat offal, or blood of swine: Other, not containing cereals or vegetables, other.

⁹ Of those, only one HTS is specifically for pork rind (frozen). The other two include other edible offal of frozen, prepared, or preserved swine.

¹⁰ "Landed Duty-Paid Value," which is the sum of the cost, insurance, and freight (CIF) value plus calculated duties, is used for the trade data.

¹¹ Not elsewhere specified or indicated.

TABLE 5.—EXPORT OF SWINE OFFAL FROM BRAZIL

Country	2003			2004			2005			
	Million dollars	Metric tons	Per metric ton	Million dollars	Metric tons	Per metric ton	Million dollars	Metric tons	Per metric ton	% share of volume
Hong Kong	\$7.2	9,199	781.9	\$9.5	10,347	916.9	\$15.2	14,537	1,046.9	65.2
Russia	3.4	4,621	725.3	2.2	2,897	750.1	4.1	4,689	876.8	21.0
Others	2.3	3,882	602.7	3.3	3,493	942.7	3.0	3,064	960.1	13.7
World Total	12.9	17,702	727.8	15.0	16,737	893.4	22.3	22,290	999.2	100

Source: U.S. Census Bureau, as reported by Global Trade Information Services, Inc.

Brazil exports a relatively small amount of swine offal products. On an average, it exports about 19,000 metric tons annually with a total value of \$17 million. Hong Kong is by far the largest buyer of Brazilian swine offal, accounting for almost two-thirds of total exports. Russia is the second largest buyer; however, its imports are limited to frozen swine offal (HTS 0206491).

In terms of the aggregate world export of swine offal products, Brazil is ranked around tenth in both HTS categories with its share accounting for about 1 percent of world trade.¹²

Expected Economic Impact

The expected impact of the proposed rule on the U.S. economy is illustrated under two scenarios: 3 million pounds (1,361 metric tons) and 4 million pounds (1,814 metric tons) of pork rind pellets imported from Brazil.¹³ These scenarios reflect the initial plan of the U.S. importer who requested the proposed rule.

Table 6 summarizes the estimated price effects and impacts for U.S. producers and consumers under these two scenarios, using a nonspatial, partial equilibrium welfare model. The changes are minor; the model estimates that the net welfare benefit would be about \$19,000 under the first scenario (3

million pounds imported) and \$30,000 under the second scenario (4 million pounds imported). These welfare measures reflect a reduction in domestic production that would be more than offset by an increase in consumption. The changes in domestic production and consumption would be less than 1 percent. It is, therefore, safely assumed that the proposed regulation would not have a significant economic impact on small entities in the pork rind industry. APHIS welcomes information that the public may provide on the status of the pork rind manufacturing industry and other related information that could be used to further evaluate the impact of the proposed rule.

TABLE 6.—ESTIMATED IMPACT ON THE U.S. ECONOMY OF PORK OFFAL IMPORTS FROM BRAZIL

	Pork rind pellets imported from Brazil	
	1,361 metric tons (3 million pounds)	1,814 metric tons (4 million pounds)
Change in U.S. consumption, metric ton	680.8	840.8
Change in U.S. production, metric ton	– 730.2	– 973.2
Change in price of pork rind pellets, dollars per metric ton	– \$17.08	– \$22.76
Change in consumer welfare, thousand dollars	\$1,577	\$2,104
Change in annual net welfare, thousand dollars	\$19	\$30

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 94

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

and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

¹² Top exporters of HTS 020649 in 2005 were the United States (18 percent share), Germany (16 percent), Canada (13 percent), and Denmark (11 percent). For HTS 160249, top exporters were China

(25 percent), Denmark (14 percent), Germany (12 percent), and the United States (8 percent).

¹³ We used a nonspatial, partial equilibrium welfare model to quantify the economic effects of

the proposed rule. In addition to the importer's plan to import 3 to 4 million pounds, the price and quantity data explained in previous sections are used as inputs.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 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.

2. Section 94.4 is amended as follows:

a. In paragraph (b)(7), by removing the citation “§ 94.4(b)(4) or (b)(5)” and adding the words “paragraph (b)(4) or (b)(5) of this section” in its place.

b. By redesignating paragraphs (b)(8) and (b)(9) as paragraphs (b)(9) and (b)(10), respectively, and adding a new paragraph (b)(8) to read as set forth below.

c. In newly redesignated paragraph (b)(9)(ii), by removing the citation “(b)(8)(i)” and adding the citation “(b)(9)(i)” in its place.

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

* * * * *

(b) * * *

(8) *Pork rind pellets (pork skins)*. Pork rind pellets (pork skins) must be cooked in one of the following ways:

(i) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(ii) *Two-step process*. The pork skins must be dry-cooked at 260 °C for approximately 210 minutes after which they must be cooked in hot oil (deep-fried) at 104 °C for an additional 150 minutes.

* * * * *

3. Section 94.8 is amended as follows:

a. By redesignating paragraph (a)(4) as paragraph (a)(5), and by adding a new paragraph (a)(4) to read as set forth below.

b. In paragraph (a)(3)(i), by removing the citation “(a)(4)” and adding the words “(a)(5) of this section” in its place.

§ 94.8 Pork and pork product from regions where African swine fever exists or is reasonably believed to exist.

* * * * *

(a) * * *

(4) The pork product is pork rind pellets (pork skins) that were cooked in one of the following ways in an establishment that meets the

requirements in paragraph (a)(5) of this section:

(i) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(ii) *Two-step process*. The pork skins must be dry-cooked at a minimum of 260 °C for approximately 210 minutes after which they must be cooked in hot oil (deep-fried) at a minimum of 104 °C for an additional 150 minutes.

* * * * *

4. Section 94.9 is amended as follows:

a. By adding a new paragraph (c)(1)(iv) to read as set forth below.

b. In paragraph (c)(2), by removing the citation “(c)(1)(ii) or (iii)” and adding the citation “(c)(1)(ii), (iii), or (iv)” in its place.

c. In paragraph (c)(3), by removing the citation “(c)(1)(ii) or (iii)” both places it occurs and adding the words “(c)(1)(ii), (iii), or (iv) of this section” in its place.

§ 94.9 Pork and pork products from regions where classical swine fever exists.

* * * * *

(c) * * *

(1) * * *

(iv) Pork rind pellets (pork skins) originating in regions where classical swine fever is known to exist may be imported into the United States provided they have been cooked in one of the following ways:

(A) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(B) *Two-step process*. The pork skins must be dry-cooked at a minimum of 260 °C for approximately 210 minutes after which they must be cooked in hot oil (deep-fried) at a minimum of 104 °C for an additional 150 minutes.

* * * * *

5. In § 94.12, a new paragraph

(b)(1)(vi) is added to read as follows:

§ 94.12 Pork and pork products from regions where swine vesicular disease exists.

* * * * *

(b) * * *

(1) * * *

(vi) Pork rind pellets (pork skins) must be cooked in one of the following ways:

(A) *One-step process*. The pork skins must be cooked in oil for at least 80 minutes when oil temperature is consistently maintained at a minimum of 114 °C.

(B) *Two-step process*. The pork skins must be dry-cooked at a minimum of 260 °C for approximately 210 minutes

after which they must be cooked in hot oil (deep-fried) at a minimum of 104 °C for an additional 150 minutes.

* * * * *

Done in Washington, DC, this 26th day of June 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–15014 Filed 7–1–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0730; Directorate Identifier 2008–NM–055–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

All DHC–8 Series 400 aircraft have had a spoiler fuselage cable disconnect sensing system installed in production. Subsequently it was discovered that, in the event of a spoiler fuselage cable disconnect, only the ROLL SPLR INBD HYD caution light will be illuminated until the aircraft speed decreases below 165 kts [knots], at which time the ROLL SPLR OUTBD HYD caution light will also be illuminated. In the event of a spoiler fuselage cable disconnect in association with the existing indications described above, the reduction in roll authority could result in increased pilot workload during approach and landing.

* * * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by August 1, 2008.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.