transport enclosure which contains such animal at a distance not to exceed 0.91 meters (3.0 feet) from any one of the external walls of the primary transport enclosure and on a level parallel to the bottom of such primary transport enclosure at a point which approximates half the distance between the top and bottom of such transport enclosure.

15. Section 3.118 is revised to read as follows:

§ 3.118 Handling.

(a) Carriers and intermediate handlers moving marine mammals from the animal holding area of the terminal facility to the primary conveyance or from the primary conveyance to the animal holding area of the terminal facility shall provide the following:

(1) *Movement of animals as expeditiously as possible.*

(2) *Shelter from overheating and direct sunlight.* When sunlight is likely to cause overheating, sunburn, or discomfort, sufficient shade shall be provided to protect the marine mammals. Marine mammals shall not be subjected to surrounding air temperatures which exceed 23.9 °C (75 °F) unless accompanied by an acclimation certificate in accordance with § 3.112. The temperature shall be measured and read within or immediately adjacent to the primary transport enclosure.

(3) *Shelter from cold weather.* Marine mammals shall be provided with species appropriate protection against cold weather and such marine mammals shall not be subjected to surrounding air temperatures which fall below 7.2 °C (45 °F) unless accompanied by an acclimation certificate in accordance with § 3.112. The temperature shall be measured and read within or immediately adjacent to the primary transport enclosure.

(b) Care shall be exercised to avoid handling of the primary transport enclosure in such a manner that may cause physical harm or distress to the marine mammal contained therein.

(c) Enclosures used to transport any marine mammal shall not be tossed, dropped, or needlessly tilted and shall not be stacked unless properly secured.

Done in Washington, DC, this 18th day of February 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–4424 Filed 2–22–99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97–079–1]

RIN 0579–AA91

Importation of Pork and Pork Products From Yucatan and Sonora, Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of animal products to relieve certain restrictions on the importation of pork and pork products from the Mexican State of Yucatan. Currently, because of the existence of hog cholera in Mexico, pork and pork products from Yucatan must be heated or cured and dried to certain specifications to be eligible for entry into the United States. This proposal would establish new conditions for the importation of fresh and processed pork and pork products from Yucatan into the United States and would also provide for the movement through areas where hog cholera may exist of pork and pork products from Yucatan in transit to the United States. We are also proposing to amend the regulations that provide for the importation of fresh pork from the Mexican State of Sonora to also allow the importation of pork products from Sonora and to modify the import conditions for Sonoran pork and pork products so that those conditions parallel the import conditions proposed for pork and pork products from Yucatan. These proposed amendments would provide for the importation of pork products from Sonora and for the in-transit movement of Sonoran pork and pork products through areas where hog cholera may exist and would make it clear that pork and pork products from Sonora must be derived from swine slaughtered at federally inspected slaughter plants.

DATES: Consideration will be given only to comments received on or before April 26, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–079–1, Regulatory Analysis and Development, PPD, APHIS, suite 3CO3, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–079–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Senior Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3399.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) 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 pertaining to the importation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

Until recently, the regulations in parts 91 through 99 governed the importation of animals and animal products according to the recognized animal disease status of the exporting country. In general, if a disease occurred anywhere within a country's borders, the entire country was considered to be affected with the disease, and importations of animals or animal products from anywhere in the country were regulated accordingly. However, international trade agreements entered into by the United States—specifically, the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—require APHIS to recognize regions, rather than only countries, as well as levels of risk, for the purpose of regulating the importation of animals and animal products into the United States. Consequently, on October 28, 1997, we published in the **Federal Register** a final rule (62 FR 56000–56026, Docket No. 94–106–9, effective November 28, 1997) that established procedures for recognizing regions and levels of risk for the purpose of regulating the importation of animals and animal products. In that rule, we also established procedures by which a region may request permission to export animals and animal products to the United States under specified conditions, based on the region's disease status.

On the same date, we also published a policy statement (62 FR 56027-56033, Docket No. 94–106–8) that explained that we will evaluate such requests on a case-by-case basis by analyzing the level of disease risk involved. Levels of risk exist upon a continuum. However, we established five benchmark categories—negligible, slight, low, moderate, and high—to give foreign regions a general idea of where they fit upon the risk continuum. According to our policy, once we have established the level of disease risk associated with the unrestricted importation of a particular type of animal or animal product, we will determine the import conditions needed to reduce that risk to a negligible level. Because of the number of potential variables and the vast number of possible combinations of those variables in assessing the risk of the unrestricted importation of animals and animal products from a region, the precise combination of measures necessary to reduce the risk of disease introduction to a negligible level will likely vary from region to region depending on the commodities to be imported and the diseases of concern.

The factors that we will consider in determining the level of risk associated with unrestricted importation of a particular type of animal or animal product from a region are:

(1) The authority, organization, and infrastructure of the veterinary services organization in the region.

(2) The type and extent of disease surveillance in the region—e.g., is it passive and/or active; what is the quantity and quality of sampling and testing?

(3) Diagnostic laboratory capabilities.

(4) Disease status—is the disease agent known to exist in the region? If ''yes,'' at what prevalence? If ''no,'' when was the most recent diagnosis?

(5) The extent of an active disease control program, if any, if the agent is known to exist in the region.

(6) The vaccination status of the region. When was the last vaccination? What is the extent of vaccination if it is currently used, and what vaccine is being used?

(7) Disease status of adjacent regions.

(8) The degree to which the region is separated from regions of higher risk through physical or other barriers.

(9) The extent to which movement of animals and animal products is controlled from regions of higher risk, and the level of biosecurity regarding such movements.

(10) Livestock demographics and marketing practices in the region.

(11) Policies and infrastructure for animal disease control in the region—i.e., emergency response capacity.

The regulations in 9 CFR part 94 pertain to, among other things, the importation of meat and other animal products into the United States. Currently, § 94.20 allows fresh (chilled or frozen) pork from Sonora, Mexico, to be imported if: The pork is meat from swine that have been born, raised, and slaughtered in Sonora; the pork has not been in contact with pork from regions other than those listed in § 94.9(a) as regions where hog cholera is not known to exist; and an authorized official of Mexico certifies on the foreign meat inspection certificate (required by 9 CFR 327.4) that the above conditions have been met.

We are proposing to amend § 94.20 to (1) expand the importation of pork products from Sonora, (2) allow pork and pork products from Yucatan, Mexico, and (3) amend some of the provisions pertaining to pork from Sonora so that the same import requirements apply to pork and pork products from both Sonora and Yucatan, Mexico.

Our Proposal

In June 1995, the Government of Mexico officially requested that the United States recognize the Mexican State of Yucatan as free of hog cholera. In October 1996, a team of APHIS veterinarians conducted a site visit to verify that Yucatan was free of hog cholera and had the veterinary infrastructure, disease control programs, diagnostic capabilities, and surveillance programs necessary to prevent a recurrence of the disease. The site visit confirmed the information presented in the request by the Mexican Government. Copies of the APHIS site visit report may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. The APHIS team also determined that the Yucatan swine industry and Mexican agricultural officials were exclusively interested in the exportation of pork and pork products and not live swine to the United States.

Based on the information presented to APHIS by the Government of Mexico and our site visit to Yucatan, we have established the following facts, which correspond with the factors listed previously for determining the risk associated with unrestricted importation of a particular commodity from a region:

(1) In Mexico, animal health functions are carried out by officials at the Federal level, who set policy, and by officials at the State level, who carry out program operations. The success of all disease eradication or control programs in Mexico largely depends on the relationship between these two levels of government and between governmental officials and the livestock industry. In Yucatan, a unique collaborative relationship exists between the pork producer associations and the State and Federal animal health officials. The success of the hog cholera eradication program in Yucatan has been largely due to the dedication and commitment of the industry and its willingness to work with animal health officials. In addition, State and Federal laws, regulations, policies, and infrastructure in Yucatan and Mexico appear to be adequate to restrict movements of swine and swine products into Yucatan from any regions of Mexico where hog cholera may exist.

(2) Prior to Mexico's declaration of Yucatan as free of hog cholera in April 1995, Yucatan State officials conducted an initial serological survey from January through March 1995 to verify the State's hog-cholera-free status. Yucatan maintained active surveillance on its commercial and small, private ''backyard'' swine populations during 1996 and 1997. We have reviewed the sampling methodology used and are generally satisfied with it.

(3) Laboratory and diagnostic capabilities are sufficient and meet the standards of the International Office of Epizootics.

(4) and (5) The last case of hog cholera in Yucatan was reported in 1982, and Mexico declared the State free of the disease in April 1995.

(6) Vaccination for hog cholera in Yucatan was discontinued in 1993.

(7) and (8) Yucatan is bordered only by two Mexican States and the Gulf of Mexico. The State of Quintana Roo, which adjoins Yucatan to the south and southeast, was declared free of hog cholera in 1996. The State of Campeche, which adjoins Yucatan to the south and southwest, was declared free of hog cholera in December 1997. Very little swine production occurs in either Campeche or Quintana Roo.

(9) Yucatan strictly controls the inter- and intrastate movement of livestock, poultry, and livestock and poultry products into and through the State. Trade and travel through the maritime port and international airport are strictly monitored, as is vehicular movement within the State. Commercial vehicles with agricultural cargo from Quintana Roo or Campeche must present proper health documentation for the cargo or entry is denied. In addition, all vehicles entering Yucatan from Campeche are inspected. (Quintana Roo is largely a tourist State and has little commercial

swine production, so vehicles from Quintana Roo are not routinely inspected.) Pork products produced in States of lower health status than that of Yucatan may be imported only if the products meet time and temperature processing requirements and originate from a slaughter plant approved and inspected by the Government of Mexico.

(10) Commercial swine production in Yucatan is concentrated among approximately 200 producers, who collectively own about 65,000 sows. Three producers alone own 65 percent of these sows, all of which are housed in highly integrated operations similar to those found in the United States. Such fully integrated operations in Yucatan implement good biosecurity measures at all levels, from parent herds to processing plants. While the number of backyard herds in Yucatan is dwindling, they still constitute a sizable population, and biosecurity measures at these operations vary. Live hogs are imported into Yucatan only from hog-cholera-free States and regions, and most of Yucatan's replacement breeding stock originates in the United States.

(11) State and Federal laws, regulations, policies, and infrastructure in Yucatan and the rest of Mexico appear to be adequate to maintain surveillance and control of hog cholera and to eradicate hog cholera rapidly in the event of an outbreak in the State of Yucatan.

The findings just described are described in further detail in a qualitative risk assessment that we conducted in accordance with the regionalization final rule and policy statement discussed previously. Our qualitative risk assessment concerning the importation of pork and pork products from federally inspected slaughtering establishments in Yucatan may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. The risk assessment indicated that the importation of pork and pork products from federally inspected slaughtering establishments in Yucatan, Mexico, would present a negligible risk of introducing hog cholera into the United States.

Based on the finding of negligible risk, we are proposing to allow the importation of pork and pork products from Yucatan, Mexico. However, we are proposing to allow these importations to occur only under certain conditions, which are set out below, to help prevent the possibility that pork or pork products from swine raised in regions of Mexico other than Yucatan or Sonora could be exported to the United States via Yucatan. We are proposing to amend the import conditions for pork from Sonora at § 94.20 to provide the same import conditions for pork and pork products from both Sonora and Yucatan. We want to prevent the following possibilities: That swine from regions of Mexico other than Sonora or Yucatan could be moved to Yucatan or Sonora for slaughter, processing, and export to the United States; that pork or pork products from other regions could be moved to Yucatan or Sonora for export to the United States; or that, once leaving Yucatan or Sonora, pork and pork products from Yucatan or Sonora could be commingled with pork or pork products from other regions of Mexico in transit to the United States. We believe that the proposed import conditions would provide a higher degree of safety against the occurrence of any of these scenarios than the current requirements listed in § 94.20. Following the list of import conditions is our basis for them.

Proposed Conditions

1. The pork or pork product must be from swine that were born and raised in Sonora or Yucatan and slaughtered in Sonora or Yucatan at a federally inspected slaughter plant under the direct supervision of a full-time salaried veterinarian of the Government of Mexico, and the slaughter plant must be approved to export pork and pork products to the United States in accordance with 9 CFR 327.2.

2. If processed in any manner, the pork or pork product must be processed at a federally inspected processing plant in Sonora or Yucatan under the direct supervision of a full-time salaried veterinarian of the Government of Mexico.

3. The pork or pork product must not have been in contact with pork or pork products from any State in Mexico other than Sonora or Yucatan or from any other region not listed in § 94.9(a) as a region where hog cholera is not known to exist.

4. The foreign meat inspection certificate for the pork or pork product (required by 9 CFR 327.4) must be signed by a full-time salaried veterinarian of the Government of Mexico. The certificate must include statements that certify the above conditions have been met. The certificate must also show the seal number on the shipping container if a seal is required (see below).

5. In addition, if the pork or pork product is going to transit any State in Mexico other than Sonora or Yucatan or any other region not listed in § 94.9(a) as a region where hog cholera is not known to exist, a full-time salaried veterinarian of the Government of Mexico must apply serially numbered seals to the containers carrying the pork or pork products at the federally inspected slaughter or processing plant in Sonora or Yucatan, and the seal numbers must be recorded on the foreign meat inspection certificate.

6. Prior to its arrival in the United States, the shipment of pork or pork products must not have been in any State in Mexico other than Sonora or Yucatan or in any other region not listed in § 94.9(a) unless the pork or pork products have remained under seal until arrival at the U.S. port and either (1) the numbers on the seals match the numbers on the foreign meat inspection certificate or (2) if the numbers on the seals do not match the numbers on the foreign meat inspection certificate, an APHIS representative at the port of arrival is satisfied that the pork or pork products were not contaminated during movement to the United States.

Basis for Proposed Conditions

We are proposing to require that the pork and pork products come only from swine slaughtered at federally inspected slaughter plants in Sonora or Yucatan because such plants handle only swine that were born and raised in Sonora or Yucatan in establishments that practice strict biosecurity measures. Therefore, this proposed requirement would serve as a safeguard against the possibility that pork or pork products from swine raised in backyard farms in Sonora or Yucatan, where biosecurity measures are variable, could be exported to the United States. Although § 94.20 does not currently include this proposed requirement, all pork from Sonora has come exclusively from federally inspected slaughtering plants.

We are proposing that processed pork or pork products from Sonora or Yucatan come only from federally inspected processing plants in Sonora or Yucatan because those plants have been found to meet the requirements of the USDA's Food Safety and Inspection Service and have been approved to export pork and pork products to the United States in accordance with 9 CFR part 327. Further, those plants are under the direct supervision of full-time salaried veterinarians of the Government of Mexico.

The proposed requirement that the pork and pork products must not have been in contact with pork or pork products from any State in Mexico other than Yucatan or Sonora, or from regions other than those listed in § 94.9(a), is intended to ensure that the pork and pork products were not exposed to pork or pork products from a region with a

greater risk of hog cholera. These requirements are the same as those currently in place for pork from Sonora, except that they would allow commingling of pork and pork products from Sonora and Yucatan.

We are proposing to allow the pork and pork products to transit other regions not listed in § 94.9(a) en route to the United States if the pork and pork products are shipped in containers sealed with serially numbered seals at the federally inspected slaughtering plant or processing plant in Sonora or Yucatan and the containers arrive in the United States with the seals intact. The seal numbers would have to be listed on the foreign meat inspection certificate that accompanies the shipment. This precaution would ensure that the pork and pork products have remained in closed containers during transit to the United States and have not become contaminated.

This proposed rule would also allow the importation of the pork and pork products in containers bearing seals with different numbers than those listed on the foreign meat inspection certificate if our port inspectors can determine that an official of the Government of Mexico opened the original seals and then applied new seals. Section 94.20 does not currently provide for such in-transit movements under seal for pork from Sonora. However, we now realize the need to allow some flexibility in shipping and recognize that valid reasons may exist for the containers to have been opened and for the seal numbers to have been changed in transit. For example, many flights from Yucatan to the United States stop in Mexico City, and the containers may have to be opened for inspection by Mexican customs officials.

Prior to the final rule that established § 94.20 and allowed the importation of fresh (chilled or frozen) pork from Sonora (see 62 FR 25439–25443, Docket 94–106–6, May 9, 1997, effective July 8, 1997), pork and pork products from all of Mexico were prohibited entry into the United States unless they were processed in accordance with § 94.9. Section 94.9 requires that pork and pork products from regions where hog cholera is considered to exist meet stringent conditions to ensure the pork's freedom from hog cholera. Among other things, the pork or pork product must be fully cooked, or deboned and heated to a specified temperature, or cured and dried to specifications in the regulations. Because § 94.20 applies specifically to the importation of fresh (chilled or frozen) pork from Sonora, Mexico, any processed pork from Sonora must meet the conditions of § 94.9 to be eligible for importation into the United States. However, as stated previously, we believe that any type of pork or pork product from Sonora or Yucatan imported under the conditions specified in this proposed rule would present a negligible risk of introducing hog cholera. Therefore, this proposed rule would allow the importation from Sonora and Yucatan of processed pork that does not meet the conditions of § 94.9.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. A summary of the analyses required by Executive Order 12866 and the Regulatory Flexibility Act are set forth below. Copies of the entire analyses may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The hazard of concern regarding the proposed importation of pork and pork products from the Yucatan region of Mexico is hog cholera. A qualitative risk assessment prepared by APHIS indicates that the expected costs of disease introduction are likely to be zero, as the proposed imports pose a low probability of causing a hog cholera outbreak in the United States. APHIS also conducted a quantitative risk assessment based only on serological survey data of commercial swine operations in the Yucatan. Due to modeling constraints, the quantitative risk assessment could not include some of the information most pertinent to risk evaluation, such as the fact that an outbreak of hog cholera has not occurred in the Yucatan since 1982. However, the quantitative model is useful in that it provides an upper limit on the estimated probability of a hog cholera outbreak and acknowledges that the actual risk is likely to be lower. Expected costs associated with the proposed trade are calculated by multiplying the estimates from the quantitative model of the likelihood of an outbreak and the estimated economic consequences of an outbreak.

In accordance with Executive Order 12866, APHIS has compared the benefits of the increased trade to the expected costs resulting from disease outbreak. The benefits are calculated as the net change in consumer and producer surplus that results from the estimated volume of trade. Assuming that, among other things, Yucatan pork would be a perfect substitute for domestic pork, it is estimated that the net benefits of Yucatan pork imports would be positive. Allowing importations of Yucatan pork would cause U.S. farm gate prices to decrease marginally, benefitting U.S. consumers.

Commercial swine production in Yucatan is concentrated among approximately 200 producers, who collectively own about 65,000 sows (1996 data). Three producers alone own 65 percent of these sows, all of which are housed in highly integrated operations similar to those found in the United States. Most of the remaining commercial producers are communal producers who operate small shared commercial herds with 15–40 sows. The number of ''backyard'' herds in Yucatan is decreasing.

Yucatan generates 7–8 percent of Mexico's pork production. The State is a net exporter of pork, with 65 percent of its pork going to the tourist centers in the neighboring State of Quintana Roo, population centers in and around Mexico City, and Japan. Pork intended for export is slaughtered at the State's only federally inspected slaughter facility. At full capacity, this facility can slaughter up to 1,000 head per day, with a maximum annual production of 10,000 metric tons of pork.

Based on existing Yucatan hog production and slaughter capacity, it is expected that Yucatan producers could export between 200 and 10,000 metric tons of fresh and frozen pork to the United States per year. The high-volume scenario is based on the maximum output of the federally inspected slaughter facility and assumes that all 10,000 metric tons produced there would be shipped to the United States. Because this scenario is unlikely, we also evaluated more realistic scenarios of 1,000 and 200 metric tons. The most likely amount of pork imported into the United States from Yucatan would probably be between these two amounts. Therefore, the regulatory impact analysis summarized here examines the potential economic impact of such imports under low- (200 metric tons per year), medium- (1,000 metric tons per year), and high- (10,000 metric tons per year) volume scenarios.

Results of computer simulation iterations for the low-volume simulations indicate positive net benefits in 90 percent of the iterations run. Results of the medium-volume simulations indicate positive net benefits in 85 percent of the iterations run. Results from the high-volume scenario indicate positive net benefits in 75 percent of the iterations run. In the absence of disease (when likelihood

estimates are zero), the annual net benefits of trade for the low-, medium-, and high-volume scenarios are estimated, in 1997 dollars, as $6,478, $32,429, and $329,011, respectively. Therefore, based on these calculations, positive net benefits would result from any of the scenarios. The likelihood of introducing hog cholera and its associated biological and economic consequences are sufficiently low as to warrant allowing the proposed trade. It should be noted that the low-volume scenario is considered by far the most likely; as stated previously, the high-volume scenario is considered extremely unlikely.

Initial Regulatory Flexibility Analysis

In accordance with 21 U.S.C. 111, the Secretary of Agriculture is authorized to promulgate regulations to prevent the introduction or dissemination of any contagious, infectious, or communicable disease of animals from a foreign country into the United States.

This proposed rule would amend the regulations to relieve certain restrictions on the importation of pork and pork products from the Yucatan by establishing new conditions for the importation of fresh and processed pork and pork products from Yucatan into the United States and would also provide for the movement of pork and pork products from Yucatan through areas where hog cholera may exist while in transit to the United States. This proposed rule would also amend the regulations regarding the importation of fresh pork from Sonora to allow the importation of pork products from Sonora and to modify the import conditions for Sonoran pork and pork products so that those conditions parallel the import conditions proposed for pork and pork products from Yucatan. These proposed amendments would provide for the importation of pork products from Sonora and for the in-transit movement of Sonoran pork and pork products through areas where hog cholera may exist and would make it clear that pork and pork products from Sonora must be derived from swine slaughtered at federally inspected slaughter plants.

Over the past several decades, the U.S. pork industry has experienced enormous structural change, which mirrors the overall trend toward ''concentration'' in U.S. agriculture. According to the 1992 Census of Agriculture (the most recent census available at the time this analysis was performed), the shift toward fewer but larger farms has been dramatic: From 1969 to 1992, hog sales rose roughly 23 percent, while the number of hog farms decreased by about 70 percent. During that same time period, the average-sized hog farm increased from 138 head per farm to 588 head per farm, and production became increasingly more concentrated among larger producers. In 1992, for example, roughly 6 percent of U.S. hog farms held over 50 percent of U.S. hog inventory. The pork processing industry is also characterized by a decreasing number of companies, operating increasingly large, capital-intensive processing and packing plants that are dependent on high volumes of raw product and that begin to realize economies of size at about 4 million hogs per year.

The potential economic impacts of the proposed importation of pork and pork products from the Yucatan region of Mexico are dependent on a number of factors, such as where the products would be consumed in the United States. While it is currently unknown exactly how Yucatan pork would enter U.S. marketing and distribution channels and where it would ultimately be consumed, it is likely that the pork would be shipped by ocean vessel from Progreso, Yucatan, to a U.S. gulf port, most likely in Texas or Florida, perhaps in Louisiana. If Yucatan pork were purchased by a local retail chain or wholesaler in those States, it would likely be consumed locally. If it were purchased by a national wholesaler, it could be consumed anywhere in the United States. For the purposes of this analysis, we examined both the possibility that Yucatan pork would be consumed locally in selected Gulf Coast States and also the possibility that it would enter national distribution channels.

The Small Business Administration (SBA) defines small hog farms (Standard Industrial Code 0213) as those earning less than $500,000 in annual receipts. Industry experts suggest that only those hog operations with inventories in excess of 2,000 animals would earn $500,000 or more in sales annually. However, because the 1992 Census of Agriculture combines all hog farms with more than 1,000 animals into one category, for the purposes of this analysis, we counted operations with more than 1,000 animals as large and operations with fewer than 1,000 as small.

Despite the trend toward fewer and larger hog farms described above, according to the 1992 Census of Agriculture, fewer than 6 percent of U.S. hog and pig operations held inventories in excess of 1,000 animals (the average U.S. small hog farm held 160 head of stock and had annual sales of roughly $27,000). So, by SBA standards, at least 94 percent of all U.S. hog farms (191,347) were small entities in 1992. In Texas, Florida, and Louisiana, roughly 99 percent of hog farms were small entities; in those States, small hog farmers held generally 22–40 head per farm and earned $3,000–$6,000 annually. In 1992, there were at least 179,478 small hog farms nationwide, with 9,017 being in Texas, Florida, and Louisiana.

The segment of the U.S. swine industry most likely to be first exposed to hog cholera from imported pork products would be swine operations that use human food waste as a feed source. Because the hog cholera virus remains infective in pork products for a long time unless the products are cooked, the disease could be transmitted to swine fed discarded uncooked pork. Therefore, waste-feeding swine operations would most directly bear the risk associated with the unlikely importation of contaminated pork products from Yucatan. The risk to the remainder of the U.S. swine industry would be through possible spread from these initially infected waste-feeding operations, which must be licensed by USDA.

In 1994, there were about 2,000 licensed waste-feeding establishments in the continental United States, and this number has not changed greatly since then. The majority of these premises were located in Texas (871), Arkansas (248), Florida (309), and North Carolina (178). Based on a 1994 APHIS survey, 1,173 waste-feeding operations in the 48 conterminous states contained a total of about 114,000 pigs. Waste-feeding operations are predominantly small. Based on the 1994 survey, the median number of swine per waste-feeding premises was 34 (average of 97). Only 10 of the premises had more than 1,000 swine.

Whether we consider the United States as a whole or just selected Gulf Coast States, the overwhelming majority of hog farms are small entities, so it is reasonable to conclude that a substantial number of small entities could be affected by this proposed rule.

Economic Impact on Small Entities

There is no general rule that sets threshold or trigger levels for ''significant economic impact;'' however, it has been suggested that an economic effect that equals a small business' profit margin—5 to 10 percent of annual sales—could be considered significant.

We used estimated changes in producer surplus together with the Census of Agriculture data on hog inventories and hog sales to develop

very rough estimates of the potential economic impact of the proposed rule on small hog farmers across the United States and in selected Gulf Coast States. To do this, we assumed that losses in producer surplus would be shared equally among all hog farms in the geographic area under consideration (either the entire United States or selected Gulf Coast States). We then compared per-farm changes in producer surplus with small farms' annual sales to determine whether the economic impacts approach the 5–10 percent threshold.

If Yucatan pork entered national distribution channels and, therefore, impacts were shared by all U.S. producers, there would not be a significant economic impact on small entities no matter which level (low, medium, or high volume) of imports is assumed. Producer surplus losses per U.S. hog farm would range from $0.45 to $22.05 per year, and these amounts are substantially less than 1 percent of the typical small hog farmer's annual sales in every scenario.

If, under the high-volume scenario, the maximum 10,000 metric tons were imported annually from the Yucatan and consumed locally in Louisiana, Texas, and Florida, there could be a significant economic impact on small pork producers in those States. In this case, a subset of small hog farmers with considerably fewer head per farm and considerably less in annual revenues than the average small U.S. hog farm would face the most significant impacts of an increase in imports resulting from the proposed trade. The producer surplus losses per small hog farm in those States would range from $9.60 to $479.52. The larger amount is equivalent to almost 8.14 percent of the typical small hog farmer's annual sales and, therefore, could be considered a significant impact.

In conclusion, it is clear that the proposed rule could affect a substantial number of small hog farms because, as of the 1992 Census of Agriculture, almost all hog farms meet the SBA size criteria for small entity. However, it is unclear whether the rule would have a significant economic impact on small hog farms. The latter issue depends on how much Yucatan pork is imported and where it is consumed. Under the most extreme assumptions (highest volume imports and limited geographic area affected), small hog producers in selected Gulf Coast States could experience losses in producer surplus equaling approximately 8 percent of annual sales. Such losses would meet ''significant economic impact'' criteria. Under the most likely import volume scenario (1,000 metric tons per year), the proposed rule would not have a significant economic impact on small hog farmers either nationwide or in selected Gulf Coast States.

Alternatives Considered

In developing this proposed rule, we considered either (1) making no changes to the existing requirements for the importation of fresh and processed pork and pork products from Yucatan and Sonora, (2) proposing to allow the importation of pork and pork products from Yucatan and Sonora under conditions different from those proposed, or (3) proposing to allow the importation of pork and pork products from Yucatan and Sonora under the conditions proposed in this document.

We rejected the first alternative because it would continue to restrict the importation of pork and pork products from Yucatan under the same conditions that apply to the remainder of Mexico. Because we have determined that pork and pork products could be imported under specified conditions from Yucatan and Sonora with negligible hog cholera risk, taking no action would not be scientifically defensible and would be contrary to trade agreements entered into by the United States. We also rejected the second alternative, which would allow the importation of pork and pork products from Yucatan and Sonora under conditions other than those proposed. In developing the proposed criteria for the importation of such pork and pork products, we determined that conditions less stringent than those proposed would present a risk of the introduction of hog cholera into the United States via pork or pork products from regions of Mexico other than Sonora or Yucatan. We further concluded that more stringent conditions would be unnecessarily restrictive. We consider the proposed conditions to be both effective and necessary in ensuring that the risk of hog cholera introduction via pork and pork product imports from Yucatan and Sonora remains at a negligible level.

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.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of pork and pork products from Sonora and Yucatan, Mexico, under the conditions specified in this proposed rule would not present a significant risk of introducing or disseminating hog cholera disease agents into the United States and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 97–079–1. Please send a copy of your comments to: (1) Docket No. 97–079–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA,

room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the regulations to relieve certain restrictions on the importation of pork and pork products from Yucatan by establishing new conditions for the importation of fresh and processed pork and pork products from Yucatan into the United States and would also provide for the movement of pork and pork products from Yucatan through areas where hog cholera may exist while in transit to the United States. This proposed rule would also amend the regulations that provide for the importation of fresh pork from Sonora to allow the importation of pork products from Sonora and to modify the import conditions for Sonoran pork and pork products so that those conditions parallel the import conditions proposed for pork and pork products from Yucatan. These proposed amendments would provide for the importation of pork products from Sonora and for the in-transit movement of Sonoran pork and pork products through areas where hog cholera may exist and would make it clear that pork and pork products from Sonora must be derived from swine slaughtered at federally inspected slaughter plants.

Implementing this proposed rule would necessitate the use of two paperwork collection activities, i.e., the completion of a foreign meat inspection certificate and the placing of seals on shipping containers.

We are asking OMB to approve our use of these information collections in connection with our program to import pork and pork products from the Mexican States of Yucatan and Sonora.

We are soliciting comments from the public (as well as affected agencies) concerning this proposed information collection activity. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the proposed information collection on those who are to respond, (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.)

Estimate of burden: Public reporting burden for this proposed collection of information is estimated to average 0.575 hours per response.

Respondents: Full-time, salaried veterinarians of the Government of Mexico.

Estimated annual number of respondents: 10.

Estimated annual number of responses per respondent: 4.

Estimated annual number of responses: 40.

Estimated total annual burden on respondent: 23.

Copies of this information collection can be obtained from Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

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

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

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 94.20 would be revised to read as follows:

§ 94.20 Importation of pork and pork products from Sonora and Yucatan, Mexico.

Notwithstanding any other provisions of this part, pork and pork products from the States of Sonora and Yucatan, Mexico, may be imported into the United States under the following conditions:

(a) The pork or pork product is from swine that were born and raised in Sonora or Yucatan and slaughtered in Sonora or Yucatan at a federally inspected slaughter plant that is under the direct supervision of a full-time salaried veterinarian of the Government of Mexico and that is approved to export pork products to the United States in accordance with § 327.2 of this title.

(b) If processed, the pork or pork product was processed in either Sonora or Yucatan in a federally inspected processing plant that is under the direct supervision of a full-time salaried veterinarian of the Government of Mexico.

(c) The pork or pork product has not been in contact with pork or pork products from any State in Mexico other than Sonora or Yucatan or from any other region not listed in § 94.9(a) as a region where hog cholera is not known to exist.

(d) The foreign meat inspection certificate accompanying the pork or pork product (required by § 327.4 of this title) includes a statement certifying that the requirements in paragraphs (a), (b) (if applicable), and (c) of this section have been met and, if applicable, a list of the numbers of the seals required by paragraph (e)(1) of this section.

(e) The shipment of pork or pork products has not been in any State in Mexico other than Sonora or Yucatan or in any other region not listed in § 94.9(a) as a region where hog cholera is not known to exist en route to the United States, unless:

(1) The pork or pork product arrives at the U.S. port of entry in shipping containers bearing intact, serially numbered seals that were applied at the federally inspected slaughter or processing plant in either Sonora or Yucatan by a full-time salaried veterinarian of the Government of Mexico, and the seal numbers correspond with the seal numbers listed on the foreign meat inspection certificate; or

(2) The pork or pork product arrives at the U.S. port of entry in shipping containers bearing seals that have different numbers than the seal numbers on the foreign meat inspection certificate, but, upon inspection of the hold, compartment, or container and all accompanying documentation, an APHIS representative is satisfied that the pork or pork product containers were opened and resealed en route by an appropriate official of the Government of Mexico and the pork or pork product was not contaminated or exposed to contamination during movement from Sonora or Yucatan to the United States.

Done in Washington, DC, this 18th day of February 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

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