

Several commenters who opposed the proposed rule stated it would increase product handling and exposure to the environment and greatly increase the risk of contamination by pathogens. The commenters expressed further concern that the Department lacks the resources to guarantee that foreign plants are completely and consistently in compliance with Hazard Analysis and Critical Control Points (HACCP) systems and pathogen testing requirements, and stated that some foreign governments have not provided accurate information and documentation regarding sampling procedures.

Even under the regulations prior to this final rule, processing of meat intended for exportation to the United States from regions where FMD or rinderpest exists needed to be carried out in an establishment approved by APHIS and FSIS as one in which the facilities for processing raw meat are separate from the facilities used for processing cooked meat. The additional processing allowed by this final rule must be carried out in accordance with those existing safeguards against contamination. The HACCP system referred to by the commenter is one that FSIS has adopted with regard to human health concerns and does not directly pertain to the regulations in part 94. In addition to a departmental inspection of the establishment prior to approval, periodic inspections are carried out by the Department to ensure compliance with the regulations. If, at any time, the Department determines an establishment is acting contrary to APHIS regulations, APHIS will take corrective action. APHIS relies on foreign governments' inspection and supervision of sampling, recordkeeping, and documentation in the same way that those governments rely on U.S. inspection and supervision of sampling, recordkeeping, and documentation.

Several commenters expressed concern that any products brought into the United States because of the new regulations would be in direct competition with U.S. products.

As we stated in our proposed rule, we do not expect that the adoption of this rule will greatly increase the volume of meat imports, largely because most products that would be imported in accordance with this final rule are already being imported. The effect of this rule will be to alter only the sizes of these products. Further, the Department must operate in accordance with international trade agreements, which provide that restrictions may not be imposed on importations unless there is a science-based justification for imposing such restrictions.

Several commenters questioned why, with homeland security in mind, APHIS proposed a rule that the commenters stated would provide more opportunity for contamination or sabotage during meat processing.

All of the mitigation measures in the animal health regulations governing both domestic and international commerce take a science-based approach to reducing the risk of the introduction or spread of animal diseases. The assessment of unmitigated risk is based on scientific evidence, historical data, and projections of expected movements of animals and animal products. Based on that assessment of risk, measures to mitigate risk are applied where necessary. Safeguards against potential acts of terrorism are being dealt with through procedures other than those set forth in 9 CFR part 94.

Two commenters stated that, although proposed § 94.4(b)(6) referenced only cubes, slices, and anatomical cuts of meat as being eligible for further processing, the provisions should also include ground meat that meets the prescribed conditions.

We are making no changes based on these comments. The proposed rule was initiated based on a request and information specifically addressing the process of cutting larger pieces of meat into cubes prior to their being hard frozen for shipment to the United States. As such, the process is not relevant to cooked ground meat.

One commenter stated that the proposed rule failed to include an analysis of the risk associated with the importation of cooked meat products, the change in risk the proposal would effect, the statistical validity of taking one sample per cooking batch, and the impact thawing and refreezing of samples would have on the pink juice test methodology.

The existing provisions for cooking meat in tubes will not be substantively changed by this final rule. All meat intended for importation under this rule will need to be cooked according to the existing time and temperature requirements. Under the existing provisions, veterinary officials in the exporting country conduct a pink juice test and gauge the temperature of the meat. Meat is then frozen and shipped to the United States. Once it is thawed in this country, U.S. inspectors conduct their own pink juice test. This process will essentially remain the same, except that U.S. inspectors will conduct the pink juice test on an indicator piece, or inspect a piece containing a TID, that was randomly chosen in the exporting country by government representatives

of the exporting country. This rule will simply allow for further processing of meat after the cooking. APHIS has historically considered taking one sample per cooking cycle for pink juice testing a valid method of determining the effectiveness of the cooker for that cycle.

Several commenters stated that the economic impact of introducing FMD into the United States would be enormous, and that, even if contaminated imported products were removed from store shelves, the accompanying publicity would severely affect sales of domestic meat and meat products.

We are aware of the potential negative economic effects of the introduction of any serious foreign animal disease into the United States, particularly FMD, and have established the cooking requirements in § 94.4 to mitigate the risk of such diseases being introduced in imported cooked meat. As noted above, all meat intended for importation under this rule will need to be cooked according to the existing time and temperature requirements.

One commenter expressed concern that the pink juice test might not be a reliable method of ensuring proper cooking.

We are making no changes based on this comment. The pink juice test is an existing regulatory provision that we did not propose to change in any way in this rulemaking. Further, the commenter did not provide any specific data to support concerns regarding the efficacy of the pink juice test.

One commenter recommended that officials of foreign governments responsible for randomly selecting tubes of meat for indicator pieces be Department-certified and bonded. We are making no change based on this comment. We currently rely on officials of foreign governments for numerous types of certification without requiring that such individuals be Department-certified and bonded, just as our trading partners do not require that U.S. officials be certified and bonded by their governments.

Ground Meat

Under the regulations prior to this final rule, the only allowable method of determining whether ground meat cooked in tubes had been cooked to the required temperature was by means of a TID, *i.e.*, the use of an indicator piece was not an option for ground meat. Because TID's have not been in common use, this has had the effect of restricting the importation of ground meat cooked in tubes. In our proposed rule, however, we proposed to provide that an