

scheduled. In addition to representation by VS personnel, the site review team also includes field personnel from APHIS's International Services, a State veterinarian, and, if a quantitative model is used to assess risk, individuals with expertise in quantitative risk analysis techniques.

We believe that the disease evaluation expertise of personnel from NCIE and CEAH, with input as appropriate from other APHIS units for additional expertise in quantitative risk analysis techniques and in-country conditions, and the foreign animal disease (FAD) laboratory expertise of NVSL are adequate for these evaluations. We do not include FDA personnel, as FAD evaluations are not within the FDA's authority or expertise. We do not include State laboratory personnel since FAD laboratory expertise is provided by NVSL.

Industry representatives have not historically participated in APHIS evaluations. APHIS believes that it is not appropriate to include industry commodity groups on country evaluation teams for several reasons, but primarily because industry participation might make it appear that the review is not impartial. Inclusion of industry representatives might generate the appearance of, and potential for, conflicts of interest between the U.S. and foreign industry interests. In addition, APHIS questions whether information would be provided freely by foreign governments and commercial interests if U.S. industry representatives were present. In this regard, the site visit teams typically include visits to commercial facilities that might be unwilling to openly exchange commercial or proprietary information, which is critical to the verification and evaluation process. Also from a practical standpoint, industry representation would be necessarily limited to a very few individuals representing a very limited spectrum of the industry, thereby possibly providing a competitive advantage for participants. Further, inclusion of industry representation on a team that will provide recommendations to the agency could raise concerns under the Federal Advisory Committee Act unless the team was formally chartered as a Federal advisory committee. This would not be feasible for site visit teams.

The information obtained from these reviews is used to conduct an assessment of the risk of importation of the requested commodity. The risk assessments APHIS prepares are made available for public review prior to any final rulemaking. All comments from

the public are considered in the final decisionmaking process.

Uruguay's surveillance program, border controls, and processing and slaughter controls, as well as its implementation of various mitigation measures, have all been evaluated during our site visits in preparation for the risk assessment. Evidence of the effectiveness of the measures being taken is presented in the risk assessment. Periodic visits to the slaughtering establishments are also conducted by FSIS. Although we do not conduct scheduled, annual visits to the processing plants, we note that we have an APHIS representative who is permanently located in Uruguay, and that all processing plants approved for export must allow periodic on-site evaluation and subsequent inspection of their facilities, records, and operations by an APHIS representative at our request. We will continue to monitor the situation in Uruguay and will conduct reinspections if we feel they are necessary.

We do not consider it necessary to establish a specific verification plan for Uruguay. In fact, on March 6, 2003, we published in the **Federal Register** (68 FR 10667, Docket No. 01-036-1) a proposed rule that, if made final, will reinforce our current authority to reevaluate regions when there is a reason for concern.

Several commenters asked whether we will provide for reinspection of fresh beef from Uruguay at the U.S. port of first arrival to verify that all mitigation measures, including measurement of pH levels, have been effectively and adequately carried out. Based on the evidence in the risk assessment and the site visit report regarding Uruguay's effective implementation of the required mitigation measures, reinspection would be unlikely to provide additional risk mitigation. Reinspection at the port of first arrival would be a valid safeguard only if it could provide verification of the pH level of the beef at the time of maturation. Variations in pH levels during cold storage, freezing, and transport, however, would make it very difficult to obtain data that can be correlated with pH levels at the time of maturation. Therefore, the type of reinspection upon arrival suggested by the commenters would offer no additional protection. Inspectors at the port of first arrival will, however, monitor all shipments that come into the United States and verify that the beef is accompanied by the foreign meat inspection certificates required under this rule to ensure that all requirements have been met.

One commenter stated that we should enforce documentation measures to protect against the possibility of transshipment (*i.e.*, beef from Uruguay being shipped through another FMD-affected country while en route to the United States). The regulations in § 94.1(d) provide conditions that must be met in order for fresh (chilled or frozen) meat that enters a port or otherwise transits a region where rinderpest or FMD exists to be eligible for importation into the United States. Those conditions include certification requirements and safeguarding measures, including the use of official seals, to prevent the meat from coming into contact with any other cargo or being handled during transit. However, the provisions of § 94.1(d) apply specifically to the transshipment of fresh (chilled or frozen) meat of ruminants or swine raised and slaughtered in a region free of FMD and rinderpest. Therefore, in response to this comment, we are amending § 94.1(d) in this final rule to provide that the conditions in that paragraph also apply to fresh (chilled or frozen) beef from Uruguay. We are also amending paragraph (b) of § 94.1, which refers to the provisions of paragraph (d), to reflect this change.

Technical Questions

Two commenters expressed concern about the risk posed by formerly exposed cattle who can carry the FMD virus in the oropharynx, where it can persist for between 30 and 36 months and be preserved by refrigeration or freezing. According to Thomson (1994)², recovered cattle or vaccinated cattle that had been exposed to diseased animals, the FMD virus was found only in the pharyngeal area of carriers, and in only minute quantities. This virus usually is bound to antibodies and virus inhibitors. In general, carriers have high levels of circulating antibodies. Carrier animals do not have the virus in the blood (viremia), bone marrow, lymph nodes, or muscle tissue. In addition, the head, in which the oropharynx is located, is one of the bovine parts that is prohibited importation.

We proposed that beef imported from Uruguay must come from bovine carcasses that were allowed to mature for a minimum of 36 hours after slaughter and that reached a pH of 5.8 or less in the loin muscle at the end of the maturation period. We also proposed that any carcass in which the

² Thomson, G., "Foot-and-Mouth Disease," *Infectious Diseases of Livestock* (ed. Coetzer, Thomson and Tustin). Chapter 2, pp 825-852, Oxford University Press. Capetown, South Africa, 1994.