

APHIS personnel. The Administrator would have sole discretion in determining the number of APHIS personnel to be assigned to a facility.

Proposed § 93.412(d)(1)(iii) would provide that the operator of a medium or minimum security facility, after receiving our approval, would have to continue to comply with all requirements of § 93.412(d), as well as the terms of the compliance agreement, in order for the facility to maintain its approved status.

Proposed § 93.412(d)(1)(iv) would cover the process for APHIS denying an initial application or withdrawing the approval of a medium or minimum security facility already in operation. Before we would deny or withdraw approval, we would first inform the operator, and include the reasons for our action. We would provide an opportunity for a hearing if there is a conflict as to any material fact regarding our action. The withdrawal of approval of an existing facility would become effective pending a final determination in the proceeding if the Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal would take effect upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, we would also provide written confirmation to the operator as promptly as circumstances allow. The withdrawal of approval of a facility would continue in effect pending the completion of the proceeding and any judicial review, unless otherwise ordered by the Administrator.

Under proposed § 93.412(d)(1)(iv), we could deny an initial application or withdraw the approval of an existing facility for failure to comply with the requirements provided in § 93.412(d), or with the terms of the compliance agreement, or for failure to comply with any other requirement under the Animal Health Protection Act (7 U.S.C. 8301–8317) or the regulations thereunder. We would also withdraw approval if the operator notifies us that the facility has ceased operations, or, if the facility has not been used to quarantine ruminants for a period of at least 1 year. The operator's failure to remit outstanding charges for APHIS services at the facility would also be grounds for withdrawing approval. Finally, we could deny approval of an initial application, or withdraw the approval of an existing facility, if the operator or a person responsibly connected with the business of the facility is or has been convicted of a crime under any law regarding the importation or quarantine of any animal, or any crime involving fraud,

bribery, extortion, or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of animals. A person is considered to be responsibly connected with the business of the facility if such person has an ownership, mortgage, or lease interest in the facility's physical plant, or if such person is a partner, officer, director, holder, or owner of 10 percent or more of its voting stock, or an employee in a managerial or executive capacity.

Compliance Agreement

We are proposing that all medium and minimum security facilities operate in accordance with a compliance agreement required under § 93.412(d)(2). We would require that the compliance agreement be executed by the operator or other designated representative of the facility and by the Administrator before the facility could commence operations. The compliance agreement would signify the operator's commitment to follow our regulations, as well as underscore the operator's financial responsibilities with respect to building and operating a privately owned quarantine facility.

Under the compliance agreement, the operator would be bound by § 93.412(d) and subject to the strict oversight of APHIS representatives. The operator would agree to be responsible for the cost of building the facility, as well as any costs associated with its maintenance and operation. These costs would include all expenses associated with the hiring of personnel to attend to the ruminants and maintain and operate the facility; all expenses associated with the care of quarantined ruminants, such as feed, bedding, medicines, inspections, testing, laboratory procedures, and necropsy examinations; all costs associated with the death or destruction and disposition of quarantined ruminants; and all charges for the services of APHIS representatives at the facility, in accordance with § 93.412 of the regulations and 9 CFR part 130.

The compliance agreement would provide that the operator obtained, prior to execution of the agreement, a financial instrument (insurance or surety bond) approved by APHIS that financially guarantees the operator's ability to cover all costs and other financial liabilities and obligations of the facility. This includes financial liability coverage in the event of a worst case scenario in which all quarantined ruminants would have to be destroyed and disposed of because of an animal health emergency, as determined by the Administrator.

The compliance agreement would also provide that, prior to commencing quarantine operations, the operator would deposit with the Administrator a certified check or U.S. money order to cover the estimated costs, as determined by the Administrator, of APHIS professional, technical, and support services at the facility over the duration of the quarantine. The compliance agreement would also provide that if the actual costs incurred by APHIS exceed the deposited amount, the operator would be liable for those additional costs, based on APHIS official accounting records. We would require the compliance agreement to specify that payment for our services received in connection with each lot of ruminants in quarantine must be made prior to the release of the ruminants. The operator would also be responsible for any other costs incurred by us with respect to the quarantine following the release of the ruminants, based on official records, within 14 days of receipt of the bill showing the balance due. Any unobligated funds deposited with us would be returned to the operator after the release of the lot of ruminants from the quarantine facility and termination or expiration of the compliance agreement, or, if requested, credited to the operator's account and applied towards payment of APHIS services at a future date. We would require that, prior to the entry of each subsequent lot of ruminants into the medium or minimum security facility, the operator execute a new compliance agreement with APHIS, as well as deposit a certified check or U.S. money order to cover our estimated costs over the duration of the quarantine for that lot of ruminants.

Physical Plant Requirements

Proposed § 93.412(d)(3) would set forth the standards for the physical plant at medium and minimum security facilities. These physical plant standards address issues related to location, construction, sanitation, and security. Any requirements that are applicable to only one type of facility would be clearly noted in the regulations. We would inspect a facility to ensure that these standards are met before imported ruminants could be admitted to the facility.

Location

Proposed § 93.412(d)(3)(i) would require that imported ruminants arrive at a port designated for the importation of ruminants under § 93.403(g) (discussed earlier under "Ports of Entry"). Proposed § 93.412(d)(3)(i) also would require that a medium or