

imported dry cured pork products in § 94.17, that the pork-filled pasta processing establishment must enter into with APHIS prior to receiving pork for use in pork-filled pasta products intended for export to the United States. In order for APHIS to verify that dedicated processing facilities are, in fact, producing only pork-filled pasta products for export to the United States and that non-dedicated facilities are complying with all applicable provisions of the regulations, both types of facilities will be required to enter into such agreements. Under the terms of the cooperative service agreement, the establishment must state that all such pork will be processed only in accordance with § 94.12 or § 94.17; must allow the unannounced entry into the establishment of APHIS representatives, or other persons authorized by the Administrator, for the purpose of inspecting the facilities, operations, and records of the establishment; and must be current in paying all costs for such inspections, which may occur up to four times per year. The costs to be covered by the processing establishment include those for travel, salary, subsistence, administrative overhead, and other incidental expenses (including an excess baggage provision up to 150 pounds). The operator of the processing establishment must deposit with the Administrator an amount equal to the approximate costs for APHIS to inspect the establishment one time, and as funds from that amount are obligated, bills for costs incurred based on official accounting records will be issued to restore the deposit to its original level. Amounts to restore the deposit to its original level must be paid within 14 days of receipt of such bills. These provisions are contained in a new § 94.12(c)(2) of this final rule.

Because this final rule, unlike the proposed rule, allows pork for pork-filled pasta products intended for export to the United States to be stored in the same room as meat and meat products that are ineligible for export to the United States, we determined that we needed to provide greater protection against the risk that workers handling both types of products could contaminate those eligible for export to the United States. We are, therefore, adding a provision to require that, prior to handling pork used for pork-filled pasta products intended for export to the United States, workers at the processing facility who handle pork or pork products in the facility shower and put on a full set of clean clothes, or wait 24 hours after handling pork or pork products that are not eligible for

importation into the United States. This provision is contained in a new § 94.12(c)(4) of this final rule.

By incorporating these new handling and cooperative service agreement requirements, as well as the modifications proposed by the commenters, this final rule will provide for the safe importation of pork-filled pasta products from SVD-affected regions while allowing processors maximal flexibility in the use of their facilities.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This 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.

This rule amends the regulations in § 94.12 that deal with the importation of pork and pork products from regions affected with SVD by establishing procedures for the safe importation of pork-filled pasta into the United States from SVD-affected regions in Italy and elsewhere. These procedures will allow the importation of this product into the United States while ensuring that the health of the U.S. swine population and the economic viability of the U.S. swine and pork and pork products industries will not be threatened by an incursion of SVD.

These industries play an important role in the U.S. economy. There was a total inventory of 58.698 million swine in the United States as of March 1, 2002.¹ Cash receipts from swine farming in 2001 were about \$12.1 billion.² The industry marketed 26.7 billion pounds of pork in 2001. Additionally, the United States earned a substantial amount of money from exports of swine and swine products. The United States exported 1.075 billion pounds of pork, valued at \$1.283 billion, in 2001. Also 64,912 live swine were exported, which were valued at about \$12 million. The

United States also imported 717 million pounds of pork in 2001, valued at \$771 million, and imported 5,337,088 live swine, all from Canada, valued at \$349 million. Domestically, other related agricultural and nonagricultural sectors are dependent on the swine and the swine-product industries for their economic activity. These activities provide employment and income to many households. Maintaining the stability of these industries depends in part on continued efforts to prevent any introduction of SVD into the United States.

The Regulatory Flexibility Act requires that agencies specifically consider the economic impact of their rules on small entities. The domestic entities most likely to be affected by allowing importation of pork-filled pasta products from regions in Italy affected with SVD are durum wheat producers and pasta manufacturing companies.

In 1997, 6,887 farms, over 99 percent of which were considered small,³ produced about 5.160 billion pounds of durum wheat.⁴ In 2001, durum wheat production was estimated at about 5.013 billion pounds on 2.789 million harvested acres.⁵ In 2001, the United States exported 3 billion pounds of durum wheat, valued at \$215 million. The major destinations were Italy (39 percent), Tunisia (10 percent), Algeria (9 percent), and Mexico (7 percent).⁶

As a new product, dry, shelf-stable, pork-filled tortellini is expected to have a small market. The economic impact, if any, on durum wheat producers as a result of importation of this product into the United States is also likely to be small. Producers of durum wheat could benefit in the future from any expansion of product range that results from these imports.

There were 141 pasta manufacturing plants in the United States in 2000. Of these, 5 companies accounted for 55 percent of the sales. The total domestic capacity is estimated to be about 3.4 billion pounds of pasta.⁷ Pasta

³North American Industry Classification System (NAICS) code 111140, Wheat Farming. The Small Business Administration has established guidelines for determining which types of firms are to be considered small under the Regulatory Flexibility Act. A wheat farm is considered small if it has annual receipts of \$750,000 or less.

⁴USDA/NASS, 1997 Census of Agriculture (for AZ, CA, MN, MT, ND, and SD). These are durum wheat-producing States.

⁵USDA/NASS, Crop Production 2001 Summary, Agricultural Statistics Board, January 2002.

⁶Global Trade Information Services, Inc., World Trade Atlas, United States Edition, December 2001.

⁷Michael Boland and David Barton, "How Dakota Growers Pasta co-op found success in a highly competitive market," July 2001 (<http://>

¹USDA/NASS, Quarterly Hogs and Pigs, Agricultural Statistics Board, March 2002.

²USDA/ERS, U.S. farm sector cash receipts from sales of agricultural commodities, 1998–2002, February 2002.