

recover from, and mitigate all hazards. This system also supports certain other DHS/FEMA programs whose functions include, but are not limited to, the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/FEMA-012 Suspicious Activity Reporting System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS/FEMA and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2); (c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS/FEMA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS/FEMA or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f)

(Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS/FEMA is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: December 20, 2011.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012-255 Filed 1-9-12; 8:45 am]

BILLING CODE 9110-17-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 92, 93, 94, 96, and 98

[Docket No. APHIS-2009-0035]

RIN 0579-AD05

Lists of Regions Classified With Respect to Certain Animal Diseases and States Approved To Receive Certain Imported Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are removing lists of regions classified with respect to certain animal diseases and pests, and lists of States approved to receive horses imported from foreign regions where contagious equine metritis (CEM) exists, from our animal and animal product import regulations. Instead, the lists will be posted on the Animal and Plant Health Inspection Service's (APHIS') Web site. The regulations will provide the Web address and explain APHIS' criteria and processes for adding a region or a State to, or removing a region or State from, each of the lists. Because the lists will no longer be in the Code of Federal Regulations, changing the lists will no longer require rulemaking. We will keep the public informed of changes to the lists and provide opportunity for public comment through publications in the **Federal Register**. This rule will enable APHIS to more quickly recognize changes in the disease or pest status of foreign regions and approve States to receive horses from foreign regions where CEM exists. This rulemaking does not change the

technical criteria APHIS uses to evaluate whether a foreign region should be added to or removed from a list or the criteria for approving a State to receive horses imported from foreign regions where CEM exists.

DATES: *Effective Date:* February 9, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Laurel Voelker, Regional Evaluation Services—Import, National Center for Import and Export, VS, APHIS, 920 Main Campus Drive, Suite 150, Raleigh, NC 27606; (919) 855-7736.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 govern the importation into the United States of certain animals and animal products in order to prevent the introduction of specified livestock diseases into the United States. The Animal and Plant Health Inspection Service (APHIS) has, in the past, listed in part 94 regions affected with or free of various diseases of livestock. APHIS has also listed in part 94 countries in Europe that are part of the APHIS-defined region of Europe that we recognize as low risk for classical swine fever (CSF). The regulations in 9 CFR part 93 govern the importation of animals into the United States. Part 93 has listed regions affected with certain diseases of livestock and regions where screwworm is considered to exist. Part 93 has also listed States that are approved by APHIS to receive stallions or mares over 731 days of age that are imported under specified conditions from regions affected with contagious equine metritis (CEM). The regulations in 9 CFR part 98 govern the importation into the United States of animal embryos and semen. Part 98 has listed the countries in Europe that are part of the APHIS-defined region of Europe that we recognize as low risk for CSF. Each time we have added or removed a country or other region to or from a list in any of these regulations, we have had to engage in rulemaking in order to change the Code of Federal Regulations.

On June 1, 2011, we published a proposed rule in the **Federal Register** (Docket No. APHIS-2009-0035, 76 FR 31499-31507) to remove the lists of States approved to receive stallions or mares from regions affected with CEM, the lists of countries in the APHIS-defined European CSF region, and most of the other lists of regions from parts 93, 94, and 98 and instead post them to APHIS' Web site. We proposed to include in the regulations the Web address for the lists; a contact for requesting copies of the lists by mail, fax, or email; and APHIS' process for

adding or removing a State or foreign region to or from the lists. We did not propose to change the technical criteria APHIS uses to evaluate whether a foreign region should be added to or removed from a list, or the conditions States must meet in order to be approved to receive stallions or mares from regions affected with CEM.

Because the lists would no longer be in the Code of Federal Regulations, changes to the lists would no longer have to be made through rulemaking. We proposed to keep the public informed and provide opportunity for public comment on changes to the lists through notices published in the **Federal Register**. The proposed action was intended to allow more timely changes to the lists, while continuing to provide opportunity for public comment.

We solicited comments concerning our proposal for 60 days ending August 1, 2011. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This final 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.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. In the past, rulemaking has been required to amend the Code of Federal Regulations to change the disease or pest status of a region. The basis for such a change is either an outbreak of a disease or pest in a foreign region that results in a downgrade in status or an evaluation by APHIS that provides a basis for an upgrade in status. This final rule will remove the need for rulemaking to change the disease or pest status of a foreign region, while still providing opportunity for public comment on the basis for the action. We are not changing our criteria for recognizing a region as free of or affected with a disease or pest, or for adding or removing any country or other region to or from the lists. Similarly, rulemaking has been required whenever APHIS has approved a State to receive stallions or mares over 731 days of age from regions where CEM exists. This final rule will remove the need for rulemaking while still providing opportunity for public comment on the basis for the action. We are not changing our criteria for approving a State to receive stallions or

mares from CEM-affected regions. This final rule will enable APHIS to more quickly approve States to receive horses from CEM-affected regions and recognize changes in the disease or pest status of foreign regions.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Has no retroactive effect and (2) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Region, Reporting and recordkeeping requirements.

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 94

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

9 CFR Part 96

Imports, Livestock, Reporting and recordkeeping requirements.

9 CFR Part 98

Animal diseases, Imports.

Accordingly, we are amending 9 CFR parts 92, 93, 94, 96, and 98 as follows:

PART 92—IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS: PROCEDURES FOR REQUESTING RECOGNITION OF REGIONS

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 92.2 is amended as follows:

■ a. In paragraph (d), by removing the word “rulemaking”; and

■ b. By revising paragraphs (e) and (f) to read as follows:

§ 92.2 Application for recognition of the animal health status of a region.

* * * * *

(e) If, after review and evaluation of the information submitted, APHIS believes the request can be safely granted, APHIS will indicate its intent and make its evaluation available for public comment through a document published in the **Federal Register**.

(f) APHIS will provide a period of time during which the public may comment on its evaluation. During the comment period, the public will have access to the information upon which APHIS based its evaluation, as well as the evaluation itself. Once APHIS has reviewed all comments received, it will make a final determination regarding the request and will publish that determination in the **Federal Register**.

* * * * *

■ 3. Section 92.4 is revised to read as follows:

§ 92.4 Reestablishment of a region's disease-free status.

This section applies to regions that are designated under this subchapter as free of a specific animal disease and then experience an outbreak of that disease.

(a) *Interim designation.* If a region recognized as free of a specified animal disease in this subchapter experiences an outbreak of that disease, APHIS will take immediate action to prohibit or restrict imports of animals and animal products from that region. The prohibitions or restrictions may be imposed on only a portion of the region previously recognized as free of a disease. In these cases, APHIS will inform the public as soon as possible through notice in the **Federal Register** of the basis for its decision to prohibit or restrict imports from the smaller area of that region previously recognized as free.

(b) *Reassessment of the disease situation.* (1) Following removal of disease-free status from all or part of a region, APHIS may reassess the disease situation in that region to determine whether it is necessary to continue the interim prohibitions or restrictions. In reassessing a region's disease status, APHIS will take into consideration the standards of the World Organization for Animal Health (OIE) for reinstatement of disease-free status, as well as all relevant information obtained through public comments or collected by or

submitted to APHIS through other means.

(2) Prior to taking any action to relieve prohibitions or restrictions, APHIS will make information regarding its reassessment of the region's disease status available to the public for comment. APHIS will announce the availability of this information in the **Federal Register**.

(c) *Determination*. Based on the reassessment conducted in accordance with paragraph (b) of this section, including comments regarding the reassessment information, APHIS will take one of the following actions:

(1) Publish a notice of its decision to reinstate the disease-free status of the region, or a portion of the region;

(2) Publish a notice of its decision to continue the prohibitions or restrictions on the imports of animals and animal products from that region; or

(3) Publish another document in the **Federal Register** for comment.

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 4. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 5. Section 93.301 is amended as follows:

■ a. By revising paragraphs (c)(1), (h)(6), (h)(7), and (j) introductory text; and

■ b. In paragraphs (c)(2)(ix), (d)(3), (e)(1) introductory text, (e)(2)(i), (f)(10)(i), (g) introductory text, and (h) introductory text, by removing the words “listed in” each time they appear and adding in their place the words “listed under”.

The revisions read as follows:

§ 93.301 General prohibitions; exceptions.

* * * * *

(c) * * *

(1) *Importation prohibited*. Except as provided in paragraph (c)(2) of this section, notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from any region that APHIS considers to be affected with contagious equine metritis (CEM) and the importation of all horses that have been in any such region within the 12 months immediately preceding their being offered for entry into the United States is prohibited.

(i) A list of regions that APHIS considers to be affected with CEM is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(ii) APHIS will add a region to the list upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable, or upon determining that the region trades horses freely with a region in which CEM exists without testing for CEM. APHIS will remove a region from the list after conducting an evaluation of the region in accordance with § 92.2 of this subchapter and finding that the disease is not present in the region. In the case of a region formerly not on this list that is added due to an outbreak, the region may be removed from the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

* * * * *

(h) * * *

(6) A list of States approved by APHIS to receive stallions over 731 days of age imported under paragraph (e) of this section is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/downloads/states_app_conduct_cem_testing.pdf. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(7) A list of States approved by APHIS to receive mares over 731 days of age imported under paragraph (e) of this section is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/downloads/states_app_conduct_cem_testing.pdf. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

* * * * *

(j) *Examination and treatment for screwworm*. Horses from regions where APHIS considers screwworm to exist may be imported into the United States only if they meet the requirements in paragraphs (j)(1) through (7) of this section and all other applicable requirements of this part. APHIS will maintain a list of regions where screwworm is considered to exist on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737. APHIS will add a region to the list upon determining that screwworm exists in the region based on reports APHIS receives of detections of the pest from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. APHIS will remove a region from the list after conducting an evaluation of the region in accordance with § 92.2 of this subchapter and finding that screwworm is not present in the region. In the case of a region formerly not on this list that is added due to a detection, the region may be removed from the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

* * * * *

■ 6. In § 93.308, paragraphs (a)(1) and (2) are revised to read as follows:

§ 93.308 Quarantine requirements.

(a) * * *

(1) Except as provided in §§ 93.317 and 93.324 and in paragraph (a)(1)(i) of this section, horses intended for importation from the Western Hemisphere shall be quarantined at a port designated in § 93.303 for not less than 7 days to be evaluated for signs of Venezuelan equine encephalomyelitis.

(i) Horses imported from regions of the Western Hemisphere that APHIS considers to be free of Venezuelan equine encephalomyelitis are exempt from the requirements of paragraph (a)(1) of this section. A list of regions that APHIS has declared free of Venezuelan equine encephalomyelitis is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_import/equine/equine_import_quarantine.shtml. Copies of the list will also be available

via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(ii) APHIS will add a region to the list of those it has declared free of Venezuelan equine encephalomyelitis after it conducts an evaluation of the region in accordance with § 92.2 of this subchapter and finds that the disease is not present. In the case of a region formerly on this list that is removed due to an outbreak, the region may be returned to the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter. APHIS will remove a region from the list of those it has declared free of Venezuelan equine encephalomyelitis upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable.

(2) Horses intended for importation from regions APHIS considers to be affected with African horse sickness may enter the United States only at the port of New York, and must be quarantined at the New York Animal Import Center in Newburgh, New York, for at least 60 days. This restriction also applies to horses that have stopped in or transited a region considered affected with African horse sickness.

(i) A list of regions that APHIS considers affected with African horse sickness is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(ii) APHIS will add a region to the list upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. APHIS will remove a region from the list after conducting an evaluation of the region in accordance with § 92.2 of this subchapter and finding that the disease is not present in the region. In the case of a region formerly not on this list that is added

due to an outbreak, the region may be removed from the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

* * * * *

■ 7. In § 93.405, paragraph (a)(3) introductory text is revised to read as follows:

§ 93.405 Health certificate for ruminants.

(a) * * *

(3) If the ruminants are from any region where screwworm is considered to exist, the ruminants may be imported into the United States only if they meet the requirements of paragraphs (a)(3)(i) through (iv) of this section and all other applicable requirements of this part. APHIS will maintain a list of regions where screwworm is considered to exist on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737. APHIS will add a region to the list upon determining that screwworm exists in the region based on reports APHIS receives of detections of the pest from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. APHIS will remove a region from the list after conducting an evaluation of the region in accordance with § 92.2 of this subchapter and finding that screwworm is not present in the region. In the case of a region formerly not on this list that is added due to a detection, the region may be removed from the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

* * * * *

§ 93.500 [Amended]

■ 8. Section 93.500 is amended by removing the definition of *APHIS-defined European CSF region*.

■ 9. Section 93.505 is amended as follows:

■ a. In paragraph (a), by adding the words "as defined in § 94.0 of this subchapter," immediately after the words "APHIS-defined European CSF region,"; and

■ b. In paragraph (b), by revising the introductory text to read as follows:

§ 93.505 Certificate for swine.

* * * * *

(b) Swine from any region where screwworm is considered to exist may only be imported into the United States if they meet the requirements of paragraphs (b)(1) through (b)(4) of this section and all other applicable requirements of this part. APHIS will maintain a list of regions where screwworm is considered to exist on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737. APHIS will add a region to the list upon determining that screwworm exists in the region based on reports APHIS receives of detections of the pest from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. APHIS will remove a region from the list after conducting an evaluation of the region in accordance with § 92.2 of this subchapter and finding that screwworm is not present in the region. In the case of a region formerly not on this list that is added due to a detection, the region may be removed from the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

* * * * *

■ 10. In § 93.600, paragraph (a) introductory text is revised to read as follows:

§ 93.600 Importation of dogs.

(a) *All dogs*. Dogs from any region of the world where screwworm is considered to exist may only be imported into the United States if they meet the requirements of paragraphs (a)(1) and (2) of this section and all other applicable requirements of this part. APHIS will maintain a list of regions where screwworm is considered to exist on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737. APHIS will add a region to the list upon determining that screwworm exists in the region based on reports APHIS

receives of detections of the pest from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. APHIS will remove a region from the list after conducting an evaluation of the region in accordance with § 92.2 of this subchapter and finding that screwworm is not present in the region. In the case of a region formerly not on this list that is added due to a detection, the region may be removed from the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

* * * * *

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 11. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

■ 12. Section 94.0 is amended by revising the definition of *APHIS-defined European CSF region* to read as follows:

§ 94.0 Definitions.

* * * * *

APHIS-defined European CSF region. A single region of Europe recognized by APHIS as low risk for classical swine fever.

(1) A list of areas included in the region is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(2) APHIS will add an area to the region after it conducts an evaluation of the area to be added in accordance with § 92.2 of this subchapter and finds that the risk profile for the area is equivalent with respect to classical swine fever to the risk profile for the region it is joining.

* * * * *

■ 13. In § 94.1, paragraph (a) is revised to read as follows:

§ 94.1 Regions where rinderpest or foot-and-mouth disease exists; importations prohibited.

(a) APHIS considers rinderpest or foot-and-mouth disease to exist in all regions of the world except those declared free of one or both of these diseases by APHIS.

(1) A list of regions that APHIS has declared free of rinderpest and a list of regions APHIS has declared free of foot and mouth disease are maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(2) APHIS will add a region to the list of those it has declared free of rinderpest or foot-and-mouth disease, or both, after it conducts an evaluation of the region in accordance with § 92.2 of this subchapter and finds that the disease, or diseases, are not present. In the case of a region formerly on this list that is removed due to an outbreak, the region may be returned to the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter. APHIS will remove a region from the list of those it has declared free of rinderpest or foot-and-mouth disease upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable.

* * * * *

§ 94.2 [Amended]

■ 14. Section 94.2 is amended by removing the word “infected” each time it appears and adding in its place the word “affected”.

■ 15. Section 94.8 is amended as follows:

■ a. By redesignating paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d), respectively; and

■ b. By removing the introductory text, including footnote 8, and adding a new paragraph (a);

■ c. In redesignated paragraphs (b)(3)(i) and (b)(4) introductory text, by removing the paragraph designation “(a)(5)” and adding in its place the paragraph designation “(b)(5)”;

■ d. In redesignated paragraph (b)(5) introductory text, by redesignating footnote 9 as footnote 8; and

■ e. In redesignated paragraph (c), by removing the paragraph designation “(a)(2)” and adding in its place the paragraph designation “(b)(2)”.

The addition reads as follows:

§ 94.8 Pork and pork products from regions where African swine fever exists or is reasonably believed to exist.

(a) African swine fever exists or the Administrator has reason to believe that African swine fever exists in the regions listed under paragraph (a)(2) of this section.

(1) The Administrator bases the reason to believe African swine fever exists in a region on the following factors:

(i) When a region allows the importation of host animals, pork or pork products, or vectors of African swine fever from a region in which African swine fever exists under conditions which the Administrator has determined are less stringent than those prescribed by this chapter for importing host animals, pork or pork products, or vectors of African swine fever into the United States from a region in which African swine fever exists; or

(ii) When a region allows the importation or use of African swine fever virus or cultures under conditions which the Administrator has determined are less stringent than those prescribed by this chapter for the importation or use of African swine fever virus or cultures into or within the United States; or

(iii) When a region has a contiguous border with, or is subject to commercial exchange or natural spread of African swine fever host animals, host materials, or vectors with, another region with known outbreaks of African swine fever; or

(iv) A region's lack of a disease detection, control, or reporting system capable of detecting or controlling African swine fever and reporting it to the United States in time to allow the United States to take appropriate action to prevent the introduction of African swine fever into the United States; or

(v) Any other fact or circumstance found to exist which constitutes a risk of introduction of African swine fever into the United States.

(2) A list of regions where African swine fever exists or the Administrator has reason to believe that African swine fever exists is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal

mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(3) APHIS will add a region to the list upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable, or upon determining that there is reason to believe the disease exists in the region. APHIS will remove a region from the list after conducting an evaluation of the region in accordance with § 92.2 of this subchapter and finding that the disease is not present and that there is no reason to believe the disease is present. In the case of a region formerly not on this list that is added due to an outbreak, the region may be removed from the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter.

* * * * *

■ 16. Section 94.9 is amended as follows:

- a. By removing footnote 10 in paragraph (a) and redesignating footnote 11 in paragraph (c)(3) and footnote 12 in paragraph (e)(2) introductory text as footnotes 10 and 11, respectively;
- b. By revising paragraph (a);
- c. By adding a new footnote 9 at the end of paragraph (c) introductory text; and
- d. In paragraphs (c)(1)(iii)(C)(1) and (2), by removing the words "in paragraph (a)" and adding in their place the words "under paragraph (a)".

The revision and addition read as follows:

§ 94.9 Pork and pork products from regions where classical swine fever exists.

(a) APHIS considers classical swine fever to exist in all regions of the world except those declared free of the disease by APHIS.

(1) A list of regions that APHIS has declared free of classical swine fever is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(2) APHIS will add a region to the list of those it has declared free of classical

swine fever after it conducts an evaluation of the region in accordance with § 92.2 of this subchapter and finds that the disease is not present. In the case of a region formerly on this list that is removed due to an outbreak, the region may be returned to the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter. APHIS will remove a region from the list of those it has declared free of classical swine fever upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable.

* * * * *

(c) * * * 9

⁹ See also other provisions of this part and parts 93, 95, and 96 of this chapter, and part 327 of this title, for other prohibitions and restrictions upon the importation of swine and swine products.

* * * * *

■ 17. In § 94.10, paragraph (a) is revised to read as follows:

§ 94.10 Swine from regions where classical swine fever exists.

(a) APHIS considers classical swine fever to exist in all regions of the world except those declared free of the disease by APHIS.

(1) A list of regions that APHIS has declared free of classical swine fever is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, Maryland 20737.

(2) APHIS will add a region to the list of those it has declared free of classical swine fever after it conducts an evaluation of the region in accordance with § 92.2 of this subchapter and finds that the disease is not present. In the case of a region formerly on this list that is removed due to an outbreak, the region may be returned to the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4 of this subchapter. APHIS will remove a region from the list of those it has declared free of classical swine fever upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary

officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable.

* * * * *

■ 18. Section 94.11 is amended as follows:

- a. By revising paragraph (a);
 - b. In paragraph (c) introductory text, by removing the words "regions designated in paragraph (a)" and adding in their place the words "any region listed under paragraph (a)(2)";
 - c. In paragraph (c)(1), by removing the words "listed in § 94.1(a) as a region infected with rinderpest or foot-and-mouth disease" and adding in their place the words "designated under § 94.1(a) as a region where rinderpest or foot-and-mouth disease exists";
 - d. In paragraph (c)(2), by removing the word "infected" each time it appears and adding in its place the word "affected"; and
 - e. In paragraph (c)(3), by removing the words "in § 94.1(a)(2)" and adding in their place the words "under § 94.1(a)".
- The revision reads as follows:

§ 94.11 Restrictions on importation of meat and other animal products from specified regions.

(a) The meat of ruminants or swine, and other animal products, and ship stores, airplane meals, and baggage containing such meat or animal products originating in any region listed as provided in paragraph (a)(2) of this section may not be imported into the United States unless the requirements in this section, in addition to other applicable requirements of chapter III of this title, are met. However, meat and meat products that meet the requirements of § 94.4 do not have to comply with the requirements of this section. As used in this section, the term "other animal product" means all parts of the carcass of any ruminant or swine, other than meat and articles regulated under part 95 or part 96 of this chapter.

(1) The regions listed under paragraph (a)(2) of this section have been declared free of rinderpest and foot-and-mouth disease by APHIS as provided in § 94.1(a) but supplement their national meat supply by the importation of fresh (chilled or frozen) meat of ruminants or swine from regions that APHIS considers to be affected with rinderpest or foot-and-mouth disease as provided in § 94.1(a); or have a common land border with regions considered to be affected with rinderpest or foot-and-mouth disease; or import ruminants or swine from regions considered to be affected with rinderpest or foot-and-mouth disease under conditions less restrictive than would be acceptable for

importation into the United States. Thus, the meat may be commingled with the fresh (chilled or frozen) meat of animals from an affected region, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States.

(2) A list of regions whose products are regulated under this section is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(3) APHIS will add a region to the list of those whose products are regulated under this section after conducting an evaluation of the region and determining that one or more of the circumstances described in paragraph (a)(1) of this section exists. APHIS will remove a region from the list upon conducting an evaluation of the region and determining that the circumstances in paragraph (a)(1) of this section no longer exist or upon determining that rinderpest or foot-and-mouth disease exists in the region.

* * * * *

- 19. Section 94.12 is amended as follows:
 - a. By revising paragraph (a);
 - b. In paragraph (b)(1)(iii)(B), by redesignating footnote 13 as footnote 12;
 - c. In paragraph (b)(1)(iv)(B)(1), by removing the word “infected” and adding in its place the word “affected”; and by removing the words “in paragraph (a)” and adding in their place the words “under paragraph (a)(1)”;
 - d. In paragraph (b)(1)(iv)(B)(2)(i), by removing the word “infected” and adding in its place the word “affected”;
 - e. In paragraph (b)(1)(iv)(B)(2)(ii), by removing the words “in paragraph (a)” and adding in their place the words “under paragraph (a)(1)”;
 - f. In paragraph (b)(3), by redesignating footnote 14 as footnote 13; and
 - g. By revising redesignated footnote 13 in paragraph (b)(3) to read “¹³ See footnote 10.”

The revision reads as follows:

§ 94.12 Pork and pork products from regions where swine vesicular disease exists.

(a) APHIS considers swine vesicular disease to exist in all regions of the world except those declared free of the disease by APHIS.

(1) A list of regions that APHIS has declared free of swine vesicular disease

is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(2) APHIS will add a region to the list of those it has declared free of swine vesicular disease after it conducts an evaluation of the region in accordance with § 92.2 of this subchapter and finds that the disease is not present. In the case of a region formerly on this list that is removed due to an outbreak, the region may be returned to the list in accordance with the procedures for reestablishment of a region’s disease-free status in § 92.4 of this subchapter. APHIS will remove a region from the list of those it has declared free of swine vesicular disease upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable.

* * * * *

- 20. Section 94.13 is amended as follows:
 - a. By redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively;
 - b. By redesignating the introductory text as paragraph (a) and revising it;
 - c. By revising newly redesignated paragraph (c)(1); and
 - d. In newly redesignated paragraph (c)(2), by removing the words “in § 94.12” and adding in their place the words “under § 94.12(a)”.

The revisions read as follows:

§ 94.13 Restrictions on importation of pork or pork products from specified regions.

(a) Pork or pork products and ship’s stores, airplane meals, and baggage containing pork or pork products, other than those articles regulated under part 95 or part 96 of this chapter, produced in any region listed under paragraph (a)(2) of this section may not be imported into the United States unless the requirements of this section, in addition to other applicable requirements of part 327 of this title, are met.

(1) The regions listed under paragraph (a)(2) of this section have been declared free of swine vesicular disease as provided in § 94.12(a) but supplement their national pork supply by the importation of fresh (chilled or frozen)

meat of animals from regions where swine vesicular disease is considered to exist, or have a common border with such regions, or have trade practices that are less restrictive than are acceptable to the United States. Thus, the pork or pork products may be commingled with fresh (chilled or frozen) meat of animals from a region where swine vesicular disease is considered to exist, resulting in an undue risk of swine vesicular disease introduction into the United States.

(2) A list of regions whose products are regulated under this section is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(3) APHIS will add a region to the list of those whose products are regulated under this section after conducting an evaluation of the region and determining that one or more of the circumstances listed in paragraph (a)(1) of this section exists. APHIS will remove a region from the list upon conducting an evaluation of the region and determining that the circumstances in paragraph (a)(1) of this section no longer exist or upon determining that swine vesicular disease exists in the region.

* * * * *

(c) * * *

(1) The slaughtering establishment is not permitted to receive animals that originated in a region considered to have swine vesicular disease or that have ever been in a region in which swine vesicular disease existed.

* * * * *

§ 94.14 [Amended]

- 21. In § 94.14, paragraph (a) is amended by removing the words “listed in” and adding in their place the words “listed under”.
- 22. Section 94.16 is amended as follows:
 - a. By revising paragraph (b) introductory text;
 - b. In paragraph (b)(2), by redesignating footnote 15 as footnote 14; and
 - c. By revising paragraph (c) introductory text and paragraph (d).

The revisions read as follows:

§ 94.16 Milk and milk products.

* * * * *

(b) Milk and milk products originating in, or shipped from, any region where rinderpest or foot-and-mouth disease is considered to exist under § 94.1(a) may be imported into the United States if they meet the requirements of paragraphs (b)(1), (2), or (3) of this section:

* * * * *

(c) Milk and milk products originating in and shipped from regions listed under § 94.1(a) as free of rinderpest and foot-and-mouth disease but which have entered a port or otherwise transited a region where APHIS considers either disease to exist may not be imported into the United States unless:

* * * * *

(d) Except for milk and milk products imported from Canada, and except as provided in this paragraph, milk or milk products imported from a region listed under § 94.1(a) as free of rinderpest and foot-and-mouth disease must be accompanied by a certificate endorsed by a full-time, salaried veterinarian employed by the region of export. The certificate must state that the milk was produced and processed in a region listed under § 94.1(a) as free of rinderpest and foot-and-mouth disease, or that the milk product was processed in one such region from milk produced in another such region. The certificate must name the region in which the milk was produced and the region in which the milk or milk product was processed. Further, the certificate must state that, except for movement under seal as described in § 94.16(c), the milk or milk product has never been in a region in which rinderpest or foot-and-mouth disease exists. Milk or milk products from a region listed under § 94.1(a) as free of rinderpest and foot-and-mouth disease and that were processed in whole or in part from milk or milk products from a region not listed under § 94.1(a) as free of rinderpest and foot-and-mouth disease may be imported into the United States only in accordance with paragraph (b)(3) of this section.

* * * * *

§ 94.17 [Amended]

■ 23. Section 94.17 is amended as follows:

■ a. Footnote 16 in paragraph (e) and footnote 17 in paragraph (p)(1)(i) are redesignated as footnotes 15 and 16, respectively; and

■ b. Newly redesignated footnote 16 in paragraph (p)(1)(i) is revised to read “¹⁶ See footnote 15.”

§ 94.18 [Amended]

■ 24. In § 94.18, footnote 18 in paragraph (c)(2) and footnote 19 in paragraph (d)(1) are redesignated as footnotes 17 and 18, respectively.

§ 94.24 [Amended]

■ 25. Section 94.24 is amended as follows:

■ a. In paragraphs (a)(1)(i) and (b)(2)(i), by removing the words “in §§ 94.9(a) and 94.10(a) as one” each time they occur and adding in their place the words “under §§ 94.9(a) and 94.10(a) as a region”;

■ b. In paragraph (a)(5), by redesignating footnote 20 as footnote 19; and

■ c. In paragraph (b)(6) by redesignating footnote 21 as footnote 20.

■ 26. Section 94.25 is amended as follows:

■ a. By removing the introductory text;

■ b. By revising paragraph (a);

■ c. In paragraph (b) introductory text, paragraph (c) introductory text, and paragraphs (c)(1) and (c)(5), by removing the words “designated in” each time they occur and by adding in their place the words “listed under”; and

■ d. In paragraphs (b)(1), (b)(2), (b)(3), (c)(2), (c)(3), and (c)(4), by removing the words “designated in §§ 94.9 and 94.10 as affected with CSF” each time they occur and adding in their place the words “classified under §§ 94.9 and 94.10 as a region in which CSF is known to exist”.

The revision reads as follows:

§ 94.25 Restrictions on the importation of live swine, pork, or pork products from certain regions free of classical swine fever.

(a) Live swine, pork, or pork products and ship stores, airplane meals, and baggage containing pork or pork products, other than those articles regulated under part 95 or part 96 of this chapter, may not be imported into the United States from a region listed under paragraph (a)(2) of this section unless the requirements in this section, in addition to other applicable requirements of part 93 of this chapter and part 327 of this title, are met.

(1) The regions listed under paragraph (a)(2) of this section have been declared free of classical swine fever (CSF) by APHIS in accordance with §§ 94.9(a) and 94.10(a) but either supplement their pork supplies with fresh (chilled or frozen) pork imported from regions considered to be affected by CSF, or supplement their pork supplies with pork from CSF-affected regions that is not processed in accordance with the requirements of this part, or share a common land border with CSF-affected regions, or import live swine from CSF-affected regions under conditions less

restrictive than would be acceptable for importation into the United States. Thus, the live swine, pork, or pork products from those regions may be commingled with live swine, pork, or pork products from CSF-affected regions, resulting in a risk of CSF introduction into the United States.

(2) A list of regions whose live swine, pork, and pork products are regulated under this section is maintained on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. Copies of the list will also be available via postal mail, fax, or email upon request to the Sanitary Trade Issues Team, National Center for Import and Export, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

(3) APHIS will add a region to the list of those whose live swine, pork, and pork products are regulated under this section after conducting an evaluation of the region and determining that one or more of the circumstances described in paragraph (a)(1) of this section exists. APHIS will remove a region from the list upon conducting an evaluation of the region and determining that the circumstances in paragraph (a)(1) of this section no longer exist or upon determining that classical swine fever exists in the region.

* * * * *

PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES

■ 27. The authority citation for part 96 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.4.

§ 96.2 [Amended]

■ 28. Section § 96.2 is amended as follows:

■ a. In paragraph (a) introductory text, by removing the words “in § 94.8” and adding in their place the words “under § 94.8(a)”;

■ b. In paragraph (a)(1), by removing the words “in § 94.8(a)” and adding in their place the words “under § 94.8(a)”;

■ c. In paragraph (a)(2), by removing the words “in § 94.8” and adding in their place the words “under § 94.8(a)”;

■ d. In paragraph (a)(5), by removing the words “in § 94.8” each time they appear and adding in their place the words “under § 94.8(a)”.

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

■ 29. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 98.3 [Amended]

■ 30. In § 98.3, the introductory text is amended by removing the words “listed in § 94.1(a)(2)” and adding in their place “listed under § 94.1(a)”.

§ 98.30 [Amended]

■ 31. Section 98.30 is amended by removing the definition of *APHIS-defined European CSF region*.

§ 98.38 [Amended]

■ 32. Section 98.38 is amended as follows:

■ a. In the introductory text, by adding the words “, as defined in § 94.0 of this subchapter,” immediately after the words “APHIS-defined EU CSF region”; and

■ b. In paragraph (b)(1), by removing the words “in §§ 94.9(a) and 94.10(a) of this chapter as one” and adding in their place the words “under §§ 94.9(a) and 94.10(a) of this chapter as a region”.

Done in Washington, DC, this 4th day of January 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–226 Filed 1–9–12; 8:45 am]

BILLING CODE 3410–34–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 228

RIN 0412–AA70

Procurement of Commodities and Services Financed by USAID Federal Program Funds.

AGENCY: Agency for International Development (USAID).

ACTION: Final rule.

SUMMARY: This Final Rule revises USAID regulations to simplify implementation of the statutory requirement that Federal assistance, or program, funds made available by the United States Congress (Congress) to USAID under the authority of the Foreign Assistance Act of 1961, as amended (FAA), be used for procurement in the United States (U.S.), the recipient country, or developing

countries. It does so by revising USAID’s current source, origin and nationality (S/O/N) regulation to track more closely the statutory procurement authority provided under the FAA and referenced above by establishing a new code for procurements from the U.S., recipient country and developing countries as well as reflecting existing, special procurement authorities established by Congress; deleting the concept of “origin,” and simplifying the concepts of “source” and “nationality” to reflect better Congress’s directive to procure from the U.S., recipient or developing countries; and simplifying application of the statutory waiver authority in the FAA.

DATES: *Effective:* February 6th, 2012.

FOR FURTHER INFORMATION CONTACT: John Niemeyer (or designee), Attorney Advisor, Office of the General Counsel, USAID, Rm. 6.07–105, 1300 Pennsylvania Ave. NW., Washington, DC 20523; telephone: (202) 712–5053 (this is not a toll-free number); jniemeyer@usaid.gov.

SUPPLEMENTARY INFORMATION:

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- Part II. The Final Rule
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 - Summary of Changes to the Existing Rule
- Part III. Responses to Comments Received on the Proposed Rule
- Part IV. Regulatory Planning and Review: Findings and Certifications of Impact Assessment

On August 19, 2011, USAID published in the **Federal Register** (76 FR 51916) a Proposed Rule which substantially modified the current S/O/N regulation by establishing a single primary geographic (source) code, deleting the concept of “origin” from the rule, requiring recipients and contractors to document “availability for purchase” of commodities and services, and streamlining existing waiver procedures. The Agency provided a forty five day public comment period on the Proposed Rule, which ended Monday, October 3rd, 2011. The Agency also offered the public the opportunity to submit comments by surface mail, email or fax.

The publication of the Proposed Rule was the second step in a three step, public “notice and comment” rulemaking procedure. Previously on February 16, 2011, USAID published an “Advanced Notice of Proposed Rulemaking” (ANPRM) in the **Federal Register** (76 FR 8961), proposing changes to the current regulation,

soliciting suggestions and comments for such changes, and providing a forty five day comment period, which ended April 4, 2011. Comments received in response to the ANPRM were discussed and reflected in the publication of the Proposed Rule. USAID’s discussion of the comments received in response to the Proposed Rule, below at part III, and reflection of those comments in this “Final Rule,” completes the public notice and comment rulemaking process. USAID also consulted with the relevant Congressional committees concerning revisions to the regulation.

USAID received sixteen public comments in response to the Proposed Rule, all strongly in favor of substantial simplification of the regulation to keep pace with the globalization of the economy. Comments also urged revision of the proposed requirement for documentation of multiple, yearly sales as part of the definition of “available for purchase;” revisions to the “nationality” proposed requirements to allow eligibility of foreign-owned (non-governmental) development organizations employing a majority of U.S. or developing country staff; and clarification of the waiver requirements. Comments received in response to the Proposed Rule are discussed and addressed in greater detail, below in part III, Responses to Comments Received on the Proposed Rule.

I. Background

Historically, the initial version of Section 604(a) provided that federal program funds made available under the FAA could be used for procurement outside the United States only if the President made a determination that such procurement would not have adverse effects upon the economy of the U.S., or that any such harm was outweighed by the benefits of “less costly government procurement outside the United States.” USAID implemented this directive by adapting the concepts of “source, origin and nationality” developed under USAID’s commodity import program (CIP),¹ to all program funded procurements under the FAA. USAID also adapted the “principal geographic codes”² developed under the CIP to apply to all USAID financed, Federal program funded procurements, in part in order to address Congress’s

¹ A CIP is a program in which USAID provides foreign exchange to a host country that, by the terms of the applicable agreement between USAID and the host country, is used to finance particular commodity import transactions of the host country.

² Geographic codes were established to note, for every implementing agreement, the source, origin and nationality authorized for every good and service procurement transaction under that implementing agreement.