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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 01–074–2]

#### Classical Swine Fever Status of Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations by adding the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa to the lists of regions considered free of classical swine fever. We have conducted a series of risk evaluations and have determined that these four States have met our requirements for being recognized as free of this disease. This action will allow the importation into the United States of pork, pork products, live swine, and swine semen from these regions. We are also adding certification requirements for the importation of live swine, pork, and pork products from Baja California, Baja California Sur, Chihuahua, and Sinaloa. The certification would identify the regions of export and origin as Baja California, Baja California Sur, Chihuahua, or Sinaloa or some other region that we recognize as free of classical swine fever and would also prevent the commingling of animals and products from these States with animals and products from classical-swine-fever-affected regions prior to export.

**EFFECTIVE DATE:** August 27, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. Hatim Gubara, Senior Staff Veterinarian, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

## SUPPLEMENTARY INFORMATION:

### Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations pertaining to the importation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

Until several years ago, the regulations in parts 91 through 99 (referred to below as the regulations) governed the importation of animals and animal products according to the recognized disease status of the exporting country. In general, if a disease occurred anywhere within a country's borders, the entire country was considered to be affected with the disease, and importations of animals and animal products from anywhere in the country were regulated accordingly. However, international trade agreements entered into by the United States—specifically, the North American Free Trade Agreement and the World Trade Organization Agreement on Sanitary and Phytosanitary Measures—require APHIS to recognize regions, rather than only countries, for the purpose of regulating the importation of animals and animal products into the United States.

Consequently, on October 28, 1997, we published in the **Federal Register** a final rule (62 FR 56000–56026, Docket No. 94–106–9, effective November 28, 1997) and a policy statement (62 FR 56027–56033, Docket No. 94–106–8) that established procedures for recognizing regions (referred to below as “regionalization”) for the purpose of regulating the importation of animals and animal products. With the establishment of those procedures, APHIS may consider requests to allow the importation of a particular type of animal or animal product from a foreign region, as well as requests to recognize all or part of a country or countries as a region. The regulations define the term *region*, in part, as “any defined geographic land area identifiable by

geological, political, or surveyed boundaries.”

In accordance with these regionalization procedures, on May 13, 2002, we published in the **Federal Register** (67 FR 31987–31992, Docket No. 01–074–1) a proposal to amend the regulations in §§ 94.9 and 94.10 by adding the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa to the lists of regions considered free of classical swine fever (CSF), thus allowing the importation into the United States of pork, pork products, live swine, and swine semen from these regions. We also proposed to remove references to those four States in § 94.15(b) because we believed that the provisions of that paragraph, which, among other things, govern the transiting through the United States of pork and pork products not otherwise eligible for entry into the United States under part 94, would no longer apply to those States once they were recognized as CSF-free.

We solicited comments concerning our proposal for 60 days ending July 12, 2002. We received six comments by that date. They were from U.S. and Mexican swine producers, a swine producers' association, importers, and a representative of the Mexican Government. Five of the commenters wrote in favor of the proposed rule.

The remaining commenter raised a number of issues, which we will discuss in the paragraphs that follow. Areas of concern discussed by the commenter included APHIS' risk assessment methodology; the conditions under which live swine and swine semen could be imported from the four Mexican States; the possibility that imports of those two commodities, in particular, could transmit not only CSF to U.S. herds but other diseases as well; the adequacy of surveillance programs in the four Mexican States; and the possibility that Chihuahua might export to the United States pork and pork products derived from swine imported into the State from CSF-affected regions.

The commenter cited several concerns regarding the methodology APHIS used in conducting its risk evaluations of Baja California, Baja California Sur, Chihuahua, and Sinaloa. Noting that an earlier rule allowing pork imports from the States of Yucatan and Sonora had been based on a qualitative “risk assessment,” the commenter questioned

why "risk evaluations" of the four Mexican States preceded the current rulemaking process. The commenter requested explanations of the differences between the two and of how APHIS decides which type of analysis to do, and also questioned whether a "full risk assessment" had been completed for Baja California, Baja California Sur, Chihuahua, and Sinaloa. The commenter also pointed out that a proposal to recognize several European Union (EU) countries, as well as parts of Italy and Germany, as CSF-free (see 64 FR 34155-34168, Docket No. 98-090-1, published June 25, 1999) followed an APHIS risk analysis that included quantitative risk assessments for live swine, semen, and pork. Because live swine and swine semen imports may pose a greater risk of CSF transmission than pork imports, the commenter asserted, APHIS should conduct separate risk assessments for live swine and semen and then apply appropriate risk-mitigation strategies. Finally, the commenter also expressed some concern about the age of the data collected during the site visits APHIS conducted as part of the risk evaluations of the four Mexican States, pointing out that the most recent site visit took place in February 1997.

In conducting our risk evaluations of the four Mexican States, we used our standardized approach, which complies with § 92.2 of the regulations. It is unclear what the commenter means by a "full risk assessment." The risk evaluation is equivalent, whether it is called a risk assessment or a risk evaluation. Historically, we have not conducted separate risk assessments for live swine and swine semen in similar rulemakings and have conducted quantitative as well as qualitative analyses primarily for rules designated as "significant" by the Office of Management and Budget. The EU proposal, unlike the one involving the four Mexican States, was a "significant" rule and was much larger in scope, involving various countries within the EU and regions within EU countries. For our proposed rule regarding Baja California, Baja California Sur, Chihuahua, and Sinaloa, we used our standard risk assessment methods and found the risk of CSF transmission to the United States via imports from the four Mexican States to be low. Because there have been no CSF outbreaks in any of the four States since our February 1997 site visit and APHIS had no information that risk levels had changed, APHIS did not view additional site visits as necessary.

The commenter requested additional information about the conditions under

which live swine would be imported, since, heretofore, they have not been imported into the United States from Mexico, and about the types, locations, biosecurity policies, etc., of the semen centers that would have the potential to ship semen for use in U.S. swine herds.

Though this final rule allows imports of live swine and swine semen from the four Mexican States, we do not intend to issue import permits for live swine and swine semen from Mexico until we have resolved several issues related to the presence of blue eye disease in Mexico (those issues are discussed in greater detail later in this document). We are confident, however, that once the blue eye disease issue is settled, the regulations will provide for the safe importation into the United States of live swine and swine semen from Baja California, Baja California Sur, Chihuahua, and Sinaloa.

The importation of live swine is subject to the conditions set out in §§ 93.500 to 93.521. These conditions include, among other things, requirements for import permits, health certification, inspection and cleaning of conveyances used to transport swine, inspection of swine at the port of entry, and quarantine methods and facilities. Section 93.507, which pertains to port-of-entry inspection, provides that only those swine found to be free of communicable diseases and not to have been exposed to communicable diseases in the 60 days prior to their importation are eligible for entry. Section 93.510 requires that all imported swine be quarantined for a period of not less than 15 days, dating from the arrival of the swine at the port of entry. For the most part, the regulations in part 93 provide effective prevention against transmission of CSF to the U.S. swine population by means of imports of live swine. After reviewing our regulations in light of the issues raised by the commenter, however, we did determine that we needed to provide more protection against the possible commingling of live swine from the four CSF-free States with swine from other regions before the eligible swine are exported to the United States. This additional protection will take the form of a certification requirement, which we will discuss later in this document.

The importation of swine semen is subject to the conditions in §§ 98.30 to 98.36. These conditions include requirements for the inspection, unloading, cleaning, and disinfection of aircraft, other means of conveyance, and shipping containers used to move animal semen into the United States; import permits; and health certificates and other documents. Part 98 also offers

protection against the commingling of animal semen from disease-free and disease-affected regions. Section 98.31(b) states that animal semen may not be imported into the United States from any region other than that in which it was collected. All shipping containers carrying animal semen for importation into the United States must be sealed with an official seal of the national veterinary service of the region of origin. Also, under part 98, import permits for semen may be denied because of, among other things, communicable disease conditions in the region of origin or in a region through which the shipment has been or will be transported. Taken together, these and other provisions in part 98 will make the prospect of CSF transmission to U.S. swine herds via the importation of swine semen from Baja California, Baja California Sur, Chihuahua, and Sinaloa very unlikely. Our review of part 98 in light of the issues raised by the commenter led us to conclude that we did not need to make any changes in the regulations pertaining to semen.

Another concern expressed by the commenter was that allowing the importation of live swine and swine semen from the four Mexican States could increase the risk of infection of U.S. swine herds with diseases such as pseudorabies, vesicular stomatitis, and blue eye disease.

The inspection, permitting, certification, and quarantine provisions in part 93 allow APHIS to screen imported live swine for pseudorabies and to take effective measures, which include refusal of entry, to prevent its spread. APHIS does not regard imports of live swine from Mexico as a source of risk for transmission of vesicular stomatitis and does not require testing of other species from Mexico for that disease. Blue eye disease does provide greater cause for concern. Although several laboratory tests have been developed for the detection of that disease, none has been validated or is commercially available in the United States. Moreover, APHIS does not have current and complete information on the geographic distribution of blue eye disease in Mexico. In the absence of specific clinical signs, a reliable laboratory test, and complete epidemiologic information, specific mitigation measures for blue eye disease of swine are difficult to design. Under § 93.504(a)(3), however, APHIS may deny permits for the importation of live swine and swine specimens if such imports would pose a disease risk. We intend to rely on this authority to support our decision to not issue any permits for the importation of live swine

and swine semen from the four Mexican States until the issue of blue eye disease can be addressed more comprehensively. With that goal in mind, APHIS intends to collect information and conduct an assessment of the risk of introducing blue eye disease in live swine and swine semen imported from Mexico.

The commenter also questioned why the import conditions we proposed to apply to pork and pork products from the four Mexican States differed from those specified in an earlier final rule pertaining to imports of pork and pork products from the Mexican States of Sonora and Yucatan that was published in the **Federal Register** on January 11, 2000 (65 FR 1529–1537, Docket No. 97–079–2).

Risk evaluations carried out during the 1990s led APHIS to promulgate the January 2000 final rule referred to by the commenter after concluding that pork and pork products could safely be imported into the United States from Yucatan and Sonora under conditions designed to prevent the commingling of such products prior to exportation with pork and pork products from surrounding regions with lower CSF status. Unlike this final rule, however, the January 2000 final rule did not recognize Yucatan and Sonora as free of CSF. Generally, import requirements tend to be more stringent for disease-affected regions than for those we recognize as disease-free, so it is to be expected that the requirements imposed on imports from Yucatan and Sonora would be more rigorous than those imposed on imports from Baja California, Baja California Sur, Chihuahua, and Sinaloa. On September 30, 2002, however, we published in the **Federal Register** (67 FR 61293–61300, Docket No. 02–002–1) a proposal to add Yucatan and Sonora, along with the Mexican States of Campeche and Quintana Roo, to the lists in §§ 94.9 and 94.10 of CSF-free regions. Should that proposed rule be finalized, pork and pork products imported from those States will be subject to the same requirements as pork and pork products from Baja California, Baja California Sur, Chihuahua, and Sinaloa.

The commenter also expressed concerns regarding surveillance activities in the four Mexican States. The commenter raised questions regarding the prevention of backyard swine from entering the commercial slaughtering process, the existence of feral swine populations in the four States and the prevalence of CSF among those populations, the States' plans for coping with future CSF outbreaks, the ability of APHIS to trace infected swine

back to particular farms or slaughterhouses, and the procedures APHIS would use to notify U.S. importers in the event of an outbreak of CSF in any of the four States.

We believe that if a region from which swine are being imported is free of CSF, then there is no reason to prevent backyard swine from that region from being slaughtered and imported. We only view feral swine as a cause for concern if such animals are transmitting disease to swine being raised for slaughter. As noted in the risk assessment documents, in accordance with Mexico's National Eradication Program, the four Mexican States all have active disease surveillance programs, strict border controls for animal movement, and emergency response systems or teams available in the event of CSF outbreaks. The certificate of origin required under § 93.505 would enable APHIS to trace infected animals back to specific slaughterhouses or farms. In the event of an outbreak in any of the four States, APHIS would notify U.S. importers by imposing an immediate ban and enforcing it by publishing an interim rule.

The commenter also raised some issues with regard to individual States. The commenter requested more details regarding the process by which backyard herds are randomly selected for CSF surveillance in Baja California. Regarding Baja California Sur, the commenter requested information on the number of backyard herds tested for CSF and the sources of the four CSF outbreaks that have occurred in the State since it was declared free of the disease by Mexico in 1991. With regard to Sinaloa, the commenter requested information regarding the source of the 1998 outbreak of CSF in neighboring Durango.

In Baja California, as in the other three Mexican States covered by this rule, the size of backyard animal samples is established through the determination of the presence or absence of CSF by the Cannon and Roe formula (1982), with a confidence interval of 99 percent and an expected prevalence in backyard premises of 0.15 percent. The number of municipalities in the State and the number of backyard farms in each municipality are determined by the Secretariat for Agriculture, Livestock, Rural Development, Fisheries, and Food Safety (SAGARPA). Premises are randomly selected for sampling by the assigned veterinarian according to the number of samples assigned to each municipality. Based on a swine census conducted in the State in 1998 and

1999, it was determined that samples would be taken from 172 and 241 backyard premises for those years, respectively, and would consist of 10 percent of the animals randomly selected from the total on each farm.

A description of the methodology used in sampling backyard herds in Baja California Sur is provided in the risk evaluation report for that State. APHIS did not collect data on the sources of the CSF outbreaks in Baja California Sur because the last of them occurred in 1995, and the State has remained CSF-free since then.

APHIS did not see a need to collect information on the source of the 1998 CSF outbreak in Durango because Durango was not among the Mexican States that were the subject of the proposed rule and we have not proposed to make any changes to the regulations regarding Durango's CSF status. Durango, which was declared free of CSF by the Mexican Government subsequent to the 1998 outbreak and is separated from Sinaloa by the Sierra Madre Occidental Mountains, is not seen as a likely source for the introduction of CSF into Sinaloa. In addition, animals or pork from Durango would be excluded by the certification requirements in this rule.

Noting the paucity of commercial swine in Chihuahua relative to backyard swine and the fact that Chihuahua is a net exporter of pork, the commenter suggested that most of the slaughter volume in the State must come from swine raised in other regions, possibly including regions affected with CSF. The commenter requested information on the origin of the swine that are slaughtered in Chihuahua and on restrictions on interstate movement of swine into the State.

APHIS has requested data from Chihuahua on the specific origin of any swine entering the State for slaughter and is awaiting a response. In any event, APHIS does not consider the importation of pork or pork products from Chihuahua under the certification requirements of this final rule to constitute a risk for spreading CSF. Also, as noted in the risk evaluation document for Chihuahua and in the proposed rule, some safeguards already exist to prevent Chihuahua from exporting contaminated pork or pork products to the United States. Movement of live swine from Mexican States with a lower CSF status into Chihuahua is prohibited, so even though it does appear that much of the pork Chihuahua exports comes from imported swine, the swine are likely to have come from CSF-free regions. Moreover, the swine are slaughtered at

Tipo Inspección Federal (TIF) plants that comply with international sanitary requirements and have official veterinary sanitary officers and supervision and certification by the countries to which they export.

Still, APHIS shares the commenter's broader concerns about products imported into the United States from certain regions designated as free of CSF. Historically, the CSF-free designation has been justified not only by the absence of the disease in a particular country but also by the strong border controls existing at national boundaries. These border controls were thought to provide effective mitigation against the risks presented by the possibility of pork, pork products, live swine, or swine semen being imported into CSF-free countries for subsequent export to the United States. The advent of regionalization has allowed APHIS to designate regions within countries, as well as entire countries, as free of CSF. While regionalization has allowed APHIS to exercise more flexibility in its regulatory process and has helped to facilitate trade, it has caused APHIS to reconsider the issue of border controls in some cases. Border controls between higher- and lower-risk regions within a country or within a larger community, such as the EU, may not always be equivalent to border controls between nations. The possibility that pork or pork products intended for export to the United States from some CSF-free regions could be derived from swine that originated in CSF-affected regions or could be commingled with pork or pork products from affected regions prior to export to the United States appears to be greater than it did in the past. Such imports could present a risk of introducing CSF into this country. Commingling is also a concern with live swine intended for export to the United States from certain CSF-free regions.

Some sections of the regulations in part 94 do contain provisions aimed at reducing the potential risks posed by the importation of animal products from disease-free regions when circumstances exist that indicate there may be the possibility that those products may be commingled with animal products from disease-affected regions. For example, § 94.11 places certain restrictions on meat and other animal products imported from certain regions that are designated in § 94.1 as free of rinderpest and foot-and-mouth disease (FMD) but that (1) supplement their meat supplies by the importation of fresh meat of ruminants or swine from regions affected by rinderpest or FMD, (2) share a common land border with such regions, or (3) import ruminants or

swine from such regions under conditions less restrictive than would be acceptable for importation into the United States. Section 94.13 has similar provisions for pork and pork products imported from certain regions that are designated in § 94.12(a) as being free of swine vesicular disease but that have risk factors like those of the FMD-free countries listed in § 94.11. The requirements currently in effect for the importation of pork and pork products from Yucatan and Sonora in § 94.20 include requirements for slaughtering, processing, and certification that are intended to address the risk of commingling.

Notwithstanding the requirements in § 94.20, the regulations in part 94 lack specific provisions for imports from CSF-free regions that are analogous to those of §§ 94.11 and 94.13. To mitigate the risks associated with importing live swine, pork, and pork products from the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa—States that are subject to risk factors similar to those associated with the regions listed in §§ 94.11 and 94.13—we are adding a certification requirement to this final rule. This certification requirement will help to ensure that live swine and pork and pork products from these four Mexican States will not be commingled with swine and products from CSF-affected regions in the region of origin, the region of export, or in transit prior to exportation, and that pork and pork products derived from swine originating in affected regions will not be exported to the United States from the four Mexican States.

Specifically, we are adding a new § 94.24, which specifies the contents of a certification that will have to accompany live swine, pork, or pork products imported into the United States from the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa. The new section has three components. The introductory text enumerates the risk factors that necessitate applying the certification requirement to the four States. Paragraph (a) specifies the certification requirements for live swine, and paragraph (b), for pork and pork products.

Paralleling §§ 94.11 and 94.13, the introductory text of new § 94.24 notes that although Baja California, Baja California Sur, Chihuahua, and Sinaloa are declared to be free of CSF in §§ 94.9 and 94.10, they supplement their pork supplies with fresh (chilled or frozen) pork imported from regions designated in §§ 94.9 and 94.10 as being affected by CSF, share a common land border with

such affected regions, or import swine from such affected regions under conditions less restrictive than would be acceptable for importation into the United States. Thus, there exists a possibility that live swine, pork, or pork products from these CSF-free regions may be commingled with live swine, pork, or pork products from regions where CSF is considered to exist, resulting in a risk of introducing the disease into the United States. Therefore, live swine, pork, or pork products and shipstores, airplane meals, and baggage containing pork or pork products, other than those regulated under 9 CFR part 95 (which regulates, among other things, such swine products as hides and bristles) or part 96 (which regulates, among other things, swine casings) must meet the requirements of new § 94.24 in addition to other applicable requirements in the regulations. For imported live swine, other applicable requirements include those in §§ 93.500 to 93.521, which, as noted earlier, cover, among other things, import permits, health certification, inspection and cleaning of conveyances that transport swine, inspection of swine at the port of entry, and quarantine methods and facilities. Other applicable requirements that govern the importation of pork and pork products are specified in the regulations of the Food Safety Inspection Service (FSIS) of the U.S. Department of Agriculture. Of particular relevance in this case are the foreign country eligibility requirements for products imported into the United States in 9 CFR 327.2 and the foreign meat inspection certificate requirements in § 327.4.

Paragraph (a) of new § 94.24 states that the swine must be accompanied by a certification issued by a full-time salaried veterinary officer of the Government of Mexico. Upon arrival of the swine in the United States, the certification must be presented to an authorized inspector at the port of arrival. The certification must identify both the exporting region and the region of origin as a region designated in §§ 94.9 and 94.10 as free of CSF.

Paragraph (a)(1) specifies that the certification must state that the swine have not lived in a region designated in §§ 94.9 and 94.10 as affected with CSF. This provision, along with the certification in paragraph (a) that the region of origin and exporting regions are both CSF-free, will help to ensure that swine exported from Baja California, Baja California Sur, Chihuahua, and Sinaloa to the United States will in fact have come from one of those States and will not have been

kept on premises in any region where CSF exists.

Paragraph (a)(2) specifies that the certification must state that the swine have never been commingled with swine that have been in a region that is designated in §§ 94.9 and 94.10 as affected with CSF. This provision will help to ensure that the swine will not be commingled while in Baja California, Baja California Sur, Chihuahua, or Sinaloa with swine imported into those States from other regions that may be affected with CSF.

Paragraph (a)(3) specifies that the certification must state that the swine have not transited through a region designated in §§ 94.9 and 94.10 as affected with CSF unless moved directly through the region to their destination in a sealed means of conveyance with the seal intact upon arrival at the point of destination. This provision will help to ensure that swine intended for export to the United States from the four Mexican States are not exposed to CSF while in transit prior to being exported.

Paragraph (a)(4) specifies that the certification must state that the conveyances or materials used in transporting the swine, if previously used for transporting swine, have been cleaned and disinfected in accordance with the requirements of § 93.502. This provision will help ensure that swine from Baja California, Baja California Sur, Chihuahua, or Sinaloa will not be exposed to CSF as a result of being transported in a contaminated conveyance.

Paragraph (b) states that pork or pork products intended for export to the United States must, like live swine, be accompanied by a certification issued by a full-time salaried veterinary officer of the Government of Mexico. Upon arrival of the pork or pork products in the United States, the certification must be presented to an authorized inspector at the port of arrival. The certification must identify both the exporting region and the region of origin of the pork or pork products as a region designated in §§ 94.9 and 94.10 as free of CSF at the time the pork or pork products were in the region. This provision will help to ensure that no pork or pork products exported from the four States to the United States will have originated in or been in a CSF-affected region.

Paragraph (b)(1) specifies that the certification must state that the pork or pork products were derived from swine that were born and raised in a region designated in §§ 94.9 and 94.10 as free of CSF and were slaughtered in such a region at a federally inspected slaughter plant that is under the direct supervision of a full-time salaried

veterinarian of the Government of Mexico and that is eligible to have its products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the FSIS regulations in 9 CFR 327.2. This provision will help ensure that the pork or pork products will only be derived from swine that are free of CSF and that slaughtering will take place in establishments and under conditions that meet FSIS standards.

Paragraph (b)(2) specifies that the certification must state that the pork or pork products have never been commingled with pork or pork products that have been in a region that is designated in §§ 94.9 and 94.10 as affected with CSF. This provision will help to ensure that the pork or pork products are not placed at risk of contamination in their region of origin via contact with pork or pork products that originated in a CSF-affected region.

Paragraph (b)(3) specifies that the certification must state that the pork or pork products have not transited through a region designated in §§ 94.9 and 94.10 as affected with CSF unless moved directly through the region to their destination in a sealed means of conveyance with the seal intact upon arrival at the point of destination. This provision will help to ensure that pork or pork products from the four Mexican States will remain safe from contamination by being kept in sealed containers while transiting through CSF-affected regions prior to importation into the United States.

Finally, paragraph (b)(4) specifies that the certification must state that if processed, the pork or pork product was processed in a region designated in §§ 94.9 and 94.10 as CSF-free in a federally inspected processing plant that is under the direct supervision of a full-time salaried veterinary official of the Government of Mexico. This provision will help to ensure that contamination will not occur during processing because the pork or pork products will be processed under appropriate supervision in establishments that are eligible to export pork and pork products to the United States.

#### Miscellaneous

As we noted earlier in this document, in our May 2002 proposed rule, we had proposed to remove references to Baja California, Baja California Sur, Chihuahua, and Sinaloa that were contained in § 94.15(b) of the regulations because we believed that the provisions of that paragraph, which, among other things, govern the transiting through the United States of pork and pork products not otherwise

eligible for entry into the United States under part 94, would no longer apply to those States once we recognized them as CSF-free. Some of the pork and pork products produced in those States for export, however, may be produced in plants that are not FSIS-approved. Such pork and pork products, while ineligible for importation into the United States under the conditions of this final rule, are allowed to transit through the United States under current § 94.15(b). In order to allow such products to continue to transit the United States, we have decided not to finalize our proposed changes to § 94.15(b).

The May 2002 proposed rule also discussed our intention to substitute the term “classical swine fever,” which has become standard usage among veterinary practitioners, for “hog cholera” wherever the latter term appeared in 9 CFR parts 71, 93, 94, 98, and 130. Because these editorial changes were included in another final rule pertaining to the CSF status of various regions in the EU, published in the **Federal Register** on April 7, 2003 (68 FR 16922–16941, Docket No. 98–090–5), we will not be finalizing that aspect of the proposed rule in this final rule.

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**. This rule adds the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa to the lists of regions considered free of CSF and allows pork, pork products, live swine, and swine semen to be imported into the United States from those regions, subject to certain conditions. We have determined that approximately 2 weeks are needed to ensure that APHIS personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 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.

Based on the assumption that these four States will not drastically increase their levels of pork production over that of the last few years, the amount of pork, pork products, live swine, and swine semen that may potentially be imported into the United States from Baja California, Baja California Sur, Chihuahua, and Sinaloa is likely to be

negligible. In 2000, the State of Sinaloa produced 1.1 percent of Mexico's live swine and 1.1 percent of its pork (FAS, USDA, GAIN Report, 2001), and Chihuahua produced 0.7 percent of Mexico's live swine and 0.5 percent of Mexico's pork (tables 1 and 2). The States of Baja California and Baja California Sur, which are not self-sufficient in pork production, produced smaller percentages. In 2001, these four

States together produced less than 2 percent of Mexico's total number of live swine (table 1) and slaughtered swine (table 2). Between 1999 and 2001, Mexico exported around 5 percent of its annual production of pork (table 3), which amounted to 50,667 metric tons on average. Mexico has not exported any live swine since 1997 (table 4).

TABLE 1.—LIVE SWINE IN MEXICAN STATES, 2001

State	Swine in commercial farms	Swine in backyard operations	Total
Baja California .....	15,251 (in 10 farms) .....	6,951 (in 548 farms) .....	22,202 (0.09%)
Baja California Sur .....	1,200 (in 2 farms) .....	20,550 (in unknown number of farms) .....	21,750 (0.09%)
Chihuahua .....	2,626 (in 5 farms) .....	169,183 (in 45,714 farms) .....	171,809 (0.67%)
Sinaloa .....	92,070 (in 25 farms) .....	192,544 (in 33,475 farms) .....	284,614 (1.11%)
Mexico .....	25,736,000 (swine crop + beginning stocks) in both commercial and backyard operations		

Source: Risk Assessments of Importing Pork into the United States From the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa; Risk Analysis Systems, PPD, APHIS, USDA.

TABLE 2.—NUMBER OF SWINE SLAUGHTERED IN MEXICAN SLAUGHTERHOUSES  
[Percentage of Mexico's Total in Parentheses]

State	1999	2000 *
Baja California .....	16,399 (0.15%)	7,660 (0.13%)
Baja California Sur .....	9,044 (0.08%)	4,612 (0.08%)
Chihuahua .....	60,634 (0.55%)	31,117 (0.54%)
Sinaloa .....	132,298 (1.19%)	63,639 (1.11%)
Mexico .....	11,110,978	5,729,229

Source: Confederacion Nacional Ganadera with data from SAGARPA. Sum of TIF and municipal slaughterhouses. \*As of June 30, 2000.

TABLE 3.—MEXICAN PORK (METRIC TONS)

Calendar Year	1999	2000	2001
Production .....	994,000	1,035,000	1,065,000
Imports .....	143,000	276,000	300,000
Total supply .....	1,137,000	1,311,000	1,365,000
Exports .....	33,000	59,000	60,000
Domestic consumption .....	1,104,000	1,252,000	1,305,000
Total demand .....	1,137,000	1,311,000	1,365,000

Source: USDA, FAS, GAIN Report #MX2015, Mexico, Livestock & Products, Semiannual Report 2002; source for stocks is the FAOSTAT database.

TABLE 4.—MEXICAN EXPORTS OF SWINE, LIVE PURE-BREEDING—010310

	1995	1996	1997	1998	1999	2000
Quantity .....	8	29	22	0	0	0
Value .....	\$5,000	\$439,000	\$170,000			

Source: FAS Global Agricultural Trade System using data from the UN Statistical Office.  
Data: Harmonized Tariff Schedule (HS 6 Digit).

The Regulatory Flexibility Act requires that agencies specifically consider the economic effects of their rules on small entities. The domestic entities most likely to be affected by our declaring the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa free of CSF are pork producers and importers.

According to the 1997 Agricultural Census, there were about 102,106 hog and pig farms in the United States in that year, of which 93 percent received \$750,000 or less in annual revenues. Agricultural operations with \$750,000 or less in annual receipts are considered small entities, according to the Small Business Administration's size criteria.

We do not anticipate that any U.S. entities (*i.e.*, importers of swine and pork and pork products, and swine and pork producers), small or otherwise, will experience any negative economic effects as a result of this rule. This is because the amount of pork, pork products, live swine, and swine semen likely to be imported into the United States from Chihuahua and Sinaloa is

negligible. We expect that the amount of these articles likely to be imported from Baja California and Baja California Sur will either be less than that from the other two States or none at all.

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) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### *Paperwork Reduction Act*

This final rule contains an information collection requirement that was not included in the proposed rule. Specifically, this final rule requires 50 burden hours for a certification that will have to be completed by Federal animal health authorities in Mexico to ensure that, prior to importation into the United States, live swine, pork, and pork products from Baja California, Baja California Sur, Chihuahua, and Sinaloa are not commingled with live swine, pork, and pork products from CSF-affected regions. In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), we submitted this information collection requirement for approval to the Office of Management and Budget (OMB). OMB has approved the information collection for a period of 6 months under control number 0579-0230. We plan, in the near future, to request continuation of that approval for 3 years.

#### *Government Paperwork Elimination Act Compliance*

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### **List of Subjects in 9 CFR Part 94**

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry

and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 94 as follows:

#### **PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS**

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

**Authority:** 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

##### **§ 94.9 [Amended]**

■ 2. In § 94.9, paragraph (a) is amended by adding the words “the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa;” after the words “Isle of Man;”.

##### **§ 94.10 [Amended]**

■ 3. In § 94.10, paragraph (a) is amended by adding the words “the Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa;” after the words “Isle of Man;”

■ 4. A new § 94.24 is added to read as follows:

##### **§ 94.24 Restrictions on the importation of live swine, pork, or pork products from Baja California, Baja California Sur, Chihuahua, and Sinaloa.**

The Mexican States of Baja California, Baja California Sur, Chihuahua, and Sinaloa, which are declared to be free of classical swine fever (CSF) in §§ 94.9 and 94.10, supplement their pork supplies with fresh (chilled or frozen) pork imported from regions designated in §§ 94.9 and 94.10 as being affected by CSF, 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, there exists a possibility that live swine, pork, or pork products from the CSF-free regions listed in this section 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. Therefore, live swine, pork, or pork products and shipstores, airplane meals, and baggage containing pork or pork products, other than those articles regulated under part 95 or part 96 of this chapter, originating in the CSF-free regions listed in this section shall not be

brought into the United States unless the following requirements are met in addition to other applicable requirements of parts 93 and 327 of this title:

(a) *Live swine.* The swine must be accompanied by a certification issued by a full-time salaried veterinary officer of the Government of Mexico. Upon arrival of the swine in the United States, the certification must be presented to an authorized inspector at the port of arrival. The certification must identify both the exporting region and the region of origin as a region designated in §§ 94.9 and 94.10 as free of classical swine fever at the time the swine were in the region and must state that:

(1) The swine have not lived in a region designated in §§ 94.9 and 94.10 as affected with classical swine fever.

(2) The swine have never been commingled with swine that have been in a region that is designated in §§ 94.9 and 94.10 as affected with classical swine fever;

(3) The swine have not transited through a region designated in §§ 94.9 and 94.10 as affected with classical swine fever unless moved directly through the region to their destination in a sealed means of conveyance with the seal intact upon arrival at the point of destination; and

(4) The conveyances or materials used in transporting the swine, if previously used for transporting swine, have been cleaned and disinfected in accordance with the requirements of § 93.502 of this subchapter.

(b) *Pork or pork products.* The pork or pork products must be accompanied by a certification issued by a full-time salaried veterinary officer of the Government of Mexico. Upon arrival of the pork or pork products in the United States, the certification must be presented to an authorized inspector at the port of arrival. The certification must identify both the exporting region and the region of origin of the pork or pork products as a region designated in §§ 94.9 and 94.10 as free of classical swine fever at the time the pork or pork products were in the region and must state that:

(1) The pork or pork products were derived from swine that were born and raised in a region designated in §§ 94.9 and 94.10 as free of classical swine fever and were slaughtered in such a region at a federally inspected slaughter plant that is under the direct supervision of a full-time salaried veterinarian of the Government of Mexico and that is eligible to have its products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et*



seq.) and the regulations in § 327.2 of this title;

(2) The pork or pork products have never been commingled with pork or pork products that have been in a region that is designated in §§ 94.9 and 94.10 as affected with classical swine fever;

(3) The pork or pork products have not transited through a region designated in §§ 94.9 and 94.10 as affected with classical swine fever unless moved directly through the region to their destination in a sealed means of conveyance with the seal intact upon arrival at the point of destination; and

(4) If processed, the pork or pork products were processed in a region designated in §§ 94.9 and 94.10 as free of classical swine fever in a federally inspected processing plant that is under the direct supervision of a full-time salaried veterinary official of the Government of Mexico.

(Approved by the Office of Management and Budget under control number 0579-0230)

Done in Washington, DC, this 7th day of August, 2003.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03-20488 Filed 8-11-03; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-141-AD; Amendment 39-13262; AD 2003-16-09]

RIN 2120-AA64

#### Airworthiness Directives; Learjet Model 45 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Learjet Model 45 airplanes. This action incorporates a reduced life-limit replacement interval for certain shear pins in the trunnion assemblies of the main landing gears (MLG) into the airworthiness limitations section of the Instructions for Continued Airworthiness, and requires replacement of those certain shear pins with new, improved shear pins. This action is necessary to prevent failure of the shear pins in the trunnion assemblies of the MLGs, which could result in the collapse of a MLG, and

consequent reduced controllability of the airplane during takeoff or landing. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 27, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 27, 2003.

Comments for inclusion in the Rules Docket must be received on or before October 14, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-141-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: [9-anm-iarcomment@faa.gov](mailto:9-anm-iarcomment@faa.gov). Comments sent via the Internet must contain "Docket No. 2003-NM-141-AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD may be obtained from Learjet, Inc., One Learjet Way, Wichita, Kansas 67209-2942. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Greg Davied, Aerospace Engineer, Airframe and Propulsion Branch, ACE-118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4128; fax (316) 946-4107.

**SUPPLEMENTARY INFORMATION:** The airplane manufacturer notified the FAA that results of fatigue testing conducted on the main landing gears (MLG) of Learjet Model 45 airplanes indicate that certain shear pins in the trunnion assemblies of the MLGs do not meet their expected life limit of 20,000 total landings. The shear pins in the trunnion assemblies are made of a material that allows hydrogen to penetrate the surface of the material, causing the material to

become brittle. Under impact or dynamic loading such as landing, the brittle material could fracture or shatter causing the shear pin(s) to fail before reaching the expected life limit. This type of hydrogen penetration usually occurs during the manufacturing process.

The results of fatigue testing also indicate that the shear pin bushings in the trunnion fitting housings had migrated outward from the fitting, which further weakened the shear pins and contributed to their premature failure.

This condition, if not corrected, could result in the collapse of a MLG, and consequent reduced controllability of the airplane during takeoff or landing.

#### Explanation of Relevant Service Information

The FAA has reviewed and approved Bombardier Service Bulletin 45-57-6, dated June 9, 2003, which describes procedures for replacing certain shear pins in the trunnion assemblies of the MLGs with new, improved shear pins. This replacement also includes reidentifying the trunnion assemblies. The new, improved shear pins have a maximum life limit of 1,800 total landings.

In addition, we have reviewed Revision 32 of Chapter 4-11-00, dated June 13, 2003, of the Learjet 45 Maintenance Manual. Page 2 of Chapter 4-11-00 specifies a maximum life limit of 1,800 landings for the shear pins in the trunnion assemblies of the MLGs.

Accomplishment of the actions specified in the service bulletin and Learjet 45 Maintenance Manual is intended to adequately address the identified unsafe condition.

#### Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD incorporates a reduced replacement interval for certain shear pins in the trunnion assemblies of the MLGs into the airworthiness limitations section of the Instructions for Continued Airworthiness, and requires replacement of those certain shear pins with new, improved shear pins. The actions are required to be accomplished in accordance with the service bulletin and Learjet 45 Maintenance Manual described previously, except as discussed below.