

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 03-018-2]

#### Asian Longhorned Beetle; Quarantined Areas and Regulated Articles

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the Asian longhorned beetle regulations by adding portions of New York City, NY, and Hudson County, NJ, to the list of quarantined areas and restricting the interstate movement of regulated articles from those areas. The interim rule also updated the list of regulated articles in order to reflect new information concerning host plants. These actions were necessary to prevent the artificial spread of the Asian longhorned beetle to noninfested areas of the United States.

**EFFECTIVE DATE:** The interim rule became effective on May 13, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael B. Stefan, Director of Emergency Programs, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-4387.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective May 13, 2003, and published in the **Federal Register** on May 19, 2003 (68 FR 26983-26985, Docket No. 03-018-1), we amended the Asian longhorned beetle regulations contained in 7 CFR 301.51-1 through 301.51-9 by adding portions of

New York City, NY, and Hudson County, NJ, to the list of quarantined areas in § 301.51-3(c) and restricting the interstate movement of regulated articles from those areas. We also updated the list of regulated articles in § 301.51-2(a) in order to reflect new information concerning host plants gathered through survey experience and research.

Comments on the interim rule were required to be received on or before July 18, 2003. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 68 FR 26983-26985 on May 19, 2003.

**Authority:** 7 U.S.C. 7701-7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 also issued under Sec. 204, Title II, Pub. L. 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 also issued under Sec. 203, Title II, Pub. L. 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 5th day of September, 2003.

**Peter Fernandez,**

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

[FR Doc. 03-23354 Filed 9-12-03; 8:45 am]

**BILLING CODE 3410-34-D**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 02-003-2]

#### Importation of Pork-Filled Pasta

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations regarding the importation of pork and pork products from regions affected with swine vesicular disease by establishing procedures for the importation of pork-filled pasta into the United States. The procedures require that the product contain only cooked or dry-cured pork otherwise eligible to enter the United States under the regulations; that the operator of any pork-filled pasta processing facility processing products for export to the United States enter into a cooperative service agreement with the Animal and Plant Health Inspection Service providing for unannounced inspections of the facility which are to be paid for by the facility; that the product not be commingled, directly or indirectly, with products ineligible to enter the United States; and that the product be accompanied by an official veterinary certificate confirming that the product has been prepared in accordance with the regulations. This action provides for the importation of pork-filled pasta under conditions designed to prevent the introduction of swine vesicular disease into the United States.

**EFFECTIVE DATE:** September 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. Masoud Malik, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-3277.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to prevent the introduction into the U.S. livestock population of certain contagious animal

diseases, including swine vesicular disease (SVD). Section 94.12 of the regulations contains requirements for the importation into the United States of pork and pork products from regions where SVD is known to exist. Section 94.17 of the regulations contains requirements for the importation into the United States of dry-cured pork products from regions where SVD, classical swine fever (CSF), foot-and-mouth disease (FMD), rinderpest, and African swine fever exist.

SVD is a highly contagious disease caused by an enterovirus that shows extraordinary resistance to both environmental factors and common disinfectants. SVD rarely results in mortality in infected swine and does not cause severe production losses. Still, the disease can have a major economic impact because eradication is costly and because SVD-free regions often prohibit imports of swine, pork, and pork products from affected regions.

Certain regions in Italy are considered to be affected with SVD and thus are not among those regions designated in § 94.12 as free of the disease. Similarly, certain regions in Italy are not included among the regions designated in §§ 94.9 and 94.10 as free of CSF. Therefore, cooked and dry-cured pork and pork products imported from certain regions in Italy are subject to the requirements in §§ 94.12 and 94.17.

On January 21, 2003, we published in the **Federal Register** (68 FR 2711–2714, Docket No. 02–003–1) a proposal to amend the regulations in § 94.12 by establishing procedures for the importation of pork-filled pasta into the United States from regions affected with SVD. The proposed procedures required that the product contain only cooked or dry-cured pork otherwise eligible to enter the United States under the regulations; that the product not be commingled, directly or indirectly, with products ineligible to enter the United States; and that the product be accompanied by an official veterinary certificate confirming that the product was prepared in accordance with the regulations.

We solicited comments concerning our proposal for 60 days ending March 24, 2003. We received four comments by that date. They were from foreign and domestic producers and representatives of the Government of Italy. All the commenters favored the proposed rule in its broad outlines, but three of the four requested that we modify certain provisions, arguing that the same level of protection against the introduction of SVD into the United States could be achieved in less intrusive ways. The comments are discussed below by topic.

Commenters pointed out that certain of the proposed requirements assumed that the pork-filled pasta would be produced in a facility used both for products eligible for export to the United States and those not eligible for export to the United States. (Such multi-use facilities are referred to as “non-dedicated facilities.”) The commenters specifically cited the requirements pertaining to storage areas for pork for pork-filled pasta products, cleaning and disinfection of machinery, and restricted use of processing lines, which were contained, respectively, in proposed § 94.12(c)(2) through (c)(4). The commenters maintained that the final rule should also provide for products produced in a dedicated facility that would produce only pork-filled pasta products eligible for export to the United States. The commenters suggested that the provisions of proposed paragraphs (c)(2) through (c)(4) would be irrelevant to such a dedicated facility, which should, therefore, be exempted from them.

We agree with the commenters that dedicated processing facilities that are exempt from the requirements in proposed paragraphs (c)(2) through (c)(4) can safely provide pork-filled pasta products for the U.S. market, and are providing for such an exemption in a new § 94.12(c)(7).

The commenters also urged that we modify the requirements contained in proposed § 94.12(c)(2) for the storage of pork intended for use in pork-filled pasta products for export to the United States. This paragraph stated that, at the pasta processing establishment, pork intended to be used for pork-filled pasta products for export to the United States must be stored in a separate room or facility from any meat or meat products not eligible for export to the United States. The commenters contended that an equivalent level of protection could be provided by storing U.S.-import-eligible pork in a dedicated area within existing refrigerated storage cells rather than in fully dedicated cells, provided these areas are separated by at least 1 meter from areas where ineligible meat is stored, marked with signs, and have their borders outlined on the floor. The commenters noted that the Animal and Plant Health Inspection Service (APHIS) has already adopted this approach for use in Italian prosciutto plants that are eligible to export their products to the United States under §§ 94.12 and 94.17.

The commenters also suggested that we modify proposed § 94.12(c)(4), which stated that processing lines working with pork-filled pasta products for export to the United States must process only pasta containing pork

eligible for such exportation and that, when such processing lines are working with pasta products containing pork for export to the United States, other lines may work only on pasta products that do not contain meat. Again citing APHIS’ practices in regard to Italian prosciutto plants, the commenters asserted that the cleaning and disinfection requirements set forth in proposed § 94.12(c)(3) were sufficient to prevent contamination of pork intended for the U.S. market and that requiring dedicated processing lines was unnecessary. The commenters recommended that, instead of requiring dedicated processing lines, the regulations require dedicated processing times, which the commenters said would be a less costly and intrusive but equally effective way to guard against commingling. Specifically, they proposed that a production line be dedicated to producing pork-filled pasta products for export to the United States only for the time necessary to complete a lot destined for the U.S. market, and that, when any line in the facility was processing such a lot, no other processing lines in the same facility be allowed to process products using meat that is not eligible for export to the United States. The commenters stated that these changes would allow the entire facility to be dedicated to producing pork-filled pasta products for export to the United States for the time needed to produce a specified amount of such products and then to be used to make other products.

We are incorporating the changes recommended by the commenters into our final rule. If strictly adhered to, the suggested provisions will prevent the introduction of SVD into the United States via imports of pork-filled pasta products from affected regions, while offering processors greater flexibility in the utilization of their facilities than the corresponding paragraphs in the proposed rule would have. However, to ensure that these changes will not increase the risk of introducing SVD into the United States, we consider it necessary to augment some of the requirements of the proposed rule.

We consider a more rigorous inspection requirement than that prescribed in the proposed rule to be necessary to ensure that processors comply with the regulations. The proposed rule, in § 94.12(c)(6), provided for periodic inspections of processing facilities and their records and operations by APHIS inspectors. In place of that general requirement, this final rule describes the terms of a cooperative service agreement, modeled on similar provisions for certain

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

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

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

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

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

#### Effective Date

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

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

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

These industries play an important role in the U.S. economy. There was a total inventory of 58.698 million swine in the United States as of March 1, 2002.<sup>1</sup> Cash receipts from swine farming in 2001 were about \$12.1 billion.<sup>2</sup> The industry marketed 26.7 billion pounds of pork in 2001. Additionally, the United States earned a substantial amount of money from exports of swine and swine products. The United States exported 1.075 billion pounds of pork, valued at \$1.283 billion, in 2001. Also 64,912 live swine were exported, which were valued at about \$12 million. The

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

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

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

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

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

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

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

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

<sup>6</sup>Global Trade Information Services, Inc., World Trade Atlas, United States Edition, December 2001.

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

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

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

producers are considered small businesses if they employ 500 workers or fewer.<sup>8</sup> Most U.S. pasta manufacturers can be considered small.

Compared to total imports of pasta, valued at \$324 million in 2001, imports of stuffed pasta make up a relatively small proportion.<sup>9</sup> Additionally, tortellini is just one of the many varieties of stuffed pasta. Other varieties include agnolotti, calazoncelli, cappelletti, farfalle, ravioli, and tortelli. Each of these has variations, depending on whether the filling ingredients are fish-based, ground meat, vegetables, cheese, mushrooms, or herbs and spices. Although information on the exact amount of each type imported is not available, the share of each is likely to be small.

As a new variant of these products, dry, shelf-stable, pork-filled tortellini is also likely to have a small market. Imports of this product are likely to be too small to have any price effect at the industry level. No direct price competition can be expected when imports are initiated because there are no known domestic producers of pork-filled tortellini. Price competition with other filled pasta products is also considered unlikely because, as a new product with a small market, pork-filled tortellini is unlikely to have a major effect on consumer demand for those other products. Allowing imports of pork-filled tortellini may eventually stimulate new competition by encouraging domestic pasta manufacturers to develop a similar product. Consumers may also benefit from having their choices of pasta products expanded.

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.

[www.rurdev.usda.gov/rbs/pub/jul01/niche.htm](http://www.rurdev.usda.gov/rbs/pub/jul01/niche.htm). About 80 million bushels of durum wheat were allocated for food use in 2001. Assuming a bushel of wheat yields 42 pounds of pasta, the amount of wheat in food use equals 3,360 million pounds of pasta.

<sup>8</sup> NAICS code 311823, dry pasta manufacturers.

<sup>9</sup> Global Trade Information Services, Inc., World Trade Atlas, United States Edition, December 2001.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0214.

#### 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.

■ 2. In § 94.12, a new paragraph (c) is added and the OMB control number citation at the end of the section is revised to read as follows:

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

\* \* \* \* \*

(c) *Requirements for pork-filled pasta products from regions affected with swine vesicular disease.* (1) Pork-filled pasta products processed for export to the United States may only be filled with pork or pork products that are otherwise eligible to be exported to the United States and that meet the requirements of paragraph (b)(1)(i), (ii), or (v) of this section or of § 94.17.

(2) The operator of the pork-filled pasta processing facility must have signed a cooperative service agreement with APHIS prior to receipt of the pork intended to be used in pork-filled pasta products, stating that all such pork will be processed only in accordance with § 94.12 or § 94.17. Pursuant to the cooperative service agreement, the establishment must allow the unannounced entry into the establishment of APHIS representatives, or other persons authorized by the Administrator, for the purpose of inspecting the facilities, operations, and records of the establishment. The establishment must be current in paying all costs for such inspections (it is anticipated that such inspections will occur up to four times per year). These costs include travel, salary, subsistence, administrative overhead, and other incidental expenses (including an excess baggage provision up to 150 pounds). In accordance with the terms of the cooperative service agreement, the operator of the processing establishment must deposit with the Administrator an amount equal to the approximate costs for APHIS to inspect the establishment one time, including travel, salary, subsistence, administrative overhead and other incidental expenses (including an excess baggage provision up to 150 pounds), and, as funds from that amount are obligated, bills for costs incurred based on official accounting records will be issued to restore the deposit to its original level. Amounts to restore the deposit to its original level must be paid within 14 days of receipt of such bills.

(3) At the pasta processing establishment, pork intended to be used for pork-filled pasta products for export to the United States must be stored apart from any meat or meat products not eligible for export to the United States, either in a separate storage room or facility or in a separate area of the same storage room. Any storage room area reserved for pork or pork products eligible for export to the United States must be separated by at least 1 meter from any storage room area where meat or meat products ineligible for export to the United States are stored and must be marked by signs and by having its borders outlined on the floor.

(4) Prior to handling pork used for pork-filled pasta products intended for export to the United States, workers at the processing facility who handle pork or pork products in the facility must shower and put on a full set of clean clothes, or wait 24 hours after handling pork or pork products that are not

eligible for importation into the United States.

(5) All equipment and machinery that will come in contact with the pork or other ingredients of pork-filled pasta products intended for export to the United States must be cleaned and disinfected before each use.

(6) Processing lines working with pork-filled pasta products for export to the United States must be totally dedicated to the production of such products for the time needed to complete a given lot. When any processing line in a facility is working with pork-filled pasta products intended for export to the United States, no other processing lines in the same facility may work on products using meat that is not eligible for export to the United States.

(7) Processing facilities that are completely dedicated to producing only pork-filled pasta products for export to the United States and do not receive, handle, or process any animal product not intended for export to the United States are exempt from the requirements of paragraphs (c)(3) through (c)(6) of this section.

(8) During processing, the pork-filled pasta must be steam-heated to a minimum internal temperature of 90 °C, then dried, cooled, and packed to make the product shelf stable without refrigeration.

(9) The processing facility must maintain under lock and key, for a minimum of 2 years, an original record of each lot of pork or pork products used for pork-filled pasta products for export to the United States. Each record must include the following:

(i) The date that the cooked or dry-cured pork product was received in the processing facility;

(ii) The number of packages, the number of hams or cooked pork products per package, and the weight of each package;

(iii) A lot number or other identification marks;

(iv) The health certificate that accompanied the cooked or dry-cured pork product from the slaughter/processing facility to the meat-filled pasta product processing facility; and

(v) The date that the pork or pork product used in the pasta started dry curing (if the product used is a dry-cured ham) or the date that the product was cooked (if the product used is a cooked pork product).

(10) The pork-filled pasta must be accompanied by a certificate issued by an official of the National Government of the region in which the pasta product is processed who is authorized to issue the foreign meat inspection certificate required under § 327.4 of this title,

stating that the pork-filled pasta product has been processed in accordance with the requirements of this section.

Upon arrival of the pork-filled pasta in the United States, the certificate must be presented to an inspector at the port of arrival.

(Approved by the Office of Management and Budget under control numbers 0579-0015 and 0579-0214)

Done in Washington, DC, this 8th day of September 2003.

**Peter Fernandez,**

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

[FR Doc. 03-23431 Filed 9-12-03; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 121, 125, and 135

[Docket No.: FAA-2003-15682; Amendment Nos. 121-288, 125-42, 135-84]

RIN 2120-AH89

#### Digital Flight Data Recorder Requirements—Changes to Recording Specifications and Additional Exceptions; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Correction.

**SUMMARY:** This document makes corrections to the correction to the final rule published in the **Federal Register** on August 20, 2003 (68 FR 50069). This document makes a minor change to a section number that was changed in the previous correction to the final rule. In the first correction document, we inserted a corrected Parameter 15 into the appendixes for part 121 and part 125 in the final rule. We inadvertently cited § 135.152(j) in the “Seconds per sampling interval” column when we should have cited § 121.344(f).

**DATES:** This correction is effective August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Gary Davis, Flight Standards Service, Air Transportation Division; telephone (202) 267-8166; facsimile (202) 267-5229; e-mail [gary.davis@faa.gov](mailto:gary.davis@faa.gov).

#### Background

In response to a series of recommendations issued by the National Transportation Safety Board (NTSB), the FAA revised and updated parts 121, 125 and 135 of Title 14, Code of Federal Regulations (14 CFR) in 1997 to require that flight data recorders on

U.S. registered airplanes be upgraded to record additional parameters of data (62 FR 38362, July 17, 1997). The exact number of parameters required depends on the age of the airplane; airplanes manufactured after August 19, 2002, must record 88 parameters of flight data.

The final rule published on July 18, 2003 (68 FR 42932) amends the flight data recorder regulations by expanding the recording specifications of certain data parameters for specified airplanes, and by adding aircraft models to the lists of aircraft excepted from the 1997 regulations. In addition, this rule corrects specifications in an operating rule appendix that were inadvertently omitted in previous actions. These changes are necessary to allow the continued operation of certain aircraft that are unable to meet the existing recorder criteria using installed equipment. The changes are also necessary for certain aircraft for which the cost to retrofit under 1997 regulatory changes would be cost prohibitive.

#### List of Subjects

##### 14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

##### 14 CFR Part 125

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

##### 14 CFR Part 135

Air taxis, Aircraft, Aviation safety, Reporting and record keeping requirements.

#### Correction

In the correction to the final rule “Digital Flight Data Recorder Requirements—Changes to Recording Specifications and Additional Exceptions” published in the **Federal Register** on August 20, 2003, FR Doc. No. 03-21329 (68 FR 50069) make the following correction:

1. On page 50069, in the chart for Parameter 15, in the fourth column, correct “0.5 or 0.25 for airplanes operated under § 135.152(j).” to read “0.5 or 0.25 for airplanes operated under § 121.344(f).”

Issued in Washington, DC on September 9, 2003.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

[FR Doc. 03-23505 Filed 9-12-03; 8:45 am]

**BILLING CODE 4910-13-P**