

III and IV price formulas and breaks the necessary link between Class I prices and any future changes in Class III and IV pricing formulas.

#### Class II Discussion

Proponents argue that the formula used to determine the Class II price does not properly account for the costs of drying and re-hydrating NFDM and encourages the substitution of NFDM for fresh skim milk in Class II products. They claim that a \$0.17 per cwt increase in the Class II minimum price is necessary to reflect increased costs of drying and re-hydrating skim milk. Additionally, they proposed that the Class II butterfat price be the same as the Class I butterfat price. Proponents argue that since milk supplies for Class I and II products are complementary, and that the Class II butterfat supply is primarily from surplus butterfat at Class I bottling plants, the butterfat values should be the same. Proponents fail, however, to provide relevant data demonstrating that condensing and re-hydrating costs have actually increased to levels advanced, or a compelling argument as to why Class I and II butterfat values should be equal.

Adoption of NMPF's proposed Class II skim milk formula would also sever the relationship between Class IV and Class II product prices, just as it would to the relationship of the Class I price to Class III and IV prices. If a change was made to the Class IV price formula in future proceedings, for example, a make allowance proceeding, the change would not be reflected in the Class II price.

#### Rulings on Findings and Conclusions

All briefs, findings and conclusions, and the evidence in the record were considered in reaching the findings and conclusions set forth above. The petition to consider proposals that would have increased Class I and Class II prices and modified the formulas used to determine Class I and Class II prices is denied for the reasons stated in this decision.

#### Termination of Proceeding

At issue in this proceeding is whether the level of the Class I and II prices, and the manner in which the Class I and II prices are determined, are successful in promoting orderly marketing conditions and meeting the intent of the Agricultural Marketing Agreement Act of 1937 (AMAA). As reflected in the above Class I and Class II discussions, the record does not demonstrate that the proposed modifications to the Class I and Class II price formulas are supportable. While some evidence may

indicate that dairy farmers have faced increased additional costs in supplying the needs of the fluid market, other evidence suggests that other costs may have decreased. In any case, the evidence is neither compelling nor provides a basis to make a reasoned decision for either recommending adoption or denial of the proposals. Accordingly, the proceeding is terminated.

#### List of Subjects in 7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, and 1131

Milk marketing orders.

The authority citation for 7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, and 1131 continues to read as follows:

**Authority:** 7 U.S.C. 601–674, and 7253.

Dated: December 19, 2008.

**James E. Link,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8–30697 Filed 12–23–08; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. APHIS–2007–0124]

#### Change in Disease Status of Surrey County, England, Because of Foot-and-Mouth Disease

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations governing the importation of certain animals, meat, and other animal products into the United States by restoring Surrey County, England, to the list of regions of the world that are considered free of rinderpest and foot-and-mouth disease (FMD), and to the list of regions of the world considered free of rinderpest and FMD but subject to additional importation restrictions because of those regions' proximity to or trading relationships with FMD-affected regions. This final rule follows an interim rule that removed Surrey County, England, from those lists due to the detection of FMD in that region. Based on the results of a risk analysis concerning the FMD disease status of Surrey County, England, we have determined that Surrey County, England, can be added to the list of regions considered free of FMD. This

rule relieves certain FMD-related prohibitions and restrictions on the importation of ruminants and swine and the fresh meat and other animal products of ruminants and swine into the United States from Surrey County, England.

**DATES:** *Effective Date:* January 8, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dr. Chip Wells, Senior Staff Veterinarian, Regionalization Evaluation Services Import Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

#### SUPPLEMENTARY INFORMATION:

#### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest and foot-and-mouth disease (FMD). FMD is a severe and highly contagious viral infection affecting all cloven-hoofed animals, including cattle, deer, goats, sheep, swine, and other animals. Section 94.1 of the regulations lists regions of the world that are considered free of rinderpest and FMD. Section 94.11 lists regions of the world that the Animal and Plant Health Inspection Service (APHIS) has determined to be free of rinderpest and FMD but from which the importation of meat and other animal products into the United States is subject to additional restrictions because of those regions' proximity to or trading relationships with FMD-affected regions.

In an interim rule<sup>1</sup> effective and published in the **Federal Register** on January 30, 2008 (73 FR 5424–5426, Docket No. APHIS–2007–0124), we amended the regulations in § 94.1 to remove Surrey County, England, from the list of regions that are considered free of rinderpest and FMD. We also amended the regulations in § 94.11 to remove Surrey County, England, from the list of regions considered free of rinderpest and FMD but from which the importation of meat and other animal products of ruminants and swine into the United States is subject to additional restrictions. That action was necessary because, by September 30, 2007, a total of eight outbreaks of FMD in Surrey County, England, had been reported to the World Organization for Animal Health (OIE). As a result of the interim

<sup>1</sup> To view the interim rule and the comment we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0124>.

rule, the importation of ruminants and swine and the fresh meat and other animal products of ruminants and swine from Surrey County, England, was restricted.

Although we removed Surrey County, England, from the list of regions that are considered free of rinderpest and FMD we recognized that: (1) FMD was not known to exist in the United Kingdom outside of Surrey County, England; (2) the United Kingdom maintained strict control over the importation and movement of animals and animal products from regions of higher risk and established barriers to the spread of FMD from Surrey County, England; (3) the United Kingdom maintained a surveillance system capable of detecting FMD should the disease have been introduced into other regions of the country; and (4) the United Kingdom has the laws, policies, and infrastructure to detect, respond to, and eliminate any occurrence of FMD. We stated that we intended to reassess the situation in accordance with the standards of the OIE, and that as part of the reassessment process, we would consider all comments received regarding the interim rule.

We solicited comments on the interim rule for 60 days ending March 31, 2008. The only comment we received directed our attention to a press release from a governmental agency of the United Kingdom which announced that the OIE had restored the FMD-free status of the United Kingdom as of February 19, 2008.

On May 23, 2008, we published a notice<sup>2</sup> in the **Federal Register** (73 FR 30002–30003, Docket No. APHIS–2007–0124) in which we advised the public of the availability of a risk analysis that had been prepared by APHIS concerning the FMD status of Surrey County, England, and the related disease risks associated with importing ruminants and swine and the fresh meat and other animal products of ruminants and swine from Surrey County, England. The risk analysis, entitled “APHIS Risk Analysis on Importation of Foot and Mouth Disease (FMD) Virus from Surrey County, England, in the United Kingdom,” examined the events that occurred during and after the outbreaks and assessed the risk associated with the resumption of imports of ruminants and swine and the fresh meat and other animal products of ruminants and swine from Surrey County, England. In the risk analysis,

APHIS concluded that the risk of introducing FMD into the United States as a result of the resumption of imports of ruminants and swine and the fresh meat and other animal products of ruminants and swine from Surrey County, England, is low.

We solicited comments concerning the risk analysis for 60 days ending July 22, 2008. We received three comments by that date. The comments were from private citizens who opposed relieving restrictions on Surrey County, England. None of the commenters offered any data or substantive information to support their objections, however.

Therefore, based on the conclusions of our risk analysis and for the reasons given in this document, we are amending the regulations by restoring Surrey County, England, to the list of regions of the world that are considered free of rinderpest and FMD, and to the list of regions of the world considered free of rinderpest and FMD but subject to additional importation restrictions because of those regions’ proximity to or trading relationships with FMD-affected regions.

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12866 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.

#### Regulatory Flexibility Act

The following analysis addresses the economic effects of this rule on small entities, as required by the Regulatory Flexibility Act.

FMD is a contagious viral disease of ruminants, swine, and other cloven-hoofed animals. In August 2007, FMD was confirmed in Surrey County, England, and by the end of September 2007, a total of eight outbreaks had been reported to the World Organization for Animal Health (OIE). In an interim rule published January 30, 2008, APHIS amended the regulations by removing Surrey County from the list of regions in § 94.1 that are considered free of rinderpest and FMD, and from the list of regions in § 94.11 that are considered free of rinderpest and FMD but from which the importation of meat and other animal products of ruminants and swine into the United States is subject to additional restrictions.

Since publication of the interim rule, the outbreaks have been eradicated and the United Kingdom has maintained the policies and infrastructure necessary to detect, respond to, and eliminate any recurrence of FMD. As a result, APHIS has concluded that the risk of

introducing FMD into the United States with the resumption of importation from Surrey County of ruminants and swine and the fresh meat and other animal products of ruminants and swine is low.

With this rule, U.S. entities will be able to import from Surrey County any ruminant or swine or any fresh (chilled or frozen) meat or other product of any ruminant or swine, subject to the restrictions in § 94.11 and any regulatory restrictions that may apply concerning other animal diseases.

#### *U.S. Imports of Affected Products From the United Kingdom*<sup>3</sup>

For the 3 years 2005 to 2007, the United States imported 2.2, 1.4, and 1.5 million kilograms of fresh or frozen pork products from the United Kingdom. These imports were valued at \$10.8, \$7.3, and \$7.3 million, respectively. Over the same period, the United States imported 6.2, 5.7, and 5.8 million kilograms of dairy products from the United Kingdom, valued at \$37.7, \$41.9, and \$45.9 million, respectively. These annual quantities and values indicate that the prohibition on imports of ruminant and swine products from Surrey County, England, during the latter part of 2007 (following the FMD outbreak) did not appear to affect U.S. imports of pork or dairy products from the United Kingdom. Pork and pork products imported from the United Kingdom represent less than 2 percent of total U.S. pork and pork products imports, and the dairy product imports from the United Kingdom represent less than 3 percent of total U.S. dairy product imports. Other ruminant and swine products imported by the United States from the United Kingdom include wool, wool grease, hides, bovine semen, fertilizers, and animal hair.

Entities potentially affected by this final rule are importers and producers of animals and animal products. The majority of such enterprises are small entities, as defined by the Small Business Administration. For most categories of wholesale trade, the small-entity standard is not more than 100 employees. For most categories of animal production, the small-entity standard is not more than \$750,000 in annual receipts.

Most businesses that could be affected by this rule are small. However, we expect the effects will be insignificant. As indicated above, U.S. imports of swine and dairy products from the United Kingdom comprise a small share of total U.S. imports of these products.

<sup>3</sup> Source: U.S. Department of Commerce, Bureau of the Census, as reported in the Global Trade Atlas.

<sup>2</sup> To view the risk analysis document and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0124>.

Moreover, it is likely that Surrey County is the origin of only a negligible share of the United Kingdom's exports of ruminant and swine products to the United States, given the relatively small size of that county's ruminant and swine inventories. As reported by the United Kingdom's Department for Environment, Food, and Rural Affairs, only 0.6 percent of England's cattle, 0.2 percent of its swine, 0.4 percent of its sheep, and 1.4 percent of its goats were located in Surrey County in June 2007.<sup>4</sup>

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.

#### 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 restores Surrey County, England, to the list of regions of the world that are considered free of rinderpest and FMD, and to the list of regions of the world considered free of rinderpest and FMD but subject to additional importation restrictions because of those regions' proximity to or trading relationships with FMD-affected regions. We have determined that approximately 2 weeks are needed to ensure that APHIS and the Department of Homeland Security, Bureau of Customs and Border Protection, 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**.

#### 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, the interim rule amending 9 CFR part 94 that was published at 73 FR 5424–5426 on January 30, 2008, is adopted as a final rule with the following changes:

### **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, 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.

#### **§ 94.1 [Amended]**

■ 2. In § 94.1, paragraph (a)(2) is amended by removing the words “(except for Surrey County, England)”.

#### **§ 94.11 [Amended]**

■ 3. In § 94.11, paragraph (a) is amended by removing the words “(except for Surrey County, England)”.

Done in Washington, DC, this 16th day of December 2008.

**Kevin Shea,**

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

[FR Doc. E8–30724 Filed 12–23–08; 8:45 am]

**BILLING CODE 3410–34–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA–2008–0975; Directorate Identifier 2008–NE–29–AD; Amendment 39–15772; AD 2008–26–06]**

**RIN 2120–AA64**

### **Airworthiness Directives; Rolls-Royce Corporation (RRC) AE 3007A Series Turbofan Engines**

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

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

**SUMMARY:** The FAA is superseding emergency airworthiness directive (AD) 2008–19–51 that we sent previously to all known U.S. owners and operators of RRC AE 3007A series turbofan engines. That AD requires performing initial and repetitive eddy current inspections (ECIs) on the high-pressure turbine (HPT) stage 2 wheel for cracks. This AD continues to require those same inspections, but revises the compliance schedule for the initial inspection and specifies the affected HPT stage 2 wheels by part number (P/N). This AD results from reports of cracked HPT

stage 2 wheels. We are issuing this AD to detect cracks in the HPT stage 2 wheel, which could result in a possible uncontained failure of the HPT stage 2 wheel and damage to the airplane.

**DATES:** Effective January 8, 2009.

We must receive any comments on this AD by February 23, 2009.

**ADDRESSES:** Use one of the following addresses to comment on this AD.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- **Hand Delivery:** Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- **Fax:** (202) 493–2251.

Contact Rolls-Royce Corporation, P.O. Box 420, Speed Code U15, Indianapolis, IN 46206–0420, e-mail: [indy.pubs.services@rolls-royce.com](mailto:indy.pubs.services@rolls-royce.com), for the service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Kyri Zaroyiannis, Aerospace Engineer, Chicago Aircraft Certification Office, Small Airplane Directorate, FAA, 2300 E. Devon Ave., Des Plaines, IL 60018; e-mail: [kyri.zaroyiannis@faa.gov](mailto:kyri.zaroyiannis@faa.gov); telephone (847) 294–7836; fax (847) 294–7834.

**SUPPLEMENTARY INFORMATION:** On September 8, 2008, we issued emergency AD 2008–19–51, that applies to RRC AE 3007A series turbofan engines. That AD requires performing initial and repetitive ECIs on HPT stage 2 wheels that have accumulated 6,500 or more cycles-since-new (CSN). That AD resulted from reports of HPT stage 2 wheels that had cracks in the bores of the wheels. This condition, if not corrected, could result in a possible uncontained failure of the HPT stage 2 wheel, which could cause damage to the airplane.

#### **Actions Since AD 2008–19–51 Was Issued**

Since we issued that AD, we have determined that the cracks in the HPT stage 2 wheel bores are caused by a thermally-induced high stress in the disk bore which was not identified at the time of the original certification. We performed a new risk assessment for cracking in the bore of the HPT stage 2 wheel using the FAA methodology guidelines in FAA Advisory Circular 39.8 and the results of the inspections from AD 2008–19–51. The risk

<sup>4</sup> Department for Environment, Food, and Rural Affairs (DEFRA), UK. June 2007 Agricultural and Horticultural Survey—England. [http://www.defra.gov.uk/esg/work.htm/publications/cs/farmstats/web/2\\_SURVEY\\_DATA\\_SEARCH/COMPLETE\\_DATASETS/PSM/RegCountUA\\_07.xls](http://www.defra.gov.uk/esg/work.htm/publications/cs/farmstats/web/2_SURVEY_DATA_SEARCH/COMPLETE_DATASETS/PSM/RegCountUA_07.xls).