

**Memorandum of Understanding
Between
United States Department of Agriculture
Food Safety and Inspection Service (FSIS)
And
United States Department of Agriculture
Animal and Plant Health Inspection Service (APHIS)**

ARTICLE 1 – PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to describe roles, responsibilities, and authorities of the parties regarding implementation of the “Bovine Spongiform Encephalopathy; Minimal-Risk Regions; Importation of Live Bovines and Products Derived from Bovines Final Rule” (hereafter called the Rule). This Rule (72 FR, Docket No. APHIS-2006-0041, pages 53314-53379) establishes conditions for the importation of certain live ruminants and ruminant products and byproducts from minimal risk regions identified by the Animal and Plant Health Inspection Service (APHIS). Animals not in compliance with the age and other provisions of the Rule are ineligible for import into the United States and, therefore, ineligible for slaughter.

ARTICLE 2 – AUTHORITY

Food Safety and Inspection Service (FSIS) personnel will function on the behalf of APHIS, under authority granted by the Animal Health Protection Act (AHPA), 7 U.S.C. 8301 et seq. Under this authority delegated by APHIS, FSIS is authorized to implement the provisions of the Rule, Title 9 Code of Federal Regulations sections 93.419 and 93.420 and 7 U.S.C. 8306 regarding holding of live animals or articles (carcasses and parts) that are found to be not in compliance with the Rule.

ARTICLE 3 – FSIS RESPONSIBILITIES

A. Verification activities for animals shipped directly from Canada for immediate slaughter:

At establishments in which an establishment employee has not been authorized under Title 9 of the *Code of Federal Regulations* (9 CFR) Section 93.400 to break official seals:

1. FSIS, on arrival of animals from Canada shipped for immediate slaughter, will verify that the means of conveyance is properly sealed by either a Canadian government seal or U.S. government seal. If the official seals are broken, missing, or otherwise tampered with, FSIS personnel will hold the animals after unloading and promptly notify the APHIS Area Veterinarian in Charge (AVIC) with jurisdiction in the State where the official establishment is located.

2. For shipments arriving under seal of the Canadian or U.S. government, FSIS personnel will verify that Veterinary Services (VS) Form 17-33 has accompanied the load, and verify that the number of animals on the load is the same as the number noted on the VS 17-33. FSIS personnel will promptly return the completed VS 17-33 to the VS Port of Entry.
3. FSIS personnel will verify plant programs by reviewing paperwork and monitoring plant activities to assure the animals arrive with a Canadian health certificate and that certificates for sheep and goats show the age of each of the animals in months, and that the age is less than 12 months for sheep and goats. If sheep and goats are determined to be 12 months of age or greater, FSIS will hold, under the AHPA, live animals or carcasses for APHIS disposition.
4. FSIS will hold, under the AHPA, and promptly report to the AVIC, any animal or shipments of animals arriving with missing Canadian ear tags, with broken or missing seals, or without appropriate APHIS forms and Canadian Health Certificates.
5. FSIS will hold pregnant sheep and goats sent to slaughter, under the AHPA, and contact the AVIC.

B. Verification activities for Canadian sheep and goats shipped from a U.S. feedlot to slaughter:

At establishments in which an establishment employee has not been authorized under 9 CFR 93.400 to break official seals:

1. FSIS, on arrival of Canadian sheep and goats from a U.S. feedlot, will verify that the means of conveyance is properly sealed with a U.S. government seal. If the official seals are broken, missing, or otherwise tampered with, FSIS personnel will hold the animals after unloading and promptly notify the APHIS AVIC with jurisdiction in the State where the official establishment is located.
2. FSIS will verify that the sheep and goats are accompanied by a VS Form 1-27 and Canadian Health Certificate(s), that the number of animals on the load is the same as the number recorded on the 1-27, and that the official identification numbers of the animals are included on the accompanying paperwork. FSIS personnel will complete appropriate sections and return completed official forms to the local APHIS office.

3. FSIS personnel will verify plant programs by reviewing paperwork and monitoring plant activities to ensure the sheep and goats arrive with a Canadian health certificate showing the age of each of the animals in months and that the age is less than 12 months for sheep and goats. If sheep and goats are determined to be 12 months of age or greater, FSIS will hold, under the AHPA, live animals or carcasses for APHIS disposition.
4. FSIS will hold, under the AHPA, and promptly report to the AVIC, any animal or shipments of animals arriving with missing seals or without appropriate APHIS forms and Canadian Health Certificates.
5. FSIS will hold pregnant sheep and goats sent to slaughter, under the AHPA, and contact the AVIC.

C. Verification activities for Canadian animals either shipped directly from Canada for immediate slaughter or shipped from a U.S. feedlot to slaughter and the establishment has authorized an employee to break official seals.

Should irregularities be identified by FSIS personnel at establishments at which an establishment employee has been authorized under 9 CFR 93.400 to break official seals, FSIS personnel will notify their District Office who in turn will advise the responsible APHIS AVIC.

D. Post-mortem Activities.

Should FSIS have reason to believe any animal at post mortem is ineligible for slaughter under the Rule, FSIS will hold, under the AHPA, the carcass and its parts and notify the AVIC. FSIS will collect all available identification (such as ear tags) and hold for pick-up by the AVIC.

ARTICLE 4 – APHIS RESPONSIBILITIES

- A. Only an authorized U.S. Department of Agriculture Representative (e.g., an APHIS VS employee, an FSIS inspector, a State Representative, an accredited veterinarian or an employee of an accredited veterinarian, or a slaughtering establishment or feedlot representative who has been designated to perform the functions involved) may break seals on shipments of Canadian animals at an official slaughter establishment.
- B. Upon notification by FSIS of live animals believed to be out of compliance with the Rule, APHIS will assume jurisdiction of the animals, typically within 24 hours.

- C. When notified by FSIS of any animal or carcass on hold under the Rule, APHIS will make the determination on animal or carcass eligibility under the Rule, and communicate directly (by phone, fax, e-mail, etc.) with the management of the official establishment regarding the requirements of the Rule — such as destruction and disposal requirements.
- D. When requested by FSIS, APHIS will provide written guidance (by fax, e-mail, etc.) on the appropriate disposition of animals, carcasses, or articles held by FSIS under the AHPA or the Rule.
- E. APHIS will provide FSIS, consistent with 7 U.S.C. 8306(c)(1), with a copy of any written order addressed to, and directing, official establishment management to dispose of ineligible animals, carcasses, and parts in a manner consistent with the Rule.
- F. APHIS will facilitate requests from official establishments to initiate compliance agreements that allow establishment employees to break seals in accordance with 9 CFR 93.400.
- G. The APHIS AVIC will provide the FSIS Inspector-in-Charge with a copy of the signed compliance agreement and completed VS Form 16-36 as related to the breaking of official seals by establishment employees. Should irregularities be noted by FSIS or APHIS in the carrying out of said compliance agreements or VS form 16-36 by establishment management, APHIS will take immediate action to ensure compliance.

ARTICLE 5 – IT IS MUTUALLY AGREED

- A. That the details of this cooperative undertaking shall be jointly planned and executed by the cooperating parties.
- B. That the Agencies will cooperate on any criminal/administrative investigation coming out of the Rule.
- C. That this MOU will be effective November 19, 2007, and remain in effect until terminated under the terms of Article 9.
- D. That eligibility for entry into the United States will be based on a bovine being certified by Canadian officials as being born after March 1, 1999, and will be determined at the border by APHIS border personnel. Should FSIS personnel note any irregularities in this regard FSIS will hold the animal(s), under the AHPA and will report their findings to the AVIC for disposition.

ARTICLE 6 - STATEMENT OF FINANCIAL OBLIGATION

Signature of this MOU does not constitute a financial obligation on the part of FSIS or APHIS. Each signatory party is to use and manage its own funds in carrying out the purpose of this MOU.

ARTICLE 7- LIMITATION OF COMMITMENT

It is understood and agreed that any monies allocated for purposes covered by the MOU shall be expended in accordance with its terms and in the manner prescribed by the fiscal regulations and/or administrative policies of the party making the funds available. A separate agreement must be developed by the parties, if fiscal resources are to transfer.

ARTICLE 8 – AMENDMENTS

This MOU may be amended at any time by mutual agreement of the parties in writing.

ARTICLE 9 – TERMINATION

This MOU may be terminated at any time by mutual agreement of the parties in writing, or by one party with 30 days' notice in writing of the other party.

ARTICLE 10 – PREVIOUS AGREEMENTS

This MOU does not modify any other existing agreements between FSIS and APHIS.


FOR FSIS:

Kenneth Petersen
Assistant Administrator
Office of Field Operations
Washington, DC

 10/30/07
SIGNATURE AND DATE

FOR APHIS

John R. Clifford
Deputy Administrator
Veterinary Services
Washington, DC

 for
SIGNATURE AND DATE JRC 10-29-07

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10-30-07