

TSP record keeper receives the Form TSP-60 or TSP-U-60, executed by both the participant and administrator, trustee, or custodian, together with the guaranteed funds for the amount to be rolled over.

(c) *Participant's certification.* When transferring a distribution to the TSP by either a trustee-to-trustee transfer or a rollover, the participant must certify that the distribution is eligible for transfer into the TSP, as follows:

(1) *Distribution from an eligible employer plan.* The participant must certify that the distribution:

(i) Is not one of a series of substantially equal periodic payments made over the life expectancy of the participant (or the joint lives of the participant and designated beneficiary, if applicable) or for a period of 10 years or more;

(ii) Is not a minimum distribution required by I.R.C. section 401(a)(9) (26 U.S.C. 401(a)(9));

(iii) Is not a hardship distribution;

(iv) Is not a plan loan that is deemed to be a taxable distribution because of default;

(v) Is not a return of excess elective deferrals; and

(vi) If not transferred or rolled over, would be includible in gross income for the tax year in which the distribution is paid.

(2) *Distribution from a traditional IRA.* The participant must certify that the distribution:

(i) Is not a minimum distribution required under I.R.C. section 401(a)(9) (26 U.S.C. 401(a)(9)); and

(ii) If not transferred or rolled over, would be includible in gross income for the tax year in which the distribution is paid.

#### **PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN**

5. The authority citation for part 1650 continues to read as follows:

**Authority:** 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

#### **§§ 1650.60, 1650.61 and 1650.62 [Amended]**

6. Sections 1650.60(b), 1650.61(b) and (c)(1)(ii), and 1650.62(b) and (c) are amended by removing the words "one year" and adding in their place the words "90 days".

7. Section 1650.63(a)(3) and (b) are revised to read as follows:

#### **§ 1650.63 Executive Director's exception to the spousal notification requirement.**

(a) \* \* \*

(3) Statements by the participant and two other persons that meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known currently, and describe the good faith efforts the participant has made to locate the spouse in the 90 days preceding submission to the TSP of the request for an exception. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories and directory assistance for the city of the spouse's last known address. Negative statements, such as, "I have not seen nor heard from him" or, "I have not had contact with her", are not sufficient.

(ii) The statements from two other persons must support the participant's statement that the participant has made attempts within the preceding 90 days to locate the spouse and that the participant does not know the spouse's whereabouts.

(iii) All statements must be signed and dated and must include the following certification: "I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both."

(b) A withdrawal election received within 90 days of an approved exception may be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

#### **§ 1650.64 [Amended]**

8. Section 1650.64(c) is amended by removing the words "one-year period" and adding in their place the words "90-day period".

[FR Doc. 02-8606 Filed 4-10-02; 8:45 am]

**BILLING CODE 6760-01-P**

### **DEPARTMENT OF AGRICULTURE**

#### **Animal and Plant Health Inspection Service**

#### **9 CFR Part 53**

**[Docket No. 01-126-1]**

#### **Infectious Salmon Anemia; Payment of Indemnity**

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations regarding the control and eradication of certain communicable diseases of livestock or poultry to provide for the payment of indemnity to producers in the State of Maine for fish destroyed due to infectious salmon anemia. Because depopulation is required to control infectious salmon anemia, a successful control program will require indemnification for depopulated fish to gain producer support. This action will, therefore, increase the effectiveness of our efforts to control infectious salmon anemia in Maine and prevent further outbreaks of the disease.

**DATES:** This interim rule was effective April 5, 2002. We will consider all comments we receive that are postmarked, delivered, or e-mailed by June 10, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01-126-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-126-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01-126-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Otis Miller, Jr., National Aquaculture Coordinator, Planning, Certification, and Monitoring, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231; (301) 734-8715.

**SUPPLEMENTARY INFORMATION:**

## Background

The regulations at 9 CFR part 53 (referred to below as the regulations) provide for the control and eradication of diseases including foot-and-mouth disease, rinderpest, contagious pleuropneumonia, exotic Newcastle disease, highly pathogenic avian influenza, or other communicable diseases of livestock or poultry that, in the opinion of the Secretary of Agriculture, constitute an emergency and threaten the livestock or poultry of the United States. The regulations authorize payments for the fair market value of the animals destroyed, as well as payments for their destruction and disposal. The regulations also authorize payments for materials that must be cleaned and disinfected or destroyed because of being contaminated by or exposed to disease.

In a document effective December 13, 2001, and published in the **Federal Register** on December 20, 2001 (66 FR 65679–65680, Docket No. 01–082–1), the Secretary declared an emergency because of infectious salmon anemia (ISA), a foreign animal disease of Atlantic salmon, caused by an orthomyxovirus. The disease affects both wild and farmed Atlantic salmon. The first case of ISA in the United States was confirmed in Maine on February 15, 2001. As of June 25, 2001, ISA has been confirmed in eight sites in Maine.

ISA is the clinical disease resulting from infection with the ISA virus. Signs include hemorrhaging and anemia, which may result in very pale gills. Other external signs may include exophthalmia (bulging eyes), lethargy, and darkening or petechia (pinpoint hemorrhage) on the skin. Internally, kidneys, livers or intestines may show signs of petechia or hemorrhage. Mortality due to ISA varies; cumulative mortality due to the disease varies greatly from a very low percentage (near zero) to more than 50 percent of the fish population. ISA virus does not infect humans or other mammals, since the virus is inactivated at temperatures over 25 °C, far lower than typical mammalian internal temperatures of 37 to 40 °C.

ISA poses a substantial threat to the economic viability and sustainability of salmon aquaculture in the United States and abroad. Salmon production in Maine exceeds 36.2 million pounds annually, with a value of \$101 million. Because of outbreaks of ISA in Maine, the State's salmonid industry had already depopulated approximately 900,000 salmon worth nearly \$11 million by the time of the Secretary's declaration of emergency. This loss is even greater when capital expenditures

such as labor costs and equipment are considered.

Additionally, the existence of ISA in Maine has affected other States due to its ramifications for international trade. For example, when ISA emerged in Maine, Chile and the European Union prohibited the importation of trout and salmon eggs from Washington, Maine, and Idaho. The resulting trade loss is estimated at \$2 million for 2001.

On April 24, 2001, the Maine Department of Marine Resources, the Maine Aquaculture Association, and the Maine State Veterinarian requested that the U.S. Department of Agriculture (USDA or the Department) provide the State with assistance in the areas of indemnification, epidemiology, and surveillance for ISA. The Department's Animal and Plant Health Inspection Service (APHIS) has entered into a cooperative ISA control program with the State of Maine to help safeguard the salmon industry from future incursions of this exotic disease and monitor and manage the ISA status of salmonid aquaculture sites in that State.

Because depopulation is required to control ISA, a successful control program will require indemnification for depopulated fish to gain producer support. Therefore, this interim rule amends the regulations in part 53 to provide for the payment of indemnity for fish destroyed because of ISA on or after the December 13, 2001, date of the Secretary's declaration of emergency. The specific amendments are discussed below.

### Definitions

We have amended the definition of *disease* in § 53.1 to include ISA among the diseases specifically listed. In addition, we have added a definition of *accredited veterinarian*. This definition, which is the same as the definition used for the term elsewhere in our regulations in title 9, is necessary because, as explained below, the cooperative ISA control program administered by APHIS and the State of Maine requires participants to engage the services of an accredited veterinarian.

We have also provided a definition for *ISA Program Veterinarian*. The ISA Program Veterinarian is the APHIS veterinarian assigned to manage the infectious salmon anemia program for APHIS in the State of Maine and who reports to the Area Veterinarian in Charge. As explained below, participants in the ISA program will be required to submit certain documents to the ISA Program Veterinarian; the ISA Program Veterinarian will also determine the schedule for the periodic

on-site disease surveillance, testing, and reporting activities required under the ISA program.

### Payment of Indemnity

Section 53.2 of the regulations provides for the Administrator to enter into an agreement with proper State authorities in order to control and eradicate disease. Paragraph (b) of this section provides for the payment of indemnity to cover 50 percent of expenses of purchase, destruction, and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to such disease. In the case of exotic Newcastle disease and highly pathogenic avian influenza, up to 100 percent of these expenses may be covered.

Based on the Secretary's December 13, 2001, declaration of emergency, approximately \$8.29 million was transferred from the Commodity Credit Corporation for the Department's ISA control and indemnification efforts for fiscal year 2002. Of this \$8.29 million, \$7.2 million was estimated to be for indemnification costs. The apportionment for those funds specifies that the Department may pay up to 60 percent of indemnity costs. Therefore, we are adding a provision to § 53.2(b) to provide that, subject to the availability of funding, APHIS may pay up to 60 percent of the expenses of purchase, destruction, and disposition of animals and materials required to be destroyed during fiscal year 2002 because of being contaminated by or exposed to ISA. Section 53.2 contains provisions for the appraisal of animals and materials; reports of the required appraisals will be used in determining the amount of indemnity to be paid in specific cases. The appraisal will consider the number and age of the fish depopulated. The amount of indemnity paid per fish will be the fair market value of the fish, which we will calculate based on industry production costs; as noted previously, APHIS will pay up to 60 percent of the value of the fish destroyed subject to the availability of funding. The Administration is examining how the costs of program activities, including the payment of indemnity, are shared among the Federal government and cooperators such as State and local governments, industry, and producers. Hence, in the future, the indemnity rate provided under this rule may change.

### Salvage Value

Paragraph (a) of § 53.4 directs operators to destroy animals affected by or exposed to disease promptly after

appraisal and dispose of them by burial or burning, unless otherwise specifically provided by the Administrator. Because fish infected with or exposed to ISA may retain salvage value if they are sold for processing or rendering, we are adding a provision to this section to allow for those options. Operators who collect salvage value for fish destroyed because of ISA will have that value subtracted from the amount of indemnity they are eligible to receive from APHIS under § 53.2(b).

#### Program Participation

Section 53.10 of the regulations lists reasons why the Administrator will disallow indemnity claims. We are adding a provision to this section to require that, in order to receive indemnity for fish destroyed because of ISA, claimants must participate fully in the cooperative ISA control program administered by APHIS and the State of Maine.

We are requiring that claimants participate in this program because ongoing surveillance and early detection of disease are essential to effective prevention, management, and control of ISA. Under this program, participants must, at a minimum:

- Establish and maintain a veterinary client-patient relationship with an APHIS accredited veterinarian and inform the ISA Program Veterinarian in writing of the name of their accredited veterinarian at the time the participant enrolls in the ISA program and within 15 days of any change in accredited veterinarians.

The farmed salmon industry uses highly qualified personnel experienced in all aspects of fish culture, husbandry, and health management. While most industry members have established in-house procedures for increased disease surveillance and a working relationship with aquaculture veterinarians and diagnostic laboratories to provide further technical expertise, this requirement will ensure that all participants have ready access to an APHIS accredited veterinarian, who will conduct the surveillance, testing, and reporting activities discussed in the next paragraph and will assist participants in carrying out the other aspects of the program discussed below.

- Cooperate with and assist in periodic on-site disease surveillance, testing, and reporting activities for ISA, which will be conducted by their APHIS accredited veterinarian or a State or Federal official as directed by the ISA Program Veterinarian.

Surveillance ensures that resources and producers' attention will be directed at routine and regularly

scheduled inspections and health assessments of fish so that ISA will be quickly diagnosed. Testing with the best and most scientifically sound assays at an approved laboratory will insure prompt and accurate diagnosis. Reporting procedures ensure that once infected or diseased fish are identified control measures and depopulation can proceed rapidly.

- Develop and implement biosecurity protocols for use at all participant-leased finfish sites and participant-operated vessels engaged in aquaculture operations throughout Maine. A copy of these protocols shall be submitted to the ISA Program Veterinarian at the time the participant enrolls in the ISA program and within 15 days of any change in the protocols.

The implementation of effective biosecurity protocols will reduce the risk of the introduction and spread of ISA due to human activities into and between marine sites and cages by movement of farmed fish, equipment, and people.

- Develop, with the involvement of the participant's accredited veterinarian and the fish site health manager, a site-specific ISA action plan for the control and management of ISA. A copy of the action plan shall be submitted to APHIS for review at the time the participant enrolls in the ISA program and within 15 days of any change in the action plan.

The action plan is a document developed for each site that defines the response contingencies for ISA—e.g., activities to be undertaken upon disease detection, notification procedures, etc.—should the disease emerge at the site.

- Participate in the State of Maine's integrated pest management (IPM) program for the control of sea lice on salmonids. A copy of the management plan developed by the participant for the State IPM program shall be submitted to APHIS for review at the time the participant enrolls in the ISA program and within 15 days of any change in the management plan.

Sea lice are copepod arthropods belonging to the genera *Lepeophtheirus* and *Caligus*. Species of both genera infest Atlantic salmon and live in the mucus layer, where they attach and suck blood or cause sores. The larger *Lepeophtheirus* species are generally regarded as capable of transmitting ISA. Sea lice of both genera can cause stress on fish, which adversely affects the immune response. The Maine IPM program for sea lice provides for monitoring, treatment, and management practices designed to minimize the presence of sea lice in pen sites and

reduce the need for the use of chemicals and medications. We consider control of sea lice to be a vital component of the ISA control program in Maine; therefore, we will, in cooperation with the State of Maine, review and verify the adequacy of each participant's sea lice management plan.

- Submit to the ISA Program Veterinarian at the time the participant enrolls in the ISA program a complete and current fish inventory information for each participant-leased finfish site with site and cage identifiers. Fish inventory information must include the numbers, age, date of saltwater transfer, vaccination status, and previous therapeutic history for all fish in each participant-leased finfish site.

This information will provide APHIS with the data necessary to establish disease control actions, complete epidemiological assessments, and increase our ability to effectively monitor fish populations.

- Maintain, and make available to the ISA Program Veterinarian upon request, mortality data for each participant-leased finfish site and pen in production.

This can be accomplished utilizing existing industry records systems and log sheets. The mortality data will be used by APHIS in conjunction with the fish inventory information discussed previously to establish disease control actions, complete epidemiological assessments, and increase our ability to effectively monitor fish populations.

- Cooperate with and assist APHIS in the completion of biosecurity audits at all participant-leased finfish sites and participant-operated vessels involved in salmonid aquaculture.

These audits will be performed to assess the efficacy of the biosecurity protocols established by the participants to reduce the risk of the introduction and spread of ISA due to human activities into and between marine sites and cages by movement of farmed fish, equipment, and people.

#### Miscellaneous Changes

In § 53.2, we have removed two outdated references to the "Director of Division" (i.e., the Animal Health Division, a precursor to APHIS' Veterinary Services) and replaced them with references to the Administrator. Also in § 53.2, a reference to the definition of *disease* cited the location of that definition as § 53.1(f). As the definitions in § 53.1 no longer carry paragraph designations, we have removed the reference to paragraph (f).

### Emergency Action

This rulemaking is necessary on an emergency basis to ensure that the ISA indemnity program is implemented as soon as possible to prevent the spread of ISA. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We are amending the regulations to provide for the payment of indemnity to producers in the State of Maine for fish destroyed due to ISA. Because depopulation is required to control ISA, a successful control program will require indemnification for depopulated fish to gain producer support. This action will, therefore, increase the effectiveness of our efforts to control ISA in Maine and prevent further outbreaks of the disease.

Below is an economic analysis for the ISA indemnity program described in this document. This economic analysis also provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act.

We do not have enough data for a comprehensive analysis of the economic effects of this interim rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis for this interim rule. We are inviting comments about this interim rule as it relates to small entities. In particular, we are interested in determining the number and kind of small entities who may incur benefits or costs from implementation of this rule and the economic impact of those benefits or costs.

In accordance with 21 U.S.C. 111-113, 114a, 115, 117, 120, 123, and 134a,

the Secretary of Agriculture has the authority to promulgate regulations and take measures to prevent the introduction into the United States and the interstate dissemination within the United States of communicable diseases of livestock and poultry, and to pay claims growing out of the destruction of animals. Animal health regulations promulgated by the Department under this authority include those specifically addressing control programs and indemnity payments for tuberculosis (part 50), brucellosis (part 51), pseudorabies (part 52), and scrapie (part 54), and regulations in part 53 regarding payment of claims for other diseases.

### Program Description and Benefits

ISA is recognized to cause considerable and growing economic losses. In 2002, the Secretary of Agriculture authorized the transfer from the Commodity Credit Corporation of \$8.29 million as one part of a 2-year ISA indemnity and control program. Most of this money will be used for indemnity costs, and the remainder will be used for disposal, cleanup, epidemiology, and surveillance. Under this rule, subject to the availability of funding, APHIS may pay up to 60 percent of the fair market value of the fish destroyed, and the amount paid per fish will likely fluctuate during the course of the ISA indemnity program. Participation may be limited if funds are exhausted due to increases in the fair market value above our current estimates.

This interim rule provides Federal indemnification of up to 60 percent of the fair market value, as determined by APHIS based on industry production costs, for fish infected with or exposed to ISA. Previously, there was no such indemnification program.

The farmed Atlantic salmon industry in Maine is estimated to be currently producing over 15,000 tons (or 30 million lbs.) of fish per year. Production and value of production is increasing rapidly. In 2000, production value is estimated to have surpassed \$100 million in Maine. Maine's farmed Atlantic salmon industry directly employs approximately 1,000 people, primarily in Washington and Hancock Counties, and it is estimated that an additional 2,500 people have jobs that directly depend on the Maine's farmed Atlantic salmon industry. There are approximately 28 to 33 employees per every million pounds of product output. The amount of fish stock per farm varies; currently there are 26 active pen sites and 45 permitted pen sites, and, on average, the number of fish per site is 350,000.

### Value Determination for Non-Marketable Animals

Under this rule, an appraiser determines the fair market value of fish to be destroyed. Value is based on age; as salmon mature, their value increases significantly. Initially, salmon smolts are raised in freshwater pens for approximately 14 or 15 months. On average, these smolts weigh about 0.25 lbs. and carry no market value. On or about May 1 of each year, operators move salmon into saltwater pens, where they grow at a rapid pace. Therefore, salmon that are 16 months old have actually only been in a saltwater pen for approximately 1 month. Salmon grow approximately 0.5 to 1 lb. each month, except for the coldest winter months. During that first winter (December to March), when salmon are between 21 to 24 months, their weight stagnates at approximately 3 lbs. This weight stagnation process occurs each year, and in the spring, salmon resume growing at their previous pace. Typically, a producer strives to harvest fish when they are the ideal market age of 38 to 42 months old (about 24 to 28 months in a saltwater pen, or about the time they reach 10 to 14 lbs.).

We are still working, in cooperation with the State of Maine and the Maine salmonid industry, to finalize an indemnity schedule that accurately reflects per-fish production costs. Based on information submitted from producers, it appears that average production costs per fish may range from approximately \$2.59 for a 15- to 16-month-old fish (1 month in a saltwater pen) to about \$13.38 for a 38- to 42-month-old fish (approximately 28 months in a saltwater pen). Paid at the 60 percent rate provided for by this rule, indemnity payments based on those production costs would range from \$1.55 (1 month in pen) to \$8.03 (28 months in pen) per fish before considering salvage value. These figures are, however, preliminary and are intended to serve as an example; we anticipate that the indemnity schedule will be finalized in the near future. At that point, we will make the schedule available through the person listed under **FOR FURTHER INFORMATION CONTACT**.

Between December 2001 and February 2002, APHIS, with the cooperation with the State of Maine and affected producers, depopulated just over 1.42 million exposed or infected salmon in Maine. Specifically, there were 718,212 salmon removed from 3 sites that had been in saltwater pens for 10 months, and 706,187 salmon removed from 4 sites that had been in saltwater pens for

9 months. As all these fish had been in pens for only 9 or 10 months, they were too small to be marketable for rendering or processing (i.e., there will not be any salvage value for these fish). Average production costs are estimated at \$5.40 per fish for the 10-month-old fish and \$5.05 per fish for the 9-month-old fish. At the 60 percent rate provided for by this rule, we estimate indemnity payments of \$2,327,007 for the 10-month-old fish and \$2,139,747 for the 9-month-old fish, for a total indemnity of \$4,466,754. Again, it is important to note that these figures are preliminary.

#### *Salvage Value—Value Determination for Marketable Animals*

Under this rule, salmon producers have the option of selling stock for rendering or other processing. The prices offered for salmon sold for rendering or processing are based on a number of criteria, but primarily consider the weight of the salvageable portion of the fish. These prices are offered by the processors; the prices for fish sold for salvage will be reported to APHIS. We will subtract any salvage value gained at slaughter from the indemnity payment.

#### *Cost Benefit Analysis*

As noted previously, none of the estimated 1.42 million fish depopulated since December 2001 weighed enough to be salvageable. (Because young, small fish are not marketable for processing and/or rendering, any possibility of salvage value is dependent on the salmon reaching 29 months of age, i.e. when they have been in a saltwater pen approximately 15 months and weigh approximately 5.5 to 6 lbs.) If few or no fish can be sold for salvage, then indemnity costs rise accordingly. Since we can not speculate when, during the salmon growth/aging process it may become necessary to depopulate a particular pen, it is impossible for us to determine how indemnity costs may fluctuate over the 2 years of the program.

There is one vital benefit to this action: The entire farmed Atlantic salmon industry in Maine is at risk if ISA is not controlled. The benefits of keeping this \$100 million dollar per year industry viable outweighs the cost of this program. Additionally, this action will provide salmon owners with a financial incentive to identify and destroy their ISA infected and/or exposed fish, thus arresting the spread of the disease and accelerating eradication efforts. Those producers who have not been participating in the ISA control program will now have an incentive to do so. Several benefits flow

from this action. First, it will reduce costs to the Maine salmon industry from animal mortality, costs from possible State regulatory actions, and trade restrictions on U.S. salmon product exports. Second, an aggressive program now, while the number of known affected pens is reasonably small, may obviate the need for higher future Federal costs to contain a more widespread outbreak.

This action may also reduce the impact of trade restrictions due to ISA. When ISA emerged in Maine, Chile and the European Union prohibited the importation of trout and salmonid eggs from Washington, Maine, and Idaho; the resulting trade loss is estimated at \$2 million for 2001. The establishment of an effective ISA control program may result in the removal or relaxation of the restrictions imposed by those regions.

This rule will also produce third-party trade benefits by demonstrating to trading partners the intent and ability of the United States to protect its animal industries, thus enhancing our ability to negotiate access to foreign markets.

This action can also be expected to reduce potential future eradication program costs. Canada has been battling ISA for several years; from 1998 to 2000, fish farmers in that country lost approximately \$70 million (in U.S. dollars). Canada's Provincial and Federal Governments have contributed over \$29.5 million (in U.S. dollars) to compensate salmon farmers. As a result of early intervention, based on a compensation program with enough financial incentive to encourage active participation among salmon farmers, Canada has reduced the incidence of ISA from 18 infected sites in 1998 to 4 infected sites in 2001.

#### *Options Considered*

In assessing the need for this interim rule, we identified three alternatives. The first was to maintain the status quo, where State efforts are supported by Federal technical assistance but not by Federal compensation programs or interstate movement restrictions. We rejected this option because it does not fully address the risks associated with a more widespread ISA epidemic. While Maine has the authority to quarantine a pen site once it is known to be infected with ISA, the State lacks the resources to conduct the comprehensive testing and traceback activities that are necessary to identify newly infected sites. States also lack authority to directly regulate interstate commerce in salmon. Finally, while State quarantines are an important tool, quarantining a pen site does not eliminate the risk, since people may accidentally or

deliberately violate the quarantine. Making Federal indemnity funds available serves as a powerful incentive for producers to participate in the ISA control program and for owners of infected sites to depopulate, which are factors that greatly reduce the risk of further spread of ISA.

The second option would have been to provide financial and technical assistance to Maine's farmed salmon industry for continuation and expansion of a variety of pen site management practices to reduce or eliminate ISA. Although this option may be less costly than the option we chose, option 3 below, we did not select it because it does not allow us to advance the ISA control program as quickly or effectively as the chosen option. However, APHIS will continue to work with industry and the State of Maine to further develop ISA management practices to preserve and increase the reduction in ISA levels that the indemnity program is expected to achieve.

The third option, to provide indemnity payments to depopulate ISA infected and/or exposed fish, was the one we chose. Depopulation of infected animals, which clears the way for a disinfection program, is currently the single most effective way to eliminate ISA. Under this alternative, producers will gain partial compensation for ISA infected and/or exposed fish.

#### *Potential Impact on Small Entities*

This interim rule establishes a voluntary program that allows salmon producers in Maine to be paid indemnity for ISA infected and exposed animals. Many producers, as well as a number of processors who render salmon into food and non-food byproducts may be small businesses. To the extent that the interim rule contributes to the elimination of ISA in Maine, all salmon producers should benefit over the long term. In the short term, the economic impact on producers will vary.

The U.S. Small Business Administration (SBA) defines a small fin fish and/or fish hatchery operation as one that has per-farm gross receipts of less than \$750,000. There are 12 Atlantic salmon farms in the State of Maine. Collectively, they employ approximately 1,200 workers in 25 separate pen site locations; also, another 2,500 jobs, primarily in processing, rendering, or transport directly depend on these operations. The gross receipts of the affected salmon producers is unknown. However, it is reasonable to assume that most exceed the SBA small entity threshold because, collectively,

these 12 firms produced gross receipts in excess of \$100 million in 2000.

This interim rule contains various recordkeeping and reporting requirements. These requirements are described in this document under the heading "Paperwork Reduction Act."

#### *Executive Order 12372*

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### *Executive Order 12988*

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict 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*

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0192 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 01-126-1, Regulatory Analysis and Development, PPD, APHIS, station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 01-126-1 and send your comments within 60 days of publication of this rule.

This interim rule amends the regulations regarding the control and eradication of certain communicable diseases of livestock or poultry to provide for the payment of indemnity to producers in the State of Maine for fish destroyed due to ISA. In order to take part in the indemnity program, producers must enroll in the cooperative ISA control program administered by APHIS and the State of Maine. Program participants must inform the ISA Program Veterinarian in writing of the name of their accredited

veterinarian; develop biosecurity protocols and a site-specific ISA action plan; submit fish inventory and mortality information; assist APHIS or State officials with on-site disease surveillance, testing, and biosecurity audits; and complete an appraisal and indemnity claim form.

We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 4.209469153 hours per response.

*Respondents:* Program participants and their employees, APHIS accredited veterinarians, State animal health officials, and State personnel who may perform appraisals.

*Estimated annual number of respondents:* 110.

*Estimated annual number of responses per respondent:* 6.33636.

*Estimated annual number of responses:* 697.

*Estimated total annual burden on respondents:* 2,934 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### **List of Subjects in 9 CFR Part 53**

Animal diseases, Indemnity payments, Livestock, Poultry and poultry products.

Accordingly, we are amending 9 CFR part 53 as follows:

### **PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY**

1. The authority citation for part 53 continues to read as follows:

**Authority:** 21 U.S.C. 111, 114, and 114a; 7 CFR 2.22, 2.80, and 371.4.

2. In § 53.1, the definition of Disease is amended by adding the words "infectious salmon anemia," after the word "influenza," and by adding, in alphabetical order, definitions of *accredited veterinarian* and *ISA Program Veterinarian* to read as follows:

#### **§ 53.1 Definitions.**

*Accredited veterinarian.* A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in parts 1, 2, 3, and 11 of subchapter A of this chapter and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

*ISA Program Veterinarian.* The APHIS veterinarian assigned to manage the infectious salmon anemia program for APHIS in the State of Maine and who reports to the Area Veterinarian in Charge.

\* \* \* \* \*

#### **§ 53.2 [Amended]**

3. Section 53.2 is amended as follows:

a. In paragraph (a), by removing the words "Director of Division" and adding the word "Administrator" in their place, and by removing the citation "§ 53.1(f)" and adding the citation "§ 53.1" in its place.

b. In paragraph (b), by removing the words "Director of Division" and adding the word "Administrator" in their place, and by removing the word "percent" and adding the words "percent, and in the case of infectious salmon anemia, up to 60 percent" in its place.

4. In § 53.4, paragraph (a) is revised to read as follows:

#### **§ 53.4 Destruction of animals.**

(a) Animals affected by or exposed to disease shall be killed promptly after appraisal and disposed of by burial or burning, unless otherwise specifically provided by the Administrator, at his or her discretion. In the case of animals depopulated due to infectious salmon anemia, salvageable fish may be sold for rendering, processing, or any other purpose approved by the Administrator.

If fish retain salvage value, the proceeds gained from the sale of the fish will be subtracted from any indemnity payment from APHIS for which the producer is eligible under § 53.2(b).

\* \* \* \* \*

5. Section 53.10 is amended by adding a new paragraph (e) to read as follows:

**§ 53.10 Claims not allowed.**

\* \* \* \* \*

(e) The Department will not allow claims arising out of the destruction of fish due to infectious salmon anemia (ISA) unless the claimants have agreed in writing to participate fully in the cooperative ISA control program administered by APHIS and the State of Maine. Participants in the ISA control program must:

(1) Establish and maintain a veterinary client-patient relationship with an APHIS accredited veterinarian and inform the ISA Program Veterinarian in writing of the name of their accredited veterinarian at the time the participant enrolls in the ISA program and within 15 days of any change in accredited veterinarians.

(2) Cooperate with and assist in periodic on-site disease surveillance, testing, and reporting activities for ISA, which will be conducted by their APHIS accredited veterinarian or a State or Federal official as directed by the ISA Program Veterinarian.

(3) Develop and implement biosecurity protocols for use at all participant-leased finfish sites and participant-operated vessels engaged in aquaculture operations throughout Maine. A copy of these protocols shall be submitted to the ISA Program Veterinarian at the time the participant enrolls in the ISA program and within 15 days of any change in the protocols.

(4) Develop, with the involvement of the participant's accredited veterinarian and the fish site health manager, a site-specific ISA action plan for the control and management of ISA. A copy of the action plan shall be submitted to APHIS for review at the time the participant enrolls in the ISA program and within 15 days of any change in the action plan.

(5) Participate in the State of Maine's integrated pest management (IPM) program for the control of sea lice on salmonids. A copy of the management plan developed by the participant for the State IPM program shall be submitted to APHIS for review at the time the participant enrolls in the ISA program and within 15 days of any change in the management plan.

(6) Submit to the ISA Program Veterinarian at the time the participant

enrolls in the ISA program a complete and current fish inventory information for each participant-leased finfish site with site and cage identifiers. Fish inventory information must include the numbers, age, date of saltwater transfer, vaccination status, and previous therapeutic history for all fish in each participant-leased finfish site.

(7) Maintain, and make available to the ISA Program Veterinarian upon request, mortality data for each participant-leased finfish site and pen in production.

(8) Cooperate with and assist APHIS in the completion of biosecurity audits at all participant-leased finfish sites and participant-operated vessels involved in salmonid aquaculture. (Approved by the Office of Management and Budget under control number 0579-0192).

Done in Washington, DC, this 5th day of April 2002.

**Bill Hawks,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 02-8779 Filed 4-10-02; 8:45 am]

**BILLING CODE 3410-34-P**

**DEPARTMENT OF STATE**

**22 CFR Part 62**

**[Public Notice 3940]**

**Exchange Visitor Program; Interim Final Rule**

**AGENCY:** Department of State.

**ACTION:** Interim final rule with request for comment.

**SUMMARY:** The Department is revising portions of its existing Exchange Visitor Program regulations. These revisions will correct inaccurate references to related regulations and organizational offices and positions set forth in these regulations.

**DATES:** This rule is effective April 11, 2002. Written comments regarding this rule will be accepted until May 13, 2002.

**ADDRESSES:** Comments regarding this rule must be presented in duplicate and addressed as follows: U.S. Department of State, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, 301 4th Street, SW., Room 852, Washington, DC 20547.

**FOR FURTHER INFORMATION CONTACT:** Stanley S. Colvin, Acting Director, Office of Exchange Coordination and Designation, U.S. Department of State, 301 Fourth Street, SW., Room 852, Washington, DC 20547; telephone (202) 619-6828; fax (202) 401-9809.

**SUPPLEMENTARY INFORMATION:** The Foreign Affairs Reform and Restructuring Act of 1998, Public Law 105-277, 112 Stat. 2681 et seq., consolidated many of the functions of the former United States Information Agency into the Department of State. One of the functions consolidated was the administrative oversight of the Exchange Visitor Program. Created by the Mutual Educational and Cultural Exchange Act of 1961, as amended, the Exchange Visitor Program designates government and private sector entities to further the public diplomacy efforts of the Federal government by facilitating the entry of foreign nationals into the United States for the purpose of participation in individual exchange programs.

Pursuant to the Congressional restructuring of the foreign affairs functions, the Exchange Visitor Program regulations formerly set forth at 22 CFR part 514 were renumbered as 22 CFR part 62 when this function was absorbed into the Department. However, specific references to the former part 514 in subparts A, B, C, D and E were overlooked. References to organizational offices and positions were also not corrected.

The revisions set forth in this rule correct the inaccurate references to the former part 514 and substitute references to the new part 62. References to now non-existent organizational offices and positions are also deleted. Corresponding Department offices and positions are substituted.

The Department invites comments regarding this interim final rule. The Department will accept comments for 30 days following publication of this interim rule. A final rule will be adopted following Department review of all comments received.

**Regulatory Analysis and Notices**

*Administrative Procedure Act*

The Department is publishing this rule as an interim rule, with a 30-day provision for post-promulgation public comments, based on the "good cause" exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Given that the proposed changes are technical in nature, the Department finds it unnecessary to provide notice and comment prior to adoption of this rule.

*Regulatory Flexibility Act*

Pursuant to 5 U.S.C. 605(b) of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule, and certifies that this rule is not expected to have a