(3) The contracting agency shall notify GAO within 60 days after GAO recommends the amount of costs the agency should pay the protester of the action taken by the agency in response to the recommendation.

§21.9 Time for decision by GAO.

(a) GAO shall issue a decision on a protest within 125 days after it is filed.

(b) In protests where GAO uses the express option procedures in § 21.10, GAO shall issue a decision on a protest within 65 days after it is filed.

(c) GAO, to the maximum extent practicable, shall resolve a timely supplemental protest adding one or more new grounds to an existing protest, within the time limit established in paragraph (a) of this section for decision on the initial protest. If an amended protest cannot be resolved within that time limit, GAO may resolve the amended protest using the express option procedures in § 21.10.

§21.10 Express option.

(a) Any party may request that GAO decide a protest on an "express option" expedited schedule.

(b) The expedited schedule will be adopted at the discretion of GAO and only in those cases suitable for resolution within 65 days.

- (c) Requests for an expedited schedule shall be in writing and received in GAO no later than 3 days after the protest or supplemental protest is filed. GAO will promptly notify the parties whether the case will be handled on an expedited schedule.
- (d) When the express option is used, the following schedule applies instead of those deadlines in § 21.3 and § 21.7:
- (1) The contracting agency shall file a complete report with GAO and the parties within 20 days after it receives notice from GAO that the express option will be used.
- (2) Comments on the agency report shall be filed with GAO and the other parties within 7 days after receipt of the report
- (3) If a hearing is held, no separate comments on the agency report under paragraph (d)(2) of this section should be submitted unless specifically requested by GAO. Consolidated comments on the agency report and hearing shall be filed within 7 days after the hearing was held or as specified by GAO.
- (4) If all parties agree, GAO will resolve protests decided on an expedited schedule by a summary decision.
- (5) Where circumstances demonstrate that a case is no longer suitable for

resolution on an expedited schedule, GAO shall establish a new schedule for submissions by the parties.

§21.11 Effect of judicial proceedings.

- (a) A protester must immediately advise GAO of any court proceeding which involves the subject matter of a pending protest and file copies of all relevant court documents.
- (b) GAO will dismiss any protest where the matter involved is the subject of litigation before a court of competent jurisdiction, or where the matter involved has been decided on the merits by a court of competent jurisdiction. GAO may, at the request of a court, issue an advisory opinion on a bid protest issue that is before the court. In these cases, unless a different schedule is established, the times provided in part 21 for filing the agency report (§ 21.3(e)), filing comments on the report (§21.3(j)), holding a hearing and filing comments (§ 21.7), and issuing a decision (§ 21.9) shall apply.

§21.12 Distribution of decisions.

- (a) Unless it contains protected information, a copy of a decision shall be provided to the protester, any intervenors, the head of the contracting activity responsible for the protested procurement, and the senior procurement executive of each Federal agency involved; a copy shall also be made available to the public. A copy of a decision containing protected information shall be provided only to the contracting agency and to individuals admitted to any protective order issued in the protest. A public version omitting the protected information shall be prepared wherever possible.
- (b) Decisions are available from GAO's electronic bulletin board.

§ 21.13 Nonstatutory protests.

- (a) GAO will consider protests concerning awards of subcontracts by or for a Federal agency, sales by a Federal agency, or procurements by agencies of the government other than Federal agencies as defined in § 21.0(c) if the agency involved has agreed in writing to have its protests decided by GAO.
- (b) The provisions of this part shall apply to nonstatutory protests except for the provisions of § 21.3(c) pertaining to the contracting agency protest file and § 21.8(d) pertaining to recommendations for the payment of costs. The provision for the withholding of award and the suspension of contract performance, 31 U.S.C. 3553 (c) and (d), also does not apply to nonstatutory protests.

§21.14 Request for reconsideration.

(a) The protester, any intervenor, and any Federal agency involved in the protest may request reconsideration of a bid protest decision. GAO will not consider a request for reconsideration that does not contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.

(b) A request for reconsideration of a bid protest decision shall be filed, with copies to the parties who participated in the protest, not later than 14 days after the basis for reconsideration is known or should have been known, whichever is earlier.

(c) GAO will summarily dismiss any request for reconsideration that fails to state a valid basis for reconsideration or is untimely. The filing of a request for reconsideration does not require the withholding of award and the suspension of contract performance under 31 U.S.C. 3553 (c) and (d).

Robert P. Murphy,

General Counsel.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 85

[Docket No. 94-064-1]

Official Pseudorabies Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the pseudorabies regulations by adding the glycoprotein I enzyme-linked immunosorbent assay approved differential test to the list of official pseudorabies tests, which would allow certain pseudorabies vaccinated swine to be moved interstate to destinations other than those currently allowed. Under the current pseudorabies regulations, pseudorabies vaccinated swine that are not from a qualified negative gene-altered vaccinated herd may be moved interstate only for slaughter or to a quarantined herd or quarantined feedlot. This proposed change would allow, under certain conditions, the glycoprotein I enzymelinked immunosorbent assay approved differential test to be used as an official pseudorabies test to qualify certain