

hearings, except to clarify or explain the proposed rule.

Done in Washington, DC, this 22nd day of May 1996.

Donald Husnik,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-13407 Filed 5-28-96; 8:45 am]

BILLING CODE 3410-34-P

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 96-025-1]

Change in Disease Status of Spain Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare Spain free of African swine fever. Declaring Spain free of African swine fever appears to be appropriate because there have been no confirmed outbreaks of African swine fever in Spain since September 1994. This proposed rule would relieve restrictions on the importation of pork and pork products into the United States from Spain. However, because Spain shares common land borders with countries affected by certain swine diseases and because Spain, as a member state of the European Union, has certain trade practices that are less restrictive than are acceptable to the United States, the importation into the United States of pork and pork products from Spain would continue to be subject to certain restrictions.

DATES: Consideration will be given only to comments received on or before July 29, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-025-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-025-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Products Program, National Center for

Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231, (301) 734-8688; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases, including rinderpest, foot-and-mouth disease, bovine spongiform encephalopathy, swine vesicular disease, hog cholera, and African swine fever (ASF). These are dangerous and destructive communicable diseases of ruminants and swine.

Section 94.8 of the regulations provides that ASF exists or is reasonably believed to exist in all the countries of Africa, Brazil, Cuba, Haiti, Italy, Malta, Portugal, and Spain. We will consider declaring a country to be free of ASF if there have been no reported cases of the disease in that country for at least the previous 1-year period. The last case of ASF in Spain occurred in September 1994. The Government of Spain has requested that the U.S. Department of Agriculture (USDA) recognize Spain to be free of ASF.

The Animal and Plant Health Inspection Service (APHIS) has reviewed the documentation submitted by the Government of Spain in support of its request. A team of APHIS officials traveled to Spain in July 1994 to conduct an on-site evaluation of Spain's animal health program with regard to African horse sickness. The evaluation consisted of a review of Spain's veterinary services, laboratory and diagnostic procedures, vaccination practices, and administration of laws and regulations intended to prevent the introduction of communicable animal diseases into Spain. We believe that the July 1994 on-site evaluation was sufficient to provide APHIS with a complete picture of Spain's animal health program with regard to ASF, as well. Therefore, we have used the findings of the July 1994 on-site evaluation as part of the basis for this proposed rule. (Details concerning the July 1994 on-site evaluation are available upon written request from the person listed under **FOR FURTHER INFORMATION CONTACT.**)

Based on the information discussed above, we are proposing to amend § 94.8 of the regulations by removing Spain from the list of countries where ASF

exists or is reasonably believed to exist. This action would relieve certain restrictions on the importation of pork and pork products into the United States from Spain, including restrictions on the importation of live swine and fresh pork and pork products. This action would also eliminate requirements on the curing time for Spanish hams and other pork products offered for importation into the United States from Spain.

However, the importation of pork and pork products into the United States from Spain would continue to be subject to certain restrictions because Spain appears in the list of countries in § 94.11 that have been declared free of rinderpest and foot-and-mouth disease (FMD), but from which the importation of pork and pork products is restricted, and Spain appears in the list of countries in § 94.13 that have been declared free of swine vesicular disease (SVD), but from which the importation of pork and pork products is restricted. The countries listed in §§ 94.11 and 94.13 are subject to these restrictions because they: (1) Supplement their national pork supply by importing fresh, chilled, or frozen pork from countries where rinderpest, FMD, or SVD, respectively, is considered to exist; (2) have a common border with countries where rinderpest, FMD, or SVD, respectively, is considered to exist; or (3) have certain trade practices that are less restrictive than are acceptable to the United States. Spain shares common land borders with France, a country affected by SVD, and Portugal, a country affected by rinderpest, FMD, and SVD. Additionally, as a member state of the European Union (EU), Spain trades without restrictions with other member states of the EU that are affected by rinderpest, FMD, and/or SVD. These trade practices could allow live swine, pork, or pork products produced in Spain to be commingled with live swine, pork, or pork products from a country affected by rinderpest, FMD, and/or SVD, resulting in an undue risk of the introduction of these diseases into the United States. As such, pork and pork products, as well as any ship's stores, airplane meals, and baggage containing such pork, offered for importation into the United States from Spain would be subject to the restrictions specified in §§ 94.11 and 94.13 of the regulations and to the applicable requirements contained in the regulations of the USDA's Food Safety and Inspection Service (FSIS) at 9 CFR chapter III. Sections 94.11 and 94.13 generally require that pork and pork products be: (1) Prepared in an

inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) accompanied by an additional certification from a full-time salaried veterinary official of the national government of the exporting country, stating that the pork or pork product has not been commingled with or exposed to meat or other animal products originating in, imported from, or transported through a country in which rinderpest, FMD, or SVD, respectively, is considered to exist.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this proposed rule on small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

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.

This proposed rule would amend the regulations in part 94 by removing Spain from the list of countries where ASF exists or is reasonably believed to exist. This action would relieve certain restrictions on the importation of live swine, pork, and pork products into the United States from Spain. However, because of Spain's proximity to France and Portugal (countries affected by serious swine diseases) and Spain's trading practices as a member state of the European Union, other requirements would continue to restrict the importation of pork and pork products from Spain.

In 1992, the majority (approximately 96.3 percent) of all hog and pig farmers in the United States qualified as small entities. However, the impact of relieving restrictions on live swine imports from Spain on these producers is expected to be minimal because the

swine industry of Spain is relatively small compared to the market in the United States. In 1994, swine production in Spain was estimated to be 26.7 million head, compared to swine production in the United States of over 100 million head. Also, in 1994, Spain exported a little more than 0.5 million live swine, or less than 2 percent of its total swine production, and all of those animals were directed to countries in Europe.

Total imports of live swine into the United States are very small relative to domestic production. In 1993, only 1.75 million head were imported into the United States. Due to transportation costs and other factors, nearly all of the live swine imported into the United States (more than 99.8 percent in 1993) are from Canada. Most of the live swine that are imported from Western Europe into the United States are imported in very small numbers, to be used for genetic improvements of domestic stock. We expect that the importation of swine embryos and semen will not increase as a result of the proposed change. Movement of swine embryos and semen is limited because the technology is not as advanced as it is for other species.

Like domestic swine producers, the majority of pork producers (97 percent of 1367 meat packing establishments and 98 percent of 1264 other processing plants, according to 1992 data) qualify as small entities. We expect the effect of the proposed amendment on these entities would be minimal because, while Spain produces a considerable amount of pork (2.107 million metric tons in 1994), its total pork production amounts to only about 26 percent of the total pork production of the United States. Additionally, most of Spain's pork production is consumed within Spain, as its population consumes pork at a rate greater than 1.6 times that of the U.S. population.

In 1994, Spain exported approximately 83,000 metric tons of pork, but more than 97 percent of these exports were to European countries. While Spanish exports of pork are growing and its imports of pork are declining, Spain has historically been a net importer of pork. From 1991 to 1993, Spain imported well over twice as much pork as it exported. Even if Spain were able to redirect all of its exports of pork to the United States, it would constitute a small portion of the domestic market, as U.S. pork production was 8 million metric tons in 1994.

Since 1985, the United States has expanded its pork exports by more than four times to reach 240,858 metric tons

in 1994. Simultaneously, the United States has decreased its pork imports, as exemplified by a decrease of approximately 34 percent in 1994, and the trend is continuing. In an average year, up to 90 percent of pork imported into the United States comes from Canada and Denmark.

Domestic pork producers most likely to be affected by the amendments in this proposal are a small number of domestic producers of specific specialty pork products. If the proposed rule is adopted, we anticipate increased imports into the United States from Spain of dry-cured, ready-to-eat ham; dry-cured, salted, boneless loin; and dry-cured sausages, particularly Serrano ham. Most of these products are similar to Parma and prosciutto hams and other cured pork products being produced domestically and produced in other countries for importation into the United States, but Serrano ham is a specialty product with unique water content, color, aroma, and flavor.

Spain currently produces approximately 350,000 metric tons of all types of cured ham per year. It is estimated that in 1994 more than 975,000 metric tons of all types of cured ham were produced in the United States. While Spanish production of all types of cured ham represents approximately 27.9 percent of U.S. cured ham production, Spain's domestic consumption of cured pork is considerably higher than consumption in the United States. About 40 percent of Spain's total pork consumption consists of cured pork. In 1994, Spain exported only 4,135 metric tons of cured ham, which amounts to significantly less than 1 percent of total U.S. production of cured pork. These exports were directed primarily to France, Argentina, Portugal, and Germany.

From all indications, only a few of the largest 18 cured pork producers in Spain, which account for 50 percent of Spanish production of cured pork, have an interest in or a capability for penetrating the U.S. market over the foreseeable future. Further, we estimate that the maximum amount of cured pork products that Spain could expect to export to the United States would not likely exceed 500 metric tons annually, and this ceiling would not likely be reached for a period of about five years because the imports arriving in the United States from Spain would still be required to meet Food Safety and Inspection Service standards before entering the country.

We estimate that there are approximately 15 companies in the United States producing significant amounts of specialty processed pork

products that would compete with the potential imports from Spain. A small portion of these producers are very large, and these specialty products constitute only a small fraction of their overall business. Therefore, we expect the impact of the proposed change on these large companies would be minimal. However, the small producers may be impacted by additional imports. Yet, without specific information on (1) the quantity of additional imports generated by the rule change, (2) the quantity of domestic production, and (3) the degree to which Spanish imports will displace other imports rather than domestic production, the impact on small domestic producers cannot be predicted.

An alternative to this proposed rule is to make no changes in the regulations. We rejected this alternative because Spain has had no reported cases of ASF since September 1994, and, therefore, we have no scientific reason to continue considering Spain to be a country where ASF exists.

This proposed rule contains no information collection or recordkeeping requirements.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.8 [Amended]

2. In § 94.8, the introductory text would be amended by removing the words “, and Spain” and by adding the word “and” immediately preceding the word “Portugal”.

Done in Washington, DC, this 22nd day of May 1996.

Donald Husnik,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-13406 Filed 5-28-96; 8:45 am]

BILLING CODE 3410-34-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

RIN 3150-AC57

Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States; Withdrawal

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing a notice of proposed rulemaking that would have reasserted the NRC's jurisdiction in Agreement States over the disposal of licensed material generated and disposed of at nuclear reactor sites. The proposed rule would also have clarified the jurisdiction over disposal of noncritical waste quantities of special nuclear material at reactors and fuel cycle facilities.

FOR FURTHER INFORMATION CONTACT:

Joseph J. Mate, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6202.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 1988 (53 FR 31880), the Commission published a notice of proposed rulemaking in the Federal Register entitled “Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States.” This rule would have reasserted the NRC's jurisdiction in the Agreement States over the disposal of low-level radioactive waste generated and disposed of at reactor sites. The

proposed rule would also have clarified the jurisdiction over the disposal of noncritical waste quantities of special nuclear material at fuel cycle facilities. The NRC would have authorized this disposal under 10 CFR 20.302, but 10 CFR part 20, “Standards for Protection Against Radiation,” was revised in May 1991 (56 FR 23360). The applicable regulation is now 10 CFR 20.2002.

The purpose of the proposed rule was to provide for a more centralized and consistent regulatory review of all onsite waste management activities and to avoid duplication of regulatory effort by the NRC and the Agreement States. The uniform review process that would result from the proposed rule was intended to provide greater assurance that onsite disposal of radioactive material will not present a health hazard and that the disposal of this waste in this manner will not unnecessarily complicate or delay decommissioning.

As a result of publishing the proposed rule in the Federal Register, the NRC received 49 comment letters. Twelve commenters (24 percent) favored the proposal, 37 commenters (76 percent) opposed the proposal. Comments were submitted by private citizens, Agreement and Non-Agreement States, nuclear utilities, nuclear utilities' representatives, and various conservation and public interest groups. The vast majority of the comments favoring the proposal were from nuclear utilities and their representatives. Comments opposed to the proposal came from private citizens, Agreement and Non-Agreement States, and conservation and public interest groups. Nineteen of the commenters questioned the need for the proposed rule, six commenters wanted the States' participation in the approval process to be specified, and a few States questioned the NRC's authority to promulgate the rule. The remaining commenters were concerned with better definitions of the protected and exclusion areas, the type of waste to be covered by the rule, existing onsite disposal, and the impact on regional low-level waste disposal facilities. Some States commented that the Agreement States were more familiar with local conditions and that their requirements were more strict than the NRC's. Of the 10 Agreement States that commented, 9 States were opposed to the amendments. The remaining Agreement State that commented supported the rule but reserved the right to participate in the approval process with full review privileges and expected their concerns to be addressed.

As a result of the public comments received and the relatively low hazards