

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 96-077-1]

Change in Disease Status of Costa Rica Because of Exotic Newcastle Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare Costa Rica free of exotic Newcastle disease (END). Declaring Costa Rica free of END appears to be appropriate because the country has had no clinical, pathological, or laboratory confirmation of END for the last 5 years. This proposed rule would remove the prohibition on the importation into the United States, from Costa Rica, of poultry and poultry products.

DATES: Consideration will be given only to comments received on or before March 3, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-077-1, 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. 96-077-1. 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. Michael David, Senior Staff Veterinarian, Animal Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1228, (301) 734-5034.

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 exotic Newcastle disease (END). END is a contagious, infectious, and communicable disease of poultry.

Section 94.6(a)(1) of the regulations provides that END exists in all countries of the world except those listed in § 94.6(a)(2), which have been declared to be free of END. We will consider declaring a country to be free of END if there have been no reported cases of the disease in that country for at least the previous 1-year period and no vaccinations for END have been administered to poultry in that country for at least the previous 1-year period.

There has been no documented case of END in Costa Rica for the last 5 years, based on morbidity and mortality reports provided by the industry and the government of Costa Rica, on clinical reports from the field, and on the lack of any typical lesions noted on necropsies. Based on these considerations, the government of Costa Rica has requested that the U.S. Department of Agriculture (USDA) declare Costa Rica free of END.

The Animal and Plant Health Inspection Service (APHIS) reviewed the documentation submitted by the government of Costa Rica in support of its request, and a team of APHIS officials traveled to Costa Rica in 1994 to conduct an on-site evaluation of the country's animal health program with regard to the END situation in Costa Rica. The evaluation consisted of a review of Costa Rica's official veterinary services, laboratory and diagnostic procedures, vaccination practices, and administration of laws and regulations intended to prevent the introduction of END into Costa Rica through the importation of animals, meat, or animal products. The results of this on-site visit, and subsequent evaluation, allows APHIS officials to conclude that Costa Rica is free of END.

Therefore, based on the information discussed above, we are proposing to amend § 94.6(a)(2) by adding Costa Rica to the list of countries declared to be free of END. This proposed action

would remove the prohibition on the importation, from Costa Rica, of poultry and poultry products.

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.

This proposed rule, if adopted, would amend the regulations in 9 CFR part 94 by adding Costa Rica to the list of countries declared to be free of END. This action would remove the prohibition on the importation into the United States, from Costa Rica, of poultry and fresh, chilled, and frozen meat of poultry, although those importations would be subject to certain restrictions. Based on available information, the Department does not anticipate a major increase in exports of poultry or poultry products from Costa Rica into the United States as a result of this proposed rule.

The commercial chicken industry in Costa Rica is very small relative to the industry in the United States. Costa Rica has about two million mature multipliers (those birds producing other birds for human consumption). By comparison, there are nearly 120 million multiplier hens and pullets of laying age in the United States. We do not expect any movement from Costa Rica into the United States of live chickens, chicks, or hatching eggs. These products are used for genetic stock, and, as Costa Rica imports most of its genetic stock (much of it from the United States), it would not be economically feasible for them to produce genetic stock for export.

We also do not expect a significant change in the importation of poultry products from Costa Rica as a result of this proposed rule. We expect that any poultry product imports would most likely be chicken meat. Costa Rica produced 60,424 metric tons of chicken meat in 1995, while the United States produced 11.5 million metric tons of chicken meat in the same year. Before any poultry meat could be imported into the United States from Costa Rica, the packing facilities in Costa Rica would require the approval of the Food Safety and Inspection Service (FSIS), USDA. Further, it is unlikely that Costa Rica would or could direct a significant portion of its chicken meat production

exclusively to the United States. Even if Costa Rica were to export all of its chicken meat production to the United States, however, that amount would represent less than one percent of U.S. production. Therefore, declaring Costa Rica free of END should not lead to a significant change in the importation of chicken meat into the United States. Thus, this proposed rule is expected to have no more than a minimal impact on domestic producers of poultry products, whether small or large.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, 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 information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (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), EXOTIC 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).

§ 94.6 [Amended]

2. In § 94.6, paragraph (a)(2) would be amended by adding "Costa Rica," immediately after "Chile,".

Done in Washington, DC, this 20th day of December 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-33118 Filed 12-30-96; 8:45 am]

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9 CFR Part 94

[Docket No. 96-076-1]

Pork and Pork Products from Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow fresh, chilled, and frozen pork and pork products from the Mexican State of Baja California to transit the United States, under certain conditions, for export to another country. Currently, we allow such pork and pork products from the Mexican States of Sonora, Chihuahua, and Yucatan to transit the United States for export. Otherwise, the movement of fresh, chilled, or frozen pork and pork products into the United States from Mexico is prohibited because of hog cholera in Mexico. Baja California has not had an outbreak of hog cholera since 1985 and it appears that fresh, chilled, and frozen pork and pork products from Baja California could transit the United States under seal with minimal risk of introducing hog cholera.

DATES: Consideration will be given only to comments received on or before March 3, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-076-1, 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. 96-076-1. 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. Michael David, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, USDA, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-5034.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of certain animal diseases. Section 94.9 of the regulations prohibits the importation of pork and pork products into the United States from countries where hog cholera exists, unless the pork or pork products have been treated in one of several ways, all of which involve heating or curing and drying.

Because hog cholera exists in Mexico, pork and pork products from Mexico must meet the requirements of § 94.9 to be imported into the United States. However, under § 94.15, pork and pork products that are from certain Mexican States and that are not eligible for entry into the United States in accordance with the regulations may transit the United States for immediate export if certain conditions are met. This provision was added to the regulations in 1992, following a United States Department of Agriculture investigation of the hog cholera situation in Sonora, Mexico, and a determination that pork and pork products from Sonora could transit the United States, under certain conditions, with minimal risk of introducing hog cholera. The Mexican State of Chihuahua was included in this provision in a final rule published in the Federal Register on November 15, 1995 (60 FR 57313-57315, Docket No. 95-037-2). The Mexican State of Yucatan was included in this provision in a final rule published in the Federal Register on June 25, 1996 (61 FR 32646-32647, Docket No. 95-093-2).

Mexico's Director of Animal Health has requested that we allow pork and pork products from the Mexican State of Baja California to transit the United States for export under the same conditions that currently apply to pork and pork products from Sonora, Chihuahua, and Yucatan. In response, officials of the Animal and Plant Health Inspection Service (APHIS) met in August 1996 in Baja California with Mexican representatives knowledgeable in disease prevention, epidemiology, and diagnostic methods. The team reviewed the hog cholera situation in Baja California (discussed below) and recommended granting Mexico's request.

The last outbreak of hog cholera in the Mexican State of Baja California occurred in March 1985. Vaccination for hog cholera was discontinued in 1986. Mexico officially recognized Baja