

restriction on receipt of funds under CAP but only as to beneficiaries who, as a condition of such waiver, agree to apply the CAP payments to reduce the amount of the judgment lien.

(l) For CAP, producers are either eligible or ineligible. Therefore, the provisions of § 718.304 of this chapter, "Failure to Fully Comply," do not apply to this subpart.

(m) The regulations in subpart B apply to CAP. In addition to those regulations that specifically include subpart H or apply to this part, the following sections specifically apply to this subpart: §§ 760.113(a), 760.114, and 760.116(a).

Signed in Washington, DC, on October 19, 2010.

**Carolyn B. Cooksie,**

*Administrator, Farm Service Agency.*

[FR Doc. 2010-26869 Filed 10-22-10; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. APHIS-2010-0077]

#### Change in Disease Status of Japan Because of Foot-and-Mouth Disease

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

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

**SUMMARY:** We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing Japan from the list of regions considered to be free of foot-and-mouth disease (FMD) and also from the list of FMD-free regions that are subject to certain import restrictions on meat and meat products because of their proximity to or trading relationships with FMD- or rinderpest-affected countries. We are taking this action because the existence of FMD has been confirmed in Japan. This action restricts the importation of ruminants and swine and the fresh meat and other animal products of ruminants and swine from that country and is necessary to prevent the introduction of FMD into the United States.

**DATES:** This interim rule is effective October 25, 2010. However, we are imposing this restriction retroactively to April 20, 2010. We will consider all comments that we receive on or before December 27, 2010.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0077> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS-2010-0077, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0077.

**Reading Room:** 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.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kelly Rhodes, Senior Staff Veterinarian, Regionalization Evaluation Services—Import, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

#### SUPPLEMENTARY INFORMATION:

##### Background

Foot-and-mouth disease (FMD) is a severe and highly contagious viral infection affecting cloven-hoofed ruminants, including cattle, deer, goats, sheep, swine, and other animals. The disease is highly communicable and is characterized by fever and blister-like lesions on the tongue and lips, in the mouth, on the teats, and between the hooves. It causes severe losses in the production of meat, milk, and other dairy products. Although many animals survive the disease, it leaves them debilitated. FMD is endemic to more than two-thirds of the world and is considered to be widespread in parts of Africa, Asia, Europe, and South America. Because of the highly communicable nature of FMD, it is necessary to protect livestock that are free of the disease from any animals, animal products, or other articles that might be contaminated with the FMD virus.

Although FMD was eradicated in the United States in 1929, the virus could be reintroduced by a single infected animal, animal product, or person carrying the virus. Once introduced, FMD can spread quickly through exposure to aerosols from infected animals, direct contact with infected animals, contact with contaminated feed or equipment, ingestion of animal products, or contact with humans harboring the virus or carrying the virus on their clothing.

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest and FMD. Section 94.1 of the regulations lists regions of the world that are considered free of rinderpest and FMD. Japan has been listed in § 94.1 as a region considered free of rinderpest and FMD. Section 94.11 lists regions of the world considered free of rinderpest and FMD but from which the importation of meat and other animal products into the United States is subject to additional restrictions because of those regions' proximity to or trading relationships with FMD-affected regions. Japan has been listed in § 94.11 as one of the regions from which meat and other animal products of ruminants and swine are subject to additional restrictions.

On April 20, 2010, the Ministry of Agriculture, Forestry, and Fisheries of Japan reported an outbreak of FMD in that country to the World Organization for Animal Health (OIE). In response, APHIS administratively issued temporary restrictions on commodities from Japan that could harbor FMD virus. Since that date, Japan has reported FMD on a total of 292 premises. No new cases have been diagnosed since July 4, 2010. We are amending the regulations in § 94.1(a)(1) to remove Japan from the list of regions free of rinderpest and FMD and are amending the regulations in § 94.1(a)(3) to add Japan to the list of regions free of rinderpest. We are also amending the regulations in § 94.11 to remove Japan from the list of regions considered free of rinderpest and FMD but from which the importation of meat and other animal products of ruminants and swine into the United States is subject to additional restrictions.

Additionally, we are making a nonsubstantive change to § 94.27 to clarify our intent regarding that section. The provisions of § 94.27 allow the importation from Japan of whole cuts of boneless beef derived from cattle that meet specified conditions to mitigate the risk of introducing bovine

spongiform encephalopathy (BSE) into the United States. The introductory text in § 94.27 indicates that beef meeting the conditions of that section is eligible for importation into the United States, notwithstanding any other provisions of part 94. Interpreted literally, that wording would supersede the prohibitions being imposed by this interim rule with regard to FMD. However, that is not our intent. When § 94.27 was added to the regulations in 2005, the intent behind the “notwithstanding” wording was to reflect our determination that qualifying beef from Japan could be safely imported into the United States with regard to BSE, even though Japan was listed in § 94.18 as a country in which BSE exists. To clarify that intent, we are revising the introductory text of § 94.27 to indicate that section is applicable notwithstanding any provisions of § 94.18. However, any other applicable restrictions set forth in part 94 still apply and the importation of any fresh beef from Japan is prohibited as long as Japan is not listed as a country free of FMD.

Although we are removing Japan from the list of regions considered free of rinderpest and FMD, we recognize that the Ministry of Agriculture, Forestry, and Fisheries of Japan has responded to the detection of FMD by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from FMD-affected areas; by conducting heightened surveillance activities; and by initiating measures to eradicate the disease. As noted above, no new cases of FMD have been diagnosed in Japan since July 4, 2010. We intend to reassess this situation at a future date in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule. The future reassessment will determine whether we can restore Japan to the list of regions in which FMD is not known to exist.

#### Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of FMD into the United States. 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.

#### Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. This interim rule is not expected to have an immediate or significant economic impact on small entities producing beef and swine products in the United States. As cattle and swine in Japan are culled due to the FMD outbreak there and supplies of beef and pork products become tighter in Japan, there may be an increase in the demand for U.S. beef and pork products. With regard to imports, beef imported from Japan is a unique product that serves a high-priced specialty market. Although entities that purchase beef from Japan will be affected by this rule, farms in the United States that raise cattle for this type of beef may benefit from the prohibition on imports of beef from Japan. We invite comment on our full economic analysis, which is posted with this interim rule on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) and may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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 inconsistent with this rule; (2) has retroactive effect to April 20, 2010; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This interim rule contains no 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, we are amending 9 CFR part 94 as follows:

### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

#### 94.1 [Amended]

■ 2. Section 94.1 is amended as follows:

- a. In paragraph (a)(2), by removing the word “Japan,”.
- b. In paragraph (a)(3), by adding the word “Japan,” immediately before the word “Namibia”.

#### 94.11 [Amended]

■ 3. In § 94.11, paragraph (a) is amended by removing the word “Japan,”.

#### § 94.27 [Amended]

■ 4. In § 94.27, the introductory text is amended by removing the words “Notwithstanding any other provisions of this part,” and adding in their place the words “Notwithstanding the provisions of § 94.18,”.

Done in Washington, DC, this 19th day of October 2010.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 271

[EPA–R06–RCRA–2009–0343 FRL–9217–2]

#### New Mexico: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** The State of New Mexico has applied to the EPA for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State’s changes through this immediate final action. The EPA is publishing this