

sale for slaughter if they are identified in accordance with § 71.19 of this chapter either:

- (1) Before being moved in interstate commerce and before being mixed with swine from any other source; or
- (2) After being moved in interstate commerce but before being mixed with swine from any other source only if they have been moved directly from their herd of origin to:
 - (i) A recognized slaughtering establishment; or
 - (ii) A stockyard, market agency, or dealer operating under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*).
- (b) Sows and boars may be moved in interstate commerce for breeding only if they are identified in accordance with § 71.19 of this chapter before being moved in interstate commerce and before being mixed with swine from any other source, and the sows and boars either:
 - (1) Are from a validated brucellosis-free herd or a validated brucellosis-free State and are accompanied by a certificate that states, in addition to the items specified in § 78.1, that the swine originated in a validated brucellosis-free herd or a validated brucellosis-free State; or
 - (2) Have tested negative to an official test conducted within 30 days prior to interstate movement and are accompanied by a certificate that states, in addition to the items specified in § 78.1, the dates and results of the official tests.
- (c) Sows and boars may be moved in interstate commerce for purposes other than slaughter or breeding without restriction under this subpart if they are identified in accordance with § 71.19 of this chapter.

Subpart E—[Heading Amended]

21. The heading of subpart E is amended by removing the words “, and Specifically Approved Stockyards”.

§ 78.44 [Removed]

22. Section 78.44 is removed.

PART 80—PARATUBERCULOSIS IN DOMESTIC ANIMALS

23. The authority citation for part 80 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, and 125; 7 CFR 2.22, 2.80, and 371.2(d).

§ 80.1 [Amended]

24. In § 80.1, paragraph (j) is amended by removing the reference “§ 78.44” and by adding the words “§ 71.20 of this chapter” in its place.

PART 85—PSEUDORABIES

25. The authority citation for part 85 continues to read as follows:

Authority: 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 85.1 [Amended]

26. In § 85.1, in the definition of *Approved livestock market*, the words “§ 76.18 (9 CFR 76.18)” are removed and the words “§ 71.20 of this chapter” are added in their place.

27. In § 85.1, in the definition of *Slaughter market*, the words “§ 76.18 (9 CFR 76.18)” are removed and the words “§ 71.20 of this chapter” are added in their place.

§ 85.12 [Amended]

28. Section 85.12 is amended by removing the reference “§ 76.30” and by adding the reference “§ 71.7” in its place.

§ 85.13 [Amended]

29. Section 85.13 is amended by removing the reference “§ 76.31” and by adding the reference “§ 71.7” in its place.

Done in Washington, DC, this 19th day of May 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–13499 Filed 5–21–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 96–094–1]

Limited Ports; Dayton, OH

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the animal importation regulations by adding Dayton, OH, to the list of limited ports of entry for horses and horse products, such as horse test specimens, that do not appear to require restraint and holding inspection facilities. We have determined that this port has inspection facilities for this purpose and that Animal and Plant Health Inspection Service personnel are available to provide service at this location. This action will provide an additional port of entry for horses and horse products that do not require restraint and holding

facilities for inspection at the port of entry.

DATES: This rule will be effective on July 21, 1997 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 23, 1997.

ADDRESSES: Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to Docket No. 96–094–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your submission refers to Docket No. 96–094–1. Submissions 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 and notices are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. David Vogt, Senior Staff Veterinarian, Animal Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–8423; or e-mail: dvogt@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) restrict the importation of specified animals and animal products into the United States to prevent the introduction of communicable animal diseases. Subpart C—Horses, §§ 92.300 through 92.326 of the regulations, covers the importation of horses. Section 92.303 designates ports approved for the importation of horses. Section 92.303, paragraph (d), lists limited ports, which have inspection facilities for the importation of horses and horse products, such as horse test specimens, that do not appear to require restraint and holding facilities for inspection at the port of entry.

This rule will amend § 92.303(d) in accordance with the procedures explained below under **DATES**, by adding Dayton, OH, to the list of limited ports for the entry of horses and horse products. We have determined that this port has inspection facilities for this purpose and that Animal and Plant Health Inspection Service personnel are available to provide service at this location. This action will provide importers with an alternative port of entry for horses and horse products that do not require restraint and holding

facilities for inspection at the port of entry.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This 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.

We have determined that Dayton, OH, meets the requirements for being designated as a limited port of entry for horses and horse products. A limited port of entry has inspection capabilities for animals and products that do not appear to require restraint and holding facilities for inspection.

This rule will allow imported horses and horse products that do not require restraint and holding facilities for inspection at the port of entry to be imported into the United States through Dayton, OH. Allowing these horses and horse products to be imported through Dayton, OH, is not expected to result in any significant increase in the number of horses and horse products imported into the United States. The opening of Dayton, OH, as a limited port only

provides an alternative point of entry for horses and horse products already allowed to be imported into the United States. It is expected that the number of horses imported through Dayton, OH, will be quite small, probably fewer than 20 a year. A similarly small quantity of horse products is also expected to be imported through the port.

The entities affected by this rule will be those importers who wish to use the port. We believe that most of these entities will be considered small entities by the Small Business Administration's standards, but we do not know how many of them will opt to use the port. The port in Dayton, OH, will provide these importers with an alternative point of entry for horses and horse products, which could result in added convenience and lowered costs for the importers. We do not anticipate that there will be a significant economic impact on any small entities as a result of this rule.

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

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 no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This 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 92

Animal disease, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b,

134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 92.303 [Amended]

2. In § 92.303, paragraph (d) is amended by adding the words “Dayton, Ohio;” immediately after “Montana;”.

Done in Washington, DC, this 19th day of May 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–13501 Filed 5–21–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 96–077–2]

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

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are declaring Costa Rica free of exotic Newcastle disease (END). Declaring Costa Rica free of END is appropriate because the country has had no clinical, pathological, or laboratory confirmation of END for the last 5 years. This action removes the prohibition on the importation into the United States, from Costa Rica, of live birds, game birds, poultry, and their products.

EFFECTIVE DATE: June 6, 1997.

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