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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 01-055-2]

States Approved To Receive Stallions and Mares From CEM-Affected Regions; Rhode Island

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On November 1, 2001, the Animal and Plant Health Inspection Service published a direct final rule. (See 66 FR 55068-55071, Docket No. 01-055-1.) The direct final rule notified the public of our intention to amend the animal importation regulations by adding Rhode Island to the list of States approved to receive certain stallions and mares imported into the United States from regions affected with contagious equine metritis (CEM). We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Bischoff, Staff Veterinarian, National Center for Import and Export, Technical Trade Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-8364.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 26th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-264 Filed 1-4-02; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01-010-2]

Change in Disease Status of Japan With Regard to Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of certain animals, meat, and other animal products by adding Japan to the list of regions that are considered free of rinderpest and foot-and-mouth disease. We are taking this action because we have determined that Japan is now free of foot-and-mouth disease. We are also adding Japan to the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or foot-and-mouth disease-affected countries. These actions update the disease status of Japan with regard to foot-and-mouth disease while continuing to protect the United States from an introduction of rinderpest and foot-and-mouth disease by providing additional requirements for meat and meat products imported into the United States from Japan.

EFFECTIVE DATE: January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-3276.

SUPPLEMENTARY INFORMATION:

Background

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 diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD is considered to exist in all other parts of the world not listed. Section 94.11 of the regulations lists regions of the world that have been determined to be free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

In an interim rule effective on March 8, 2000, and affirmed on July 14, 2000, we amended the regulations in § 94.1(a)(2) by removing Japan from the list of regions that have been declared free of rinderpest and FMD. This action was necessary because FMD had been confirmed in Japan. (Although Japan continues to be free of rinderpest, § 94.1(a)(2) lists regions that are declared free of both rinderpest and FMD.) Additionally, in that interim rule, we removed Japan from the list in § 94.11 of countries that are declared to be free of these diseases, but that are still subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. As a result of that action, the importation into the United States of any ruminant or swine or any fresh (chilled or frozen) meat of any ruminant or swine that left Japan on or after March 8, 2000, was prohibited or restricted.

In response to the March 2000 outbreak of FMD, Japan undertook intensive efforts to eradicate the disease. Japan's last FMD-affected premises was depopulated on May 15, 2000.

On September 4, 2001, we published in the **Federal Register** (66 FR 46228-46230, Docket No. 01-010-1) a proposal to amend the regulations by adding Japan to the list in § 94.1(a) of regions that are considered free of rinderpest and FMD. In that document, we also proposed to add Japan to the list in § 94.11(a) of regions declared free of rinderpest and FMD but that are subject to special restrictions on the importation of their meat and other animal products into the United States.

We solicited comments concerning our proposal for 60 days ending November 5, 2001. We received one comment by that date, from an organization representing American cattle producers. The commenter opposed the designation of Japan as free of FMD, arguing that insufficient time had passed since Japan's most recent reported case of FMD in May 2000 for the U.S. Department of Agriculture (USDA) to confirm eradication of the disease. The commenter recommended a 4- to 5-year disease-free waiting period from the time of the most recent recorded case of FMD to the designation of a country as FMD-free, during which time the importation into the United States of any animals, cut products, and byproducts from that country would be banned. Noting that the FMD virus can persist in the oropharynx of cattle for up to 30 months and can be preserved by refrigeration or freezing, the commenter argued that the 4- to 5-year time frame would provide a reasonable period within which the risk of FMD re-infection would be sufficiently diminished. The commenter also discussed the need for a comprehensive on-site review of the health of the livestock herds in the infected country by qualified U.S. animal health experts.

We continue to believe that designation of Japan as FMD-free is justified. International disease standards set by the Office International des Epizooties allow a country that was previously free of FMD but that subsequently suffered an occurrence to regain its FMD-free status 3 months after the last recorded case. Japan depopulated its last FMD-affected premises on May 15, 2000. While the virus can persist, surveillance conducted by Japanese authorities, which included serological testing and clinical assessment, did not reveal any carrier animals. In addition, the USDA did conduct an on-site visit to Japan in January 2001 and concluded that the depopulation and surveillance measures taken by Japanese authorities have ensured the eradication of FMD in Japan.

The commenter also stated that an outbreak of either FMD or bovine spongiform encephalopathy (BSE) in a country should be grounds to preclude disease-free certification for both of these diseases. According to the commenter, outbreaks of either of these diseases indicate a failure on the part of the affected country to take adequate precautionary measures to protect the health of its livestock. Therefore, the commenter contended that the confirmation of BSE in Japan on

September 22, 2001, should preclude recognition of that country as FMD-free.

We are making no changes based on this comment. When a country first applies to the Animal and Plant Health Inspection Service (APHIS) to be recognized as free of a specific disease of concern, APHIS conducts an evaluation and considers a number of factors affecting the reliability of that country's animal disease prevention efforts. The factors considered include, but are not limited to, the disease history of the country; the authority, organization, and infrastructure of the veterinary services programs in the country; the extent to which movement of animals and animal products is controlled from regions of higher disease risk; the type and extent of disease surveillance in the country; and the policies and infrastructure for animal disease control in the country i.e., emergency response.

APHIS will recognize a country free of a specific disease only after it has determined that the factors listed above indicate an acceptable level of animal biosecurity in that country. As standard procedure, this determination is made only after APHIS representatives have conducted a site visit of the country in question. Based on the factors listed above, APHIS has determined that it is appropriate to consider Japan free of FMD.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule restores Japan to the list of regions considered free of FMD. Immediate action is necessary to remove restrictions on the importation of animals, meat, and other animal products that are no longer necessary. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

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 under Executive Order 12866.

We are amending the regulations to add Japan to the list of regions that are considered free of rinderpest and FMD.

We are taking this action because we have determined that Japan is now free of FMD. We are also adding Japan to the list of regions that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected countries. These actions update the disease status of Japan with regard to FMD while continuing to protect the United States from an introduction of rinderpest and FMD by providing additional requirements for any meat and meat products imported into the United States from Japan.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

The livestock industry plays a significant role in the U.S. economy. According to the National Agricultural Statistics Service, in 2000, the total number of cattle and calves in the United States was approximately 98.05 million, valued at approximately \$67.01 billion. U.S. operations with cattle numbered 1,115,650 in 1997, the last year for which census data are available. More than 99 percent of these cattle operations had gross receipts of less than \$750,000, which qualifies them as small entities according to the standards set by the Small Business Administration.

The U.S. livestock industry also plays an important role in international trade. U.S. competitiveness in international markets relies significantly upon this country's reputation for producing high-quality, disease-free animals and animal products. Maintaining these favorable trade conditions depends, in part, on continued aggressive efforts to prevent any threat of FMD introduction into the United States. A single outbreak of FMD anywhere in the United States would close our major export markets for livestock and livestock products overnight. Most exports of meat, animals, and animal byproducts would be stopped until the disease was completely eradicated.

In 1999, the total earnings from U.S. exports of live cattle, swine, beef and veal, pork, and dairy products to the rest of the world were approximately \$4.80 billion. Additionally, the export of other animals and animal products and byproducts generated approximately \$5.64 billion in sales for the United States. Consequently, an outbreak of FMD could result in the potential loss of export sales in the billions of dollars as well as other costs to those involved in the U.S. livestock industry.

Because we are declaring Japan to be free of FMD but subject to the restrictions of § 94.11 due to its trading

relationships with rinderpest- or FMD-affected regions, this rule will produce economic benefits by continuing to protect against the introduction of rinderpest and FMD into the United States. Import values of dairy products, red meat, and red meat products represented less than 0.01 percent of the overall value of U.S. imports from Japan in 1999. Since Japan is not a significant source, and is not expected to become a significant source, of these products for the U.S. market, this rule will not have a noticeable effect on producer, wholesale, or consumer prices in the United States. Therefore, we expect that there will be very little or no effect on U.S. entities, large or small, 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 final 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 final 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, 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 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 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 371.4.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by adding, in alphabetical order, the word “Japan,”.

§ 94.11 [Amended]

3. In § 94.11, paragraph (a), the first sentence is amended by adding, in alphabetical order, the word “Japan,”.

Done in Washington, DC, this 27th day of December, 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02-262 Filed 1-4-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-124-AD; Amendment 39-12578; AD 2001-26-12]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100, 747-200, 747-300, and 747SR Series Airplanes Powered by General Electric CF6-45/50 or Pratt & Whitney JT9D-70 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747-100, 747-200, 747-300, and 747SR series airplanes powered by General Electric CF6-45/50 or Pratt & Whitney JT9D-70 series engines, that currently requires a detailed visual inspection of the outboard diagonal brace for heat damage and cracking; and follow-on repetitive inspections and corrective actions, if necessary. This amendment requires accomplishment of the previously optional replacement of any existing sealant with heat-resistant sealant as terminating action for the repetitive inspections required by this AD. This amendment is prompted by reports of heat damage to the forward end of the diagonal brace after accomplishment of a previous strut and wing modification. The actions specified by this AD are intended to prevent heat damage to the diagonal brace, which could cause cracking, fracture, and possible loss of the diagonal brace load path and consequent separation of the strut and engine from the airplane.

DATES: Effective February 11, 2002.

The incorporation by reference of Boeing Alert Service Bulletin 747-54A2208, dated March 29, 2001, was approved previously by the Director of the Federal Register as of June 27, 2001 (66 FR 31527, June 12, 2001).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2771; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2001-12-05, amendment 39-12260 (66 FR 31527, June 12, 2001), which is applicable to certain Boeing Model 747-100, 747-200, 747-300, and 747SR series airplanes powered by General Electric CF6-45/50 or Pratt & Whitney JT9D-70 series engines, was published in the **Federal Register** on September 4, 2001 (66 FR 46241). The action proposed to continue to require a detailed visual inspection of the outboard diagonal brace for heat damage and cracking; and follow-on repetitive inspections and corrective actions, if necessary. The action also proposed to require accomplishment of the previously optional terminating replacement of any existing sealant with heat-resistant sealant as terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Change to Final Rule

Since the issuance of the proposal, the FAA has approved two alternative methods of compliance for AD 2001-12-05. A new paragraph (d)(2) has been added to this final rule to include those approvals.

Conclusion

After careful review of the available data, the FAA has determined that air