

# 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 Parts 92 and 98

[Docket No. 94-110-1]

#### Limited Ports; Denver, CO

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations concerning importation of animals and animal germ plasm by removing Denver, CO, from the list of limited ports of entry for animals and animal products that do not require restraint or holding facilities. The port has handled few importations and no longer has the personnel required to effectively provide inspection services for this location.

**DATES:** Consideration will be given only to comments received on or before April 10, 1995.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 94-110-1, Animal and Plant Health Inspection Service, Policy and Program Development, Regulatory Analysis and Development, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 94-110-1. 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. David Vogt, Senior Staff Veterinarian, Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import-Export, 4700 River Road Unit 38, Riverdale, Maryland 20737-1231; (301) 734-8172.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR parts 92 and 98 (referred to below as the regulations) restrict the importation of specified animals, animal products, and animal germ plasm into the United States to prevent the introduction of various animal diseases. The regulations designate limited ports of entry for germ plasm and certain animals and animal products, such as test specimens, that do not require restraint or holding facilities. Sections 92.102(d), 92.203(d), 92.303(d), 92.403(e), 92.503(e), and 98.33(d) of the regulations list the limited ports having inspection facilities for the importation of certain birds, poultry and poultry products, horses and horse products, ruminants and ruminant products, swine and swine products, and germ plasm, respectively. Denver, CO, is currently listed in these sections as a limited port.

However, due to staffing shortages in Denver, CO, the Animal and Plant Health Inspection Service (APHIS) cannot guarantee that personnel will be available on a regular basis to perform inspections required by the regulations. Further, within the past year, there have been few shipments of animals, animal products, or germ plasm arriving at the port in Denver, CO, for inspection. For these reasons, APHIS proposes to amend §§ 92.102(d), 92.203(d), 92.303(d), 92.403(e), 92.503(e), and 98.33(d) of the regulations by removing Denver, CO, as a limited port.

##### 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.

Only certain animals and animal products from Canada and germ plasm have been imported into Denver, CO, during the past several years. Therefore, we believe that the primary impact of this proposal will be on importers of those animals and animal products from Canada and importers of animal germ plasm. These importers will no longer be able to import these articles through the Stapleton International Airport, which is located in Denver, CO. However, there have been few shipments of animals, animal products, or germ plasm imported through

Denver, CO, during the past year. After removing Denver, CO, as a limited port of entry, there are still many ports throughout the United States that will remain available as alternate ports, including over 20 limited ports. Because of the reasons provided above, we believe that removing Denver, CO, from the lists of limited ports will have little if any economic impact on importers or other entities, large or small. We do not anticipate any change in the volume or number of shipments of animals, animal products, or germ plasm entering the United States, or in the number of persons importing them, due to removing Denver, CO, as a limited port.

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 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 information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

##### List of Subjects

###### 9 CFR Part 92

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

###### 9 CFR Part 98

Animal diseases, Imports.

Accordingly, 9 CFR parts 92 and 98 would be amended as follows:

**PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON**

1. The authority citation for part 92 would continue 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 2.17, 2.51, and 371.2(d).

**§ 92.102 [Amended]**

2. In § 92.102, paragraph (d) would be amended by removing “Denver, CO;”.

**§§ 92.203, 92.303, 92.403, and 92.503 [Amended]**

3. Sections 92.203, 92.303, 92.403, and 92.503 would be amended by removing the words “Denver, Colorado;” in the following places:

- (a) In § 92.203, paragraph (d);
- (b) In § 92.303, paragraph (d);
- (c) In § 92.403, paragraph (e); and
- (d) In § 92.503, paragraph (e).

**PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN**

4. The authority citation for part 98 would be revised to read as follows:

**Authority:** 7 U.S.C. 1622; 21 U.S.C. 103, 104, 105, 111, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

**§ 98.33 [Amended]**

5. In § 98.33, paragraph (d) would be amended by removing the words “Denver, Colorado;”.

Done in Washington, DC, this 1st day of February 1995.

**George O. Winegar,**

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

[FR Doc. 95–2899 Filed 2–6–95; 8:45 am]

BILLING CODE 3410–34–P

**9 CFR Part 94**

**[Docket No. 94–137–1]**

**Change in Disease Status of Spain Because of Swine Vesicular Disease**

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to declare Spain free of swine vesicular disease. As part of this proposed action, we would add Spain to the list of countries that, although declared free of swine vesicular disease, are subject to restrictions on pork and pork products offered for importation into the United

States. Declaring Spain free of swine vesicular disease appears to be appropriate because there have been no outbreaks of swine vesicular disease in Spain since April 1993. This proposed rule would relieve certain prohibitions and restrictions on the importation into the United States, from Spain, of swine and fresh, chilled, and frozen meat of swine. However, because African swine fever continues to exist in Spain, certain pork and pork products would continue to be prohibited.

**DATES:** Consideration will be given only to comments received on or before April 10, 1995.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 94–137–1, USDA, APHIS, PPD, Regulatory Analysis and Development, 4700 River Road Unit 118, Riverdale, MD 20737–1238. 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 Blackwell, Senior Staff Veterinarian, USDA, APHIS, Veterinary Services, National Center for Import-Export, Import-Export Animals Staff, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–7834.

**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 (FMD), bovine spongiform encephalopathy, African swine fever, hog cholera, and swine vesicular disease (SVD). These are dangerous and destructive communicable diseases of ruminants and swine.

Section 94.12(a) of the regulations provides that SVD is considered to exist in all countries of the world except those listed in § 94.12(a), which have been declared to be free of SVD. We will consider declaring a country to be free of SVD if there have been no reported cases of the disease in that country for at least the previous 1-year period. There have been no outbreaks of SVD in Spain since April 1993. Based on this, the Government of Spain has requested

that the U.S. Department of Agriculture (USDA) declare Spain to be free of SVD.

The Animal and Plant Health Inspection Service (APHIS) reviewed the documentation submitted by the Government of Spain in support of its request. A team of APHIS officials travelled to Spain to conduct an on-site evaluation of the country's animal health program with regard to the SVD situation in Spain. 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 SVD into Spain through the importation of animals, meat, or animal products. (Details concerning the 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 § 94.12(a) by adding Spain to the list of countries declared free of SVD. This action would relieve certain restrictions and prohibitions on the importation, from Spain, of swine and fresh, chilled, and frozen meat of swine.

However, we are also proposing to amend § 94.13(a) by adding Spain to the list of countries that have been declared free of SVD but from which the importation of pork and pork products is restricted. The countries listed in § 94.13(a) are subject to these restrictions because they: (1) Supplement their national pork supply by importing fresh, chilled, or frozen pork from countries where SVD is considered to exist; (2) have a common land border with countries where SVD is considered to exist; or (3) have certain trade practices that are less restrictive than are acceptable to the United States.

Spain supplements its national pork supply by importing fresh, chilled, and frozen pork from countries where SVD is considered to exist. In addition, Spain has common land borders with Portugal and France. These countries are designated in § 94.12(a) as countries where SVD exists. As a result, even though Spain appears to qualify for designation as a country free of SVD, there is potential for pork and pork products produced in Spain to be commingled with the fresh, chilled, or frozen meat of animals from a country where SVD exists. This potential for commingling constitutes an undue risk of introducing SVD into the United States.

Therefore, we are proposing that pork and pork products, as well as any ship's stores, airplane meals, and baggage containing such pork, offered for