Proposed Rules

Federal Register
Vol. 66, No. 171
Tuesday, September 4, 2001

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. 01–010–1]

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

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to add 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 proposing to add 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 would 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 any meat and meat products imported into the United States from Japan.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 5, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–010–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–010–1.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

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 exists 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.

On March 8, 2000, a suspected outbreak of FMD was detected in Japan, and on March 27, 2000, Japan's Ministry of Agriculture notified us with confirmation of the FMD diagnosis. 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. (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.

Prior to the March 2000 outbreak of FMD, Japan had not had a case of FMD since the early 1900's. 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. According to international disease standards set by the Office International des Epizooties, when FMD occurs in a country that was previously free of the disease, that country can regain its FMD-free status 3 months after the last case.

Therefore, because at least 3 months have elapsed since Japan's last FMD case, we have determined that Japan meets our requirements for being recognized as free of FMD. To update Japan's disease status regarding FMD, we are proposing to add Japan to the list in § 94.1(a)(2) of regions that are considered free of rinderpest and FMD.

This proposed action would relieve certain restrictions due to FMD and rinderpest on the importation into the United States of certain live animals and animal products from Japan. However, because Japan has certain trade practices regarding animals and animal products that are less restrictive than are acceptable for importation into the United States, the importation of meat and other products from ruminants and swine into the United States from Japan would continue to be subject to certain restrictions.

Specifically, we are proposing 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. The regions listed in § 94.11(a) are subject to these special restrictions because they: (1) Supplement their national meat supply by importing fresh (chilled or frozen) meat of ruminants or

swine from regions that are designated in § 94.1(a) as regions where rinderpest or FMD exists, (2) have a common land border with regions where rinderpest or FMD exists, or (3) import ruminants or swine from regions where rinderpest or FMD exists under conditions less restrictive than would be acceptable for importation into the United States.

Japan imports live ruminants and swine from regions not recognized as free of rinderpest or FMD under conditions less restrictive than would be acceptable for importation into the United States. As a result, there is some risk that the meat and other animal products produced by Japan could be commingled with the fresh (chilled or frozen) meat of animals from a region in which rinderpest and FMD exist and present an undue risk of introducing rinderpest or FMD into the United States if imported without restriction.

Under § 94.11, meat and other animal products of ruminants and swine, including ship stores, airplane meals, and baggage containing these meat or animal products, may not be imported into the United States except in accordance with § 94.11 and the applicable requirements of the USDA's Food Safety and Inspection Service at 9 CFR chapter III.

Section 94.11 generally requires that the meat and other animal products of ruminants and swine be: (1) Prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) accompanied by an additional certificate, issued by a full-time salaried veterinary official of the national government of the exporting region, assuring that the meat or other animal products have not been commingled with or exposed to meat or other animal products originating in, imported from, transported through, or that have otherwise been in a region where rinderpest or FMD exists.

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.

We are proposing to amend 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 proposing to add 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 would 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 proposed 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 would declare 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 proposed rule would 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 proposed rule, if adopted, would not have a noticeable effect on producer, wholesale, or consumer prices in the United States. Therefore, we expect that there would be very little or no effect on U.S. entities, large or small, as a result of this proposed rule.

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 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 proposing to amend 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 would continue 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) would be amended by adding, in alphabetical order, the word ''Japan,''.

§ 94.11 [Amended]

3. In § 94.11, paragraph (a), the first sentence would be amended by adding, in alphabetical order, the word ''Japan,''.

Done in Washington, DC, this 28th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–22134 Filed 8–31–01; 8:45 am]

BILLING CODE 3410–34–U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 20, and 50

RIN 3150–AG56

Releasing Part of a Power Reactor Site or Facility for Unrestricted Use Before the NRC Approves the License Termination Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to standardize the process for allowing a power reactor licensee to release part of its facility or site for unrestricted use before the NRC approves the license termination plan (LTP). This type of release is termed a ''partial site release.'' The proposed rule would identify the criteria and regulatory framework that a licensee would use to request NRC approval for a partial site release and provide additional assurance that residual radioactivity would meet the radiological criteria for license termination, even if parts of the site were released before a licensee submits its LTP to the NRC. Also the proposed rule would clarify that the radiological criteria for unrestricted use apply to a partial site release.

DATES: The comment period expires on November 19, 2001. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You also may provide comments via the NRC's interactive rulemaking Website (http://ruleforum.llnl.gov). This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Website, contact Ms. Carol Gallagher, (301) 415–5905, e-mail: *cag@nrc.gov.*

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room), *www.nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. W. Mike Ripley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1112; or by Internet electronic mail to wmr@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Compliance with the decommissioning and license termination rules of 10 CFR parts 20, and 50 ensures adequate protection to the public and the environment from any radioactivity remaining in the facility and site when the reactor license is terminated. The NRC staff makes its determination that the licensee has met the license termination criteria using information submitted by the licensee in its LTP and final radiation survey. The LTP is not required until 2 years before the anticipated date of license termination. The license termination radiation survey is not required until after the licensee completes its decontamination activities. These requirements were based on the NRC's anticipation that reactor licensees would permanently cease operations and then perform the decommissioning and license termination of the site as one large project. However, in 1999, a licensee informed the staff that it intended to sell parts of its facility and site before it permanently ceased operations. It was not clear whether NRC approval was required for the sale. As a result, the staff was faced with the need to evaluate the adequacy of the licensee's proposed action before the licensee was required to submit the information required by the LTP and the final radiation survey.

In evaluating the staff's response to the proposed sale of parts of the licensee's facility and site, a number of actions specific to the case were taken to ensure that the property would meet the radiological release criteria for unrestricted use of 10 CFR part 20, subpart E.

However, the NRC recognized that the current regulations in 10 CFR part 50 do not address the release of part of a reactor facility or site for unrestricted use, or require a licensee to obtain NRC approval of a partial site release. Thus, there is not a specific requirement to meet the release criteria under 10 CFR part 20, subpart E, for a partial site release. The NRC also noted that for purposes of Subpart E, the boundary of a site is defined in 10 CFR 20.1003 as ''that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.'' One could argue as a consequence of this definition that the ''site,'' which is licensed under 10 CFR part 50 and is subject to the license termination and decommissioning requirements of 10 CFR 50.82 and 10 CFR part 20, subpart E, can be changed by selling the property.

The purpose of the License Termination Rule (LTR) (61 FR 39301; July 29, 1996, as amended at 62 FR 39091; July 21, 1997) and 10 CFR 50.82 is to ensure that the residual radioactivity for the licensed activity is within the criteria of the LTR. To avoid licensees taking a piecemeal approach to license termination, the LTP must consider the entire site as defined in the original license, along with subsequent modifications to the site boundary, to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E, at the time the license is terminated. Therefore, the purpose of the LTR is to consider the whole site for application of the release criteria. That is, any site area controlled during the term of the license must be considered. The proposed rule would clarify this purpose and not establish new policies or standards. Although no further surveys of previously released areas are anticipated, the dose assessment in the LTP must account for possible dose contributions associated with previously released areas in order to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E, (0.25 mSv/yr [25 mrem/yr] reduced to as low as reasonably achievable [ALARA]) at the time the license is terminated. The proposed requirement that licensees maintain records of property line changes and the radiological conditions of partial site releases ensures that these potential dose contributions can be adequately considered at the time of any subsequent partial releases and at the time of license termination. Specific guidance to assist licensees in