

Done in Washington, DC, this 2nd day of January 2002.

**W. Ron DeHaven,**

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

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 01-031-3]

#### Change in Disease Status of The Netherlands and Northern Ireland 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 The Netherlands and Northern Ireland to the list of regions considered free of rinderpest and foot-and-mouth disease (FMD) and to the list of regions subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This final rule follows interim rules that removed France, Great Britain, Ireland, The Netherlands, and Northern Ireland from those lists due to detection of FMD in those regions. Based on the results of an evaluation of the current FMD situation in The Netherlands and Northern Ireland, we have determined that The Netherlands and Northern Ireland meet the standards of the Office International des Epizooties for being considered free of FMD. This rule relieves certain prohibitions and restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from The Netherlands and Northern Ireland.

**EFFECTIVE DATE:** January 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Dr. Anne Goodman, Senior Staff Microbiologist, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

#### 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 animal diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera (also known as classical swine fever), 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 considered free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD is considered to exist in all parts of the world not listed. Section 94.11 of the regulations lists regions of the world that the Animal and Plant Health Inspection Service (APHIS) has determined to be free of rinderpest and FMD, but from which importation of meat and animal products into the United States is restricted because of the regions' proximity to or trading relationships with rinderpest- or FMD-affected regions.

In an interim rule effective January 15, 2001, and published in the **Federal Register** on March 14, 2001 (66 FR 14825-14826, Docket No. 01-018-1), we amended the regulations by removing Great Britain and Northern Ireland from the list of regions considered to be free of rinderpest and FMD. (The **Federal Register** published a correction (66 FR 18357) to the interim rule on April 6, 2001.) In an interim rule effective February 19, 2001, and published in the **Federal Register** on June 1, 2001 (66 FR 29686-29689, Docket No. 01-031-1), we amended the regulations by removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD. These actions were necessary because FMD had been confirmed in each of those regions. The effect of the interim rules was to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Great Britain, Northern Ireland, France, Ireland, and The Netherlands.

In those interim rules, we recognized that the appropriate authorities had 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. We stated that we intended to reassess the situations at a future date in accordance with Office International des Epizooties (OIE) standards, and that as part of that reassessment process, we would consider all comments received regarding the interim rules.

Additionally, we stated that the future reassessments would enable us to determine whether it was necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from Great Britain, Northern Ireland, France, Ireland, and The Netherlands, or whether we could restore some or all of those regions to the list of regions in which FMD is not known to exist or, alternatively, regionalize portions of those regions as FMD-free.

We solicited comments concerning Docket No. 01-018-1 for 60 days ending May 14, 2001, and received one comment by that date, submitted by a medical product manufacturer, requesting permission to import a specific medical product for human use that would otherwise be prohibited importation from regions not listed as free of FMD. As a result of this request, we determined that the product could be imported with negligible risk of FMD, and allowed the product to be imported in accordance with § 94.3, which allows certain types of products to be imported from FMD-affected regions for pharmaceutical or biological purposes.

We solicited comments concerning Docket No. 01-031-1 for 60 days ending July 31, 2001, and received four comments by that date. They were from businesses, a livestock association, and a Member State of the European Union. We addressed those comments in a final rule (66 FR 55872-55876, Docket No. 01-031-2), published in the **Federal Register** and effective November 5, 2001, in which we restored France and Ireland to both the list of regions considered to be free of rinderpest and FMD and the list of regions subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

One of the four comments we received suggested that The Netherlands be recognized as FMD free, claiming that the Netherlands would be free of the disease by August 25, 2001. We made no changes to the FMD status of the Netherlands in the November 5 final rule, but responded that we were continuing to monitor that country's progress with respect to the disease and were reevaluating its FMD status. We stated that we would publish a separate document in the **Federal Register** with respect to the FMD status of The Netherlands when our evaluation was complete.

### Status of The Netherlands and Northern Ireland

In this final rule, we are restoring The Netherlands and Northern Ireland to the list in § 94.1(a) of regions that are considered to be free of rinderpest and FMD. Our reasons follow.

According to the OIE, when FMD occurs in an FMD-free country or zone where vaccination is not practiced before the outbreak, the following waiting periods are required to regain FMD-free status:

- In cases where stamping-out and serological surveillance are applied, 3 months after the last case; or
- In cases where emergency vaccination, stamping out, and serological surveillance are applied, 3 months after the slaughter of the last vaccinated animal.

Neither Northern Ireland nor The Netherlands vaccinated animals against FMD before the initial outbreaks that were confirmed in Northern Ireland on February 28, 2001, and in The Netherlands on March 21, 2001. Both countries initiated immediate destruction of affected animals and conducted clinical and serological surveillance. Additionally, The Netherlands adopted a policy of emergency vaccination.

The last case of FMD in Northern Ireland occurred on April 20, 2001, and the last case of FMD in The Netherlands occurred on April 22, 2001. The last vaccinated animal in The Netherlands was slaughtered on May 25, 2001. We find that Northern Ireland as well as The Netherlands meet the OIE standards for regaining FMD-free status.

We have evaluated the FMD eradication efforts in The Netherlands and Northern Ireland based on information provided to us by those regions and our own site visits. Our findings and site visit reports may be viewed on the Internet at <http://www.aphis.usda.gov/vs/reg-request.html>. You may also request paper copies of these documents by calling or writing the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to Docket No. 01-031-3 when requesting copies. These documents are also available 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.)

Based on our findings and after reviewing comments submitted to us on

the interim rules, we are amending the regulations by restoring The Netherlands and Northern Ireland to the list in § 94.1(a)(2) of regions that are declared free of both rinderpest and FMD. We are also restoring The Netherlands and Northern Ireland to the list in § 94.11(a) of regions that are 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.

This action relieves certain restrictions due to FMD and rinderpest on the importation into the United States of certain live animals and animal products from The Netherlands and Northern Ireland. However, because The Netherlands and Northern Ireland have 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 The Netherlands and Northern Ireland continues to be subject to certain restrictions.

### 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 The Netherlands and Northern Ireland 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 process required by Executive Order 12866.

We are amending the regulations governing the importation of certain animals, meat, and other animal products by adding The Netherlands and Northern Ireland to the list of regions considered to be free of rinderpest and FMD and to the list of regions that are subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This final rule follows interim rules that removed Great Britain, Northern Ireland, France, Ireland, and The Netherlands from those lists due to detection of FMD in those regions. Based on the results of an evaluation of the current FMD situation in The Netherlands and Northern Ireland, we have determined that The Netherlands and Northern Ireland meet the standards of OIE for being considered free of FMD. This rule relieves certain prohibitions and restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from The Netherlands and Northern Ireland.

The Netherlands and Northern Ireland have not generally been major sources of U.S. imports of the products covered by the interim rule and this final rule, which include live ruminants, live swine, fresh (chilled or frozen) meat of ruminants and swine, processed ruminant and swine meat, some dairy products, animal feeds, and other ruminant and swine products such as semen, embryos, untanned hides and skins, unwashed wool, hair, bones, blood, and some other byproducts. Also, past imports of these products from The Netherlands and Northern Ireland represent a small fraction of the total U.S. imports or total U.S. production of these products. This final rule is not expected to alter these past trade patterns.

The majority of entities potentially affected by this final rule are considered small. For example, in 1997, approximately 97 percent (2,919 of 2,992) of meat and meat product wholesalers, 99 percent (1,490 of 1,503) of livestock wholesalers,<sup>1</sup> 92 percent (79,155 of 86,022) of dairy farms, 99.3 percent (651,542 of 656,181) of cattle farms, 87 percent (40,185 of 46,353) of hog and pig farms, 99.5 percent (29,790 of 29,938) of sheep and goat farms,<sup>2</sup> 98 percent (1,272 of 1,297) of slaughtering establishments, and 95 percent (1,324 of

<sup>1</sup> 1997 Economic Census, Department of Commerce, Bureau of the Census.

<sup>2</sup> 1997 Census of Agriculture, USDA, National Agricultural Statistics Service.

1,393) of meat processing establishments<sup>3</sup> would be considered small entities under the criteria set by the Small Business Administration. However, these entities should be little affected by this rulemaking because of the negligible effect on imports.

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 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 words “The Netherlands,” and “Northern Ireland,”.

#### **§ 94.11 [Amended]**

3. In § 94.11, paragraph (a) is amended by adding, in alphabetical

order, the words “The Netherlands,” and “Northern Ireland,”.

Done in Washington, DC, this 2nd day of January 2002.

**W. Ron DeHaven,**

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

[FR Doc. 02-454 Filed 1-8-02; 8:45 am]

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## DEPARTMENT OF STATE

### 22 CFR Part 126

#### [Public Notice 3864]

#### **Amendment to the List of Proscribed Destinations**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the International Traffic in Arms Regulations (ITAR) by removing Tajikistan and the Federal Republic of Yugoslavia (Serbia and Montenegro) from the list of proscribed destinations and makes additional clarifications to the ITAR.

**EFFECTIVE DATE:** January 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mary Sweeney, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663-2700.

**SUPPLEMENTARY INFORMATION:** Tajikistan was added to the list of proscribed destinations at section 126.1(a) of the ITAR in the **Federal Register** publication of July 22, 1993 (58 FR 39312). The Department of State is amending the ITAR to reflect that it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in Tajikistan. This action is being taken in the interests of foreign policy and national security pursuant to section 38 of the Arms Export Control Act. Requests for licenses or other approvals for Tajikistan involving items covered by the U.S. Munitions List (22 CFR part 121) will be reviewed on a case-by-case basis.

Licenses and other approvals for Yugoslavia were suspended by the **Federal Register** notice of July 19, 1991 (58 FR 33322) and a denial policy was instituted for any new license applications and other requests for approval. The Federal Republic of Yugoslavia (Serbia and Montenegro) was added to the list of proscribed destinations at section 126.1 of the ITAR in the **Federal Register** publication of July 12, 1996 (61 FR 36625). The United

Nations Security Council instituted a comprehensive arms embargo on the Federal Republic of Yugoslavia on March 31, 1998 pursuant to U.N. Security Council Resolution No. 1160. The U.N. Security Council terminated that embargo in Resolution No. 1367 (September 10, 2001).

The Department of State is amending the ITAR to reflect that it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in the Federal Republic of Yugoslavia (Serbia and Montenegro). This action is being taken in the interests of foreign policy and national security pursuant to section 38 of the Arms Export Control Act. Requests for licenses or other approvals for the Federal Republic of Yugoslavia involving items covered by the U.S. Munitions List (22 CFR part 121) will be reviewed on a case-by-case basis.

The Department of State is also taking this opportunity to clarify two outdated references contained in section 126.1(a) of the ITAR. “Zaire” is currently listed as a proscribed country and is amended to “the Democratic Republic of the Congo (formerly Zaire).” Also, the Department is deleting the last sentence of 126.1(a) which refers to a license exemption that was formerly contained in section 123.27. That exemption was removed from 123.27 effective July 1, 2000, and the last sentence of 126.1(a) should have been deleted at that time.

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. It has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Act of 1996. It will not have substantial direct effects on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant application of Executive Order Nos. 12372 and 13123. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory

<sup>3</sup> 1997 Economic Census, Department of Commerce, Bureau of the Census.