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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 53, 71, 82, 93, 94, 95, and 104

[Docket No. APHIS-2009-0094]

RIN 0579-AD45

Importation of Live Birds and Poultry, Poultry Meat, and Poultry Products From a Region in the European Union

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of animals and animal products by recognizing 25 Member States of the European Union (EU) as the Animal and Plant Health Inspection Service (APHIS)-defined EU poultry trade region and adding it to the list of regions we consider to be free of Newcastle disease. We are taking this action based on a risk evaluation that we prepared in which we determined that the region meets our requirements for being considered free of Newcastle disease. We also determined that the region meets our requirements for being considered free of highly pathogenic avian influenza (HPAI). In addition, we are establishing requirements governing the importation of live birds and poultry and poultry meat and products from the APHIS-defined EU poultry trade region and updating avian disease terms and definitions. We are also allowing importation from the APHIS-defined EU poultry trade region of hatching eggs under official seal, including those that have transited a restricted zone established because of detection of HPAI within the boundaries of the APHIS-

defined EU poultry trade region. These actions will facilitate the importation of live birds and poultry, including hatching eggs, and poultry meat and products from the APHIS-defined EU poultry trade region while maintaining safeguards to protect the United States from the introduction of communicable avian diseases.

EFFECTIVE DATE: [Insert date 15 days after date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Case Manager, Regionalization and Evaluation, National Center for Import and Export, Veterinary Services, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 851-3300.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) regulations in title 9 of the Code of Federal Regulations (CFR), parts 93, 94, and 95, govern the importation into the United States of specified animals and animal products and byproducts to prevent the introduction of various animal diseases, including Newcastle disease and highly pathogenic avian influenza (HPAI). These are dangerous and destructive communicable diseases of birds and poultry. The regulations in § 94.6 restrict the importation of carcasses, parts of products of carcasses, and eggs (other than hatching eggs)¹ of poultry, game birds, and other birds, from all regions where Newcastle disease or any subtype of HPAI are considered to exist.

On July 19, 2011, we published in the Federal Register (76 FR 42595-42602, Docket No. APHIS-2009-0094) a proposal² to amend the regulations governing the importation of live birds and poultry, and poultry meat and products, by recognizing 25 Member States of the European Union (EU) as the APHIS-defined EU poultry trade region and adding it to the list of

¹Regulations for importing hatching eggs are included in §§ 93.104, 93.205, and 93.209.

²To view the proposed rule and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0094>.

regions we consider to be free of Newcastle disease. We also determined that the region meets our requirements for being considered free of HPAI. In addition, we proposed to establish requirements for the importation of live birds and poultry, including hatching eggs, and poultry meat and products to the United States from the APHIS-defined EU poultry trade region.

We solicited comments concerning our proposal for 60 days ending September 19, 2011, and received four comments by that date. They were from an organization representing zoo veterinarians, an association representing zoos and aquariums, a foreign government, and a private citizen. Three of the commenters were in favor of recognizing the APHIS-defined EU poultry trade region as a region free of Newcastle disease and HPAI and establishing requirements governing the importation of live birds and poultry, including hatching eggs, and poultry meat and products from that region. One of those commenters also offered a recommendation regarding zoo ruminants from Canada that we determined to be outside the scope of the proposed rule. One commenter generally opposed our proposal but did not offer any specific comments on any aspect of the proposed rule. We are not making any changes to the proposed provisions based on the comments we received.

We are, however, making one change in this final rule after additional consideration of industry practices and regulations within the EU regarding the transport of hatching eggs. In proposed § 94.28, we included conditions for the importation from the APHIS-defined EU poultry trade region of live birds and poultry, including hatching eggs, to the United States. The proposed conditions included a requirement that live birds and poultry, including hatching eggs, imported from the APHIS-defined EU poultry trade region must not have been in any region in which Newcastle disease or HPAI is considered to exist, except for the APHIS-defined EU poultry trade region. We also proposed that within the APHIS-defined EU poultry trade region itself, live birds

and poultry intended for importation to the United States, including hatching eggs, must not have been in a restricted zone established because of detection of Newcastle disease or HPAI in commercial poultry from the time of detection until the designation of the zone as a restricted zone is removed by the competent veterinary authority of the Member State, or until 3 months following depopulation of the poultry on affected premises in the restricted zone and the cleaning and disinfection of the last affected premises in the zone, whichever is later.

Since publication of the proposed rule, an official representing the European Commission, the executive body of the EU, commented on another APHIS rulemaking³ that placed restrictions on the importation of bird and poultry products from regions where any subtype of HPAI is considered to exist. The commenter noted that EU regulations⁴ allow transit of live poultry, including day-old chicks and hatching eggs, through zones within the EU under restrictions due to HPAI on the condition that transport takes place on roads or rail without unloading or stopping and that the shipment is kept under strictly controlled, biosecured, and air-conditioned circumstances at all times while in transit.

While we maintain that importation should remain prohibited for live birds, poultry, and day-old chicks that have been moved through zones restricted for HPAI within the APHIS-defined EU poultry trade region, we have determined that the risk of exposure of hatching eggs to HPAI while transiting such zones is very low when secure means of shipping are employed, such as transporting the hatching eggs under the official requirements specified in the Council directive.

³To view the interim rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2006-0074>.

⁴Council Directive 2005/94/EC, 20 December 2005: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:010:0016:0016:EN:PDF>.

Therefore, we have decided to allow the importation of hatching eggs from the APHIS-defined EU poultry trade region that have transited a restricted zone established because of detection of HPAI within that region as long as all control measures in the import permit issued by APHIS are followed and the shipment travels under seal issued by the veterinary competent authority. The seal number must be listed on the health certificate that accompanies the shipment and the veterinarian who places the seal is required to sign his or her name under the seal number. Seals are not to be broken until the shipment reaches its U.S. port of entry.

Hatching egg shipments with seals that are not intact will be rejected upon inspection at the U.S. port of entry.

APHIS-issued import permits accompanying hatching eggs from the APHIS-defined EU poultry trade region will include specific information regarding the route and means of shipment, listing all other countries that will be involved before arrival in the United States and all ports or other points in the route, as well as the types of transportation that will be used for moving the shipment to the United States. Import permits issued by APHIS for importation of hatching eggs to the United States require certified veterinarians to verify the authenticity of seals used in such shipments.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule with the change discussed in this document.

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 date of publication in the Federal Register. Based on a risk evaluation that we prepared, we determined that the APHIS-defined EU poultry trade region meets our requirements for being considered free of Newcastle

disease and that it is therefore no longer necessary to impose Newcastle disease and HPAI-related restrictions on the importation of live birds and poultry, including hatching eggs, and poultry meat and products from that region.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the Federal Register.
Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see footnote 2 in this document for a link to Regulations.gov).

We expect this rule to have negligible economic effects on U.S. entities, large or small, because of the relatively small quantities of poultry and poultry products likely to be imported from the APHIS-defined EU poultry trade region. In addition, the poultry industry in the United States is highly concentrated and vertically integrated, with extensive use of contractual agreements for production, an industry structure that will tend to mitigate any economic effects of the rule on small entities. The United States is the world's largest producer and second-largest exporter of poultry meat; about 20 percent of U.S. poultry production was exported in 2010. Imports from the APHIS-defined EU poultry trade region will face a highly competitive U.S. market.

The EU is a large producer of live poultry, poultry meat, and other poultry products, but two-thirds of the region's trade in poultry and poultry products is between EU Member States; 13 of the 25 Member States had a within-region trade in poultry and poultry products of 70 percent or more. More than half of the Member States are net importers of live poultry and poultry products (13 are net importers of live poultry, 16 of poultry meat) and 17 of hatching eggs.

Nine EU Member States are currently recognized by APHIS as free of Newcastle disease; however, quantities of poultry or poultry products exported to the United States in recent years have been negligible. U.S. imports of live poultry and hatching eggs from EU-25 Member States have been sporadic and at insignificant levels.

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.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this final rule. The environmental assessment provides a basis for the conclusion that the recognition of 25 Member States of the EU as the APHIS-defined EU poultry trade region will not have a significant impact on the quality of the human environment. Based on the finding of

no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site.⁵ Copies of the environmental assessment and finding of no significant impact are also available for public inspection 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 copies are requested to call ahead on (202) 799-7039 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under FOR FURTHER INFORMATION CONTACT.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects

9 CFR Part 53

Animal diseases, Indemnity payments, Livestock, Poultry and poultry products.

⁵Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0094>. The environmental assessment and finding of no significant impact will appear in the resulting list of supporting documents.

9 CFR Part 71

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

9 CFR Part 82

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

9 CFR Part 93

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

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 95

Animal feeds, Hay, Imports, Livestock, Reporting and recordkeeping requirements, Straw, Transportation.

9 CFR Part 104

Animal biologics, Imports, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 9 CFR parts 53, 71, 82, 93, 94, 95, and 104 as follows:

PART 53--FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

1. The authority citation for part 53 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

2. Section 53.1 is amended as follows:
 - a. In the definition of disease, by removing the word “exotic”,
 - b. By removing the definition of Exotic Newcastle Disease (END), and
 - c. By adding, in alphabetical order, a definition of Newcastle disease.

The addition reads as follows:

§ 53.1 Definitions.

* * * * *

Newcastle disease. Newcastle disease is an acute, rapidly spreading, and usually fatal viral infection of poultry caused by an avian paramyxovirus serotype 1 that meets one of the following criteria for virulence: The virus has an intracerebral pathogenicity index (ICPI) in day-old chicks (Gallus gallus) of 0.7 or greater; or multiple basic amino acids have been demonstrated in the virus (either directly or by deduction) at the C-terminus of the F2 protein and phenylalanine at residue 117, which is the N-terminus of the F1 protein. The term “multiple basic amino acids” refers to at least three arginine or lysine residues between residues 113 and 116. In this definition, amino acid residues are numbered from the N-terminus of the amino acid sequence deduced from the nucleotide sequence of the F0 gene; 113-116 corresponds to residues -4 to -1 from the cleavage site. Failure to demonstrate the characteristic pattern of amino acid residues as described above may require characterization of the isolated virus by an ICPI test. A failure to detect a cleavage site that is consistent with virulent strains does not confirm the absence of a virulent virus.

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§ 53.2 [Amended]

3. In § 53.2, paragraph (b) is amended by removing the word “exotic”.

PART 71--GENERAL PROVISIONS

4. The authority citation for part 71 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

§ 71.3 [Amended]

5. In § 71.3, paragraph (b) is amended by removing the words “European fowl pest” and adding the words “highly pathogenic avian influenza” in their place.

PART 82--NEWCASTLE DISEASE AND CHLAMYDIOSIS

6. The authority citation for part 82 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

7. The heading for part 82 is revised to read as set forth above.

Subpart A--Newcastle Disease

8. In part 82, the heading for subpart A is revised to read as set forth above.

Subpart A [Amended]

9. In subpart A, the word “END” is removed each time it appears and the words “Newcastle disease” are added in its place.

10. Section 82.1 is amended as follows:

- a. By removing the definition of END, and
- b. By adding, in alphabetical order, a definition of Newcastle disease.

The addition reads as follows:

§ 82.1 Definitions.

* * * * *

Newcastle disease. Newcastle disease is an acute, rapidly spreading, and usually fatal viral infection of poultry caused by an avian paramyxovirus serotype 1 that meets one of the

following criteria for virulence: The virus has an intracerebral pathogenicity index (ICPI) in day-old chicks (Gallus gallus) of 0.7 or greater; or multiple basic amino acids have been demonstrated in the virus (either directly or by deduction) at the C-terminus of the F2 protein and phenylalanine at residue 117, which is the N-terminus of the F1 protein. The term “multiple basic amino acids” refers to at least three arginine or lysine residues between residues 113 and 116. In this definition, amino acid residues are numbered from the N-terminus of the amino acid sequence deduced from the nucleotide sequence of the F0 gene; 113-116 corresponds to residues -4 to -1 from the cleavage site. Failure to demonstrate the characteristic pattern of amino acid residues as described above may require characterization of the isolated virus by an ICPI test. A failure to detect a cleavage site that is consistent with virulent strains does not confirm the absence of a virulent virus.

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PART 93--IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

11. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 93.101 [Amended]

12. Section 93.101 is amended as follows:

a. In paragraph (g)(2), by removing the words “exotic Newcastle disease (END)” and adding the words “Newcastle disease” in their place, and

b. In footnote 7 and paragraphs (g)(3) and (g)(4), by removing the word “END” each time it appears and adding the words “Newcastle disease” in its place.

§ 93.106 [Amended]

13. In § 93.106, paragraph (c)(5)(iii), the Cooperative and Trust Fund Agreement is amended as follows:

a. In paragraph (A)(14), second sentence, and (A)(17), first sentence, by removing the word “exotic”, and

b. In paragraphs (B)(4) and (B)(5), by removing the word “END” and adding the words “Newcastle disease” in its place.

§ 93.205 [Amended]

14. In § 93.205, paragraph (a), the fourth sentence is amended by removing the words “European fowl pest (fowl plague)” and adding the words “highly pathogenic avian influenza” in their place.

§ 93.209 [Amended]

15. In § 93.209, paragraph (b), the first sentence is amended by removing the word “exotic”.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, NEWCASTLE DISEASE,
HIGHLY PATHOGENIC AVIAN INFLUENZA, AFRICAN SWINE FEVER, CLASSICAL
SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM
ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

16. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, 7781-7786, and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

17. The heading for part 94 is revised to read as set forth above.

18. Section 94.0 is amended as follows:

a. By removing the definition of Exotic Newcastle Disease (END), and

b. By adding, in alphabetical order, definitions of APHIS-defined EU Poultry Trade Region, highly pathogenic avian influenza (HPAI), and Newcastle disease.

The additions read as follows:

§ 94.0 Definitions.

* * * * *

APHIS-defined EU Poultry Trade Region. The European Union Member States of Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom (England, Scotland, Wales, the Isle of Man, and Northern Ireland).

* * * * *

Highly pathogenic avian influenza (HPAI). Highly pathogenic avian influenza is defined as follows:

(1) Any influenza virus that kills at least 75 percent of eight 4- to 6-week-old susceptible chickens within 10 days following intravenous inoculation with 0.2 mL of a 1:10 dilution of a bacteria-free, infectious allantoic fluid;

(2) Any H5 or H7 virus that does not meet the criteria in paragraph (1) of this definition, but has an amino acid sequence at the haemagglutinin cleavage site that is compatible with highly pathogenic avian influenza viruses; or

(3) Any influenza virus that is not an H5 or H7 subtype and that kills one to five out of eight inoculated chickens and grows in cell culture in the absence of trypsin.

* * * * *

Newcastle disease. Newcastle disease is an acute, rapidly spreading, and usually fatal viral infection of poultry caused by an avian paramyxovirus serotype 1 that meets one of the following criteria for virulence: The virus has an intracerebral pathogenicity index (ICPI) in day-old chicks (Gallus gallus) of 0.7 or greater; or multiple basic amino acids have been demonstrated in the virus (either directly or by deduction) at the C-terminus of the F2 protein and phenylalanine at residue 117, which is the N-terminus of the F1 protein. The term “multiple basic amino acids” refers to at least three arginine or lysine residues between residues 113 and 116. In this definition, amino acid residues are numbered from the N-terminus of the amino acid sequence deduced from the nucleotide sequence of the F0 gene; 113-116 corresponds to residues -4 to -1 from the cleavage site. Failure to demonstrate the characteristic pattern of amino acid residues as described above may require characterization of the isolated virus by an ICPI test. A failure to detect a cleavage site that is consistent with virulent strains does not confirm the absence of a virulent virus.

* * * * *

19. Section 94.6 is amended as follows:

- a. By revising the section heading,
- b. In paragraph (a) introductory text, by removing the words “exotic Newcastle disease (END)” and adding the words “Newcastle disease” in their place,
- c. By revising paragraph (a)(1)(i), and

d. In paragraphs (a), (b), and (c), by removing the word “END” each time it appears and adding the words “Newcastle disease” in their place.

The revisions read as follows:

§ 94.6 Carcasses, meat, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds; importations from regions where Newcastle disease or highly pathogenic avian influenza is considered to exist.

(a) * * *

(1) * * *

(i) Newcastle disease is considered to exist in all the regions of the world except the following: The APHIS-defined EU Poultry Trade Region, Argentina, Australia, Canada, Chile, Costa Rica, Fiji, Iceland, Mexico (States of Campeche, Quintana Roo, and Yucatan), New Zealand, and Switzerland. APHIS has evaluated these regions for the presence of Newcastle disease. Regions not listed may have Newcastle disease, or may not have been evaluated for Newcastle disease status.

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§ 94.23 [Amended]

20. In § 94.23, paragraph (c) and paragraph (e) introductory text are amended by removing the word “exotic”.

§ 94.26 [Amended]

21. Section 94.26 is amended as follows:

a. In the introductory text of the section, first sentence, by removing the words “exotic Newcastle disease (END)” and adding the words “Newcastle disease” in their place, and

b. In the introductory text of the section and in paragraphs (b) and (c), by removing the word “END” each time it appears and adding the words “Newcastle disease” in its place.

22. A new § 94.28 is added to read as follows:

§ 94.28 Restrictions on the importation of poultry meat and products, and live birds and poultry, from the APHIS-defined EU Poultry Trade Region.

(a) Poultry meat and products. In addition to meeting all other applicable provisions of this part, poultry meat and poultry products, including eggs and egg products (other than hatching eggs) imported from the APHIS-defined EU Poultry Trade Region must meet the following conditions:

(1) The poultry meat and products must not have been derived from birds and poultry that were in any of the following regions or zones, unless the birds and poultry were slaughtered after the periods described:

(i) Any region when the region was classified in § 94.6(a)(1)(i) as one in which Newcastle disease is considered to exist, or any region when the region was listed in accordance with § 94.6(a)(2)(i) as one in which HPAI is considered to exist, except for the APHIS-defined EU Poultry Trade Region;

(ii) A restricted zone in the APHIS-defined EU Poultry Trade Region established because of detection of Newcastle disease or HPAI in commercial poultry, from the time of detection until the designation of the zone as a restricted zone is removed by the competent veterinary authority of the Member State or until 3 months (90 days) following depopulation of the poultry on affected premises in the restricted zone and the cleaning and disinfection of the last affected premises in the zone, whichever is later; or

(iii) A restricted zone in the APHIS-defined EU Poultry Trade Region established because of detection of Newcastle disease or HPAI in racing pigeons, backyard flocks, or wild birds, from the time of detection until the designation of the zone as a restricted zone is removed by the competent veterinary authority of the Member State.

(2) The poultry meat and products must not have been commingled with poultry meat and products derived from other birds and poultry that were in any of the regions or zones described in paragraphs (a)(1)(i) through (a)(1)(iii) of this section. Additionally, the poultry meat and products must not have been derived from poultry that were commingled with other poultry that were in any of the regions or zones described in paragraphs (a)(1)(i) through (a)(1)(iii) of this section.

(3) The live birds and poultry from which the poultry meat and products were derived must only originate from within the APHIS-defined EU Poultry Trade Region and the farms of origin must not have received live birds or poultry imported from outside the APHIS-defined EU Poultry Trade Region.

(4) No equipment or materials used in transporting the birds or poultry from which the poultry meat and products were derived from the farm of origin to the slaughtering establishment may have been used previously for transporting live birds or poultry that do not meet the requirements of § 94.28(b), unless the equipment and materials have first been cleaned and disinfected.

(5) The poultry meat and products, including eggs and egg products (other than hatching eggs) must be accompanied by a certificate issued by an official of the competent veterinary authority of the APHIS-defined EU Poultry Trade Region Member State who is authorized to issue the inspection certificate required by § 93.205 of this subchapter, stating that the applicable provisions of paragraphs (a)(1) through (a)(4) of this section have been met. The certification for

poultry meat and products may be placed on the foreign meat inspection certificate required by § 381.196 of this title or may be contained in a separate document.

(b) Live birds and poultry. In addition to meeting all other applicable provisions of this title, live birds and poultry, except hatching eggs, imported from the APHIS-defined EU Poultry Trade Region must meet the following conditions:

(1) The birds and poultry must not have been in any of the following regions or zones, unless the birds and poultry are exported to the United States after the periods described.

(i) Any region when the region was classified in § 94.6(a)(1)(i) as one in which Newcastle disease is considered to exist, or any region when the region was listed in accordance with § 94.6(a)(2)(i) as one in which HPAI is considered to exist, except for the APHIS-defined EU Poultry Trade Region;

(ii) A restricted zone in the APHIS-defined EU Poultry Trade Region established because of detection of Newcastle disease or HPAI in commercial poultry, from the time of detection until the designation of the zone as a restricted zone is removed by the competent veterinary authority of the Member State or until 3 months (90 days) following depopulation of the poultry on affected premises in the restricted zone and the cleaning and disinfection of the last affected premises in the zone, whichever is later; or

(iii) A restricted zone in the APHIS-defined EU Poultry Trade Region established because of detection of Newcastle disease or HPAI in racing pigeons, backyard flocks, and wild birds, from the time of detection until the designation of the zone as a restricted zone is removed by the competent veterinary authority of the Member State.

(2) The birds and poultry must not have been commingled with other birds or poultry that have at any time been in any of the regions or zones described in paragraphs (b)(1)(i) through (b)(1)(iii) of this section.

(3) The birds and poultry must only originate from within the APHIS-defined EU Poultry Trade Region and the farms of origin must not have received birds or poultry imported from outside the APHIS-defined EU Poultry Trade Region.

(4) No equipment or materials used in transporting the birds and poultry may have been used previously for transporting birds or poultry that do not meet the requirements of this paragraph, unless the equipment and materials have first been cleaned and disinfected.

(5) The birds and poultry must be accompanied by a certificate issued by an official of the competent veterinary authority of the Member State who is authorized to issue the inspection certificate required by § 93.205 of this subchapter, stating that the applicable provisions of paragraphs (b)(1) through (b)(4) of this section have been met. The certification may be placed on the foreign meat inspection certificate required by § 381.196 of this title or may be contained in a separate document.

(c) Hatching eggs. Hatching eggs intended for import from the APHIS-defined EU Poultry Trade Region are subject to all applicable provisions of paragraph (b) of this section, except that such hatching eggs may be moved through zones established because of detection of HPAI within the APHIS-defined EU Poultry Trade Region provided that the hatching eggs are transported under official seal and accompanied by a certificate as indicated in § 94.28(b)(5) stating that the applicable provisions of paragraph (b) have been met. The import permit will require the seal number to be listed on the health certificate that accompanies the shipment and the veterinarian who places the seal will be required to sign his or her name under the seal

number. Seals must not be broken until the shipment reaches its U.S. port of entry. Hatching egg shipment with seals that are not intact will be rejected upon inspection at the U.S. port of entry.

(d) Presentation of certificates. The certificates required by paragraphs (a)(5), (b)(5), and (c) of this section must be presented by the importer to an authorized inspector at the port of arrival, upon arrival of the birds, poultry, hatching eggs, or poultry meat and products at the port.

PART 95—SANITARY CONTROL OF ANIMAL BYPRODUCTS (EXCEPT CASINGS), AND HAY AND STRAW, OFFERED FOR ENTRY INTO THE UNITED STATES

23. The authority citation for part 95 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 95.5 [Amended]

24. In § 95.5, paragraph (c) is amended by removing the words “exotic” and “subtype H5N1”.

§ 95.6 [Amended]

25. In § 95.6, paragraph (c) is amended by removing the word “exotic”.

PART 104—PERMITS FOR BIOLOGICAL PRODUCTS

26. The authority citation for part 104 continues to read as follows:

Authority: 21 U.S.C. 151-159; 7 CFR 2.22, 2.80, and 371.4.

§ 104.2 [Amended]

27. In § 104.2, paragraph (b) is amended by removing the words “fowl pest (fowl plague)” and adding the words “highly pathogenic avian influenza” in their place.

Done in Washington, DC, this 26th day of March 2013.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

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