



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 94

[Docket No. APHIS-2023-0069]

RIN 0579-AE77

Amendments to Import Requirements for Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: Current APHIS regulations specify that live birds and other avian commodities may not be exposed to highly pathogenic avian influenza (HPAI) or sourced from premises quarantined for HPAI within the 90 days immediately preceding export to the United States. We are proposing to reduce this timeframe to 28 days preceding export to the United States. This action is necessary to align APHIS regulations with international standards regarding HPAI transmission. This action would allow foreign regions to resume the export of live birds and other avian commodities to the United States sooner following an outbreak of HPAI, while still providing adequate safeguards that the importation of the birds or other avian commodities does not present a risk of disseminating HPAI within the United States.

DATES: We will consider all comments that we receive on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to www.regulations.gov. Enter APHIS-2023-0069 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2023-0069, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Avenue, #AP760, Beltsville, MD 20705.

Supporting documents and any comments we receive on this docket may be viewed at Regulations.gov or in our reading room, which is located in room 1620 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) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Rhodes, Director, Live Animal Imports, Strategy and Policy, Veterinary Services, APHIS, George Washington Carver Center, 5601 Sunnyside Ave, 3-WS-3129, Beltsville, MD 20705.

SUPPLEMENTARY INFORMATION:

Background

Section 8303 of the Animal Health Protection Act (AHPA) authorizes the Secretary of Agriculture to restrict the importation of any animal or article if the Secretary determines that the restriction is necessary in order to prevent the introduction or dissemination of pests or diseases of livestock within the United States, and to promulgate such regulations as are necessary to carry out these restrictions. Within the United States Department of Agriculture (USDA), the Secretary has delegated this authority to the Animal and Plant Health Inspection Service (APHIS).

Consistent with this authority, APHIS has issued regulations governing the importation of live birds and avian products. The APHIS regulations governing the importation of live birds are contained in 9 CFR part 93, Subpart A, “Birds” (9 CFR 93.100-93.107) and Subpart B, “Poultry” (9 CFR 93.200-93.220). The APHIS regulations governing the importation of avian carcasses, meat, parts, products, and eggs (except hatching eggs) are generally contained in 9 CFR 94.6,

with the exception of regulations governing the importation of avian products from a region of Europe termed the “APHIS-defined European Poultry Trade Region,” which are contained in 9 CFR 94.28.

The regulations referenced above currently provide that live birds and avian products may not be exposed to highly pathogenic avian influenza (HPAI) or sourced from premises quarantined for HPAI within the 90 days immediately preceding export to the United States. This 90-day waiting period reflected the prevailing international understanding regarding the transmission of HPAI at the time these provisions were established. For example, under the 2004 edition of the Terrestrial Animal Health Code issued by the World Organization for Animal Health (WOAH) (formerly the Office of International des Epizooties or OIE), if depopulation of affected poultry is used, a country may be considered free “3 months after the slaughter of the last infected poultry and disinfection of all affected establishments” (See Article 2.7.12.7 of Chapter 2.7.12 of Section 2.7 the 2004 code).

However, in the intervening time period, scientific understanding of HPAI has advanced. Importantly, the WOAH Scientific Commission on Animal Diseases determined that, based on the available scientific literature, the incubation period for HPAI was shorter than previously believed: 14 days as opposed to the previous 21-day period. In addition, the Scientific Commission concluded that the minimum recovery period for regaining HPAI free status could be reduced from 90 to 28 days (i.e. two flock-level incubation periods). This evolving understanding of HPAI ultimately led to a May 2021 revision to the Terrestrial Animal Health Code to adopt these changes. In 2022, in response to a specific request, APHIS entered into an import protocol with Canada to adopt this 28-day period with regard to live birds and avian products from Canada on a provisional basis and pending future rulemaking.

Accordingly, in this proposed rule, to align the regulations with prevailing international standards, we are making this current allowance for Canada generally applicable to all foreign

regions and we are accordingly proposing to lower the waiting period for HPAI from 90 days to 28 days throughout 9 CFR parts 93 and 94.

Harmonizing Changes

We are also making minor editorial revisions to the sections of the regulations impacted by this rule to ensure listed addresses and websites are up to date. For example, in § 93.101, we are updating footnote 4, which discusses the means of requesting an import permit for live birds, to ensure that the mailing address and web address for such requests are current.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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. As a proposed rule, it also is not subject to Executive Order 14192.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov website (see ADDRESSES above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

APHIS is proposing to amend its regulations under the AHPA to allow greater flexibility in managing HPAI-related trade restrictions. Current APHIS regulations specify that live birds and other avian commodities may not be exposed to HPAI or sourced from premises quarantined for HPAI within the 90 days immediately preceding export to the United States. We are

proposing to reduce this timeframe to 28 days preceding export to the United States. This action is necessary to align APHIS regulations with international standards regarding HPAI transmission.

The rationale for reducing the timeframe from 90 days to 28 days is due to the findings of the WOAHP Scientific Commission on Animal Diseases that, based on the available scientific literature, the incubation period of HPAI was shorter than previously believed: 14 days as opposed to the previous 21-day period. The Scientific Commission also concluded that the minimum recovery period for regaining HPAI free status could be reduced from 90 to 28 days (i.e. two flock-level incubation periods). This evolving understanding of HPAI ultimately led to a May 2021 revision to the WOAHP Terrestrial Animal Health Code to adopt these changes.

This proposed rule would align U.S. regulations with updated WOAHP guidance issued in May 2021. The new guidance recognized that two flock-level incubation periods (28 days) are sufficient for regaining disease-free status. APHIS has already adopted this approach in its 2022 bilateral agreement with Canada, and extending this regulatory flexibility would enhance negotiations with additional trading partners while supporting continuity in poultry trade.

The U.S. poultry sector, valued at \$81.7 billion in 2025, is highly integrated into global markets.¹ Reducing the waiting period from 90 to 28 days would provide significant benefits to producers, processors, wholesalers, and consumers by minimizing disruptions in supply, particularly during HPAI-related product shortages. For example, more timely access to imported eggs from the European Poultry Trading Region could yield benefits of \$1.1 million to \$4.4 million annually.

We expect the overall impact on affected entities to be positive. Businesses would be able to have access to their products sooner, due to the approval of imports occurring more

¹ USDA National Agricultural Statistics Service. Poultry-Production and Value 2025 Summary. April 2026: https://www.nass.usda.gov/Publications/Todays_Reports/reports/plva0426.pdf

quickly (from 90 to 28 days). In some instances, entities may bear some level of additional business competition sooner than they would with the 90-day restriction in place.

The majority of affected businesses, including poultry producers, hatcheries, processors, and wholesalers qualify as small entities under Small Business Administration standards. The rule is expected to provide net benefits through improved market access and reduced duration of trade disruptions.

The proposed action does not duplicate or conflict with existing regulations and carries minimal additional reporting or compliance burdens.

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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping requirements included in this proposed rule are approved by the Office of Management and Budget (OMB) under OMB control numbers 0579-0245 and 0579-0328.

List of Subjects

9 CFR part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, 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.

Accordingly, we propose to amend 9 CFR parts 93 and 94 as follows:

1. 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.

2. Amend § 93.101 by:

- a. Revising paragraph (d) to read as set forth below.
- b. Revising footnote 4 to read as set forth below.

§ 93.101 General prohibitions; exceptions.

* * * * *

(d) The provisions in this subpart relating to birds shall not apply to healthy birds, except ratites, not known to be infected with or exposed to highly pathogenic avian influenza (HPAI) within the 28 days preceding the date of export from the region of origin and not known to be infected with or exposed to other communicable diseases of poultry within the 90 days preceding the date of export from the region of origin, if an import permit⁴ has been obtained under § 93.103 of this chapter and all conditions therein are observed; and if such birds are handled as follows:

3. Amend § 93.104 by:

- a. Revising paragraph (b)(3) to read as set forth below.
- b. Revising paragraph (b)(5) to read as set forth below.
- c. Revising paragraph (c)(4) to read as set forth below.
- d. Revising paragraph (c)(6) to read as set forth below.

⁴ Such permit may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, 5601 Sunnyside Ave., Beltsville, MD 20705, or by visiting <https://efile.aphis.usda.gov/s/>.

Applicants must submit a form VS 17-129. Instructions are available online at <https://www.aphis.usda.gov/animal-product-import/animal-health-permits>. Requests for approval of facilities should be made directly to the Port Services office with authority over the transit port. Contact information for the Port Services office in different states is available at <https://www.aphis.usda.gov/contact/animal-animal-product-trade-contacts>.

e. Revising paragraph (d)(4) to read as set forth below.

f. Revising paragraph (d)(5) to read as set forth below.

§ 93.104 Certificate for pet birds, commercial birds, zoological birds, and research birds.

* * * * *

(b) * * *

(3) That insofar as has been possible to determine, the birds were not exposed to Newcastle disease, chlamydiosis, or other communicable disease of poultry other than HPAI during the 90 days immediately preceding their exportation, or exposed to HPAI during the 28 days immediately preceding their exportation;

* * *

(5) That Newcastle disease did not occur anywhere on the premises from which the birds were to be exported or on adjacent premises during the 90 days immediately preceding the exportation of the birds, and that HPAI did not occur anywhere on the premises from which the birds were to be exported or on adjacent premises during the 28 days immediately preceding the exportation of the birds;

* * * * *

(c) * * *

(4) That insofar as has been possible to determine, the birds in the flock of origin were not exposed to Newcastle disease, chlamydiosis, or other communicable disease of poultry other than HPAI during the 90 days immediately preceding their exportation, or exposed to HPAI during the 28 days immediately preceding their exportation;

* * *

(6) That Newcastle disease did not occur anywhere on the premises where the flock of origin was kept or on adjacent premises during the 90 days immediately preceding the exportation, and that HPAI did not occur anywhere on the premises where the flock of origin was kept or on adjacent premises during the 28 days immediately preceding the exportation;

* * * * *

(d) * * *

(4) That insofar as has been possible to determine, the flock of origin was not exposed to Newcastle disease, chlamydiosis, or other communicable disease of poultry other than HPAI during the 90 days immediately preceding the exportation of the hatching eggs, or exposed to HPAI during the 28 days immediately preceding the exportation of the hatching eggs;

(5) That Newcastle disease did not occur anywhere on the premises where the flock of origin was kept or on adjacent premises during the 90 days immediately preceding the exportation of the hatching eggs, and that HPAI did not occur anywhere on the premises where the flock of origin was kept or on adjacent premises during the 28 days immediately preceding the exportation of the hatching eggs.

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4. Amend § 93.201 by:

- a. Revising paragraph (b) to read as set forth below.
- b. Redesignating footnotes 2, 3 and 4 as footnotes 1, 2, and 3.
- c. Revising redesignated footnote 2 to read as set forth below.

§ 93.201 General prohibitions; exceptions.

* * * * *

(b) The provisions in this part 93 relating to poultry shall not apply to healthy poultry not known to be infected with or exposed to highly pathogenic avian influenza (HPAI) within the 28 days preceding the date of export from the region of origin and not known to be infected with or exposed to other communicable diseases of poultry within the 90 days preceding the date of export from the region of origin, if an import permit² has been obtained under § 93.204 of this chapter and all conditions therein are observed; and if such poultry are handled as follows:

² Such permit may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services by calling 301-851-3300 or by visiting <https://efile.aphis.usda.gov/s/>. Applicants must submit a form VS 17-129. Instructions are available online at

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5. Amend § 93.205 by:

- a. Revising paragraph (a)(1) to read as set forth below.
- b. Redesignating paragraph (a)(2) as (a)(9).
- c. Revising paragraph (b) to read as set forth below.

§ 93.205 Certificate for live poultry and hatching eggs.

(a) *Live poultry.* All live poultry, except eggs for hatching, offered for importation from any region of the world shall be accompanied by a certificate stating that:

(1) Such poultry and their flock or flocks of origin were inspected on the premises of origin immediately before the date of movement from such region and were then found to be free of evidence of communicable diseases of poultry;

(2) As far as it has been possible to determine, during the 28 days prior to movement, the poultry were not exposed to HPAI and the premises were not in any area under quarantine for this disease;

(3) As far as it has been possible to determine, during the 90 days prior to movement, the poultry were not exposed to any communicable diseases of poultry other than HPAI and the premises were not in any area under quarantine for such diseases;

(4) The poultry have not been vaccinated with a vaccine for the H5 or H7 subtype of avian influenza;

(5) The poultry have been kept in the region from which they are offered for importation since they were hatched, or for at least 90 days immediately preceding the date of movement;

(6) The poultry have not originated from or been moved through a region referenced in § 94.6(a) of this subchapter as a region where any form of HPAI exists;

<https://www.aphis.usda.gov/animal-product-import/animal-health-permits>. Requests for approval of facilities should be made directly to the Port Services office with authority over the transit port. Contact information for the Port Services office in different states is available at <https://www.aphis.usda.gov/contact/animal-animal-product-trade-contacts>.

(7) As far as it has been possible to determine, no case of Newcastle disease occurred on the premises where such poultry were kept, or on adjoining premises, during the 90 days immediately preceding the exportation of the poultry, and no case of HPAI occurred on the premises where the poultry were kept, or adjoining premises, during the 28 days immediately preceding the exportation of the poultry;

(8) The birds were placed into new or appropriately sanitized packaging materials at the premises from which the birds were to be exported; and

* * *

(b) *Hatching eggs*. All eggs for hatching offered for importation from any part of the world shall be accompanied by a certificate stating that:

(1) The flock or flocks of origin were found upon inspection to be free from evidence of communicable diseases of poultry;

(2) The hatching eggs are from poultry that have not been vaccinated with a vaccine for the H5 or H7 subtype of avian influenza;

(3) During the 90 days prior to movement, the flock or flocks of origin were not exposed to communicable diseases of poultry other than HPAI and the premises were not in any area under quarantine for such diseases;

(4) With respect to HPAI, during the 28 days prior to movement, the flock or flocks of origin were not exposed to this disease and the premises were not in any area under quarantine for this disease;

(5) The hatching eggs and the flock or flocks of origin have not originated in or been moved through a region referenced in accordance with § 94.6(a) of this subchapter as a region where any form of HPAI exists; and

(6) The hatching eggs were placed into new or appropriately sanitized packaging materials at the premises from which the hatching eggs were to be exported.

* * * * *

Section 93.207 [Amended]

6. In § 93.207, remove the words “All poultry found to be free from communicable disease and not to have been exposed thereto within 90 days prior to their exportation to the United States shall be admitted subject to the other provisions in this part; all other poultry shall be refused entry” and add the words “Poultry shall be admitted subject to the other provisions of this part if found free of communicable disease and not to have been exposed to communicable diseases other than HPAI within the 90 days prior to their exportation to the United States, and not to have been exposed to HPAI within the 28 days prior to their exportation to the United States; all other poultry shall be refused entry” in their place.

PART 94-- 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

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

Authority: 7 U.S.C. 1633, 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.

8. Amend 94.6 by:

a. Revising paragraph (c)(1)(ix)(A) to read as set forth below.

b. Revising paragraph (c)(1)(ix)(B) to read as set forth below.

§ 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.

* * * * *

(c) * * *

(1) * * *

(ix) * * *

(A) No Newcastle disease occurred on the premises of origin or on adjoining premises during the 90 days before the certificate was signed, and no HPAI occurred on the premises of origin or on adjoining premises during the 28 days before the certificate was signed.

(B) There is no evidence that the flock of origin was exposed to Newcastle disease during the 90 days before the certificate was signed or exposed to HPAI during the 28 days before the certificate was signed.

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9. Amend § 94.28 by:

- a. Revising paragraph (a)(1)(ii).
- b. Redesignating paragraph (a)(1)(iii) as (a)(i)(iv).
- c. Adding new paragraph (a)(1)(iii).
- d. Revising paragraph (b)(1)(ii).

The revisions and addition read as follows:

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

(a) * * *

(1) * * *

(ii) A restricted zone in the APHIS-defined European Poultry Trade Region established because of detection of Newcastle disease 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 country 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 European Poultry Trade Region established because of detection of 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 country or until 28 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

* * * * *

(b) * * *

(1) * * *

(ii) A restricted zone in the APHIS-defined European Poultry Trade Region established because of detection of Newcastle disease 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 country 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 a restricted zone in the APHIS-defined European Poultry Trade Region established because of detection of 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 country or until 28 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

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Done in Washington, DC, this 17th day of September 2026.

Kelly Moore

Administrator, Animal and Plant Health Inspection Service.