

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93, 98, and 130

[Docket No. 98-013-1]

Hawaii Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations by removing Honolulu, HI, from the lists of animal import centers and ports of entry that provide U.S. Department of Agriculture quarantine facilities for animals, birds, and poultry imported into the United States. We are also proposing to amend the regulations by adding Honolulu, HI, as a limited port for the importation of animals, birds, poultry, poultry products, and animal germ plasm that do not require U.S. Department of Agriculture quarantine facilities. These proposed actions would update the regulations to reflect the June 1997 closure of the Hawaii Animal Import Center.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by May 8, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 98-013-1, 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. 98-013-1.

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 rules, 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, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-3276.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93 and 98 restrict the importation of specified animals and animal products into the United States to prevent the introduction of communicable diseases of livestock and poultry. The regulations designate animal import centers and ports of entry for the importation of certain animals, birds, poultry, poultry products, and animal germ plasm that require inspection or quarantine services.

The regulations in 9 CFR part 130 set forth the user fees that are assessed to reimburse the Animal and Plant Health Inspection Service (APHIS) for the cost of import- and export-related services provided at animal import centers and ports of entry.

Honolulu, HI, is currently listed in parts 93, 98, and 130 as a port of entry with an animal import center that serves as a quarantine facility. The quarantine facility known as the Hawaii Animal Import Center (HAIC) closed on June 30, 1997. The HAIC was located on property owned by the U.S. Coast Guard. APHIS had to close the facility and return the property to the Coast Guard because the Coast Guard was to vacate the property at the beginning of fiscal year 1998. We published a notice regarding the closure of the HAIC in the **Federal Register** on May 22, 1997 (62 FR 28002, Docket No. 97-039-1). Prior to the closure of the HAIC, the number of animals, birds, and poultry imported through the facility was low compared to the number imported through APHIS animal import centers located in Miami, FL, and Newburgh, NY.

To reflect the closure of the HAIC, we are proposing to amend the regulations

in parts 93 and 98 by removing Honolulu, HI, from the lists of animal import centers and ports of entry that provide quarantine services. In addition, we propose to amend part 130 by removing all references to the animal import center in Honolulu, HI. We are, however, proposing to amend the regulations in part 93 by adding Honolulu, HI, as a limited port for the importation of animals birds, poultry, and poultry products that do not require U.S. Department of Agriculture (USDA) quarantine facilities. We are also proposing to amend the regulations in part 98 by adding Honolulu, HI, as a limited port for the importation of animal semen.

Importation of Birds

Section 93.102 designates ports for the importation of birds. In § 93.102, paragraph (a) lists the special ports that are equipped for the isolation and quarantine of pet birds that are imported in accordance with § 93.101(c) and performing or theatrical birds that are imported in accordance with § 93.101(f). In § 93.102, paragraph (d) lists the limited ports of entry for pet birds and performing or theatrical birds that do not require USDA quarantine facilities.

Due to the closure of the HAIC, we can no longer provide quarantine services for pet birds and performing or theatrical birds in Honolulu, HI. Therefore, we are proposing to remove Honolulu, HI, from the list of special ports in § 93.102(a). However, pet birds and performing or theatrical birds that are only required to undergo a veterinary inspection and pet birds that are allowed to do home quarantine may be imported through a limited port of entry listed in § 93.102(d). Because the port of entry at Honolulu, HI, has the personnel and facilities to provide such veterinary inspection services, we are proposing to add it to the list of limited ports in § 93.102(d) for the importation of pet birds and performing or theatrical birds that do not require USDA quarantine facilities.

Importation of Ratites

Section 93.103 contains, among other things, provisions for the importation of ratites. Section 93.103(a)(4)(ii) explains how to submit applications for quarantine space at the HAIC. We would remove that paragraph, as well as the final two sentences of § 93.103(a)(4)(iii), which state that a

separate waiting list will be maintained for space at the HAIC and that ostriches may not be quarantined at the HAIC.

In § 93.105, paragraph (c)(2) lists the ports of entry for ratites other than ostriches. In § 93.106, paragraph (b)(1) lists the quarantine facilities for ratites that are imported from any part of the world except Canada. In § 93.107, paragraph (b)(2) lists the ports at which ratites from Canada may enter the United States without quarantine if they meet the requirements set forth in § 93.107. Each of these paragraphs lists Honolulu, HI, as a port of entry or quarantine facility. The HAIC was the only facility in Hawaii that could provide sufficient space for the inspection and quarantine of ratites. Due to its closure, we can no longer provide inspection or quarantine services for ratites in Hawaii. Also, while the HAIC was open, the number of ratites that entered the facility for quarantine services was low. Therefore, we are proposing to remove the references to Honolulu, HI, in §§ 93.105(c)(2), 93.106(b)(1), and 93.107(b)(2).

Importation of Poultry and Poultry Products

We are also proposing to add Honolulu, HI, to the list of limited ports in § 93.203. Those limited ports may be used for the importation of poultry and poultry products, such as poultry test specimens, hatching eggs, and day-old chicks, that do not require restraining and holding facilities for inspection. The port of entry at Honolulu, HI, has the personnel and facilities available to provide inspection services for poultry and poultry products that do not require restraining and holding facilities. Therefore, we are proposing to amend § 93.203(d) by adding Honolulu, HI, to the list of limited ports.

Air and Ocean Ports

Honolulu, HI, is also included in the lists of air and ocean ports for the importation of poultry (§ 93.203(a)), horses (§ 93.303(a)), ruminants (§ 93.403(a)), swine (§ 93.503(a)), miscellaneous animals (§ 93.703(a)(1)), and elephants, hippopotami, rhinoceroses, and tapirs (§ 93.805(a)(1)). We propose to remove references to Honolulu, HI, from these sections because they list ports that have USDA quarantine facilities. However, even though we are proposing to remove Honolulu, HI, from the list of ports in § 93.805(a)(1), elephants, hippopotami, rhinoceroses, and tapirs could be imported through Honolulu, HI, on a case-by-case basis in accordance with § 93.805(a)(2), if the animals will be

inspected at a facility provided by the importer.

Limited Ports

Because Honolulu, HI, has inspection facilities for the entry of certain animals and animal products that do not require restraining and holding inspection facilities, we propose to add Honolulu, HI, to the lists of limited ports for the importation of horses (§ 93.303(d)), ruminants (§ 93.403(e)), and swine (§ 93.503(e)).

In addition, to maintain consistency with the proposed changes to part 93, we propose to remove Honolulu, HI, from the list of air and ocean ports in § 98.33(a) for the importation of animal semen and to add Honolulu, HI, to the list of limited ports in § 98.33(d) for the importation of animal semen.

Section 98.6 provides that embryos may be imported only at a port of entry listed in § 93.303 for horses, § 93.403 for ruminants, and § 93.503 for swine. Under this proposed rule, embryos could be imported through Honolulu, HI, because it would be listed in those sections as a limited port.

User Fees

In § 130.1, the definition of *Animal Import Center* lists the quarantine facilities operated by APHIS in Newburgh, NY; Miami, FL; and Honolulu, HI. We are proposing to remove Honolulu, HI, from the definition of *Animal Import Center*.

In addition, in § 130.1 the definition of *nonstandard care and handling* provides the locations and hours of operation of the animal import centers in footnote 2. We would remove the reference to Honolulu, HI, from footnote 2.

Miscellaneous

In § 93.106, paragraph (a) contains a reference to the Cooperative and Trust Fund Agreement and states that information regarding the agreement can be found in § 93.106(c)(7). The Cooperative and Trust Fund Agreement is found in § 93.106(c)(5). We are changing the reference, accordingly.

In § 93.404(a)(2), reference is made to § 93.430 for the importation of domestic ruminants from regions where foot-and-mouth disease or rinderpest has been determined to exist. On November 19, 1998, we published in the **Federal Register** (63 FR 64173–64175, Docket No. 98–070–3) a final rule to close the Harry S Truman Animal Import Center (HSTAIC). Based on the closure of HSTAIC, §§ 93.430 and 93.431 were removed and reserved; however, a reference to § 93.430 in § 93.404(a)(2)

was not removed. We are proposing to correct that oversight in this document.

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.

This proposed rule would amend the regulations in 9 CFR parts 93, 98, and 130 by removing Honolulu, HI, from the lists of animal import centers and ports of entry that provide USDA quarantine facilities for animals, birds, and poultry imported into the United States. These changes are necessary to reflect the closure of the facility known as the Hawaii Animal Import Center (HAIC). However, we would add Honolulu, HI, as a limited port for the importation of animals, birds, poultry, poultry products, and animal germ plasm that do not require USDA quarantine facilities.

The removal of Honolulu, HI, from the lists of animal import centers is primarily an editorial change following the previously announced closure of the HAIC. That closure primarily affected U.S. importers of animals, birds, and poultry that required quarantine services. After HAIC closed, those importers could no longer import these items into the United States through Honolulu, HI. However, prior to the closure of the HAIC, the number of animals, birds, and poultry imported through and quarantined at the port of Honolulu, HI, was low compared to the number imported through other animal import centers located in Miami, FL, and Newburgh, NY. For instance, in fiscal year 1997, the HAIC provided inspection and quarantine services for 40 animals and birds. However, in fiscal year 1997, the animal import center in Miami, FL, provided inspection and quarantine services for over 1,500 animals and birds; and the animal import center located in Newburgh, NY, provided services for over 4,000 animals from January 1, 1997, to December 31, 1997.

Based on the availability of the remaining animal import centers and ports of entry and the low level of use prior to closure of the HAIC, we believe that removing Honolulu, HI, from the lists of animal import centers and ports of entry that provide USDA quarantine facilities for animals, birds, and poultry imported into the United States would not have a significant economic effect on importers. In addition, our proposal to designate Honolulu, HI, as a limited port for the importation of animals, birds, poultry, poultry products, and

animal germ plasm that do not require USDA quarantine facilities would continue to provide a port of entry for U.S. importers of certain animals, birds, poultry, poultry products, and animal germ plasm.

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 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

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

9 CFR Part 93

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

9 CFR Part 98

Animal diseases and Imports.

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

Accordingly, we propose to amend 9 CFR parts 93, 98, and 130 as follows:

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

1. The authority citation for part 93 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.102 [Amended]

2. In § 93.102, paragraph (a) would be amended by removing the words “Honolulu, HI;” and paragraph (d) would be amended by adding the words “Honolulu, HI;” immediately after the words “Atlanta, GA;”.

§ 93.103 [Amended]

3. In § 93.103, paragraph (a)(4)(ii) would be removed, and paragraph (a)(4)(iii) would be redesignated as paragraph (a)(4)(ii) and the last two sentences would be removed.

§ 93.105 [Amended]

4. In § 93.105, paragraph (c)(2) would be amended by removing the words “Miami, FL; and Honolulu, HI” and by adding the words “and Miami, FL” in their place.

§ 93.106 [Amended]

5. Section 93.106 would be amended as follows:

a. In paragraph (a), by removing the words “paragraph (c)(7)” and by adding the words “paragraph (c)(5)” in their place.

b. In paragraph (b)(1), by removing the words “the Hawaii Animal Import Center at Honolulu, HI, when the port of entry is Honolulu, HI;”.

§ 93.107 [Amended]

6. In § 93.107, paragraph (b)(2) would be amended by removing the words “Honolulu, HI;”.

§ 93.203 [Amended]

7. In § 93.203, paragraph (a) would be amended by removing the words “Honolulu, Hawaii;” and paragraph (d) would be amended by adding the words “Honolulu, Hawaii;” immediately after the words “Atlanta, Georgia;”.

§ 93.303 [Amended]

8. In § 93.303, paragraph (a) would be amended by removing the words “Honolulu, Hawaii;” and paragraph (d) would be amended by adding the words “Honolulu, Hawaii;” immediately after the words “Atlanta, Georgia;”.

§ 93.403 [Amended]

9. In § 93.403, paragraph (a) would be amended by removing the words “Honolulu, Hawaii;” and paragraph (e) would be amended by adding the words “Honolulu, Hawaii;” immediately after the words “Atlanta, Georgia;”.

§ 93.404 [Amended]

10. In § 93.404, paragraph (a)(2) would be amended by removing the

words “, except as provided in § 93.430”.

§ 93.503 [Amended]

11. In § 93.503, paragraph (a) would be amended by removing the words “Honolulu, Hawaii;” and paragraph (e) would be amended by adding the words “Honolulu, Hawaii;” immediately after the words “Atlanta, Georgia;”.

§ 93.703 [Amended]

12. In § 93.703, paragraph (a)(1) would be amended by removing the words “Honolulu, HI;”.

§ 93.805 [Amended]

13. In § 93.805, paragraph (a)(1) would be amended by removing the words “Honolulu, Hawaii;”.

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

14. The authority citation for part 98 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 103–105, 111, 134a, 134b, 134c, 134d, 134f, 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 98.33 [Amended]

15. In § 98.33, paragraph (a) would be amended by removing the words “Honolulu, Hawaii;” and paragraph (d) would be amended by adding the words “Honolulu, Hawaii;” immediately after “Atlanta, Georgia;”.

PART 130—USER FEES

16. The authority citation for part 130 would continue to read as follows:

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.2(d).

§ 130.1 [Amended]

17. Section 130.1 would be amended as follows:

a. In the definition of *Animal Import Center*, by removing the words “Newburgh, New York; Miami, Florida; and Honolulu, Hawaii” and adding the words “Newburgh, New York, and Miami, Florida” in their place.

b. In the definition of *Nonstandard care and handling*, by removing from footnote 2 the words “7:30 a.m. to 11:30 a.m., Honolulu, HI;”.

Done in Washington, DC, this 3rd day of March 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–5772 Filed 3–8–00; 8:45 am]

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