

Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (559) 487-5901; fax (559) 487-5906; or Kathleen Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Ave., SW., Stop 0237, Washington, DC 20250-0237; telephone (202) 720-2491; fax (202) 720-8938.

**SUPPLEMENTARY INFORMATION:** Pursuant to Marketing Order No. 916 (7 CFR part 916) and Marketing Order No. 917 (7 CFR part 917), hereinafter referred to as the "orders," and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act," it is hereby directed that referenda be conducted to ascertain whether continuance of the orders is favored by growers. The referenda shall be conducted during the period January 6 through January 31, 2003, among California nectarine, pear, and peach growers in the production area. Only growers that were engaged in the production of California nectarines, pears, and peaches during the period of April 1 through November 30, 2002, may participate in the continuance referenda.

Although pears are included under the provisions of M.O. 917, those provisions have been suspended since April 1994. Since that time, the pear industry has been regulated by a State marketing order. If the results of the pear referendum do not favor continuance, the pear order will be terminated. Otherwise, this suspension will remain in effect unless the pear industry recommends reactivation of the federal program.

USDA has determined that continuance referenda are an effective means for determining whether growers favor continuation of marketing order programs. The USDA would consider termination of the orders if less than two-thirds of the growers voting in the referenda and growers of less than two-thirds of the volume of California nectarines, pears, and peaches represented in the referenda favor continuance. In evaluating the merits of continuance versus termination, the USDA will not only consider the results of the continuance referenda. The USDA will also consider all other relevant information concerning the operation of the orders and the relative benefits and disadvantages to growers, handlers, and consumers in order to determine whether continued operation of the orders would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the ballot materials used in the referenda herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581-0189 for nectarines, pears, and peaches. It has been estimated that it will take an average of 30 minutes for each of the approximately 2,130 growers of California nectarines, pears, and peaches to cast a ballot. Participation is voluntary. Ballots postmarked after January 31, 2003, will not be included in the vote tabulation.

Kurt J. Kimmel and Terry Vawter of the California Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, are hereby designated as the referenda agents of USDA to conduct such referenda. The procedure applicable to the referenda shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR part 900.400 et. seq.).

Ballots will be mailed to all growers of record and may also be obtained from the referenda agents and from their appointees.

#### List of Subjects

##### 7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

##### 7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

**Authority:** 7 U.S.C. 601-674.

**Dated:** December 9, 2002.

**A. J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02-31582 Filed 12-13-02; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 71, 82, and 94

[Docket No. 00-107-1]

RIN 0579-AB31

#### Salmonella Enteritidis Phage-Type 4; Remove Import Restrictions and Salmonella Enteritidis serotype Enteritidis; Remove Regulations

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations to remove import restrictions on eggs (other than hatching eggs) of poultry, game birds, and other birds from regions where *Salmonella enteritidis* phage-type 4 exists. Previously, *Salmonella enteritidis* phage-type 4 had not been isolated in the United States; therefore, those import restrictions were necessary to help prevent *Salmonella enteritidis* phage-type 4 from being introduced into this country. However, *Salmonella enteritidis* phage-type 4 is now known to be present in the United States. This action would eliminate restrictions on the importation of eggs from regions where *Salmonella enteritidis* phage-type 4 exists. We are also proposing to remove our regulations regarding poultry disease caused by *Salmonella enteritidis* serotype *enteritidis*.

These regulations are no longer enforced, and it is necessary to remove them to make our regulations consistent with our enforcement.

**DATES:** We will consider all comments that we receive on or before February 14, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 00-107-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-107-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 00-107-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in

room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael David, Assistant Director, Sanitary International Standards Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 734-3577.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases including *Salmonella enteritidis* phage-type 4. *S. enteritidis* phage-type 4 is one of several kinds of *Salmonella* bacteria, and it has been isolated and identified as the cause of numerous outbreaks of salmonellosis in poultry in many parts of the world. Additionally, it has become one of the most prevalent serotypes causing salmonellosis in humans.

In this document, we are proposing to remove the import restrictions related to *S. enteritidis* phage-type 4 contained in part 94, as well as the interstate movement restrictions related to *S. enteritidis* serotype *enteritidis* contained in our regulations in 9 CFR parts 71 and 82 (*S. enteritidis* phage-type 4 is one of several strains of *S. enteritidis* serotype *enteritidis*). As explained in greater detail in the following paragraphs, the regulations in parts 71 and 82 regarding poultry disease caused by *Salmonella enteritidis* serotype *enteritidis* are no longer enforced, and it is necessary to remove them to make our regulations consistent with our enforcement. Further, because those interstate movement restrictions are not enforced, it is necessary to remove the import restrictions in part 94 in order to eliminate, consistent with our obligations under international agreements, import requirements that are more restrictive than our domestic movement requirements.

When *S. enteritidis* phage-type 4 was first identified as affecting poultry, it was seen as a serious threat. *S. enteritidis* phage-type 4 can cause significant mortality in poultry flocks, sometimes as high as 20 percent. Once introduced, salmonellosis can spread rapidly throughout a flock. It may also be passed from one generation to the next by transovarial transmission and eggshell penetration.

The regulations in § 94.6 restrict, among other things, the importation of eggs (other than hatching eggs) into the United States that were produced by poultry, game birds, or other birds that were raised in any region where *S. enteritidis* phage-type 4 is considered to exist, imported from any region where *S. enteritidis* phage-type 4 is considered to exist, or moved into or through any region where *S. enteritidis* phage-type 4 is considered to exist at any time before importation or during shipment to the United States. Canada is listed in § 94.6(b)(2) as the only region considered to be free of *S. enteritidis* phage-type 4.

At the time the import restrictions in § 94.6 concerning *S. enteritidis* phage-type 4 were established, *S. enteritidis* phage-type 4 had not been isolated in the United States, so these import restrictions were necessary to help prevent the introduction of the disease into this country. However, in May of 1994, *S. enteritidis* phage type 4 was detected in the State of California in a commercial layer flock. Since that initial detection, *S. enteritidis* phage-type 4 has been found in flocks across the United States.

State and Federal programs are in place to monitor and control *S. enteritidis* phage-type 4 in the United States. In addition to State laws, the cooperative State/Federal/industry National Poultry Improvement Plan includes a "U.S. *S. Enteritidis* Clean" program for certifying the freedom of hatching eggs and chicks from *S. enteritidis*.

There are regulations in subpart C of 9 CFR part 82 that contain, in part, restrictions on the interstate movement of eggs from flocks affected with *S. enteritidis* serotype *enteritidis*. As noted previously, *S. enteritidis* phage-type 4 is one of several strains of *S. enteritidis* serotype *enteritidis*.

There are also regulations in 9 CFR 71.3(a) that prohibit the interstate movement of poultry and animals affected by certain diseases, including *S. enteritidis* serotype *enteritidis*, with certain exceptions. Specifically, paragraph (c)(4) of § 71.3 provides that poultry affected with disease caused by *S. enteritidis* serotype *enteritidis* may be

moved interstate in accordance with 9 CFR part 82.

However, the regulations regarding *S. enteritidis* in subpart C of part 82 and § 71.3 are no longer enforced and have not been enforced since the mid-1990s. In 1995, as a result of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, October 13, 1994), the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) received the authority and resources to support pathogen reduction programs relating to *S. enteritidis*, including the authority to administer and enforce the regulations in subpart C of part 82 and § 71.3. This reorganization streamlined authority to allow FSIS to control and monitor *S. enteritidis* as, primarily, a human health concern. Then, in fiscal year 1996, Congress determined that the egg industry had developed its own *S. enteritidis* program and deferred funding for the enforcement of the regulations regarding *S. enteritidis* in subpart C of part 82 and § 71.3 and for other Federal *S. enteritidis* programs.

Because those regulations are no longer enforced, flocks in the United States that are affected with *S. enteritidis* serotype *enteritidis*, including phage-type 4, are not subject to the interstate movement restrictions contained in § 71.3 and subpart C of part 82. We are, therefore, proposing to amend § 71.3 by removing its references to *S. enteritidis* serotype *enteritidis* and to amend part 82 by removing subpart C.

Additionally, because *S. enteritidis* phage-type 4 is known to exist in the United States and the movement of eggs from affected flocks is not subject to interstate movement or other restrictions, we are proposing to remove the import restrictions in § 94.6 on the importation of eggs (other than hatching eggs) of poultry, game birds, and other birds from regions where *S. enteritidis* phage-type 4 exists to eliminate import requirements that are more restrictive than our domestic movement requirements. Removing those provisions would mean that the definitions in § 94.0 for the terms *Salmonella enteritidis*, *Salmonella enteritidis*, phage-type 4, and *Salmonellosis* would no longer be needed. We would, therefore, remove those definitions from § 94.0.

##### **Miscellaneous**

We are also proposing to remove a reference in § 94.6 to Velogenic Viscerotropic Newcastle Disease (VVND). This disease is now called Exotic Newcastle Disease (END) and is referred to as such elsewhere in our regulations. Additionally, we are

proposing to correct a footnote in § 94.6. This footnote refers to “Operational Support” staff, which is an outdated title. The new name for that staff is “Animal Health Programs.” We would also make several nonsubstantive editorial changes to the regulations for clarity and consistency.

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We are proposing to amend the regulations to remove import restrictions on eggs (other than hatching eggs) of poultry, game birds, and other birds from regions where *S. enteritidis* phage-type 4 exists. Previously, *S. enteritidis* phage-type 4 had not been isolated in the United States; therefore, those import restrictions were necessary to help prevent *S. enteritidis* phage-type 4 from being introduced into this country. However, *S. enteritidis* phage-type 4 is now known to be present in the United States. This action would eliminate restrictions on the importation of eggs from regions where *S. enteritidis* phage-type 4 exists. We are also proposing to remove our regulations regarding poultry disease caused by *S. enteritidis* serotype *enteritidis*. These regulations are no longer enforced, and it is necessary to remove them to make our regulations consistent with our enforcement.

The following analysis, which also serves as our cost-benefit analysis, considers the potential economic effects of this proposed rule on domestic egg producers.

*S. enteritidis* phage-type 4 is considered to exist in all parts of the world except Canada. Under the current regulations, the importation of eggs (other than hatching eggs) from or through regions affected with *S. enteritidis* phage-type 4 is restricted, but not prohibited. However, in 1999, the last year for which relevant census information is available, the United States imported only 5.8 million dozen eggs (other than hatching eggs), which is equivalent to less than 0.1 percent of U.S. production that year. Eighty percent of these shell egg imports were from China. Imported eggs from Canada, the only region not subject to import restrictions because of its freedom from *S. enteritidis* phage-type 4, accounted for less than 1 percent of all U.S. shell egg imports in 1999.

The United States does not export a significant amount of its egg supply. In 1999, the United States exported 117 million dozen eggs (other than hatching eggs), which is equivalent to only 2 percent of the U.S. nonhatching egg production for that year. As these figures indicate, virtually all eggs produced in the United States are consumed domestically.

After China, the United States is the world’s second largest egg producer. In China and other top egg-producing countries, including Japan, India, Russia, Mexico, and France, virtually all eggs produced are consumed domestically. Combined, these 6 countries exported 122 million dozen eggs in 1999, less than 1 percent of their combined production that year. While the Netherlands exported the most eggs (226 million dozen), that region is not among the top 7 egg-producing nations. Mexico reported no egg exports between 1996 and 1999.

We expect that this proposed rule would have little or no effect on U.S. producers, large or small, for the following reasons:

- Current restrictions on eggs (other than hatching eggs) from regions where END exists are quite similar to the restrictions regarding *S. enteritidis* phage-type 4 that we are proposing to remove.
- END is considered to exist in five of the top six foreign egg-producing regions. Therefore, with the exception of France, where END is not considered to exist, import restrictions on eggs would still be in place for the regions most likely to export eggs to the United States.
- Transporting eggs to the United States from foreign markets is expensive.
- Egg production in the United States is highly mechanized, which offsets potential cost advantages that foreign producers may have over U.S. producers with regard to labor wage rates.

Based on these considerations, we believe that the proposed removal of the restrictions on the importation of eggs from regions where *S. enteritidis* phage-type 4 exists would not result in any appreciable increase in egg imports or otherwise affect domestic egg producers. Additionally, we do not expect any impact on domestic egg producers or other poultry producers to result from our proposed removal of the regulations regarding *S. enteritidis* in subpart C of part 82 and § 71.3 since these regulations are no longer enforced and have not been enforced since fiscal year 1995.

Under these circumstances, the Administrator of the Animal and Plant

Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

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

#### List of Subjects

##### 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 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 71, 82, and 94 as follows:

#### PART 71—GENERAL PROVISIONS

1. The authority citation for part 71 would be revised to read as follows:

**Authority:** 7 U.S.C. 8304–8306, 8308, 8310, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

##### § 71.3 [Amended]

2. Section § 71.3 would be amended as follows:

a. In paragraph (a), by removing the words “poultry disease caused by *Salmonella enteritidis* serotype *enteritidis*,”.

b. By removing paragraph (c)(4) and redesignating paragraph (c)(5) as paragraph (c)(4).

#### PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS

3. The authority citation for part 82 would continue to read as follows:

**Authority:** 7 U.S.C. 8304–8306, 8308, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

4. The title for part 82 would be revised to read as above.

#### Subpart C—[Removed]

5. In part 82, subpart C (§§ 82.30 through 82.38) would be removed.

#### 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

6. The authority citation for part 94 would continue to read as follows:

**Authority:** 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

#### § 94.0 [Amended]

7. Section 94.0 would be amended by removing the definitions of *Salmonella enteritidis*, *Salmonella enteritidis*, *phage-type 4*, and *Salmonellosis*.

8. Section 94.6 would be amended as follows:

a. By revising the section heading to read as follows.

b. By removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively.

c. In newly redesignated paragraph (b)(2), by removing the comma after the word “Administrator” and, at the end of the paragraph, by removing the word “him” and adding the words “the Administrator” in its place.

d. In newly redesignated paragraph (b)(6), in the first sentence, by removing the words “paragraph (c)” and adding the words “paragraphs (b)(1) through (b)(5)” in their place and by removing the words “, Veterinary Services”, and, in the third sentence, by removing the words “paragraph (e)” and adding the words “paragraph (d)” in their place.

e. In newly redesignated paragraph (c), by revising the paragraph heading and the introductory text to read as follows.

f. In newly redesignated paragraph (c)(1)(ix)(C)(1), footnote 7, by removing the words “Operational Support,” and adding the words “Animal Health Programs,” in their place.

g. In newly redesignated paragraph (c)(1)(ix)(C)(2), in the last sentence, by removing the word “VVND” and adding the word “END” in its place.

h. By removing newly redesignated paragraph (c)(1)(x).

i. In newly redesignated paragraph (c)(2), in the last sentence, by removing

the words “or *S. enteritidis*, phage-type 4,”.

j. In newly redesignated paragraph (c)(3), by removing the words “or *S. enteritidis*, phage-type 4,” both times they occur, and by removing the words “paragraph (e)” and adding the words “paragraph (d)” in their place.

k. In newly redesignated paragraph (c)(4), by removing the words “or *S. enteritidis*, phage-type 4,” both times they occur, and by removing the words “paragraph (e)” and adding the words “paragraph (d)” in their place.

#### § 94.6 Carcasses, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds; importations from regions where Exotic Newcastle Disease is considered to exist.

\* \* \* \* \*

(c) *Eggs (other than hatching eggs) from regions where END is considered to exist.* Eggs (other than hatching eggs<sup>6</sup>) from poultry, game birds, or other birds may be imported only in accordance with this section if they: Are laid by poultry, game birds, or other birds that are raised in any region where END is considered to exist (see paragraph (a) of this section); are imported from any region where END is considered to exist; or are moved into or through any region where END is considered to exist at any time before importation or during shipment to the United States.

\* \* \* \* \*

Done in Washington, DC, this 11th day of December 2002.

**Bill Hawks,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 02–31569 Filed 12–13–02; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF ENERGY

#### Federal Energy Regulatory Commission

#### 18 CFR Part 35

[Docket Nos RM01–12–000; RM02–1–000; RM02–12–000]

#### Remedying Undue Discrimination Through Open Access Transmission Service and Standard Market Design; Standardization of Generator Interconnection and Procedures; Standardization of Small Generator Interconnection Agreements and Procedures

December 3, 2002.

**AGENCY:** Federal Energy Regulatory Commission, Energy.

**ACTION:** Notice of technical conference.

**SUMMARY:** To advance the work related to the referenced proceedings and the transmission pricing issue, on January 21, 2003, Commission staff will hold a technical conference on queuing of interconnection requests. The conference will discuss specific issues related to interconnection queuing practices and procedures. Further details about the conference, including details about how to request participation in the conference as a panelist, will be provided in supplemental notices.

**DATES:** Conference will be held on: January 21, 2003.

**ADDRESSES:** Send requests to speak to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:** Norma McOmber, Office of Markets, Tariffs and Rates—Division of Policy, Analysis and Rulemaking, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8022, [Norma.McOmber@ferc.gov](mailto:Norma.McOmber@ferc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Electricity Market Design and Structure

[Docket No. RM01–12–000]

#### Standardization of Generator Interconnection Agreements and Procedures

[Docket No. RM02–01–000]

#### Standardization of Small Generator Interconnection Agreements and Procedures

[Docket No. RM02–12–000]

#### Notice of Technical Conference

To advance work related to the referenced proceedings and the

<sup>6</sup> The requirements for importing hatching eggs are contained in part 93 of this chapter.