

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 82**

[Docket No. 02-117-6]

Exotic Newcastle Disease; Removal of Areas From Quarantine**AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Interim rule and request for comments.

SUMMARY: We are amending the exotic Newcastle disease regulations by removing Mohave and Yuma Counties, AZ, Nye County, NV, and portions of La Paz County, AZ, and Clark County, NV, from the list of quarantined areas. This action removes restrictions on the movement of birds, poultry, and certain other articles from those areas.

DATES: This interim rule was effective May 14, 2003. We will consider all comments that we receive on or before July 18, 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. 02-117-6, 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. 02-117-6. If you use e-mail, address your comment to 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. 02-117-6" 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. Lisa Ferguson, Senior Staff Veterinarian,

Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737-1231; (301) 734-8073.

SUPPLEMENTARY INFORMATION:**Background**

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The regulations in "Subpart A-Exotic Newcastle Disease (END)" (9 CFR 82.1 through 82.15, referred to below as the regulations) were established to prevent the spread of END in the United States in the event of an outbreak. In § 82.3, paragraph (a) provides that any area where birds or poultry infected with END are located will be designated as a quarantined area, and that a quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END. Currently, portions of Arizona, California, Nevada, New Mexico, and Texas are designated as quarantined areas in § 82.3(c) of the regulations. As a result, the interstate movement from the quarantined areas of birds, poultry, products, and materials that could spread END is prohibited or restricted. Further, because the Secretary has declared an extraordinary emergency because of END in those States, the regulations in § 82.16 provide that the intrastate movement from those quarantined areas of birds, poultry, products, and materials that could spread END is prohibited or restricted.

In this interim rule, we are reducing the size of the quarantined areas in Nevada and Arizona based on the results of extensive surveillance and investigations conducted in those States. These activities are described below.

Nevada

On January 16, 2003, END was confirmed in backyard poultry on a premises in Las Vegas, NV. Therefore, in an interim rule effective January 17, 2003, and published in the **Federal Register** on January 24, 2003 (68 FR 3375-3376, Docket No. 02-117-3), we amended § 82.3(c) by quarantining Clark County, NV, and a portion of Nye County, NV. As provided for by the regulations in § 82.3(a), this quarantined area encompassed the area where poultry infected with END were located

and a surrounding geographical area deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

Following the detection of END in Nevada, surveys were conducted in the immediate area around the infected premises. A total of 10 infected premises and 128 "dangerous contact" premises (*i.e.*, premises with an epidemiological link to an infected premises) and premises within a 1 kilometer radius of each infected premises were identified, all in Clark County. Across Nevada, additional surveys were conducted in targeted high-risk areas. Populated areas, reports from animal control units, and leads derived from reports of sick birds or poultry or other epidemiological information were used to define the high-risk areas. No additional cases were identified in any of these areas. Passive surveillance, including education and outreach efforts, continue to be conducted throughout the State. A total of 2,007 investigations were conducted in Nevada. The majority of these investigations were conducted in Clark County, with a total of 1,998 investigations and 216 premises sampled. No evidence of additional disease spread was identified through this surveillance. There are no commercial premises in the quarantined area.

Arizona

On February 4, 2003, END was confirmed in backyard poultry on a single premises in the Colorado River Indian Nation in Arizona. Therefore, in an interim rule effective February 10, 2003, and published in the **Federal Register** on February 14, 2003 (68 FR 7412-7413, Docket No. 02-117-4), we amended § 82.3(c) by quarantining La Paz and Yuma Counties, AZ, and a portion of Mohave County, AZ. As provided for by the regulations in § 82.3(a), this quarantined area encompassed the area where poultry infected with END were located and a surrounding geographical area deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

Following the detection of END in Arizona, surveys were conducted in the immediate area around the infected premises, both in Arizona and across the border in California. No additional cases were identified in any of these areas. Across Arizona, targeted high-risk areas were surveyed. Populated areas along major highways, reports from animal control units, and leads derived

from reports of sick birds or poultry or other epidemiological information were used to define the high-risk areas. In many of these areas, there are few residents, and other areas may only be seasonally populated. Passive surveillance, including education and outreach efforts, continue to be conducted throughout the State.

A total of 1,451 investigations were conducted throughout the State of Arizona. In addition, 21 investigations were conducted in California in the area adjacent to the infected area. In the quarantined counties in Arizona, which contain no commercial premises, the following surveillance was completed with no evidence of disease spread:

- In Yuma County, 60 investigations were conducted, with 39 premises sampled;
- In Mohave County, 38 investigations were conducted with 10 premises sampled; and
- In La Paz County, 56 investigations were conducted with 52 premises sampled (these include the infected premises and 3 “dangerous contact” premises located within 1 kilometer of the infected premises).

Reduction of Quarantined Areas

As noted previously, the regulations in § 82.3(a) provide that any area where birds or poultry infected with END are located will be designated as a quarantined area, and that a quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

Animal and Plant Health Inspection Service epidemiologists have evaluated the results of the investigations conducted in Nevada and Arizona and have determined that we may now reduce the size of the quarantined areas in those States. This determination is based on, among other things, the demonstrated absence of birds or poultry infected with or exposed to END in specific areas. The regulations in § 82.14 provide requirements that must be met before an area may be removed from quarantine, but those requirements relate to measures taken with respect to END-infected or -exposed birds and poultry, their eggs and manure, and articles and premises with which such birds or their manure or litter have come in contact. As there were no END-infected or -exposed birds or poultry in the areas that we are removing from quarantine, there are no requirements under § 82.14 that need to be met before those areas can be removed from quarantine.

Therefore, in this interim rule, we are amending § 82.3(c) by removing Mohave and Yuma Counties, AZ, Nye County, NV, and portions of La Paz County, AZ, and Clark County, NV, from the list of quarantined areas because the continued quarantine of these areas is no longer necessary to contain all birds and poultry infected with or exposed to END. Those portions of La Paz County, AZ, and Clark County, NV, that will remain as quarantined areas, which are described in the amendments to § 82.3(c) at the end of this document, have been deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. We have determined that Mohave and Yuma Counties, AZ, Nye County, NV, and portions of La Paz County, AZ, and Clark County, NV, may now be removed from the list of areas quarantined because of END. Therefore, immediate action is warranted to relieve the prohibitions or restrictions that have applied to the movement of birds, poultry, products, and other materials from those areas. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments that we receive during the comment period for this interim rule (*see DATES* above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the regulations by removing Mohave and Yuma Counties, AZ, Nye County, NV, and portions of La Paz County, AZ, and Clark County, NV, from the list of quarantined areas. This action needs to be made effective immediately in order to remove restrictions on the movement of birds, poultry, and certain other articles from those areas that are no longer necessary.

This situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 82

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

- Accordingly, 9 CFR part 82 is amended as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

- 1. 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.

- 2. In § 82.3, paragraph (c), the entries for Arizona and Nevada are revised to read as follows:

§ 82.3 Quarantined areas.

* * * * *
(c) * * *

Arizona

La Paz County. That portion of the county that lies within the boundaries

of the Colorado River Indian Reservation.

* * * * *

Nevada

Clark County. That portion of the county that is bounded as follows: Beginning at the point where North Hollywood Boulevard enters Nellis Air Force Base; then south on North Hollywood Boulevard to East Bonanza Road; then west on East Bonanza Road to North Bruce Street; then north on North Bruce Street to State Route 604; then northeast on State Route 604 to Civic Center Drive; then north and northeast on Civic Center Drive until it becomes East Alexander Road; then east on East Alexander Road to North Pecos Road; then north on North Pecos Road to East Craig Road; then east on East Craig Road to State Route 604; then southeast along an imaginary line to the point of beginning.

* * * * *

Done in Washington, DC, this 14th day of May, 2003.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03-12431 Filed 5-16-03; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket No. 02-117-7]

Exotic Newcastle Disease; Additions to Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the exotic Newcastle disease regulations by quarantining a portion of Kern County, CA, and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread exotic Newcastle disease from the quarantined area. This action is necessary on an emergency basis to prevent the spread of exotic Newcastle disease from the quarantined area.

DATES: This interim rule was effective May 13, 2003. We will consider all comments that we receive on or before July 18, 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. 02-117-7, 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. 02-117-7. If you use e-mail, address your comment to 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. 02-117-7" 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.

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FOR FURTHER INFORMATION CONTACT: Dr. Aida Boghossian, Senior Staff Veterinarian, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737-1231; (301) 734-8073.

SUPPLEMENTARY INFORMATION:

Background

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The regulations in "Subpart A—Exotic Newcastle Disease (END)" (9 CFR 82.1 through 82.15, referred to below as the regulations) were established to prevent the spread of END in the United States in the event of an outbreak. In § 82.3, paragraph (a) provides that any area where birds or poultry infected with END are located will be designated as a quarantined area, and that a quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry

known to be infected with or exposed to END. Less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as the regulations. The regulations prohibit or restrict the movement of birds, poultry, products, and materials that could spread END from quarantined areas. Areas quarantined because of END are listed in § 82.3, paragraph (c).

On October 1, 2002, END was confirmed in the State of California. The disease was confirmed in backyard poultry, which are raised on private premises for hobby, exhibition, and personal consumption, and in commercial poultry.

In an interim rule effective on November 21, 2002, and published in the **Federal Register** on November 26, 2002 (67 FR 70674-70675, Docket No. 02-117-1), we amended the regulations in § 82.3(c) by quarantining Los Angeles County, CA, and portions of Riverside and San Bernardino Counties, CA, and restricting the interstate movement of birds, poultry, products, and materials that could spread END from the quarantined area.

In a second interim rule effective on January 7, 2003, and published in the **Federal Register** on January 13, 2003 (68 FR 1515-1517, Docket No. 02-117-2), we further amended § 82.3(c) by adding Imperial, Orange, San Diego, Santa Barbara, and Ventura Counties, CA, and the previously non-quarantined portions of Riverside and San Bernardino Counties, CA, to the list of quarantined areas. Because the Secretary of Agriculture signed a declaration of extraordinary emergency with respect to the END situation in California on January 6, 2003 (*see* 68 FR 1432, Docket No. 03-001-1, published January 10, 2003), that second interim rule also amended the regulations to provide that the prohibitions and restrictions that apply to the interstate movement of birds, poultry, products, and materials that could spread END will also apply to the intrastate movement of those articles in situations where the Secretary of Agriculture has issued a declaration of extraordinary emergency (new § 82.16).

On January 16, 2003, END was confirmed in backyard poultry on a premises in Las Vegas, NV. Therefore, in a third interim rule effective January 17, 2003, and published in the **Federal Register** on January 24, 2003 (68 FR 3375-3376, Docket No. 02-117-3), we amended § 82.3(c) by quarantining Clark County, NV, and a portion of Nye County, NV, and prohibiting or