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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 00–122–1]

Change in Disease Status of the Republic of South Africa Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing the Republic of South Africa from the list of regions considered to be free of rinderpest and foot-and-mouth disease. We are taking this action because the existence of foot-and-mouth disease has been confirmed in two provinces in the Republic of South Africa. The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from the Republic of South Africa.

DATES: This interim rule was effective on November 6, 2000. We invite you to comment on this docket. We will consider all comments that we receive by April 10, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00–122–1, 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. 00–122–1.

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 dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Glen Garris, Supervisory Staff Officer, Regionalization Evaluation Services Team, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

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 rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD exists in all other regions of the world not listed. Section 94.11 of the regulations lists regions of the world that have been declared free of rinderpest and FMD, but are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions.

On November 2, 2000, we published in the **Federal Register** an interim rule (65 FR 65728–65729, Docket No. 00–104–1) to remove KwaZulu-Natal, a province in the Republic of South Africa, from the list of regions considered to be free of rinderpest and FMD because FMD had been confirmed there. Prior to the publication of that interim rule, the Republic of South Africa, except the FMD-controlled area that includes Kruger National Park, was among the regions listed in §§ 94.1 and 94.11 as regions considered to be free of rinderpest and FMD.

On November 29, 2000, another suspected outbreak of FMD was detected in the Republic of South Africa, this time in the province of Mpumalanga. Subsequently, on November 30, 2000, the Republic of South Africa's National Department of Agriculture notified the U.S. Department of Agriculture and the Office International des Epizooties (OIE) with clinical confirmation of the FMD diagnosis.

The FMD outbreak in the province of Mpumalanga is unrelated to the previous outbreak in the province of KwaZulu-Natal and, as noted above, is the second introduction of the virus into South Africa in 3 months. The Republic of South Africa's National Department of Agriculture is still investigating the virus' mode of introduction into the FMD-free area and is conducting extensive serological surveillance outside the quarantined area to ensure that the disease is confined to the outbreak farm. Until the results of the epidemiological investigation and the surveillance program are known, we believe that it is necessary to impose restrictions on the entire Republic of South Africa to protect the livestock of the United States from FMD.

Therefore, we are amending the regulations in § 94.1 by removing the Republic of South Africa from the list of regions considered to be free of rinderpest and FMD. We are also removing the Republic of South Africa from the list of regions in § 94.11 that are considered to be free of these diseases, but are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. As a result of this action, the importation into the United States of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants and swine from any part of the Republic of South Africa is prohibited or restricted. We are making these amendments effective retroactively to November 6, 2000, because the disease may have been present in the province of Mpumalanga for some time before it was detected on November 29, 2000.

Although we are removing the Republic of South Africa from the list of regions considered to be free of rinderpest and FMD because of two separate outbreaks of FMD within a short period, we recognize that the Republic of South Africa's National Department of Agriculture responded immediately to the detection of the disease by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from the affected areas and by initiating measures to eradicate the disease. At the time of publication of this interim rule, it appears that the outbreak is well controlled and currently confined to one farm only. Because of the Republic of South Africa's National Department of Agriculture's efforts to ensure that FMD does not spread beyond the previously affected province of KwaZulu-Natal and the newly affected area in the province of Mpumalanga, we intend to reassess the situation in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule. This future reassessment will enable us to determine whether it is necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from the Republic of South Africa, or whether we can restore portions of the Republic of South Africa to the list of regions considered free of rinderpest and FMD.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of FMD into the United States. 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 rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. 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 as a result of the comments.

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 process required by Executive Order 12866.

We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing the Republic of South Africa from the list of regions considered to be free of rinderpest and FMD. We are taking this action because the existence of FMD has been confirmed in two provinces in the Republic of South Africa. The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from the Republic of South Africa.

FMD is among the most infectious and destructive of all animal diseases. While it rarely kills adult animals, the virus may kill young and weak animals. Production losses are substantial, and costs to eradicate the disease are high. A single outbreak of FMD in the United States has the potential to close our major livestock export markets overnight. During the eradication process, most exports of meat, animals, and animal byproducts would be curtailed. Additionally, if the early signs of an outbreak were not immediately recognized, eradication could take years. Therefore, efforts to reduce the risk of the entry of FMD into the United States continue to be a high priority.

Imports of infected animal products pose the greatest risk of entry for FMD into the United States. The virus can survive in chilled, frozen, salted, cured, and partially cooked meats.

Additionally, the virus can also be present in cheese, since the pasteurization process does not completely kill the virus. Strict quarantine regulations minimize the risk of any infected products entering the United States. With the exception of North and Central America (north of Panama), Australia, New Zealand, Great Britain, and the majority of the European Union (EU) countries, FMD is still present in many areas of the world. FMD was last reported in the United States in 1929, in Canada in 1952, and in Mexico in 1954.

The United States livestock industry plays a significant role in international trade. Maintaining favorable trade conditions depends, in part, on continued aggressive efforts to prevent the entry of FMD into the United States. In 1999, the total earnings from exports of live cattle, swine, beef and veal, pork, and dairy products were approximately $4.818 billion, while the value of imports was $5.671 billion. Livestock and related product exports generated about $11.7 billion in output sales and created about 100,000 jobs in the United States.

However, the value of live animals and animal products imported from the Republic of South Africa represents less than 0.06 percent of total U.S. imports of these products.[1] Therefore, U.S. price and supply are not expected to be affected by this rule. Further, any shortfall of supply could easily be met from domestic or other sources, without any significant effect on producer or consumer prices. Therefore, this rule can be expected to produce economic benefits by minimizing the risk of FMD entering the United States with little to no effect on supply or consumer prices.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

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 inconsistent with this rule; (2) has retroactive effect to November 6, 2000; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This 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 in 9 CFR Part 94

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

Accordingly, we are amending 9 CFR part 94 as follows:

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

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

Authority: Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 7 U.S.C. 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

[1] In 1999, the total value of U.S. agricultural exports to the Republic of South Africa was about $196 million. The total value of U.S. agricultural imports from South Africa in 1999 was $106 million.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by removing the words ''Republic of South Africa except the province of KwaZulu-Natal and except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia),''.

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) is amended by removing the words ''Republic of South Africa except the province of KwaZulu-Natal and except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia),''.

Done in Washington, DC, this 18th day of January 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–2166 Filed 2–8–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 163 and 178

[T.D. 01–17]

RIN 1515–AC78

Duty-Free Treatment for Certain Beverages Made With Caribbean Rum

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations, on an interim basis, in order to implement a change made by the Trade and Development Act of 2000 to the Caribbean Basin Economic Recovery Act, also known as the Caribbean Basin Initiative (CBI), that enables certain liqueurs and spirituous beverages to obtain duty-free entry under specified conditions when the beverages are processed in the territory of Canada from rum that is the growth, product or manufacture either of a CBI beneficiary country or of the U.S. Virgin Islands. The interim regulations set forth the certification and supporting documentation requirements that are necessary to establish compliance with the statutory law, thereby ensuring that the rum beverages are properly entitled to duty-free entry under the CBI.

DATES: Interim rule effective on February 9, 2001. This interim rule is effective for all products entered or withdrawn from warehouse for consumption on or after February 9, 2001. Comments must be received on or before April 10, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Leon Hayward, Office of Field Operations, (202–927–9704).

SUPPLEMENTARY INFORMATION:

Background

The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701–2707) (CBERA) establishes an economic recovery program for nations of the Caribbean and Central America. Under the CBERA, also referred to as the Caribbean Basin Initiative (CBI), the President is authorized to proclaim duty-free treatment for all eligible articles of a beneficiary country (19 U.S.C. 2701).

A beneficiary country under the CBI refers to any country listed in 19 U.S.C. 2702(b) with respect to which there is in effect a proclamation by the President designating the country as a beneficiary country for purposes of the CBI (19 U.S.C. 2702(a)(1)(A)). A rule of origin specifies under what conditions an article will be considered to be a product of a beneficiary country—in brief, the article must be wholly the growth, product or manufacture of a beneficiary country, or must be a new or different article of commerce that has been grown, produced, or manufactured in the beneficiary country (19 U.S.C. 2703(a)).

Sections 10.191 through 10.198b of the Customs Regulations (19 CFR 10.191–10.198b) currently implement the duty-free aspects of the CBI.

In pertinent part, in order to be entitled to duty-free treatment under the CBI, an article otherwise eligible for such treatment must be imported directly from a beneficiary country into the customs territory of the United States (19 U.S.C. 2703(a)(1)(A); 19 CFR 10.193).

Accordingly, in the case of rum produced in a beneficiary country and then imported into Canada for processing into a rum beverage, the beverage would not be eligible for duty-free treatment under the CBI because it is not imported directly from a beneficiary country into the United States. At the same time, the beverage would also be ineligible for duty-free treatment under the North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 *et seq.*) (NAFTA) because the processing it undergoes in Canada would not be sufficient to qualify it as a NAFTA originating good (19 U.S.C. 3332; General Note 12, Harmonized Tariff Schedule of the United States (HTSUS); 19 CFR 181.131; and the appendix to 19 CFR part 181).

Beverages Made in Canada With Caribbean Rum; Amendment of CBERA by Trade and Development Act of 2000

To address the foregoing circumstances, the Caribbean Basin Economic Recovery Act has now been further amended by section 212 of the Trade and Development Act of 2000 (Pub. L. 106–200, 114 Stat. 251, enacted on May 18, 2000) (Act). Section 212 of this Act adds a new paragraph (a)(6) to section 213(a) of the CBERA (19 U.S.C. 2703(a)(6)), in order to provide for duty-free entry under certain conditions for liqueurs and spirituous beverages that are produced in the territory of Canada from rum that is the growth, product, or manufacture either of a beneficiary country under the CBI or of the U.S. Virgin Islands.

Specifically, under 19 U.S.C. 2703(a)(6), a liqueur or spirituous beverage that is imported directly into the Customs territory of the United States from the territory of Canada and that is classifiable under subheading 2208.90 or 2208.40, Harmonized Tariff Schedule of the United States (HTSUS), will be entitled to duty-free entry under the CBERA if such liqueur or beverage is produced in the territory of Canada from rum, provided that the rum: (1) Is the growth, product, or manufacture of a beneficiary country or of the U.S. Virgin Islands; (2) is imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands; and (3) accounts for at least 90 percent by volume of the