

and retailers) who are new or existing licensees, may choose to renew their licenses on an annual, biennial, or triennial basis. In the event that the holder of a multi-year license ceases business operations or undergoes a change in legal status that results in the issuance of a new license prior to the next license renewal date, a refund will be issued of any remaining full-year portion of advance fee paid, minus a \$100 processing fee.

(1) Retailers and grocery wholesalers who are existing licensees as of December 1, 1998, will be phased into the three-year renewal process during the succeeding one-year as follows:

(1) Licenses held by retailers and grocery wholesalers ending in the digits "0," "3," "6," or "9," will be renewed on a triennial basis.

(2) Licenses held by retailers and grocery wholesalers ending in the digits "1," "4," or "7," will be renewed for two years and thereafter on a triennial basis.

(3) Licenses held by retailers and grocery wholesalers ending in the digits "2," "5," or "8," will renew their licenses after one year, and thereafter on a triennial basis.

Dated: November 13, 1998.

Larry B. Lace,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-30906 Filed 11-18-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93, 94, and 130

[Docket No. 98-070-3]

Closure of Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are closing the Harry S Truman Animal Import Center (HSTAIC) and amending the animal import regulations to remove all provisions related to HSTAIC. The facility, which has been used for high risk imports, such as ruminants from countries where foot-and-mouth disease exists, has been chronically under used and has never generated enough revenue to be self-sufficient.

EFFECTIVE DATE: December 21, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian,

National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-3276; or e-mail:

gary.s.colgrove@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Harry S Truman Animal Import Center (HSTAIC) is an offshore, maximum biosecurity animal import facility owned and operated by the Animal and Plant Health Inspection Service (APHIS), an agency of the United States Department of Agriculture. It is the only facility of its kind in the United States.

On August 10, 1998, we published in the **Federal Register** (63 FR 42593-42596, Docket No. 98-070-2) a proposal to close HSTAIC and amend the animal import regulations in 9 CFR parts 93 and 94, and the user fee regulations in 9 CFR part 130, to remove all provisions related to HSTAIC.

We solicited comments concerning our proposal for 60 days ending October 9, 1998. We received three comments by that date. One was from an individual; the other two from industry associations.

One comment, from an industry association, was completely supportive of our proposal to close HSTAIC.

The other industry association comment agreed that HSTAIC needs to close, but voiced two concerns.

The first concern was that there will be greater incentive to smuggle llamas and alpacas into Chile from other regions, with the risk that foot-and-mouth disease (FMD) or new diseases would appear in Chile. Chile is currently free of FMD, while other regions in South America are not. Llamas and alpacas from Chile can enter the United States without having to go through quarantine in HSTAIC. Without HSTAIC, llamas and alpacas from regions where FMD exists would not be directly imported into the United States.

We believe this situation is unlikely to lead to more smuggling of animals into FMD- and rinderpest-free regions, such as Chile. Since HSTAIC was dedicated in 1979, only 11 shipments of imported camelids have been quarantined in the facility. Demand for llamas and other camelids in the United States is now shrinking. As demand shrinks, so does the incentive for smuggling animals. Under these circumstances, we believe there is no significant risk.

The commenter's second concern was that any alternative high security import facility maintain high standards for safety and humane care. We agree completely. We are considering

alternatives for importing ruminants and swine from regions where FMD or rinderpest exists. No alternative would be acceptable if high standards for safety and humane care were not included.

One comment objected to our proposal to close HSTAIC. The commenter stated: (1) The United States needs to have a facility like HSTAIC, and the facility should not have to be self-sustaining; (2) we should modify HSTAIC just enough to keep it operational, and make major renovations and repairs later; and (3) we underestimated the cost of closing HSTAIC.

As we explained in our proposed rule (see 63 FR 42593), under the statute authorizing HSTAIC, the facility was intended to be self-sustaining. Unfortunately, this has never happened. Demand to use HSTAIC has never been high enough to make it self-supporting. Demand is now falling. Instead of live animals, germplasm—embryos and semen—is now imported for breeding. Under these circumstances, we do not believe HSTAIC is needed. Industry representatives appear to agree; both comments we received from industry associations supported our proposal to close the facility.

We could delay closing HSTAIC, as the commenter suggested. The State of Florida has extended our sewage permit until August, 2003 (this action took place after our proposed rule was published). However, the longer we delay closing the facility, the longer our operating losses will continue, and the more it will cost to close the facility. If the commenter is correct, that we have underestimated the cost to close the facility, then it is even more important that we act quickly to minimize our losses. To do this, we must close HSTAIC as soon as possible.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The 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.

HSTAIC is a maximum-security APHIS animal import center that provides quarantine services for animals which would otherwise be excluded because they are being imported directly from countries where high-risk diseases such as foot-and-mouth disease (FMD), rinderpest, African swine fever, hog cholera, and swine vesicular disease are

found. HSTAIC was designed to be a self-supporting facility, to as great a degree as possible, with costs defrayed by charges to the importers of the animals who use the facility. However, this has not been the case. Instead, the facility has been underused and has never generated enough revenue to be self-sufficient.

Vital repairs and maintenance of the facility and its equipment has been accomplished by the use of agency funds that would otherwise have been directed toward pest eradication efforts. However, these costly short term repairs and maintenance have not been adequate to upgrade the facility. Regulations concerning the use of the facility were revised in the early 1990's so that any user of HSTAIC for a single animal importation would be responsible for paying all related costs, except capital expenses, incurred in qualifying and quarantining the imported animals at HSTAIC, but the deficit has persisted. At inception, a strong demand was projected for breeding stock in order to import strains of livestock that had specific traits needed for improving U.S. domestic breeds, particularly cattle from high disease-risk countries. However, after the first six imports, this had not occurred. The facility has not had the optimal three imports in any year and money for capital expenditures has not been appropriated. Therefore, we are closing the facility and removing from the CFR the current regulations concerning HSTAIC. Under the terms of this rule, the Center will not accept animals for quarantine after December 31, 1998, and APHIS will enter into an agreement with a prospective importer for final exclusive use of the facility only if it is certain that the animals will enter the Center on or before that date.

Since HSTAIC was dedicated in 1979 there have been 21 ruminant and swine importations. The first imports (cattle from Brazil) were released in July 1980. A total of 6,713 animals have been quarantined and released during this period, including cattle (633), swine (574), sheep and goats (460) and camelids (5,046). Several countries in Latin America (Bolivia, Brazil, Chile and Peru), Europe (France, Germany), Asia (China), and Africa (South Africa) were the sources of the imports. Of these, Chile, France and Germany are now recognized as FMD free. Certain regions in South Africa are also in the process of being recognized as free. The first six imports were cattle (3 from Brazil and 3 from Europe). Camelids have accounted for 11 imports (5 from Bolivia, 1 from Chile/Brazil and 5 from Peru). There have been three imports of

swine (1 from China, 1 from France and 1 from Germany), and one import of sheep and goats (from South Africa). Eight out of the nine most recent imports have been camelids.

The above total, 21 imports in nearly 20 years, has fallen short of the anticipated three shipments of animals per year. Based on three months of isolation at the center for each group and one month between shipments for cleaning and disinfecting, with full use, there should have been 57 imports handled through HSTAIC. Furthermore, the size of individual imports has been smaller than the capacity of the facility, and thus importers have failed to take advantage of economies of scale, which would have reduced the per animal cost of using the facility, as costs per animal are lower as numbers increase. The capacity of the facility is about 400, plus sentinel animals. (This designation is for cattle. For smaller animals, such as sheep and goats, even larger numbers can be accommodated). Only 6,713 animals were actually imported and quarantined during the entire 21 years. The potential number should have been more than 22,800 animals.

The quarantine process is costly regardless of numbers, and is paid entirely by the importers. The average fee for the last 10 imports has been \$1,920 (or \$16 per day) per head. Each selected applicant has exclusive rights to use HSTAIC for the importation during the quarantine period and is responsible for paying all costs, excluding capital expenditure, incurred in qualifying and quarantining the specified animals through HSTAIC. A partial list of costs includes: expense for sentinel animals, laboratory tests, medical treatment, official travel by APHIS personnel, courier services to transport test samples to the Foreign Agricultural Disease Diagnostic Laboratory (FADDL), salaries of HSTAIC personnel, all supplies needed for animal care, maintenance, and testing and the post-quarantining cleaning and disinfection of HSTAIC, as well as utilities and overhead, including salaries and benefits of support staff. The operational cost of an average importation is high—between \$750,000 and \$1 million per import period. This cost would likely have increased, if the center remained open, since substantial infrastructure repairs are needed immediately and there is an ever-increasing requirement to maintain the aging facility. Expenses charged to selected importers vary by importation depending on the kind and number of animals in each shipment, and the country of origin.

Since operating costs while the facility is in use are charged entirely to the importers, if HSTAIC were fully utilized (that is, housing three importations during each year), it could probably be nearly self-supporting. However, due to underutilization, the minimum operating budget must cover costs borne by the facility in the absence of animal shipments. The facility has never had three imports in a single year since its opening. In fact, no quarantines at all occurred for two years (1986 and 1990), two imports each for only three years (1993, 1996 and 1998), and the remaining years have had only one import each year. Thus, up to two-thirds of operational costs have had to be covered from agency funds. During a non-used year, approximately \$390,000 had to be allocated, from the agency budget, just to maintain the facility. In a partial-use year the deficits ranged between \$130,000 and \$260,000. Over the duration of the facility, the agency has diverted approximately \$4 million in nominal dollars, or about \$6.4 million in 1998 dollars, for operational expenditures to keep the facility ready for very few users.

These deficit amounts do not reflect the depreciation of the component parts of the facility and of replacement needs. While the property presently has no other purpose except maintaining readiness for the small number of importers of special livestock from countries that are not free from FMD, equipment, supplies and the physical plant still lose their value, whether with disuse or use, as they wear out or become obsolete. Furthermore, as the facility has aged, maintaining the building in useable condition has required more frequent upgrading of its components, which have varying degrees of life expectancy. The annual adjusted depreciation value of the various physical components of the facility is approximately \$93,776 (obtained by straight line depreciation of all replaceable assets and equipment whose useful life is still active) or about \$257/day. This is the cost of depreciation the facility has been incurring annually even with full use, the amount that should have been collected for the purpose of upgrading equipment. By initially excluding capital expenditures from the fee structure, the agency forfeited the opportunity to charge users approximately \$1.8 million in nominal dollars (or about \$2.4 million in 1998 dollars) that it could have been collecting over the entire period. Overall, the operational deficits and the capital expenditures have accounted for

about \$8.8 million. If the facility were kept open, the agency would continue to incur similar losses, with only slight relief if these costs were prorated and added to user fees.

The agency has already spent over \$1 million in the last five years to repair and modify an incinerator, test emissions, and replace stack pipes, in an effort to meet standards set by the U.S. Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (FDEP). Attempting to keep this aging facility in compliance with EPA/FDEP standards would continue to be expensive for the agency. (These needed repairs include repairing and upgrading the facility's wastewater treatment facility; replacing a generator, an incinerator, the roof, and underground fuel storage tanks; and upgrading the fire suppression/alarm and heating, ventilation, and air conditioning systems.) Currently about \$4.5 million are needed to make the most urgently needed repairs. Closing the facility will make this unnecessary. The money and human resources needed to keep this facility operating can be diverted to other programs that play a more important role in protecting the United States against animal disease incursions. The cost of closing the facility, about \$1 million, will be offset by the future saving the agency will realize.

Closure of the facility will not impact a substantial number of importers, because most importers do not use HSTAI. Despite the original expectation that cattle and swine would be the predominant imports, over the last six years the facility has been used mainly by importers of llamas and alpacas. Using public funds in the maintenance of a facility that serves only specific importers places an undue burden on tax payers. This action is not expected to have a negative economic impact on this small number of entities, which can still import camelids into the United States from Chile and other countries, which are recognized as FMD free. The facility closure should produce positive budgetary impact for the agency.

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

Executive Order 12988

This final 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 no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

Lists of Subjects

9 CFR Part 93

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

9 CFR Part 130

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

Accordingly, we are amending 9 CFR parts 93, 94 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 is revised 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).

§§ 93.430 and 93.431 [Removed and reserved]

2. In part 93, §§ 93.430 and 93.431 are removed and reserved.

§§ 93.522 and 93.523 [Removed]

3. In part 93, §§ 93.522 and 93.523 are 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.

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

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a,

134a, 134b, 134c, 134f, 136, and 135a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.1 [Amended]

5. In § 94.1, paragraph (b)(2) is removed and paragraphs (b)(3) and (b)(4) are redesignated as paragraphs (b)(2) and (b)(3), respectively.

PART 130—USER FEES

6. The authority citation for part 130 is revised 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, 7 CFR 2.22, 2.80, and 371.2(d).

§ 130.1 [Amended]

7. In § 130.1, the definition of *Animal Import Center* is amended by removing the last sentence.

Done in Washington, DC, this 12th day of November 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–30973 Filed 11–18–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–29–AD; Amendment 39–10899; AD 98–24–13]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model MBB–BK117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Eurocopter Model MBB–BK117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, that currently requires initial and repetitive inspections of both surfaces of the tail boom vertical fin (vertical fin) spar, the skin, and the left-hand and right-hand frame sheets for cracks or loose rivets. That AD also requires repairing certain cracks, if found, and repairing and reporting those loose rivets and certain other cracks, if found. This amendment requires the same inspections, repairs, and reporting as the existing AD, but changes the reference to the service bulletin and