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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71, 83, and 93

[Docket No. APHIS-2007-0038]

RIN 0579-AC74

Viral Hemorrhagic Septicemia; Interstate Movement and Import Restrictions on Certain Live Fish

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; withdrawal.

SUMMARY: We are withdrawing an interim rule that established regulations to restrict the interstate movement and importation into the United States of live fish that are susceptible to viral hemorrhagic septicemia, a highly contagious disease of certain fresh and saltwater fish. We are taking this action after considering the comments we received following the publication of the interim rule, which subsequently delayed the effective date of the interim rule indefinitely.

DATES: The interim rule published on September 9, 2008 (73 FR 52173-52189, Docket No. APHIS-2007-0038) is withdrawn effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Dr. Lynn Creekmore, Senior Staff Veterinary Medical Officer, Surveillance, Preparedness and Response Services, VS, APHIS, 2150 Centre Avenue, Building B, Fort Collins, CO 80526; 970-494-7354; or Dr. Christa L. Speekmann, Senior Staff Officer, National Import Export Services, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231; (301) 851-3365.

SUPPLEMENTARY INFORMATION:

Background

Viral hemorrhagic septicemia (VHS) is a highly contagious disease of certain fresh and saltwater fish, caused by a rhabdovirus. It is listed as a notifiable disease by the World Organization for Animal Health. The pathogen produces variable clinical signs in fish including lethargy, skin darkening, exophthalmia, pale gills, a distended abdomen, and external and internal hemorrhaging. The development of the disease in infected fish can result in substantial mortality. Other infected fish may not show any clinical signs or die, but may be lifelong carriers and shed the virus.

Federal Order

The Animal Health Protection Act (AHPA, 7 U.S.C. 8301-8317) authorizes the Secretary of Agriculture to prohibit or restrict the importation or movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock into or within the United States.

In response to outbreaks of VHS in wild fish populations in the Great Lakes, the Administrator determined that it was necessary, in order to prevent the spread of VHS into aquaculture facilities, to prohibit or restrict the interstate movement and importation of VHS-regulated species of live fish. Accordingly, on October 24, 2006, the Animal and Plant Health Inspection Service (APHIS) issued a Federal Order prohibiting the importation of VHS-susceptible species of live fish from two Canadian provinces (Ontario and Quebec) into the United States and the interstate movement of the same species of live fish from the eight States bordering the Great Lakes (Illinois, Indiana, Michigan, Minnesota, New York, Ohio,

Pennsylvania, and Wisconsin). Subsequent modifications to the Federal Order were made in response to additional information provided by States, Tribes, and other interested stakeholders in order to alleviate impacts on industry and related businesses in the Great Lakes region while still protecting against the spread of VHS. The Federal Order was meant to be a temporary measure to be replaced in time by a rule.

Taking into consideration the information we received, on September 9, 2008, we published an interim rule¹ in the Federal Register (73 FR 52173-52189, Docket No. APHIS-2007-0038) to codify the Federal Order by amending 9 CFR parts 71, 83, and 93 to establish regulations to restrict the interstate movement and the importation into the United States of certain live fish species that are susceptible to VHS. We announced that the provisions of the interim rule would become effective November 10, 2008, and that we would consider all comments on the interim rule received on or before November 10, 2008, and all comments on the environmental assessment for the interim rule received on or before October 9, 2008.

Delay of Effective Date

After the publication of the interim rule, we received comments that addressed a variety of issues, including the feasibility of implementing certain requirements.

Based on our review of those comments, on October 28, 2008, we published a document in the Federal Register (73 FR 63867, Docket No. APHIS-2007-0038) announcing that we were delaying the effective date of the interim rule from November 10, 2008, until January 9, 2009, while retaining November 10, 2008, as the close of the comment period for the interim rule and October 9, 2008, as the close of the comment period for the environmental assessment.

¹ To view the interim rule, related documents, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2007-0038>.

On January 2, 2009, we published a document in the Federal Register (74 FR 1, Docket No. APHIS-2007-0038) announcing that we were delaying the effective date of the interim rule indefinitely to provide APHIS with time to make adjustments to the interim rule that we considered necessary for the rule to be successfully implemented.

After completing a risk assessment of the disease and evaluating surveillance and the latest science, we determined that the Federal Order, which had become duplicative with State regulations, could safely be removed as long as States maintain existing VHS regulations and other practices to reduce risk. Therefore, on April 14, 2014, APHIS announced that the VHS Federal Order first issued in October 2006 would be rescinded on June 2, 2014.

Accordingly, we are also withdrawing the September 9, 2008, interim rule. APHIS will continue to work with our stakeholders to provide guidance and promote sound biosecurity practices to prevent the spread of VHS and other aquatic animal diseases of concern.

Authority: 7 U.S.C. 1622 and 8301-8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 12th day of January 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.