

On May 10, 2004 (69 FR 25820–25826, Docket No. 04–011–1), we published an interim rule that amended the regulations to, among other things, establish additional restrictions on the importation of birds and poultry and unprocessed bird and poultry products from regions where HPAI subtype H5N1 is considered to exist. The interim rule also added to the regulations a list of regions (Cambodia, China, Indonesia, Japan, Laos, South Korea, Thailand, and Vietnam) in which HPAI subtype H5N1 is considered to exist.

On August 19, 2004, Malaysia alerted the World Organization for Animal Health and the United States that an outbreak of HPAI subtype H5N1 had occurred in that country. The outbreak occurred in the northeastern State of Kelantan, close to the border with Thailand, a country where the presence of the disease has already been confirmed. Currently, control measures for the disease in Malaysia include depopulation of all poultry and birds within a 1-kilometer radius of the infected flock, quarantine within 10 kilometers of the infected flock, movement restrictions, and clinical surveillance in the State of Kelantan.

Therefore, in order to prevent the introduction of HPAI subtype H5N1 into the United States, we are amending the regulations by adding Malaysia to the list in § 94.6(d) of regions where HPAI subtype H5N1 exists. We are making this action effective retroactively to August 7, 2004, which is the date that Malaysian veterinary authorities estimate to be the date of primary infection. As a result of this action, the importation into the United States of birds, poultry, and unprocessed bird and poultry products from Malaysia is restricted and U.S. origin pet birds and performing or theatrical birds and poultry returning to the United States from Malaysia will be subject to additional permit and quarantine requirements.

#### Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of HPAI subtype H5N1 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 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 adding Malaysia to the list of regions in which HPAI subtype H5N1 is considered to exist. This action is necessary on an emergency basis to prevent the introduction of HPAI, subtype H5N1 into the United States.

The U.S. does not recognize Malaysia as free of exotic Newcastle disease, thus the importation of poultry and non-processed poultry products from Malaysia is restricted. The United States, Canada, and Mexico imported no live poultry, poultry meat, eggs, or feathers from Malaysia in 2003/2004. The only exception was two commercial shipments, consisting of 6,791 and 9,646 pet birds, respectively, which were imported from Malaysia in October 2003 and February 2004. Both shipments consisted of assorted finches. Live birds are quarantined in U.S. ports prior to clearance for entry into the country, during which time testing for infectious diseases, including AI, takes place.

Since no live poultry or poultry products are imported from Malaysia at this time, it is unlikely that this interim rule will have any substantial effects on trade, or on small or large businesses. APHIS also does not anticipate significant changes in program operations, or effects on other Federal agencies, State governments, or local governments.

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 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 retroactive effect to August 7, 2004; 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.

#### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

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

**Authority:** 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

#### § 94.6 [Amended]

■ 2. In § 94.6, paragraph (d) is amended by adding the word “Malaysia,” after the word “Laos.”.

Done in Washington, DC, this 26th day of January 2005.

**Elizabeth E. Gaston,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 05–1796 Filed 1–31–05; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9170]

RIN 1545–BD99

#### Section 1374 Effective Dates; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document corrects temporary regulations (TD 9170) that were published in the **Federal Register** on Wednesday, December 22, 2004 (69 FR 76612), that provide guidance concerning the applicability of section 1374 to S corporations that acquire assets in carryover basis transactions from C corporations on or after December 27, 1994, and to certain corporations that terminate S

corporation status and later elect again to become S corporations.

**DATES:** This document is effective on December 22, 2004.

**FOR FURTHER INFORMATION CONTACT:** Stephen R. Cleary, (202) 622-7750 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final and temporary regulations (TD 9170) that is the subject of this correction are under 1374 of the Internal Revenue Code.

**Need for Correction**

As published, the final and temporary regulations (TD 9170) contains an error that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Parts 1**

Income Tax, Reporting and recordkeeping requirements.

**Correction of Publication**

■ Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendment:

**PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ 2. In § 1.1374-8T, the section heading, and paragraphs (a)(1) and (a)(2) are revised to read as follows:

**§ 1.1374-8T 1374(d)(8) transactions (temporary).**

(a)(1) (Reserved) For further guidance see § 1.1374-8(a).

(2) Section 1374(d)(8) applies to any § 1.1374(d)(8) transaction, as defined in paragraph (a)(1) of this section, that occurs on or after December 27, 1994, without regard to the date of the corporation's election to be an S corporation under section 1362.

\* \* \* \* \*

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 05-1734 Filed 1-31-05; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Parts 100 and 165**

**[USCG-2005-20151]**

**Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations and Regulated Navigation Areas**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary rules issued.

**SUMMARY:** This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between October 1, 2004 and December 31, 2004, that were not published in the **Federal Register**. This quarterly notice lists temporary special local regulations, security zones, safety zones, and regulated navigation areas, all of limited duration for which timely publication in the **Federal Register** was not possible.

**DATES:** This document lists temporary Coast Guard rules that became effective and were terminated between October 1, 2004, and December 31, 2004.

**ADDRESSES:** The Department of Transportation Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20593-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket for this notice on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice contact LT Jeff Bray, Office of Regulations and Administrative Law, telephone (202) 267-2830. For questions on viewing, or on submitting material to the docket, contact Renee Z. Wright, Acting Program Manager, Docket Operations, telephone (202) 493-0402.

**SUPPLEMENTARY INFORMATION:** Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain regulations. Safety Zones may be

established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to prevent injury or damage to vessels, ports, or waterfront facilities and may also describe a zone around a vessel in motion. Special local regulations are issued to enhance the safety of participants and spectators at regattas and other marine events. Regulated navigation areas established for vessels navigating within the area. Timely publication of these rules in the **Federal Register** is often precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these rules through local notices to mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these special local regulations, security zones, safety zones or regulated navigation areas by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, safety zones and regulated navigation areas. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones, special local regulations, security zones and regulated navigation areas listed in this notice have been exempted from review and under Executive Order 12866, Regulatory Planning and Review, because of their emergency nature, or limited scope and temporary effectiveness.

The following rules were placed in effect temporarily during the period from October 1, 2004, through December 31, 2004, unless otherwise indicated.

Dated: January 24, 2004.

**Steve G. Venckus,**  
*Chief, Office of Regulations and Administrative Law.*