

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 77**

[Docket No. 96-093-1]

Tuberculosis in Cattle and Bison; State Designation**AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Interim rule and request for comments.

SUMMARY: We are amending the tuberculosis regulations concerning the interstate movement of cattle and bison by raising the designation of Wisconsin from an accredited-free (suspended) State to an accredited-free State. We have determined that Wisconsin meets the criteria for designation as an accredited-free State.

DATES: Interim rule effective May 7, 1997. Consideration will be given only to comments received on or before July 7, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-093-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-093-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7727; or e-mail: messey@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:**Background**

The "Tuberculosis" regulations, contained in 9 CFR part 77 (referred to below as "the regulations"), regulate the interstate movement of cattle and bison because of tuberculosis. Bovine tuberculosis is the contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. The requirements of the regulations concerning the interstate movement of cattle and bison not known to be affected with, or exposed to,

tuberculosis are based on whether the cattle and bison are moved from jurisdictions designated as accredited-free States, modified accredited States, or nonmodified accredited States.

The criteria for determining the status of States (the term "State" is defined to mean any State, territory, the District of Columbia, or Puerto Rico) are contained in a document captioned "Uniform Methods and Rules—Bovine Tuberculosis Eradication," which has been made part of the regulations via incorporation by reference. The status of States is based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis eradication program. An accredited-free State is a State that has no findings of tuberculosis in any cattle or bison in the State for at least 5 years. The State must also comply with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding accredited-free States.

An accredited-free (suspended) State is defined as a State with accredited-free status in which tuberculosis has been detected in any cattle or bison in the State. A State with accredited-free (suspended) status is qualified for redesignation of accredited-free status after the herd in which tuberculosis is detected has been quarantined, an epidemiological investigation has confirmed that the disease has not spread from the herd, and all reactor cattle and bison have been destroyed.

Before publication of this interim rule, Wisconsin was designated in § 77.1 of the regulations as an accredited-free (suspended) State. However, Wisconsin now meets the requirements for designation as an accredited-free State. Therefore, we are amending the regulations by removing Wisconsin from the list of accredited-free (suspended) States in § 77.1 and adding it to the list of accredited-free States in that section.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to change the regulations so that they accurately reflect the current tuberculosis status of Wisconsin as an accredited-free State. This will provide prospective cattle and bison buyers with accurate and up-to-date information, which may affect the marketability of cattle and bison since some prospective buyers prefer to buy cattle and bison from accredited-free States.

Because prior notice and other public procedures with respect to this action

are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon 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**. It 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.

Cattle and bison are moved interstate for slaughter, for use as breeding stock, or for feeding. Wisconsin has approximately 29,000 dairy herds and 22,000 beef herds, for a combined total of 3,859,000 cattle. Approximately 95 percent of herd owners would be considered small businesses. Changing the status of Wisconsin may affect the marketability of cattle and bison from the State, since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free States. This may result in some beneficial economic impact on some small entities. However, based on our experience in similar designations of other States, the impact should not be significant.

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 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 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 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, 9 CFR part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, in the definition for “Accredited-free (suspended) State”, paragraph (2) is amended by removing “Wisconsin” and adding “None” in its place.

3. In § 77.1, in the definition for “Accredited-free state”, paragraph (2) is amended by adding “Wisconsin,” immediately before “and Wyoming”.

Done in Washington, DC, this 30th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–11885 Filed 5–6–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 94**

[Docket No. 97–034–2]

Change in Disease Status of The Netherlands Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule; change in effective date.

SUMMARY: We are changing the effective date of the interim rule that added The Netherlands to the list of countries where bovine spongiform encephalopathy exists. The interim rule first became effective on April 10, 1997, and was published in the **Federal Register** on April 15, 1997 (62 FR 18263).

DATES: The interim rule published in the **Federal Register** on April 15, 1997

(62 FR 18263) is effective March 21, 1997. Consideration will be given only to comments received on or before June 16, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–034–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–034–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room. **FOR FURTHER INFORMATION CONTACT:** Dr. John Cougill, Staff Veterinarian, Animal Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3399; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: On April 15, 1997, we published in the **Federal Register** (62 FR 18263–18264, Docket No. 97–034–1) an interim rule that added The Netherlands to the list of countries where bovine spongiform encephalopathy (BSE) exists because the disease had been detected in a cow in that country on March 21, 1997. The interim rule prohibits or restricts the importation into the United States of certain fresh, chilled, and frozen meat, and certain other animal products and byproducts from ruminants that have been in The Netherlands. The effective date of that interim rule was April 10, 1997. We are changing the effective date of that rule to March 21, 1997. This action is necessary to ensure that the prohibitions and restrictions established by the interim rule apply to animal products and byproducts that were shipped to the United States from The Netherlands between March 21, 1997, when BSE was detected in The Netherlands, and April 10, 1997, when our interim rule was signed.

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 March 21, 1997; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

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

Done in Washington, DC, this 30th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–11887 Filed 5–6–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 94**

[Docket No. 96–076–2]

Pork and Pork Products From Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule allows fresh, chilled, and frozen pork and pork products from the Mexican State of Baja California to transit the United States, under certain conditions, for export to another country. Previously, we allowed such pork and pork products only from the Mexican States of Sonora, Chihuahua, and Yucatan to transit the United States for export. Otherwise, fresh, chilled, or frozen pork and pork products are prohibited movement into the United States from Mexico because of hog cholera in Mexico. Baja California has not had an outbreak of hog cholera since 1985 and we believe that fresh, chilled, and frozen pork and pork products from Baja California could transit the United States under seal with minimal risk of introducing hog cholera. This action will facilitate trade.

EFFECTIVE DATE: May 7, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, USDA, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–5034.

SUPPLEMENTARY INFORMATION:**Background**

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of certain animal diseases. Section 94.9 of the regulations prohibits the importation of pork and pork products into the United States from