

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]

BILLING CODE 3410–34–P

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]

BILLING CODE 3410–34–P

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

countries where hog cholera exists, unless the pork or pork products have been treated in one of several ways, all of which involve heating or curing and drying.

Because hog cholera exists in Mexico, pork and pork products from Mexico must meet the requirements of § 94.9 to be imported into the United States. However, under § 94.15, pork and pork products that are from certain Mexican States and that are not eligible for entry into the United States in accordance with the regulations may transit the United States for immediate export if certain conditions are met. Prior to the effective date of this final rule, only pork and pork products from Sonora, Chihuahua, and Yucatan, Mexico, were eligible to transit the United States in accordance with § 94.15.

On December 31, 1996, we published in the **Federal Register** (61 FR 69052–69054, Docket No. 96–076–1) a proposal to amend the regulations by allowing pork and pork products from the Mexican State of Baja California to transit the United States for export under the same conditions as pork and pork products from Sonora, Chihuahua, and Yucatan.

These conditions were set forth as follows:

1. Any person wishing to transport pork or pork products from Baja California through the United States for export must first obtain a permit for importation from the Animal and Plant Health Inspection Service (APHIS).

2. The pork or pork products must be packaged in Baja California in a leakproof container and sealed with a serially numbered seal approved by APHIS. The container must remain sealed at all times while transiting the United States.

3. The person moving the pork or pork products through the United States must inform the APHIS officer at the United States port of arrival, in writing, of the following information before the pork or pork products arrive in the United States: The time and date that the pork or pork products are expected at the port of arrival in the United States, the time schedule and route of the shipments through the United States, the permit number, and the serial numbers of the seals on the containers.

4. The pork or pork products must transit the United States under Customs bond.

5. The pork or pork products must be exported from the United States within the time period specified on the permit.

Any pork or pork products exceeding the time limit specified on the permit or transiting in violation of any of the requirements of the permit or the

regulations may be destroyed or otherwise disposed of at the discretion of the Administrator, APHIS, pursuant to section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111).

We solicited comments concerning our proposal for 60 days ending March 3, 1997. We received two comments by that date. They were from a domestic pork industry group and a veterinary association. One commenter agreed with the proposed rule. The other commenter commended the efforts of Mexican pork producers and the Mexican Government in their hog cholera eradication efforts, stated support for the principles of regionalization outlined in the proposed rule, reemphasized the importance of surveillance and control measures to minimize the risk of transmitting hog cholera to the U.S. swine population, and discussed a related trade issue. The commenter did not recommend any clarification or changes to the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions no longer found to be warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

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.

This 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.

There has not been an outbreak of hog cholera in Baja California, Mexico, since 1985. Therefore, there appears to be little risk of hog cholera exposure from shipments of pork and pork products from Baja California transiting the United States. Assuming that proper risk management techniques continue to be applied in Mexico, and proper

handling during transport, the risk of exposure to hog cholera from pork in transit from Mexico through the United States should be minimal.

Shipments of pork and pork products from Baja California transiting the United States could economically benefit some U.S. entities as a result of this rulemaking since they will be involved in the transportation of the pork and pork products within the United States (from the port of entry to the port of embarkation). The additional economic activity from such trucking activities is estimated to be no more than \$49,250 per year, assuming 200 trips per year are made, which is approximately the level of current shipments from Sonora through the United States. No interagency or governmental effects are expected in connection with this rule.

Mexico is a net pork importer, with Mexican imports representing 7 to 8 percent of production. With favorable income growth expected in Mexico due to trade liberalization, pork exports are expected to be limited. Furthermore, facilitating export opportunities for the Mexican pork industry may provide incentives for continued efforts to eradicate hog cholera from infected Mexican States where it still exists.

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 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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0040.

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, 9 CFR part 94 is amended 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: 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).

2. In § 94.15, paragraph (b), the introductory text and paragraph (b)(2) are amended by adding the words "Baja California," immediately before the word "Chihuahua".

3. Section 94.15 is amended by adding the following phrase at the end of the section:

"(Approved by the Office of Management and Budget under control number 0579-0040)".

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

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-11884 Filed 5-6-97; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF ENERGY

10 CFR Parts 703 and 1023

RIN 1901-AA30

Board of Contract Appeals; Contract Appeals

AGENCY: Board of Contract Appeals, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy amends its regulations concerning proceedings and functions of the Board of Contract Appeals. This action is necessary to update the rules and to reorganize and supplement the existing rules to provide the public with a better understanding of the Board and its functions. This rule adds an overview of the Board's organization, authorities and various functions, enunciates longstanding policies favoring the use of Alternative Dispute Resolution (ADR), and confirms the Board's authority to engage in ADR and provide an array of ADR neutral services, modifies the Rules of Practice for Contract Disputes Act (CDA) appeals to implement changes made to the CDA by the Federal Acquisition Streamlining Act (FASA), and removes unnecessary and obsolete

rules related to the Board's non-CDA appeals and Contract Adjustment Board functions.

DATES: This rule is effective June 6, 1997.

Applicability date: In accordance with § 1023.102, rule 1(a) and (b) of § 1023.120 shall apply to appeals filed on or after October 1, 1995.

FOR FURTHER INFORMATION CONTACT: E. Barclay Van Doren, Chair, Department of Energy, Board of Contract Appeals, (202) 426-9316.

SUPPLEMENTARY INFORMATION:

I. Background

A. Discussion

II. Procedural Requirements

A. Review under Executive Order 12866

B. Review under Executive Order 12988

C. Review under the Regulatory Flexibility Act

D. Review under the Paperwork Reduction Act

E. Review under the National Environmental Policy Act

F. Review under Executive Order 12612

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

H. Review Under the Unfunded Mandates Reform Act of 1995

I. Background

A. Discussion

On October 30, 1996, the Department published a proposed rule in the **Federal Register** (61 FR 55932) to update and reorganize the various rules previously issued by the Energy Board of Contract Appeals. The Department now adopts the proposed rule as final.

This Rulemaking has several purposes. First, the Overview, §§ 1023.1-1023.9, set out a statement of the organization, functions, and authorities of the Board of Contract Appeals (Board or EBCA) of the Department of Energy (DOE) and principles applicable to all the Board's functions. The Board has functions other than the resolution of disputes brought under the Contract Disputes Act (CDA), yet the previous rules did not list and describe these functions and their associated authorities in any single place. This proved confusing to some who were unfamiliar with the Board. The revised rules, in one place, describe and cross-reference all of the standing functions and rules of the Board. This change should help those unfamiliar with the Board to understand its several functions and the limits of its authority, and to assist potential appellants to determine whether the Board is the proper forum for the resolution of a particular dispute. Moreover, the rule provides, for informational purposes,

the Board's delegated general authorities, which are set forth in a delegation order from the Secretary of Energy.

Second, this Rulemaking enunciates in § 1023.8, the Board's and DOE's policy favoring the use of ADR in the resolution of contract and other disputes. The previous rules did not recognize ADR nor the authority of the Board and its members to employ and participate in ADR procedures. The Board has a longstanding policy to encourage the consensual resolution of disputes. These revised rules contain an explicit statement of the Board's and DOE's policy regarding ADR. In addition to the statement of policy contained in Section 1023.8, express Board ADR authorities are set forth in §§ 1023.1(d), 1023.3(b), 1023.4, 1023.5, and 1023.6. Included are authorities permitting the Chair to exchange neutrals with other Boards of Contract Appeals. Further, the Board is authorized to provide neutral services for certain contract disputes below the prime contract level in instances specified in Section 1023(d).

Third, the Federal Acquisition Streamlining Act (FASA) modified the CDA with respect to matters involving claim certification and availability of certain appeal procedures. This Rulemaking updates the Board's rules of practice (Rules 1, 6, 13, and 14) to conform to these changes. The Streamlining Act increased the threshold for CDA claim certification to \$100,000, from \$50,000. The Act also increased the amounts under which a claim is eligible for either accelerated procedures or small claims procedures. Claims under \$100,000 (previously \$50,000) will be eligible for accelerated procedures and claims under \$50,000 (previously \$10,000) will be, at the contractor's election, resolved under the small claims procedures.

Fourth, this Rulemaking removes the separate rules of practice (10 CFR part 703) for contract and subcontract appeals which are not governed by the CDA (non-CDA appeals) and the rules of the Contract Adjustment Board (10 CFR part 1023, subpart B). No pre-CDA appeals have been filed with the Board for more than eight years and separate rules are no longer necessary. The rules of practice for CDA appeals (10 CFR part 1023, subpart A) will be applicable to both CDA appeals and non-CDA appeals from contracting officer decisions and to any subcontractor disputes over which the Board has jurisdiction. In non-CDA appeals, the Board may make procedural modifications determined by the Board to be appropriate, such as disregarding rule provisions pertaining