Cotton Futures Exchange deliveries. This final rule would change the designation of the spot markets which are used daily to calculate price differences for cotton futures contracts. The current designations were published in the **Federal Register** on August 4, 1988 (53 FR 29327). As previously stated, differences are quoted for those qualities of cotton which are tenderable on active futures contracts in five designated markets. These differences are averaged to obtain the differences quoted for futures settlement.

This final rule would provide that differences would continue to be quoted for those qualities of cotton which are tenderable on active futures contracts in all of the five markets currently designated for this purpose. However, the West Texas spot market would be added as a bone fide spot market for the settlement of futures contracts, and the North Delta and South Delta spot markets would be combined and averaged together when used for this purpose of calculating differences of tenderable qualities for the settlement of futures contracts. This final rule would change the calculation of differences of tenderable qualities for the settlement of futures contracts to be the average of the differences of (1) the Southeastern spot market; (2) the East Texas/Oklahoma spot market; (3) the West Texas spot market; (4) the Desert Southwest spot market; and (5) the combination and averaging of the North Delta and South Delta spot markets. The remaining designated spot markets would not change. These modifications are expected to more accurately reflect the trading value of tenderable cotton on futures contracts and add more transparency in the market.

**List of Subjects in 7 CFR Part 27**

Commodity futures, cotton.

For the reasons set forth in the preamble, 7 CFR Part 27 is revised as follows:

## PART 27—[AMENDED]

1. The authority citation for 7 CFR Part 27 continues to read as follows:

**Authority:** 7 U.S.C. 15b, 7 U.S.C. 4736, 7 U.S.C. 1622(g).

2. In § 27.94, paragraph (a) is revised to read as follows:

### § 27.94 Spot markets for contract settlement purposes.

(a) For cotton delivered in settlement of any No. 2 contract on the New York Cotton Exchange: Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

* * * * *

Dated: December 10, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02–31633 Filed 12–16–02; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 9 CFR Part 94

**[Docket No. 01–018–4]**

## Change in Disease Status of Great Britain With Regard to Foot-and-Mouth Disease

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations governing the importation of certain animals, meat, and other animal products by adding Great Britain (England, Scotland, Wales, and the Isle of Man) to the list of regions considered free of rinderpest and foot-and-mouth disease (FMD) and to the list of regions subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This final rule follows an interim rule that removed Great Britain and Northern Ireland from those lists due to detection of FMD in those regions. Based on the results of an evaluation of the current FMD situation in Great Britain, which took into account, among other things, that Great Britain has met the standards of the Office International des Epizooties for being considered to be free of FMD, we have determined that Great Britain can be added to the list of regions considered free of FMD. This rule relieves certain FMD-related prohibitions and restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from Great Britain.

**EFFECTIVE DATE:** December 17, 2002.

**FOR FURTHER INFORMATION CONTACT:** Dr. Anne Goodman, Supervisory Staff Officer, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

**SUPPLEMENTARY INFORMATION:**

### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest and foot-and-mouth disease (FMD). These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are considered free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD is considered to exist in all parts of the world not listed. Section 94.11 of the regulations lists regions of the world that the Animal and Plant Health Inspection Service (APHIS) has determined to be free of rinderpest and FMD, but from which importation of meat and animal products into the United States is restricted because of the regions' proximity to or trading relationships with rinderpest- or FMD-affected regions.

In an interim rule effective January 15, 2001, and published in the **Federal Register** on March 14, 2001 (66 FR 14825–14826, Docket No. 01–018–1), we amended the regulations by removing Great Britain (England, Scotland, Wales, and the Isle of Man) and Northern Ireland from the list of regions considered to be free of rinderpest and FMD. (The **Federal Register** published a correction (66 FR 18357) to the interim rule on April 6, 2001.) That interim rule was necessary because FMD had been confirmed in those regions. The effect of the interim rule was to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from Great Britain and Northern Ireland.

Although we removed Great Britain and Northern Ireland from the list of regions considered to be free of rinderpest and FMD, we recognized in the interim rule that the appropriate authorities had responded to the detection of FMD by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from FMD-affected areas; by conducting heightened surveillance activities; and by initiating measures to eradicate the disease. We stated that we intended to reassess the situation in those regions at a future date in the context of Office International des Epizooties (OIE) standards, and that as part of that reassessment process, we would

consider all comments received regarding the interim rule.

Additionally, we stated in the interim rule that the future reassessments would enable us to determine whether it was necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from Great Britain and Northern Ireland, or whether we could restore Great Britain and Northern Ireland to the list of regions in which FMD is not known to exist, or regionalize portions of Great Britain or Northern Ireland as FMD-free.

On January 9, 2002, we published a final rule in the **Federal Register** (67 FR 1072–1074, Docket No. 01–031–3) in which we restored Northern Ireland (as well as the Netherlands) to the list of regions considered to be free of rinderpest and FMD and to the list of regions subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. The action with respect to Northern Ireland and the Netherlands was based on the results of an evaluation of the FMD situation in those regions, which took into account, among other things, that each region met the standards of the OIE for being considered to be free of FMD.

On July 16, 2002, we published a notice in the **Federal Register** (67 FR 46628–46629, Docket No. 01–018–2) in which we advised the public of the availability of an evaluation that we had prepared concerning the FMD disease status of Great Britain. (We published a correction (67 FR 54164, Docket No. 01–018–3) to that notice on August 21, 2002.) The evaluation, entitled ''APHIS Evaluation of FMD Status of Great Britain (England, Scotland, Wales, and the Isle of Man)'' (May 2002), assessed the FMD status of Great Britain and the related disease risks associated with importing animals and animal products into the United States from Great Britain.

We solicited comments concerning the evaluation for 60 days ending September 16, 2002, and received 10 comments by that date. The comments were submitted by animal breeders and producers, an animal breeders' association, national beef and pork industry associations, and artificial insemination businesses. Seven of the 10 commenters supported restoring Great Britain to the list of FMD-free regions and relieving certain prohibitions and restrictions on the importation of animals and animal products into the United States from Great Britain. The other comments are discussed below.

One commenter expressed concern that the European Union (EU) is reportedly willing to accept the risk of an outbreak of FMD once every 10 years. The commenter asked what level of FMD risk is acceptable to the United Kingdom, and what actions the United Kingdom was taking to achieve that level of risk.

There is no research of which we are aware, and the commenter did not make reference to any specific report, that indicates that the EU or the United Kingdom is willing to accept the risk of an outbreak of FMD under any circumstances. Regardless of the level of risk that any individual country might be willing to accept, we prepare risk assessments based on our own standards. Our evaluation of Great Britain's eradication and control efforts, including site visits that are detailed in a document that is available to the public (see following section, ''Status of Great Britain''), clearly shows that Great Britain has implemented effective measures to prevent further outbreaks of FMD.

Two commenters stated that, given the delay in diagnosis of FMD in Great Britain during the outbreak in 2001, education regarding the importance of early reporting of suspicious disease situations is advisable. The commenter inquired whether APHIS had any information about any such continuing educational efforts in Great Britain.

The United Kingdom's Department for Environment, Food, and Rural Affairs (DEFRA) maintains a Web site (*http://www.defra.gov.uk/footandmouth*) that offers information about, among other things, the disease and the 2001 outbreak, government restrictions and control measures, and precautions that farmers can take to avoid future outbreaks, including looking for early signs of disease. This information, made readily available to the public, through the internet and other media, demonstrates the commitment of the government of the United Kingdom to maintaining a high level of awareness and education regarding FMD.

One commenter wanted to know if we have received information about the compliance of former swill feeding operations with the swill feeding ban that was enacted by the United Kingdom in May 2001.

The ban on swill feeding is an important mitigating measure for the prevention of FMD, and DEFRA has initiated enforcement measures to ensure compliance with the ban. For 12 months following the implementation of the ban, local authorities, in cooperation with the Chief Veterinary Officer of DEFRA, visited all former swill feeders. The visits occurred at 2 weeks, 1 month, 2 months, 6 months, and 12 months. During those 12 months, many of the former swill feeders gave up pig production altogether. The swill feeding operations that remained were thoroughly inspected to ensure that they had changed their feeding regimes in compliance with the ban. Local authorities took feed samples at any swill feeding operation that they suspected was using meat or meat products in their feed. The necessary enforcement measures, up to and including prosecution, were taken in all cases of non-compliance with the ban. These non-compliant swill feeding operations continue to be inspected on a regular basis to ensure that compliance is upheld.

In addition to these inspection measures, the Chief Veterinary Officer of DEFRA has also instituted an awareness campaign aimed at former swill feeding operators as well as the public. Information about alternative methods of feeding, safe disposal of untreated swill, and various feed options has all been made available on DEFRA's Web site. Letters have been written to the local authorities emphasizing the importance of continued vigilance in their enforcement activities, and DEFRA's State Veterinary Service continues to work closely with the local authorities. Our risk assessment and site visits, in addition to the subsequent information we have received from DEFRA, indicate that these actions taken by DEFRA to ensure compliance with the swill feeding ban have been, and continue to be, an effective mitigation measure against the reintroduction of FMD.

Two commenters asked about the level of testing that had been done in deer and feral boars in areas of the country that had contained infected domestic animals.

The information available to us indicates that the wildlife populations were not tested extensively because FMD infections in wildlife were not believed to be a factor in the spread of FMD or to be a reservoir of infection. Detection and eradication efforts were focused on infected domestic animals. We believe that the risk of the spread of FMD from wildlife is minimal because the disease has been eradicated in the domestic livestock, and there has been no reintroduction of the disease from wildlife.

Two commenters noted that Canada will not allow the importation from the United Kingdom of some commodities that have been imported into the United

Kingdom from certain trading partners in the EU known to be infected with FMD. These commenters asked whether APHIS has reviewed the risk to the United Kingdom, and then subsequently to the United States, of these types of importations. These commenters also inquired how the United Kingdom's import controls for commodities from FMD countries compare to the United States' import controls for commodities from FMD countries, and what level of protection is provided by the 100 percent documentation and identity checks conducted by the United Kingdom on the origin of meat imported from FMD countries.

The risk to the United Kingdom and subsequently to the United States of these types of importations is addressed in the current regulations that govern the importation of meat and other animal products. These regulations include special restrictions for those FMD-free regions that: (1) Supplement their national meat supply by the importation of fresh (chilled or frozen) meat of ruminants or swine from regions that are designated as having FMD; (2) share a common land border with regions that are designated as having FMD; or (3) import ruminants or swine from regions where FMD exists under conditions that are less restrictive than are acceptable for importation into the United States. These restrictions, found in § 94.11, will apply to Great Britain and offer additional protection against the possibility of the introduction of FMD into the United States.

One commenter noted the outbreaks of classical swine fever and FMD in the last 2 years in the United Kingdom and asked if APHIS' risk evaluation and assessment process addressed future risks to the United States based on this type of history.

Our risk evaluation and assessment process takes into account the quick and effective response of the government after the initial outbreaks of these diseases. The emergency response lessons that DEFRA learned have led to an increased level of sensitivity and an enhanced level of awareness of the potential for disease incursions. Although it is impossible to predict the potential for future risk with complete certainty, we believe that the continued surveillance and ongoing educational and control efforts of DEFRA, combined with the restrictions of § 94.11 discussed above, support our determination that there does not exist an undue risk of FMD being introduced into the United States through the importation of animals or animal products from Great Britain.

Two commenters requested that APHIS review other disease situations with regard to health risks to the U.S. livestock herd. One of the commenters specifically mentioned postweaning multi-systemic wasting syndrome (PMWS) and porcine dermatitis and nephropathy syndrome (PDNS), which the commenter said were increasing in prevalence and severity in Great Britain.

APHIS conducts ongoing review and analysis of diseases that could affect the U.S. livestock herd. With regard to PMWS and PDNS, both of these diseases already exist in the United States, and we have initiated an evaluation process to determine the extent of their spread and the health risks that they present both in the United Kingdom and in the United States.

Another commenter supported relieving restrictions on the importation from Great Britain of embryos and semen under certain conditions, but opposed relieving restrictions on the importation of other animal products from Great Britain because of FMD and because of the ''unknown incubation period'' of bovine spongiform encephalopathy (BSE).

Our evaluation of Great Britain's FMD control and eradication efforts since the initial outbreak of FMD indicates that they have been effective. The evaluation, which also took into account OIE's standards, found that there is no undue risk of the presence of FMD in Great Britain. Based on this evidence, we do not consider it necessary to prohibit the importation of animals and animal products from Great Britain due to FMD.

However, because the United Kingdom is listed in § 94.18(a)(1) as a region in which BSE is considered to exist, the importation of ruminants and fresh (chilled or frozen) meat, meat products, and edible products other than meat (excluding gelatin, milk, and milk products) from ruminants from the United Kingdom will continue to be prohibited. Status of Great Britain

In this final rule, we are restoring Great Britain to the list in § 94.1(a) of regions that are considered to be free of rinderpest and FMD. Our reasons follow.

When FMD occurs in an FMD-free country or zone where vaccination is not practiced before the outbreak, the OIE requires a waiting period of 3 months after the last case, when stamping-out and serological surveillance are applied, before that FMD-free country or zone can be reevaluated.

Great Britain did not vaccinate animals against FMD before the initial outbreak that was confirmed on February 20, 2001. Following the initial outbreak, Great Britain implemented a stamping-out policy, movement control measures, serological surveillance, import controls, a ban on swill feeding, and enhanced control of international waste to ultimately control and eradicate the disease.

The last case of FMD in Great Britain occurred on September 30, 2001. The animals were slaughtered immediately, and more than 3 months had elapsed by the time the evaluation was conducted. The OIE reinstated the FMD-free status of the United Kingdom on January 22, 2002. This reinstatement was a significant factor in our evaluation.

We have evaluated the FMD eradication efforts in Great Britain based on information provided to us by this region and by our own site visits. Our findings and site visit reports may be viewed on the Internet at *http://www.aphis.usda.gov/vs/reg-request.html.* You may also request paper copies of these documents by calling or writing the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to Docket No. 01–018–4 when requesting copies. These documents are also available in our reading room. (The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.)

We further believe that we have an obligation under our international trade agreements to restore a region previously recognized as FMD-free to our list of regions free of FMD as soon as practicable upon its meeting OIE standards for free status. The United States would expect the same policy to be applied in the event of an outbreak of disease, and subsequent eradication of that disease, in this country.

Based on our findings, and after reviewing comments submitted to us on the interim rule and on the evaluation, we are amending the regulations by restoring Great Britain to the list in § 94.1(a)(2) of regions that are declared free of both rinderpest and FMD. We are also restoring GreatBritain to the list in § 94.11(a) of regions that are declared free of rinderpest and FMD but that are subject to special restrictions on the importation of their meat and other animal products into the United States. The regions listed in § 94.11(a) are subject to these special restrictions because they: (1) Supplement their national meat supply by importing fresh

(chilled or frozen) meat of ruminants or swine from regions that are designated in § 94.1(a) as regions where rinderpest or FMD exists; (2) have a common land border with regions where rinderpest or FMD exists; or (3) import ruminants or swine from regions where rinderpest or FMD exists under conditions less restrictive than would be acceptable for importation into the United States.

This action relieves certain restrictions due to FMD on the importation into the United States of certain live animals and animal products from Great Britain. However, because Great Britain has certain trade practices regarding ruminants and swine that are less restrictive than are acceptable for importation into the United States, the importation of meat and other products from ruminants and swine into the United States from Great Britain continues to be subject to certain restrictions. Further, because the United Kingdom is listed in § 94.18(a)(1) as a region in which BSE is considered to exist, the importation of ruminants, fresh (chilled or frozen) meat, meat products, and certain other edible products of ruminants from the United Kingdom will continue to be prohibited.

**Miscellaneous**

In § 94.18, we refer to Northern Ireland and Great Britain (England, Scotland, Wales, and the Isle of Man) collectively as the United Kingdom. In this rule, we are amending §§ 94.1 and 94.11 to be consistent with § 94.18. Therefore, instead of adding Great Britain to the lists of regions in §§ 94.1 and 94.11, we are removing the references to Northern Ireland that are currently in both sections and adding the United Kingdom to those lists.

**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 warranted to relieve certain restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from Great Britain that are no longer necessary. 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. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are amending the regulations governing the importation of certain animals, meat, and other animal products by adding Great Britain to the list of regions considered to be free of rinderpest and FMD and to the list of regions that are subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This final rule follows an interim rule that removed Great Britain and Northern Ireland from those lists due to detection of FMD in those regions. Based on the results of an evaluation of the current FMD situation in Great Britain, which took into account, among other things, that Great Britain met the standards of the OIE for being considered to be free of FMD, we have determined that Great Britain can be added to the list of regions considered free of FMD. This final rule relieves certain prohibitions and restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from Great Britain.

Great Britain has not historically been a major source of U.S. imports of the products affected by the FMD-related prohibitions and restrictions of the regulations, which include live ruminants, live swine, fresh (chilled or frozen) meat of ruminants and swine, processed ruminant and swine meat, some dairy products, animal feeds, and other ruminant and swine products such as semen, embryos, untanned hides and skins, unwashed wool, hair, bones, blood, and some other byproducts. Past imports of these products from Great Britain represent a small fraction of the total U.S. imports or total U.S. production of these products. Given the BSE-related prohibitions that will continue to apply to the importation of ruminants, fresh (chilled or frozen) meat, meat products, and certain other edible products of ruminants from the United Kingdom, as well as the restrictions on the importation of meat and other products from ruminants and swine from the United Kingdom that will apply under § 94.11, this final rule is not expected to alter these past trade patterns.

The majority of entities potentially affected by this final rule are considered small. For example, in 1997, approximately 97 percent (2,919 of 2,992) of meat and meat product wholesalers, 99 percent (1,490 of 1,503) of livestock wholesalers,[1] 92 percent (79,155 of 86,022) of dairy farms, 99.3 percent (651,542 of 656,181) of cattle farms, 87 percent (40,185 of 46, 353) of hog and pig farms, 99.5 percent (29,790 of 29,938) of sheep and goat farms,[2] 98 percent (1,272 of 1,297) of slaughtering establishments, and 95 percent (1,324 of 1,393) of meat processing establishments[3] would be considered small entities under the criteria set by the Small Business Administration. However, these entities should be little affected by this rulemaking because of the negligible effect on imports.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 final 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 94**

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 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:

[1] 1997 Economic Census, Department of Commerce, Bureau of the Census.

[2] 1997 Census of Agriculture, USDA, National Agricultural Statistics Service.

[3] 1997 Economic Census, Department of Commerce, Bureau of the Census.

**Authority:** 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C.4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

**§ 94.1 [Amended]**

2. In § 94.1, paragraph (a)(2) is amended by removing the words ''Northern Ireland,'', by removing the word ''and'' immediately before the word ''Trust'', and by adding the words '', and the United Kingdom'' immediately after the words ''Pacific Islands''.

**§ 94.11 [Amended]**

3. In § 94.11, paragraph (a), the first sentence is amended by removing the words ''Northern Ireland,'' and by removing the words ''and Switzerland'', and adding the words ''Switzerland, and the United Kingdom'' in their place.

Done in Washington, DC, this 12th day of December 2002.

**Peter Fernandez,**

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

[FR Doc. 02–31659 Filed 12–16–02; 8:45 am]

**BILLING CODE 3410–34–P**

## RAILROAD RETIREMENT BOARD

## 20 CFR Parts 260 and 320

**RIN 3220–AB03**

## Requests for Reconsideration and Appeals Within the Board

**AGENCY:** Railroad Retirement Board.

**ACTION:** Final rule.

**SUMMARY:** The Railroad Retirement Board (Board) amends its regulations to simplify the procedures with respect to requests for reconsideration and appeals within the Board. These amendments clarify the appeals procedures and make the regulations more readable and understandable to the public.

**DATES:** This rule is effective December 17, 2002.

**FOR FURTHER INFORMATION CONTACT:** Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, (312) 751–4945, TDD (312) 751–4701.

**SUPPLEMENTARY INFORMATION:** Part 260 of the Board's regulations deals generally with administrative review of denials of claims or requests for waiver of recovery of overpayments under the Railroad Retirement Act (RRA). Part 320 deals with the same matters under the Railroad Unemployment Insurance Act (RUIA). The Board believes this regulation streamlines the process without diminishing the rights of claimants in the administrative review process. In addition, the Board believes that part 260 has been made more readable and thus more understandable to the public.

Specifically, the Board amends § 260.2 to clarify that the procedure applicable to the appeal of a decision denying the crediting of compensation also applies to the crediting of service months under the RRA. Sections 260.3(d) and 320.10(e) are amended to add as possible good cause for failure to file a timely reconsideration request or appeal within the agency that the claimant believed his or her representative had filed such a request or appeal. In order to protect an appellant where he or she may have a problem obtaining appeal forms, §§ 260.5(b), 260.9(b), 320.12, and 320.39 are amended to provide that the right to appeal is protected by the submission of a written request received within the appeal period stating an intent to appeal, if the claimant files the appeal form within the 30-day period following the date of the letter sending the form to the claimant.

As proposed, section 260.5(l) provides that a hearing may be conducted by telephone conference at the discretion of the hearings officer. We have also amended section 320.25(d) to conform it to proposed section 260.5(l), which is being adopted without change.

A request for waiver of recovery of an overpayment must be filed within 60 days of the notice of overpayment. Sections 260.4(c) and 320.11(f) provide that the Board will still consider a request for waiver filed after the 60-day time period, but may proceed to collect the overpayment and that any amounts collected prior to the request for waiver will not be waived.

The regulation amends both parts 260 and 320 to delay recovery of an erroneous payment when a timely appeal is filed with the Bureau of Hearings and Appeals (new paragraphs 260.5(d) and 320.12(c)) and also when a timely appeal is filed with the three-member Board (new paragraphs 260.9(d) and 320.39(b)).

Sections 260.9(d) and (e) clarify that new evidence will ordinarily not be accepted on appeal to the three-member Board from a decision of a hearings officer, but that argument will be accepted. A new § 320.40(d) parallels § 260.9(e). Sections 260.10 and 320.49 provide that the date of postmark will be considered the date of filing a document with the Board. Finally, a number of nomenclature changes are made to reflect a recent reorganization.

Sections 260.10 and 320.49 are revised to state that as a general rule a document is filed on the day it is received by the Board but that the date of a postmark or other evidence of the date of mailing will be used to establish a filing date. The current § 320.49 contains a provision that allows the Board and a base-year employer to agree to transmit documents and notices by electronic mail. That sentence was inadvertently omitted from the proposed rule, and has been restored in the final rule as paragraph 320.49(c).

The Board published the proposed rule on March 29, 2002 (67 FR 15127), and invited comments by May 28, 2002. No comments were received. With the exceptions for §§ 320.25(d) and 320.49 noted above, the proposed rule has been redrafted as a final rule without change.

**Collection of Information Requirements**

Pursuant to the Paperwork Reduction Act of 1995, the information collection associated with this rule, the Form HA–1, used to file appeals to the Bureau of Hearings and Appeals and to the three-member Board, has been approved by the Office of Management and Budget under control number 3220–0007. This collection has been cleared for use through August 31, 2004 by the Office of Management and Budget.

**Regulatory Impact Statement**

Prior to publication of this final rule, the Board submitted this rule to the Office of Management and Budget for review pursuant to Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for rules that constitute significant regulatory action, including rules that have an economic effect of $100 million or more annually. This final rule is not a major rule in terms of the aggregate costs involved. Specifically, we have determined that this final rule is not a major rule with economically significant effects because it would not result in increases in total expenditures of $100 million or more per year.

The revisions made by this final rule are significant. Parts 260 and 320 explain the procedures for seeking review of and appealing a decision through several levels within the Railroad Retirement Board. The revisions should result in modest savings in administrative costs due to the streamlining of procedures. However, the revisions will benefit the