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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 94

[Docket No. 03-058-1]

Change in Disease Status of Canada Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding Canada to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in an animal in that region. This action prohibits or restricts the importation of ruminants that have been in Canada and meat, meat products, and certain other products and byproducts of ruminants that have been in Canada. This action is necessary to help prevent the introduction of bovine spongiform encephalopathy into the United States.

DATES: This rule is effective retroactively to May 20, 2003. We will consider all comments that we receive on or before July 28, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03-058-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 03-058-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and

address in your message and "Docket No. 03-058-1" on the subject line.

You may read any comments that we receive on this docket 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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Director, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of cattle and is not known to exist in the United States. It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants, are imported into the United States and are fed to ruminants in the United States. BSE could also become established in the United States if ruminants with BSE are imported into the United States.

Sections 94.18, 95.4, and 96.2 of the regulations prohibit or restrict the importation of certain meat and other animal products and byproducts from ruminants that have been in regions in which BSE exists or in which there is

an undue risk of introducing BSE into the United States. Paragraph (a)(1) of § 94.18 lists the regions in which BSE exists. Paragraph (a)(2) lists the regions that present an undue risk of introducing BSE into the United States because their import requirements are less restrictive than those that would be acceptable for import into the United States and/or because the regions have inadequate surveillance. Paragraph (b) of § 94.18 prohibits the importation of fresh, frozen, and chilled meat, meat products, and most other edible products of ruminants that have been in any region listed in paragraphs (a)(1) or (a)(2). Paragraph (c) of § 94.18 restricts the importation of gelatin derived from ruminants that have been in any of these regions. Section 95.4 prohibits or restricts the importation of certain byproducts from ruminants that have been in any of those regions, and § 96.2 prohibits the importation of casings, except stomach casings, from ruminants that have been in any of these regions. Additionally, the regulations in part 93 pertaining to the importation of live animals provide that the Animal and Plant Health Inspection Service (APHIS) may deny an application for a permit for the importation of ruminants from regions where a communicable disease such as BSE exists and from regions that present risks of introducing communicable diseases into the United States (*see* § 93.404(a)(3)).

On May 20, 2003, the Canadian Food Inspection Agency reported a case of BSE in a beef cow in northern Alberta. Therefore, in order to prevent the introduction of BSE into the United States, we are amending § 94.18(a)(1) by adding Canada to the list of regions where BSE is known to exist. This action prohibits or restricts the importation of ruminants that have been in Canada and the importation of meat, meat products, and certain other products and byproducts of ruminants that have been in Canada. We are making this amendment effective retroactively to May 20, 2003, which is the date that Canada reported the BSE case.

As noted previously, the regulations in § 93.404(a)(3) provide the basis for APHIS to deny an application for a permit for the importation of ruminants from regions listed in § 94.18(a)(1) or (a)(2). Because, with certain exceptions, ruminants may not be imported into the

United States unless their importation is authorized by a permit, the provisions of § 93.404(a)(3) have been sufficient to prevent the entry of live ruminants from regions affected with BSE. However, the regulations in part 93 provide exemptions from the permit requirement for ruminants from several regions, including Canada, under certain circumstances. Given that the denial of a permit application may not serve in all cases to provide a regulatory basis for preventing the importation of ruminants from regions affected with BSE, we have amended the regulations in § 93.401, "General prohibitions; exceptions," to include an explicit prohibition on the importation of ruminants that have been in any region listed in § 94.18(a)(1) or (a)(2).

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of BSE 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

For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

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 effective to May 20, 2003; and (3) does not require administrative

proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim 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

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

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 parts 93 and 94 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 1. The authority citation for part 93 continues to read as follows:

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.

■ 2. In § 93.401, paragraph (a) is revised to read as follows:

§ 93.401 General prohibitions; exceptions.

(a) No ruminant or product subject to the provisions of this part shall be brought into the United States except in accordance with the regulations in this part and part 94 of this subchapter;³ nor shall any such ruminant or product be handled or moved after physical entry into the United States before final release from quarantine or any other form of governmental detention except in compliance with such regulations. Notwithstanding any other provision of this subpart, the importation of any ruminant that has been in a region listed in § 94.18(a)(1) or (a)(2) of this subchapter is prohibited. *Provided, however,* the Administrator may upon request in specific cases permit ruminants or products to be brought into or through the United States under such conditions as he or she may prescribe, when he or she determines in the specific case that such action will

³ Importations of certain animals from various regions are absolutely prohibited under part 94 because of specified diseases.

not endanger the livestock or poultry of the United States.

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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

■ 3. 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; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.18 [Amended]

■ 4. In § 94.18, paragraph (a)(1) is amended by adding, in alphabetical order, the word "Canada,".

Done in Washington, DC, this 23rd day of May, 2003.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–13440 Filed 5–28–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 02–109–3]

Importation of Beef From Uruguay

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 to allow, under certain conditions, the importation of fresh (chilled or frozen) beef from Uruguay. Based on the evidence presented in a recent risk assessment, we believe that fresh (chilled or frozen) beef can be safely imported from Uruguay provided certain conditions are met. This action will provide for the importation of beef from Uruguay into the United States while continuing to protect the United States against the introduction of foot-and-mouth disease.

EFFECTIVE DATE: May 29, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Hatim Gubara, Senior Staff Veterinarian, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit