Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone (202) 720–2170, or Fax (202) 720–5698, or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501, telephone (210) 682–2833, or Fax (210) 682–5942.

SUPPLEMENTARY INFORMATION: This action is governed by the provisions of section 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act and § 965.84 of the order.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

The termination of the order has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This action will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has a principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 10 producers, 5 of which are also handlers who would be subject to seasonal handling regulations under the order, but none have been recommended since the early 1970's. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of the remaining South Texas tomato producers and handlers may be classified as small entities.

The order was initially established in March 1959, to help the industry solve its marketing problems and maintain orderly marketing conditions. It was the responsibility of the Texas Valley Tomato Committee (committee), the agency established for local administration of the marketing order, to periodically investigate and assemble data on the growing, harvesting, shipping, and marketing conditions of tomatoes. The committee endeavored to achieve orderly marketing and improve acceptance of Texas tomatoes through establishment of minimum size and quality requirements. When regulated, fresh tomato shipments consisted only of those grades and sizes desired by consumers, thus, tending to increase returns to producers and handlers.

During the first year the order was in effect, there were 2,488 producers and 61 handlers of South Texas tomatoes. Over the years, commercial production and handling of tomatoes grown in South Texas have declined significantly. As a consequence, handling requirements have not been applied since the early 1970's and there is no indication that the industry will be revived or that regulations will be needed.

In September 1994, the Department conducted interviews with former and remaining industry members to determine whether they expected a revival of South Texas tomato production in the next two years. Industry members did not give any indication that the industry would be revived. Former industry members that were interviewed stated that they did not plan to resume tomato production. They reported that the decline in the industry was caused by a lack of new tomato varieties adaptable to South Texas, which could make it more competitive with Mexico and Florida.

Further, as stated above, there are currently only 10 producers, 5 of which are also handlers. Without an adequate number of producers and handlers, the Department cannot appoint the required committee of members and alternates, or otherwise continue the operation of the order.

The committee holds a certificate of deposit in the amount of $3,868.35, which matures on September 23, 1995, and a savings account that totals $524.08. At the last meeting in 1991, the committee chairperson suggested that any funds exceeding the expense of termination should be donated to an institution that conducts research for agriculture in the Lower Rio Grande Valley in Texas.

On June 26, 1995, the Department published a proposed rule in the Federal Register (60 FR 32922) to terminate the order and invited public comment through July 26, 1995. No comments were received.

Therefore, based on the foregoing, pursuant to section 608c(16)(A) of the Act and § 965.84 of the order, it is found that Marketing Order No. 965, covering tomatoes grown in the Lower Rio Grande Valley in Texas, does not tend to effectuate the declared policy of the Act and is hereby terminated. The Secretary hereby appoints former chairperson of the committee, Heino Brasch of Donna, Texas; and Belinda G. Garza and James B. Wendland, both of the Marketing Order Administration Branch, as trustees to continue in the capacity of concluding and liquidating the affairs of the former committee, until discharged by the Secretary.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was so notified on September 8, 1995.

Based on the foregoing, the Administrator of the AMS has determined that this action will not have a significant impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 965

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

PART 965—TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS [REMOVED]

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601–674, 7 CFR part 965 is removed.

Dated: November 20, 1995.

Shirley R. Watkins,

Acting Assistant Secretary Marketing and Regulatory Programs.

[FR Doc. 95–28771 Filed 11–24–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 95–055–2]

Change in Disease Status of Germany Because of Swine Vesicular Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are declaring Germany free of swine vesicular disease. As part of this action, we are adding Germany to the list of countries that, although declared free of swine vesicular disease, are subject to restrictions on pork and pork products offered for importation into the United States. There have been no confirmed outbreaks of swine vesicular disease in Germany since 1981. This rule relieves certain restrictions on the importation of pork and pork products into the United States from Germany. However, because Germany shares common land borders with countries affected by swine vesicular disease, imports pork products from countries affected by swine vesicular disease, and is still considered to be affected with hog cholera, the importation into the United States of pork and pork products from Germany will continue to be restricted.

EFFECTIVE DATE: December 12, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Import/Export Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–8695.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), bovine spongiform encephalopathy, African swine fever, hog cholera, and swine vesicular disease (SVD). These are dangerous and destructive communicable diseases of ruminants and swine.

On August 29, 1995, we published in the Federal Register (60 FR 44785–44786, Docket No. 95–055–1) a proposal to amend the regulations by adding Germany to the list in § 94.12(a) of countries declared free of SVD. We further proposed to add Germany to the list in § 94.13 of countries that have been declared free of SVD, but from which the importation of pork and pork products is restricted. These actions would relieve certain restrictions on the importation of pork and pork products into the United States from Germany.

We solicited comments concerning our proposal for 60 days ending October 30, 1995. We did not receive any comments. The facts presented in the proposed rule still provide the basis for this final 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. This rule relieves certain restrictions on the importation of pork and pork products into the United States from Germany. We have determined that approximately 2 weeks are needed to ensure that the Animal and Plant Health Inspection Service personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after 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.

This rule amends the regulations in part 94 by adding Germany to the list of countries that have been declared free of SVD. This action relieves certain restrictions on the importation of pork and pork products into the United States from Germany. However, other requirements continue to restrict the importation of live swine and pork and pork products.

Because of the continued presence of hog cholera in Germany, nearly all of the current U.S. restrictions on the importation of pork and pork products remain unchanged. The only area of pork importation that may be affected by this rule is cured and dried pork imports. A lengthy curing and drying period is required at present for pork and pork products originating from countries with SVD (see 9 CFR 94.17). The restriction for hog cholera is much shorter, requiring that the meat be thoroughly cured and fully dried for a period of not less than 90 days so that the product is shelf stable without refrigeration (see 9 CFR 94.9).

A shorter and less costly curing and drying period for pork and pork products may lead to Germany's increased participation in the U.S. market, depending on the competitiveness of the market for imported cured and dried pork and pork products. However, the impact for U.S. importers and consumers is not expected to be significant. In the fiscal year 1993–94, Germany exported 232 tons of prepared or preserved pork to the United States, which amounted to only 0.25 percent of the total quantity imported into the United States. The effect of this rule on U.S. domestic prices or supplies or on U.S. businesses, including small entities, is expected to be negligible.

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 12778

This rule has been reviewed under Executive Order 12778, 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 the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0015.

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), VELOGENIC VISCEROTROPIC 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 2.17, 2.51, and 371.2(d).

§ 94.12 [Amended]

2. In § 94.12, paragraph (a) is amended by adding ''Germany,'' immediately after ''Finland,''.

§ 94.13 [Amended]

3. In § 94.13, the introductory text, the first sentence is amended by adding ''Germany,'' immediately after ''Denmark,''.

Done in Washington, DC, this 20th day of November 1995.

Terry Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–28763 Filed 11–24–95; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board is broadening loan participation authority by removing the requirement that the participation agreement precede the originating loan's disbursement. Deleting this requirement will provide federal credit unions (FCUs) more flexibility to manage liquidity.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

The rule proposed by the Board would delete the current requirement that the participation agreement precede any disbursement of the originating loan's proceeds. 60 FR 39273 (August 2, 1995). The proposal required the ''originating lender'' to use the same underwriting standards it uses for loans that are not being sold as participation loans unless there is a participation agreement in place prior to the disbursement of the loan. If a participation agreement is in place prior to disbursement, all of the participating credit unions will have agreed on underwriting standards. The originating lender would reflect those standards either in its loan policies or the participation agreement. Also, the proposal required the purchaser of a participation interest to have a policy in place prior to entering into a participation agreement. Current Section 701.22(b)(2), as well as the proposed rule, allow either the board of directors or the investment committee to execute the participation agreement.

Summary of Comments

The NCUA received 35 comments on the proposed rule: 27 from credit unions; 3 from credit union trade groups; 4 from credit union leagues; and 1 from an attorney. All 35 commenters support deleting the requirement that the loan participation agreement precede the loan disbursement. Some of the recurring reasons given in support were that it will: enable credit unions to increase their loan-to-share ratios if they desire; enable credit unions with high loan-to-share ratio to sell loans and increase service to members by originating more loans; enable small credit unions to better service their members; be used by credit unions as a liquidity management tool; and enable credit unions to help each other.

Comments were requested on two specific issues. The first issue is whether the rule should require that an agreement be in place either prior to the disbursement of the loan if that loan is intended for a participation or prior to the sale if the loan was originally made to hold in portfolio. Five commenters supported a requirement that the participation agreement be executed prior to disbursal of the loan if the loan is intended for participation. However, as one commenter noted, it would be difficult to determine the intent of the lender at the time the loan is made. As the rule requires the originating lender to use the same underwriting standards it uses for its nonparticipation loans, unless it has a participation agreement in place, the Board does not believe the additional requirement is necessary.

Six commenters said that the rule should require a participation agreement to be in place prior to the sale of the loan. This requirement is in the proposed rule and we have adopted it in the final rule. Section 701.22(b)(2) has been modified in the final rule to clarify that the loans must be identified prior to their sale and that the identification need not occur in the master participation agreement but may be in an addendum to the agreement in a format to be determined by the participating credit unions.

The second specific request for comment was whether the final rule should be amended to limit execution of the participation agreement to the board of directors. The current Section 701.22(b)(2), as well as the proposed rule, permit the board of directors to determine whether they or the investment committee will execute a participation agreement. Of the 17 commenters that responded to the issue, all agreed that the authority to execute should not be limited to the board of directors and some suggested expanding the authority to include management. The commenters noted that Section 701.22(b) limits the formulation of a participation policy to the board of directors. Those executing the agreement would be acting within policies established by the board of directors. With these safeguards in place, the Board agrees that the credit union board of directors should have this greater flexibility to delegate execution of the master participation agreement to either the investment committee or senior management.

One commenter suggested that the final rule require ''no less stringent underwriting standards for participation loans than for non-participation loans.'' As stated in the preamble to the proposal, credit unions are expected to ''exercise due diligence before entering into participation agreements * * *.'' 60 FR 39273 (August 2, 1995). The amendments will allow a small credit union which, for example, has liquidity problems and limits on loan amounts, to enter into a participation agreement with a larger credit union which sets unique loan participation underwriting standards. The participation agreement may provide for higher loan amounts because the small credit union is assured that a portion of the loan will be purchased by the larger credit union.

A few commenters asked the Board to consider relaxing current Section 701.22(c)(2) which requires the originating lender to maintain a ten percent interest in the loans it sells. This provision is mandated by Section 107(5)(E) of the Federal Credit Union Act (12 U.S.C. 1757(5)(E)) which the Board may not amend by a regulation.