

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 02-072-1]

#### Change in Disease Status of Israel Because of Bovine Spongiform Encephalopathy

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations by adding Israel to the list of regions where bovine spongiform encephalopathy (BSE) exists because the disease has been detected in a native-born animal in that region. The effect of this action is a restriction on the importation of ruminants that have been in Israel and meat, meat products, and certain other products of ruminants that have been in Israel. This action is necessary to help prevent the introduction of bovine spongiform encephalopathy into the United States.

**DATES:** This rule is effective retroactively to June 4, 2002. We will consider all comments that we receive on or before September 16, 2002.

**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. 02-072-1, 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. 02-072-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto: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. 02-072-1" 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, Chief Staff Veterinarian, 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

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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 9 CFR part 93 pertaining to the importation of live animals provide that the Animal and Plant Health Inspection Service may deny 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 28, 2002, Israel reported a suspected case of BSE in a native-born animal, and on June 4, 2002, Israel confirmed that diagnosis in a report to the Office International des Epizooties. Therefore, in order to prevent the introduction of BSE into the United States, we are amending § 94.18(a)(1) by adding Israel to the list of regions where BSE is known to exist. The effect of this action is a restriction on the importation of ruminants that have been in Israel and on the importation of meat, meat products, and certain other products and byproducts of ruminants that have been in Israel. We are making this amendment effective retroactively to June 4, 2002, which is the date that BSE was confirmed in a native-born animal in that region.

In this rule, we are also updating the authority citation for 9 CFR part 94 to reflect the enactment of the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*).

## 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 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 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 effect to June 4, 2002; 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 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 is revised to read as follows:

**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.

### § 94.18 [Amended]

2. In § 94.18, paragraph (a)(1) is amended by adding, in alphabetical order, the word “Israel.”.

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

**Peter Fernandez,**

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

[FR Doc. 02–18160 Filed 7–17–02; 8:45 am]

**BILLING CODE 3410–34–P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 121, 124, 134

#### RIN 3245–AE71

### Small Business Size Regulations; 8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases before the Office of Hearings and Appeals

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** The Small Business Administration (SBA) amends its regulations governing proceedings before the Office of Hearings and Appeals (OHA). The SBA also makes conforming changes to several sections of the regulations governing the Small Business Size Determination program and the 8(a) Business Development (8(a) BD) program.

This rule improves the appeals process by revising and clarifying procedures, particularly those on filing, service, and calculating deadlines that have proven to be “stumbling blocks,” causing additional litigation and delays; expedites certain procedures; conforms the regulations and procedures developed by case law and prevailing practice; and makes plain language revisions.

**DATES: Effective Date:** This rule is effective on September 16, 2002.

**Applicability Date:** This rule does not apply to any case already pending at OHA on September 16, 2002. The rule applies to cases arising from:

(a) SBA actions taken or determinations made on or after September 16, 2002, including 8(a) and SDB determinations (part 124), size determinations (part 121), debt collections (part 140), and development cases (part 120);

(b) in NAICS code appeals, solicitations or amendments, issued on or after September 16, 2002, that include NAICS code designations (§§ 121.1102, 134.304(a)(3));

(c) in SBA Employee Dispute Resolution Cases, decisions by appropriate management officials made or overdue on or after September 16, 2002 (Standard Operating Procedure 37 71 02, ¶ 3–6, available at [www.sba.gov/library/soproom.html](http://www.sba.gov/library/soproom.html)); or

(d) SBA orders to show cause (§ 134.202(b) or (c)) issued on or after September 16, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Michael J. Wolter, Attorney-Advisor, Office of Hearings and Appeals, at (202) 401–1420 or [oha@sba.gov](mailto:oha@sba.gov). If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service at 1–800–877–8339, 24 hours per day, 7 days per week. (If you have any problem using this number, call Customer Service at 1–800–877–0996.)

**SUPPLEMENTARY INFORMATION:** With this rule, the SBA revises 13 CFR part 134, the rules of procedure governing cases before the Office of Hearings and Appeals, improving and clarifying various procedures; and makes conforming changes to the sections of 13 CFR part 121, the Small Business Size Regulations, and 13 CFR part 124, the 8(a) Business Development program, that relate to OHA appeals. The SBA proposed this rule in the **Federal Register**, 67 FR 11057 (Proposed Rule), on March 12, 2002. The Proposed Rule included “Highlights of [the] Proposed Rule,” 67 FR at 11057–11058; a “Section-by-Section Analysis,” 67 FR at 11058–11062; the amendatory instructions and text, 67 FR at 11063–11068; and a request for comments, 67 FR at 11057.

The SBA published two corrections to the Proposed Rule: The first, 67 FR 13108, on March 21, 2002, corrected the Regulation Identifier Number (RIN) to that shown here. The second, 67 FR 13294, on March 22, 2002, clarified the amendatory text for § 134.313; and clarified amendatory instruction 50.c., pertaining to § 134.406(c).

During the Proposed Rule’s 30-day comment period, SBA received no