

### 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.

Prior to this rule, the State of Minnesota was classified as an accredited-free State for cattle and bison. However, five infected herds have been discovered within a 48-month period. Under the regulations, if two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone must be reclassified as modified accredited advanced. In keeping with that requirement, this interim rule removes Minnesota from the list of accredited-free States and adds it to the list of modified accredited advanced States.

As of January 2005, there were approximately 27,000 cattle and bison operations in Minnesota, totaling 2.4 million head. According to the National Agricultural Statistics Service, the total cash value of cattle in Minnesota was over \$2.3 billion as of that year. Over 99 percent of Minnesota's cattle operations yield less than \$750,000 annually and are, therefore, considered small entities under criteria established by the Small Business Administration.

This interim rule changes the status of Minnesota to modified accredited advanced, resulting in interstate movement restrictions where none existed previously. Specifically, as explained previously, § 77.10 requires that, for movement to certain destinations, animals must test negative to an official tuberculin test and/or be officially identified by premises of origin identification before interstate movement.

This rule will prove beneficial by preventing the spread of tuberculosis to other areas of the United States. However, the stricter requirements for interstate movement will have an economic effect on those producers involved in the interstate movement of cattle and bison from Minnesota. As such, this analysis will focus on the expenses incurred by those producers engaged in interstate movement and in determining whether those negative impacts are significant.

The cost of tuberculin testing and individual identification is between \$10 and \$15 per head, which includes the labor costs of the veterinarian to test and apply official identification. On January 1, 2005, the average value per animal in Minnesota was estimated to be \$950. Thus, we believe that the added cost of

the required tuberculin testing and identification is small relative to the average value of cattle and bison, representing between 1 and 1.6 percent of the average animal's value. Further, since this rule provides for a delay in date of compliance with the identification requirements in § 77.10(b) and (d), some herd owners' identification costs may be deferred.

The expenses stemming from the testing and identification requirements are not expected to be substantial for cattle and bison owners in Minnesota. The more a particular herd owner engages in interstate movement, the greater the resulting expense. However, Minnesota is a net importing State in the interstate movement of live cattle, and the latest data on interstate cattle movement shows that in 2003, Minnesota imported 370,640 live cattle from other States, and exported 104,729 live cattle to other States (ERS/USDA). Minnesota's net interstate imports of live cattle were 265,911 head and that year was not an exception to this trend of a net inflow.

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 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

### 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 in conflict 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 rule contains no new 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, we are amending 9 CFR part 77 as follows:

## PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

### § 77.7 [Amended]

■ 2. In § 77.7, paragraph (a) is amended by removing the word “Minnesota,”.

### § 77.9 [Amended]

■ 3. In § 77.9, paragraph (a) is amended by adding the words “Minnesota and” immediately before the word “Texas”.

Done in Washington, DC, this 24th day of January 2006.

**Kevin Shea,**

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

[FR Doc. 06–839 Filed 1–27–06; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 04–083–3]

### Add Argentina to the List of Regions Considered Free of Exotic Newcastle Disease

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations by adding Argentina to the list of regions considered free of exotic Newcastle disease. We have conducted a risk evaluation and have determined that Argentina has met our requirements for being recognized as free of this disease. This action eliminates certain restrictions on the importation into the United States of poultry and poultry products from Argentina. We are also adding Argentina to the list of regions that, although declared free of exotic Newcastle disease, must provide an additional certification to confirm that any poultry or poultry products offered for importation into the United States originate in a region free of exotic Newcastle disease and that, prior to importation into the United States, such poultry or poultry products were not commingled with poultry or poultry products from regions where exotic Newcastle disease exists.

**DATES:** *Effective Date:* March 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Dr. David Nixon, Senior Staff Veterinarian, Regionalization Evaluation Services,

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 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 of various animal diseases, including exotic Newcastle disease (END). END is a contagious, infectious, and communicable disease of birds and poultry. Section 94.6 of the regulations provides that END is considered to exist in all regions of the world except those listed in § 94.6(a)(2), which are considered to be free of END.

The Government of Argentina requested that APHIS evaluate Argentina's animal health status with respect to END and provided information in support of that request in accordance with 9 CFR part 92, "Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions."

On August 23, 2005, we published in the **Federal Register** (70 FR 49200-49207, Docket No. 04-083-1) a proposal to amend the regulations by adding Argentina to the list of regions considered free of END. We also proposed to add Argentina to the list of regions that, although declared free of

END, must provide an additional certification to confirm that any poultry or poultry products offered for importation into the United States originate in a region free of END and that, prior to importation into the United States, such poultry or poultry products were not commingled with poultry or poultry products from regions where END exists. On September 8, 2005, we published a document in which we corrected an Internet address and Web site navigation instructions that had been provided in the proposed rule (see 70 FR 53313, Docket No. 04-083-2).

We solicited comments concerning our proposal for 60 days ending October 24, 2005. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

##### 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.

Under the regulations in 9 CFR part 94, the importation into the United States of poultry and poultry products that originate in or transit any region where END exists is generally prohibited. Furthermore, even if a region is considered free of END, the

importation of poultry and poultry products from that region may be restricted depending on the region's proximity to or trading relationships with countries or regions where END is present.

This rule amends the regulations by adding Argentina to the list of regions considered free of END. However, since Argentina shares borders with regions that the United States does not recognize as free of END, we are also requiring Argentina to meet additional certification requirements for live poultry and poultry products imported into the United States to ensure that the imports are free from END.

Over the past several years, Argentina's poultry industry has increased substantially as shown in table 1. Although Argentina exports eggs, which typically are destined to Denmark, the main export for Argentina is poultry meat. Argentina exports poultry meat and products to 34 countries, with Chile expected to be the largest importer. In 2003, Argentina exported \$22 million of poultry meat including whole broilers (36 percent), chicken paws (30 percent), processed meat from layers (5 percent), and other products and byproducts such as wings, nuggets, burgers, offal, and breasts (29 percent). Exports for poultry meat in 2004 are projected at 70,000 tons, almost twice the amount exported in 2003. In 2005, exports are projected to reach 110,000 metric tons.

TABLE 1.—POULTRY EXPORTS, IMPORTS, AND PRODUCTION IN ARGENTINA  
[In metric tons]

Year	Poultry imports	Poultry exports	Poultry production
1998 .....	65,215	18,936	930,247
1999 .....	55,608	17,097	982,860
2000 .....	45,683	19,187	1,000,260
2001 .....	26,661	21,243	993,122
2002 .....	1,196	30,501	972,870

Source: FAOSTAT Argentina Poultry, last accessed November 2004.

In 2003, poultry production in the United States totaled 38.5 billion pounds for a total value of \$23.3 billion. Broiler meat accounted for \$15.2 billion (65 percent) of this value in 2003. The remaining worth was comprised of the value of eggs (\$5.3 billion), turkey (\$2.7 billion), and other chicken products (\$48 million). The United States is also the world's largest exporter of broilers,

with broiler exports totaling 4.93 billion pounds, the equivalent of \$1.5 billion, in 2003. Imports of broiler products into the United States in 2003 totaled 12 million pounds, or less than 1 percent of the domestic production.

In 2002, there were approximately 32,006 broiler and other meat producing chicken farms in the United States, as shown in table 2. Under the Small

Business Administration's size standards, broiler and other meat production chicken farms with less than \$750,000 in annual sales, which is the equivalent of 300,000 birds, qualify as small businesses. Given this information, about 20,949, or 64.5 percent of all broiler operations, qualify as small businesses.

TABLE 2.—NUMBER OF FARMS SELLING BROILERS AND OTHER MEAT-TYPE CHICKENS, 2002

Number sold	Farms	Number	Average sales per farm (dollars)
Broilers and other meat-type chickens .....	32,006	8,500,313,357	\$766,498
1 to 1,999 .....	10,869	1,146,308	304
2,000 to 15,999 .....	406	2,871,466	20,412
16,000 to 29,999 .....	206	4,420,530	61,932
30,000 to 59,999 .....	444	19,732,838	128,267
60,000 to 99,999 .....	1,060	84,498,647	230,066
100,000 to 199,999 .....	3,311	498,386,958	434,425
200,000 to 299,999 .....	4,653	1,137,668,155	705,651
300,000 to 499,999 .....	5,754	2,191,324,340	1,099,118
500,000 or more .....	5,303	4,560,264,115	2,481,853

Source: 2002 Census of Agriculture, Table 27.

Broiler production in the United States is concentrated in a group of States stretching from Delaware south along the Atlantic coast to Georgia, then westward through Alabama,

Mississippi, and Arkansas. These States accounted for over 70 percent of broilers in the United States in 2003. The top five broiler producing States are Georgia, Arkansas, Alabama,

Mississippi, and North Carolina, whose 2002 broiler sales are listed below in table 3.

TABLE 3.—NUMBER OF FARMS SELLING BROILERS IN SELECTED STATES, 2002

Number of broilers sold per farm	U.S. total	Alabama	Arkansas	Georgia	Mississippi	North Carolina	Total for top five producing States
1 to 1,999 .....	10,869	89	79	46	104	13	331
2,000 to 59,999 .....	1,056	20	103	49	86	101	359
60,000 to 99,999 .....	1,060	57	199	84	97	158	595
100,000 to 199,999 .....	3,311	385	634	25	210	539	1,793
200,000 to 499,999 .....	10,407	1,328	1,927	1,335	883	1,284	6,757
500,000 or more .....	5,303	72	578	959	548	349	2,506

Source: 2002 Census of Agriculture State Data Table.

Poultry meat imported from Argentina could potentially affect the United States poultry industry. Consumers will benefit from any price decreases for poultry and poultry products, while producers will potentially be negatively affected by more competitive prices. However, the amount of poultry or poultry products that may be imported from Argentina is not expected to have a significant impact on poultry consumers or producers in the United States. In 2003, Argentina exported a total of \$22 million worth of poultry and poultry products while the United States produced \$15.2 billion worth of broilers. Given these numbers, any exports from Argentina are not likely to be in quantities sufficient to have a significant impact on U.S. poultry producers, and we do not anticipate that any U.S. entities, small or otherwise, will experience any significant economic effects as a result of this action. It should also be noted that Argentina is not currently eligible to export poultry products to the United States under the regulations of the Department's Food Safety and Inspection Service in 9 CFR 381.196 for

approving foreign facilities to export poultry meat and other poultry products to the United States; there will, therefore, be no economic effects on U.S. entities until establishments in Argentina are approved to export poultry meat and other poultry products to the United States.

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 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, CLASSICAL SWINE FEVER, 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. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

**§ 94.6 [Amended]**

■ 2. In § 94.6, paragraph (a)(2) is amended by adding the word

“Argentina,” before the word “Australia.”

■ 3. Section 94.26 is amended as follows:

■ a. In the introductory text of the section, in the first sentence, by removing the words “The Mexican” and adding the words “Argentina and the Mexican” in their place.

■ b. In paragraph (a), by removing the words “Government of Mexico” and adding the words “national Government of the exporting region” in their place.

■ c. In paragraph (c)(1), by removing the words “Government of Mexico” and adding the words “national Government of the exporting region” in their place.

■ d. In paragraph (c)(4), by removing the words “Government of Mexico” and adding the words “national Government of the exporting region” in their place.

Done in Washington, DC, this 24th day of January 2006.

Kevin Shea,

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

[FR Doc. 06-840 Filed 1-27-06; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9247]

RIN 1545-BF23

#### Allocation and Apportionment of Expenses Alternative Method for Determining Tax Book Value of Assets

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations providing an alternative method of valuing assets for purposes of apportioning expenses under the tax book value method of § 1.861-9T. The alternative tax book value method, which is elective, allows taxpayers to determine, for purposes of apportioning expenses, the tax book value of all tangible property that is subject to a depreciation deduction under section 168 by using the straight line method, conventions, and recovery periods of the alternative depreciation system under section 168(g)(2). The alternative tax book value method is intended to minimize basis disparities between foreign and domestic assets of taxpayers that may arise when taxpayers use adjusted tax basis to value assets under the tax book value method of expense

apportionment. These final regulations may affect taxpayers that are required to apportion expenses under section 861.

**DATES: Effective Date:** These regulations are effective January 30, 2006.

**Applicability Dates:** For dates of applicability, see § 1.861-9(i)(4).

**FOR FURTHER INFORMATION CONTACT:**

David Bergkuist at (202) 622-3850 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

#### Background

On September 14, 1988, the IRS published temporary regulations (TD 8228 (1988-2 CB 136) (53 FR 35467)) that address the allocation and apportionment of interest expense. On March 26, 2004, the IRS published a Treasury decision, TD 9120 (2004-1 CB 881) (69 FR 15673), which contained temporary regulations that provide for an alternative method of valuing assets for purposes of apportioning expenses under the tax book value method of § 1.861-9T, and a notice of proposed rulemaking that cross-references the temporary regulations, 2004-1 CB 894 (69 FR 15753). A public hearing was held on July 19, 2004.

For purposes of allocating and apportioning expenses, a taxpayer may compute the value of its assets under either the tax book value method or the fair market value method. Sections 1.861-8T(c)(2) and 1.861-9T(g)(1)(ii). The temporary and proposed regulations issued in 2004 provided taxpayers with an alternative method of apportioning expenses under the tax book value method. This alternative tax book value method, which is elective, allows taxpayers to determine, for purposes of apportioning expenses, the tax book value of all tangible property that is subject to a depreciation deduction under section 168 by using the straight line method, conventions, and recovery periods of the alternative depreciation system under section 168(g)(2). The alternative method provided in the temporary and proposed regulations is intended to minimize basis disparities between foreign and domestic assets of taxpayers that may arise when taxpayers use adjusted tax basis to value assets under the tax book value method of expense apportionment.

Taxpayers using the tax book value method, including those that have elected the alternative tax book value method, may elect to change to the fair market value method at any time. Rev. Proc. 2003-37 (2003-1 CB 950) (May 27, 2003). Taxpayers that elect to use the fair market value method must continue to use that method unless expressly

authorized by the Commissioner to change methods. See § 1.861-8T(c)(2). See also Rev. Proc. 2005-28, 2005-21 IRB 1093 (May 23, 2005), regarding automatic consent procedure applicable for taxable years beginning on or after March 26, 2004, but before March 26, 2006, for which no return has previously been filed. Revocation of an election to use the alternative tax book value method, other than in conjunction with an election to use the fair market value method, for a taxable year prior to the sixth taxable year for which the election applies requires the consent of the Commissioner.

#### Explanation of Provisions and Summary of Comments

These final regulations adopt the rules of the temporary and proposed regulations. The alternative tax book value method, as set forth in § 1.861-9(i), allows a taxpayer to elect to determine the tax book value of its tangible property that is subject to depreciation under section 168 of the Internal Revenue Code (Code) as though all such property had been depreciated using the alternative depreciation system under section 168(g) during the entire period in which the property has been in service. These final regulations prescribe the application of section 168(g)(2) solely for determining an asset's tax book value for purposes of apportioning expenses (including the calculation of the alternative minimum tax foreign tax credit pursuant to section 59(a)) under the asset method described in § 1.861-9T(g). Application of section 168(g)(2) pursuant to these final regulations does not otherwise affect the results under other provisions of the Code, including the amount of any deduction claimed under sections 167, 168, 169, 263(a), 617, or any other capital cost recovery provision.

As with the temporary and proposed regulations, the final regulations generally provide that, for a taxpayer that elects the alternative tax book value method, the tax book value of tangible property that is depreciated under section 168 of the Code is determined as though such property were subject to the alternative depreciation system under section 168(g) for the entire period that such property has been in service. Thus, if a taxpayer elects the alternative tax book value method effective for the 2005 taxable year, the tax book value of tangible property placed in service in 2005 is determined each year using the rules of section 168(g) that apply to property placed in service in 2005 and the tax book value of tangible property placed in service in 2006 is determined each year using the