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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97-115-1]

Change in Disease Status of Belgium 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 Belgium to the list of countries where bovine spongiform encephalopathy (BSE) exists because the disease has been detected in a cow in that country. The effect of this action is to prohibit or restrict the importation of ruminants which have been in Belgium and certain fresh, chilled, and frozen meat, and certain other animal products and animal byproducts from ruminants which have been in Belgium. This action is necessary to reduce the risk that BSE could be introduced into the United States.

DATES: Interim rule effective October 31, 1997. Consideration will be given only to comments received on or before January 20, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-115-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-115-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call

ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Animal Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231, (301) 734-3399; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 92, 94, and 95 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, animal products, animal 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 bovine animals and other ruminants 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 in countries in which BSE exists, 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 from countries in which BSE exists are imported.

Sections 94.18 and 95.4 of the regulations prohibit and restrict the importation of certain meat, animal products, and animal byproducts from ruminants which have been in countries in which BSE exists. These countries are listed in § 94.18 of the regulations. Furthermore, § 92.404(a)(3) states that the Animal and Plant Health Inspection Service may deny the importation of ruminants from countries where a communicable disease such as BSE exists.

Belgium's Ministry of Agriculture has reported a case of BSE in Belgium. BSE was confirmed by histopathological examination according to standardized procedures for the diagnosis of BSE. Belgium's Ministry of Agriculture confirmed that BSE was in a cow born

in Belgium. The exposure of this animal to the BSE agent could only have occurred in Belgium. In order to reduce the risk of introducing BSE into the United States, we are, therefore, adding Belgium to the list of countries where BSE is known to exist. Thus, we are prohibiting or restricting the importation into the United States of ruminants which have been in Belgium, and certain fresh, chilled, and frozen meat, and certain other animal products and animal byproducts from ruminants which have been in Belgium.

We are making this action effective retroactively to October 31, 1997, as that was the day on which the case of BSE was reported by Belgium's Ministry of Agriculture. This effective date is necessary to ensure that the prohibitions and restrictions established by this rule apply to ruminants, as well as fresh, chilled, and frozen meat, and certain other animal products and animal byproducts from ruminants that have been shipped to the United States from Belgium on or after October 31, 1997.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the introduction of BSE into the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this rule effective on October 31, 1997. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It 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 process required by Executive Order 12866.

This action adds Belgium to the list of countries where BSE exists. We are

taking this action based on reports we have received from Belgium's Ministry of Agriculture, which confirmed that a case of BSE has occurred in Belgium.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule will have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our 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 October 31, 1997; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This 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, 9 CFR part 94 is amended 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:

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 2.22, 2.80, and 371.2(d).

§ 94.18 [Amended]

2. In § 94.18, paragraph (a) is amended by adding the word "Belgium," immediately before "France,".

Done in Washington, DC, this 12th day of November 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-30230 Filed 11-17-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-284-AD; Amendment 39-10208; AD 97-24-01]

RIN 2120-AA64

Airworthiness Directives; Dornier Model 328-100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Dornier Model 328-100 series airplanes. This action requires repetitive inspections to detect migration or damage of the bushings of the main landing gear (MLG) trailing arm, and replacement of any damaged or displaced bushing. This amendment is prompted by reports indicating that damaged or displaced bushings have been found on several MLG trailing arms of Dornier Model 328-100 series airplanes. The actions specified in this AD are intended to prevent failure of the bushings of the MLG trailing arm, which could result in collapse of the MLG during landing.

DATES: Effective December 3, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 3, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 18, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-284-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Dornier Deutsche Aerospace, P.O. Box 1103, D-82230 Wessling, Federal Republic of Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at

the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on all Dornier Model 328-100 series airplanes. The LBA advises that fatigue damaged or displaced bushings have been found on several main landing gear (MLG) trailing arms. This condition, if not corrected, could result in collapse of the MLG during landing.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletin ASB-328-32-019, dated September 17, 1997, which describes procedures for repetitive visual inspections to detect damage or migration of the bushings of the MLG trailing arm, and replacement of any damaged or displaced bushing. The LBA advises that it considers this alert service bulletin to be mandatory, and that it is in the process of issuing a German airworthiness directive to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.