(d) Seed for planting must be treated by one of the following methods:

(1) With 6.8 fl. oz. of Carboxin thiram (10 percent + 10 percent, 0.91 + 0.91 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed;

(2) With 4.0 fluid ounces of Carboxin thiram (1.67 + 1.67 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed;

(3) With 4.0 fluid ounces of Carboxin thiram (1.67 + 1.67 lb. ai./gal.) flowable liquid per 100 pounds of seed;

(4) With 6.8 fl. oz. of Carboxin thiram (10 percent + 10 percent, 0.91 + 0.91 lb. ai./gal.) flowable liquid per 100 pounds of seed; or

(5) With 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed.

* * * * *

Done in Washington, DC, this 28th day of November.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–31902 Filed 12–4–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 91 and 93

[Docket No. 94–076–2]

Cattle Imported In Bond for Feeding and Return to Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended the animal exportation and importation regulations by removing provisions that allowed the temporary, in-bond importation of cattle from Mexico into the United States for feeding and return to Mexico for slaughter. That interim rule was necessary because the U.S. Customs Service, to comply with provisions of the North American Free Trade Agreement, had discontinued its collection of duties and cash bonds on cattle imported into the United States from Mexico; without a cash bond, we were unable to meaningfully penalize importers who failed to return those cattle to Mexico. We continue to believe that the termination of the in-bond program was necessary to prevent the dissemination of animal diseases into the United States by in-bond cattle that may have remained in the United States in violation of the regulations.

EFFECTIVE DATE: January 5, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. David Vogt, Senior Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart D of part 93 (§§ 93.400 through 93.435), referred to below as the regulations, pertains to the importation of ruminants. Sections 93.424 through 93.429 of the regulations contain specific provisions regarding the importation of ruminants, including cattle, from Mexico.

Note: At the time the interim rule referred to in this document was published, the provisions described in the previous paragraph were located in 9 CFR part 92. However, on October 28, 1997, we published in the **Federal Register** (62 FR 56000–56026, Docket No. 94–106–9) a final rule that redesignated part 92 as part 93. In describing the actions taken in the interim rule, we will use the part and section numbers used in the interim rule; where appropriate, however, we will cross-reference part 92 citations with their current locations in part 93.)

In an interim rule published in the **Federal Register** on March 15, 1995 (60 FR 13896–13898, Docket No. 94–076–1), and effective March 30, 1995, we amended the regulations by removing § 92.427(e), ''Cattle imported in bond for feeding and return to Mexico,'' in its entirety and by removing five references to the in-bond program that were found elsewhere in part 92 and in the animal export regulations in 9 CFR part 91. Before the effective date of the interim rule, § 92.427(e) of the regulations provided for the temporary importation of cattle from Mexico into the United States under U.S. Customs bond for feeding and return to Mexico for slaughter. Cattle imported under that in-bond program were exempt from some animal disease testing requirements that applied to the importation of other cattle from Mexico, but were subject to additional restrictions during the time they were in the United States that did not apply to other cattle imported from Mexico.

We solicited comments concerning the interim rule for 60 days ending May 15, 1995. We received six comments by that date. They were from a foreign government, foreign and domestic trade associations and industry groups, and a customs brokerage. One of the commenters strongly supported the interim rule, while the remaining five commenters opposed the discontinuation of the program. Their comments are discussed below.

Two commenters reported that they had experienced no problems with the in-bond program and felt that it could continue in the absence of a bond, but offered no specific evidence to support their position. Similarly, two other commenters stated that the in-bond program had presented no animal health problems in its 5 years of existence, so there was no reason to believe that the opposite would be true in the future. Those commenters stated that the safeguards contained in the in-bond program, such as the use of sealed vehicles for movement and the requirement that in-bond cattle be held in quarantined feedlots, had proven sufficient in the past to prevent the spread of disease, and could continue to do so. We agree that the quarantine and movement restrictions of the in-bond program were effective in mitigating the disease risk associated with in-bond cattle. However, as we stated in the interim rule, the actions of some importers led us to believe that the posting of a bond was necessary to ensure compliance with those provisions of the in-bond program. Without the authority to institute a bond system similar to that administered by the U.S. Customs Service at U.S. ports of entry on the Mexican border prior to January 1, 1994, we found that it was necessary to terminate the in-bond program in order to prevent animal diseases from being introduced into, and disseminated within, the United States.

One commenter stated that the Animal and Plant Health Inspection Service (APHIS) was incorrect in claiming that cattle imported temporarily for feeding and return to Mexico were no longer covered by a bond; Customs bonds do still apply, the commenter argued, so the in-bond program could continue. We noted in the interim rule that Customs and APHIS continued to allow temporary importations of cattle from Mexico even after January 1, 1994, when the Customs Service discontinued its collection of duties and cash bonds on imported Mexican cattle in order to comply with provisions of the North American Free Trade Agreement (NAFTA). From January 1, 1994, until March 30, 1995, the effective date of the interim rule, the entry of those cattle was covered by a

paperwork-only bond, with no money involved, so in terms of a Customs bond being applied to temporary importations of Mexican cattle, the commenter is correct. Our interim rule should have stated that cattle imported for feeding and return to Mexico were no longer covered by a cash bond, and that it was the absence of any cash bond that led to our determination that the in-bond program should be terminated.

One commenter contended that the interim rule violated the terms of NAFTA by instituting a sanitary measure without providing a risk assessment, considering alternatives and economic impacts, or providing the required 60-day notice to Mexico.

The interim rule contained a discussion of the increased disease risks associated with the in-bond program and the measures that had been in place to mitigate those risks. As stated in the interim rule, the additional risks stemmed largely from the fact that in-bond cattle were exempted from meeting certain testing requirements for brucellosis and tuberculosis; those risks had been mitigated by the quarantine and movement restrictions of the in-bond program, and the cash bond had served to ensure that the quarantine and movement restrictions were observed. The termination of the in-bond program was based on our determination that the loss of the cash bond rendered our mitigating measures less effective than we believed was necessary.

The interim rule also discussed alternatives to ending the in-bond program, e.g., continuing with a paperwork-only bond and the possibility of APHIS implementing its own bond system. Further, an economic analysis was provided in the interim rule to satisfy the requirements of Executive Order 12866 and the Regulatory Flexibility Act.

With regard to the 60-day notice, NAFTA allows a party to omit such notice when the party considers it necessary to take measures to address an urgent problem relating to sanitary and phytosanitary protection. In such cases, the party must: (1) Immediately provide a notification of the measures, including a brief description of the urgent problem; (2) provide a copy of such measures upon request; and (3) allow other parties and interested persons to make comments in writing and, upon request, discuss such comments and take such comments and the results of such discussions into account. All three of those requirements were satisfied by the interim rule in that it provided notification of our termination of the in-bond program 15 days prior to the effective date of that action; set forth a description of the urgent problem that led us to publish the interim rule without prior opportunity for public comment; provided a full description of the measures we were taking; and provided a 60-day comment period during which interested persons could submit comments for APHIS' consideration.

One commenter stated that the interim rule is an unjustified nontariff trade barrier because the rule was based not on animal health concerns, but on an administrative problem, i.e., the inability of the Customs Service to collect the bond. We disagree with that argument because Customs' inability to collect the bond is a reality mandated by NAFTA, not an ''administrative problem'' that could be solved by a change in procedure or a reallocation of resources. As explained above and in the interim rule, we found that the bond was an important factor in the enforceability of the restrictions designed to mitigate the higher disease risk posed by cattle imported under the in-bond program. If those restrictions were disregarded, there is the very real possibility that cattle that had not been tested for tuberculosis or brucellosis could be commingled with domestic livestock and spread disease; we regard that as an animal health concern.

As noted above, the interim rule removed § 92.427(e), which contained the in-bond program's provisions, and five references to those provisions found elsewhere in parts 91 and 92. Following the publication of the interim rule, it was brought to our attention that we failed to remove a sixth reference to the in-bond program from the regulations in § 92.427(c)(2) (current § 93.427(c)(2)). We are, therefore, removing that reference in this final rule.

Therefore, based on the rationale set forth in the interim rule and in this document, we are adopting the provisions of the interim rule as a final rule with the change discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12372, and the Paperwork Reduction Act.

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 no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

List of Subjects

9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 93

Animal diseases, Imports, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 9 CFR parts 91 and 92 (now 9 CFR parts 91 and 93) that was published at 60 FR 13896–13898 on March 15, 1995, is adopted as a final rule with the change set forth below.

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; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.427 [Amended]

2. In § 93.427, in paragraph (c)(2), the second sentence is amended by removing the words ''or in bond for temporary entry in accordance with § 93.427(e)''.

Done in Washington, DC, this 1st day of December 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–31899 Filed 12–4–97; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 791

Rules of NCUA Board Procedure; Promulgation of NCUA Rules and Regulations; Public Observation of NCUA Board Meetings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board amends its rules to revise and clarify Board procedures relating to procedural rulings, notation voting, Board meetings, and the agenda. This amendment more clearly defines the procedures that are to be followed when a Board member appeals a procedural