Dated: February 22, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–4707 Filed 2–27–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–065–2]

Change in Disease Status of Greece Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding Greece to the list of regions where bovine spongiform encephalopathy exists because the disease had been detected in a native-born animal in that region. Greece had been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States. The effect of the interim rule was a continued restriction on the importation of ruminants that have been in Greece and meat, meat products, and certain other products of ruminants that have been in Greece. The interim rule was necessary in order to update the disease status of Greece regarding bovine spongiform encephalopathy.

EFFECTIVE DATE: The interim rule became effective on July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Senior Staff Veterinarian, National Center for Import and Export, Products Program, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–3277.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective July 2, 2001, and published in the **Federal Register** on October 30, 2001 (66 FR 54642–54643, Docket No. 01–065–1), we amended the regulations by adding Greece to the list in § 94.18(a)(1) of regions where bovine spongiform encephalopathy (BSE) is known to exist. Greece had previously been listed in § 94.18(a)(2) as a region that presents an undue risk of introducing BSE into the United States. However, due to the detection of BSE in a native-born animal in that region, the interim rule was necessary to update the disease status of Greece regarding BSE.

Comments on the interim rule were required to be received on or before December 31, 2001. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

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.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, ANDBOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 66 FR 54642–54643 on October 30, 2001.

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 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 371.4.

Done in Washington, DC, this 22nd day of February, 2002.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–4844 Filed 2–27–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 162, 171 and 178

[T.D. 02–08]

RIN 1515–AC69

Civil Asset Forfeiture

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, the interim rule amending the Customs Regulations that was published in the **Federal Register** on December 14, 2000, as T.D. 00–88. The interim rule implemented the provisions of the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), insofar as these provisions were applicable to laws enforced by Customs. The CAFRA created general rules governing civil forfeiture proceedings. However, CAFRA specifically exempted from certain of its requirements forfeitures that were made under a number of statutes, among these being: the Tariff Act of 1930 or any other provision of law codified in title 19, United States Code; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act; the International Emergency Economic Powers Act; and the Trading with the Enemy Act. In addition, this final rule adopts certain minor conforming changes to the Customs Regulations that were made in the interim rule in order to reflect a recodification of existing statutory law.

EFFECTIVE DATE: February 28, 2002.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, (202–927–2344).

SUPPLEMENTARY INFORMATION:

Background

Section 2 of the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), Public Law (Pub. L.) 106–185, 114 Stat. 202, enacted on April 25, 2000, and codified at title 18, United States Code, section 983 (18 U.S.C. 983), created general rules for civil forfeiture proceedings. This section of the CAFRA, however, specifically exempts from certain of its requirements forfeitures undertaken pursuant to the following statutes: the Tariff Act of 1930 or any other provision of law codified in title 19, United States Code; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*); the Trading with the Enemy Act (50 U.S.C. App. 1 *et seq.*); and section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233; 22 U.S.C. 401). In addition, Public Law 107–56, enacted October 26, 2001, the title of which is the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, exempted from the requirements of CAFRA the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*).

Under section 2 of the CAFRA, specified duties and obligations

concerning civil forfeiture proceedings are placed upon Government officials who were to be designated by the seizing agencies.

By a document published in the **Federal Register** (65 FR 78090) on December 14, 2000, as T.D. 00–88, Customs announced an interim rule to clarify and implement the law in this regard. It was determined that interim regulations were appropriate because no additional requirements were imposed upon the public. Rather, the interim regulations conferred certain additional rights on property owners or interested parties, and provided clear guidance to Customs officials in the processing of property seized for forfeiture under the CAFRA.

The interim rule identified the particular Customs official who will grant extensions of time for sending notices of seizure, as authorized by 18 U.S.C. 983(a)(1)(B), and it identified those Customs officials who will rule on requests for immediate release of seized property, as authorized by 18 U.S.C. 983(f)(2). The interim regulations also provided guidance to Customs officials in the processing of property seized for forfeiture under the CAFRA.

In addressing these matters, the interim rule added a new subpart H to part 162 of the Customs Regulations (19 CFR part 162, subpart H).

Furthermore, the interim regulations made clear that acceptance of an administrative forfeiture remission does not make the Government liable for fees, costs or interest pursuant to 28 U.S.C. 2465. In this respect, a new § 171.24 was added to the Customs Regulations (19 CFR 171.24) to provide that, in the case of any seizure for forfeiture that is remitted or mitigated under 19 U.S.C. 1618 or 31 U.S.C. 5321, the person who accepts such a remission or mitigation decision will not be considered to have substantially prevailed in a civil forfeiture proceeding for purposes of being able to collect any fees, costs or interest from the Government.

With the exception of the provision in new § 171.24, seizures exempted from the requirements of section 2 of the CAFRA will be processed in accordance with existing regulations.

Lastly, Pub. L. 103–272, 108 Stat. 745, dated July 5, 1994, reenacted and recodified the provisions of title 49, United States Code. To this end, the interim rule removed the reference to 49 U.S.C. App. appearing in part 171, subpart F, of the Customs Regulations (19 CFR part 171, subpart F), and added in its place a reference to 49 U.S.C. 80303, in accordance with the recodification of the statutory provision specifically made by section 1(e) of Pub. L. 103–272.

Before adopting the interim regulations as a final rule, Customs solicited comments from the public. Three commenters responded to the interim rule. A description of the issues that were raised by the commenters together with Customs response to these issues is set forth below.

Discussion of Comments

Comment: One commenter declares that currently, at international airports, there are signs warning passengers to declare the currency they are carrying if it exceeds $10,000. The commenter recommends that information be added to this warning that if currency is seized for nonreporting, the person whose money is seized has a right to file a claim and to be represented by an attorney, even if the person cannot afford an attorney. The claimant indicates that section 983(b) of title 18 specifies the right to legal representation.

Customs Response: The informational content of warnings posted at airports notifying passengers of the obligation to file monetary instrument reports falls outside the scope of this regulation.

Comment: One commenter states that clarification is required of the meaning of 18 U.S.C. 981(d) of the CAFRA. In particular, the commenter notes that administrative proceedings for violation of the Customs laws are inconsistent with section 981.

Customs Response: Customs disagrees. Administrative proceedings for processing seizures made for violation of the Customs laws are governed by the statutory provisions of 19 U.S.C. 1602 through 1619. Further, the provisions of 19 U.S.C. 1600 state that these procedures will apply to seizures of any property effected by Customs officers under any law enforced or administered by the Customs Service unless such law specifies different procedures. Because section 981 specifically authorizes the application of the Customs laws to these seizures, we find no inconsistencies.

Comment: One commenter asks why the interim regulations refer to ''calendar days'' when the statute only refers to ''days.''

Customs Response: Customs used the term ''calendar days'' in the interim rule for purposes of clarity.

Comment: One commenter observes that § 162.92(a) in the interim rule states that Customs will send a written notice of seizure ''as soon as practicable'' yet an existing regulatory provision (19 CFR 162.21(a)) states that a receipt for seized property shall be given at the time of seizure to the person from whom the property was seized. The commenter suggests that these provisions are clearly in conflict. The commenter avers that immediate notification of seizure must occur, because extending the time for issuance of a receipt creates a situation where none of the parties directly involved with the shipment, *i.e.,* shipper, consignee or carrier, would know the disposition for an extended period of time. It is asserted that seizure of a shipment with no notice from Customs for 60 days or more does not allow the importer to conduct his normal business and will cause the carrier to expend needless time and effort in searching for the seized articles.

Customs Response: There is no conflict presented between §§ 162.21 and 162.92. Further, Customs believes that adequate safeguards regarding notices of seizure already exist.

The commenter incorrectly equates providing a receipt for seized property, which is merely an indication that the Government has taken possession of the property, with issuance of a formal notice of seizure, which explains the rights, both administrative and judicial, that a claimant to that property has with regard to challenging the forfeiture. The issuance of a notice of seizure is already governed by the provisions of § 162.31 of the Customs Regulations (19 CFR 162.31). Those requirements of notice have not changed. In fact, the regulation with which the commenter takes issue, § 162.92, specifically references the requirements of § 162.31 governing information to be included in a notice of seizure. By contrast, the provisions of § 162.21 only speak to the responsibilities and authority of the Customs officer actually making a seizure. Section 162.21 does not deal with the notification of seizure and explanation of the forfeiture processes as do the notices of seizure.

Comment: One commenter notes that, as a carrier, delay in notification of seizures under § 162.92(a) can result in claims being made against the carrier for ''lost'' merchandise which has, in fact, been seized by Customs.

The commenter suggests numerous possible procedures that Customs could implement by regulation to assist carriers when claims are filed due to seizure. Specifically, these procedures include: (1) The provision by Customs of a list of all shipments seized from a carrier's custody not more than 60 days following seizure, without exception so as to allow the carrier to process claims; (2) the review by Customs, every 30 days, of a list of all claims submitted to the carrier for loss in order to allow the carrier to determine which shipments

have been seized by Customs; (3) the empowerment of the carrier to require any party filing a claim against the carrier to obtain from Customs written confirmation that the shipment was not seized in order to perfect that claim; and (4) the empowerment of the carrier to require the party filing a claim to assign ownership of the shipment to the carrier should it be found to have been seized and then released by Customs.

Customs Response: Customs disagrees that any changes as proposed by the commenter are needed under the circumstances. The provisions of § 162.31 already require Customs to provide written notice of any liability to forfeiture to each party that the facts of record indicate has an interest in the claim or seized property. To this effect, as stated above, § 162.92(a) in the interim rule specifically references the requirements of § 162.31 governing information to be included in a notice of seizure.

It is not the responsibility of Customs to match each notice of seizure provided to a carrier with any claims of loss that have been filed against the carrier. Nor is it the province of the Customs Regulations to include provisions regarding business practices of a carrier or to empower that carrier to require information from its clients under the authority of federal regulation. The requirements of CAFRA require notification to known parties-in-interest as provided in the interim regulations and as adopted in these final regulations.

Comment: One commenter states, in connection with § 162.92(d), that only the Assistant Commissioner, Office of Investigations, may extend the period for sending notices, not his designee. It is claimed that 18 U.S.C. 983 makes no provision for designees.

Customs Response: The provisions of 18 U.S.C. 983(a)(1)(B) require the decision as to any extension to be made by a supervisory official in the Headquarters office of the seizing agency. Section 162.92(d) in the interim rule complies with this statutory requirement. There is no statutory prohibition on allowing a designee of a supervisory official from making this decision.

Comment: One commenter notes, with respect to § 162.93, that if notice of seizure is not provided timely under CAFRA, and the seized property must be returned to the person from whom the property was seized, the interim regulations provide no audit or check to assure that return of the property occurs. It is averred that no party other than Customs will know that the seizure occurred because no notice has been issued. Accordingly, the commenter suggests that articles should be returned to the owner within 60 days, the same time period as originally required to issue the notice.

Customs Response: Customs disagrees. The provisions of § 162.93 in the interim rule require Customs to return property to any person from whom property is seized if the notice of seizure is not sent within the time period prescribed in § 162.92. Also, the provisions of § 162.21 of the Customs Regulations (19 CFR 162.21) require Customs to provide a receipt for seized property to the party from whom the property has been seized. Contrary to the commenter's assertion, the party from whom the property is seized will know of the seizure based upon regulatory requirements that predate the CAFRA regulations which are the subject of this document.

Comment: One commenter states, in relation to filing a claim for seized property under § 162.94, that 18 U.S.C. 983(a)(2)(D) requires Customs to make claim forms generally available upon request. The commenter also indicates that the provisions of section 983(a)(2)(E) should make clear that a claim can be filed without the posting of a bond. Thus, the commenter implies that this language should be included in § 162.94.

Customs Response: Customs agrees. Section 162.94(c) in the interim rule is revised in this final rule to include a provision that Customs will make claim forms generally available upon request. Also, § 162.94 in the interim rule is amended in this final rule by adding a new paragraph (e) to make clear that a claim may be filed without the posting of a bond. Section 162.94(e) in the interim rule is redesignated as § 162.94(f) in this final rule.

Comment: One commenter states that Customs field offices need guidance on what is meant by the phrase ''legitimate business'' as it appears in § 162.95(b)(1) in the interim rule, which states that immediate release of seized property for hardship purposes will not apply if the seized property is currency or monetary instruments or electronic funds unless such property comprises the assets of a legitimate business. To this end, the commenter states that if a person from whom currency or negotiable instruments have been seized can demonstrate that the money had just been withdrawn from a bank account or can provide sales slips for merchandise sold, that seized property should be returned on site.

Customs Response: Customs disagrees that § 162.95(b)(1) in the interim rule needs any change as suggested by the commenter.

The commenter asks that Customs in effect expand the statute to include situations that are not contained in the statute. The statute allows for the immediate return of seized property to a claimant if continuing possession of the seized property by Customs, pending the final disposition of the forfeiture proceedings, would cause substantial hardship and that likely hardship outweighs the risk that the property will be lost, concealed or transferred if it is returned to the claimant during the pendency of the proceeding. See 18 U.S.C. 983(f)(1).

However, the statute excepts from immediate release, as provided above, currency, or other monetary instruments, or electronic funds *unless* that currency, other monetary instruments or electronic funds constitute the assets of a legitimate business which has been seized. If the claimant to property can show that the seized currency or monetary instruments are the assets of a legitimate business that has been seized, he would still need to show under the statute that he has a possessory interest in the property, that he has sufficient ties to the community, and that continuing possession by Customs would cause substantial hardship.

Against this backdrop, the providing of ''slips showing sale of merchandise'' hardly rises to the level of proof needed in order for the Government to allow the immediate release of the seized property, as described by the commenter.

Nevertheless, in one sense § 162.95(b)(1) in the interim rule does not accurately reflect the statute. It states that immediate release of seized property for hardship purposes will not apply if the seized property is currency or monetary instruments or electronic funds unless such property comprises the assets of a legitimate business. In fact, the statute at 18 U.S.C. 983(f)(8) states that the provision governing the release of seized property will not apply if the seized property is contraband, currency, or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a legitimate business *which has been seized*. Accordingly, § 162.95(b)(1) in the interim rule is amended in this final rule to more accurately reflect the statute in this respect.

Additional Changes

As previously noted, Public Law 107–56, enacted on October 26, 2001, and known as the Uniting and Strengthening

America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, exempted from the requirements of CAFRA the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*). Section 162.91 in this final rule document is revised to reflect this statutory change.

Also, section 3 of Public Law 106–561, enacted on December 21, 2000, and known as The Paul Coverdell National Forensic Sciences Improvement Act of 2000, amended 18 U.S.C. 983(a)(2)(C)(ii) by eliminating the requirement that a party filing a CAFRA claim provide customary documentary evidence of an interest in the property, if such evidence is available; and by eliminating the requirement that the party state that the claim is not frivolous. Thus, § 162.94(d)(2) in the interim rule, which contained both of these requirements, is amended to reflect the change.

Conclusion

After careful consideration of the comments received and further review of the matter, Customs has concluded that the interim rule amending parts 162, 171 and 178, Customs Regulations (19 CFR parts 162, 171 and 178) that was published in the **Federal Register** (65 FR 78090) on December 14, 2000, as T.D. 00–88, should be adopted as a final rule with the modifications discussed above.

Regulatory Flexibility Act, Executive Order 12866 and Inapplicability of Delayed Effective Date

This final rule document does not impose any additional requirements upon the public. Rather, the regulations are intended both to confer certain additional rights on property owners or interested parties, and to provide clear guidance to Customs officials in the processing of property seized for forfeiture under the CAFRA. Accordingly, it has been determined, pursuant to 5 U.S.C. 553(d)(3), that a delayed effective date is not required. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This final rule does not result in a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information involved in this final rule document has already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Number 1515–0052 (Petition for remission or mitigation of forfeitures and penalties incurred). This collection encompasses a claim for seized property in a non-judicial civil forfeiture proceeding. This rule does not present any material change to the existing approved information collection. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

To this end, part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, was previously revised by the interim rule to make appropriate reference to OMB Control Number 1515–0052.

List of Subjects

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Drug traffic control, Imports, Inspection, Law enforcement, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Seizures and forfeitures.

19 CFR Part 171

Administrative practice and procedure, Customs duties and inspection, Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, the interim rule amending parts 162, 171 and 178, Customs Regulations (19 CFR parts 162, 171 and 178), which was published at 65 FR 78090 on December 14, 2000, is adopted as a final rule with the following changes to part 162:

PART 162—INSPECTION, SEARCH, AND SEIZURE

1. The general authority and relevant specific authority citations for part 162 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

Sections 162.91 through 162.96 also issued under 18 U.S.C. 983.

2. Section 162.91 is revised to read as follows:

§ 162.91 Exemptions.

The provisions of this subpart will apply to all seizures of property for civil forfeiture made by Customs officers except for those seizures of property to be forfeited under the following statutes: The Tariff Act of 1930 or any other provision of law codified in title19, United States Code; the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*); the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*); the Trading with the Enemy Act (50 U.S.C. App. 1 *et seq.*); the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*); and section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233; 22 U.S.C. 401).

3. Section 162.94 is amended by adding a sentence at the end of paragraph (c) and by revising paragraph (d)(2) to read as set forth below; by redesignating existing paragraph (e) as paragraph (f); and by adding a new paragraph (e) to read as set forth below:

§ 162.94 Filing of a claim for seized property.

* * * * *

(c) *Form of claim.* * * * Claim forms will be made generally available upon request.

(d) *Content of claim.* * * *

(2) State the claimant's interest in the property; and

* * * * *

(e) *No bond required.* Any person may make a claim under this section without posting a bond.

* * * * *

4. Section 162.95 is amended by revising paragraph (b)(1) to read as follows:

§ 162.95 Release of seized property.

* * * * *

(b) *Exceptions.* * * *

(1) Is contraband, currency or other monetary instrument, or electronic funds, unless, in the case of currency, other monetary instrument or electronic funds, such property comprises the assets of a legitimate business which has been seized;

* * * * *

Robert C. Bonner,

Commissioner of Customs.

Approved: February 25, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–4746 Filed 2–27–02; 8:45 am]

BILLING CODE 4820–02–P