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DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 210, 220, 225 and 226

RIN 0584-AC15

National School Lunch Program, School Breakfast Program, Summer Food Service Program for Children and Child and Adult Care Food Program: Meat Alternates Used in the Child Nutrition Programs

AGENCY: Food and Consumer Service, USDA.

ACTION: Final Rule.

SUMMARY: The Food and Consumer Service of the Department of Agriculture (Department) is amending the regulations governing the meal pattern requirements for the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program for Children (SFSP) to allow yogurt to be credited as a meat alternate for all meals. Formerly, yogurt could be credited as a meat alternate only for the supplement (snack) meal patterns of the Child Nutrition Programs. Under this final rule, four ounces of yogurt satisfies one ounce of the meat/meat alternate requirement for breakfasts, lunches and suppers served under any of the Child Nutrition Programs. This final rule responds to numerous recommendations for additional meat alternates and provides local food service operations with greater flexibility in planning and preparing meals using lowfat meat alternates.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, USDA, 3101 Park Center Drive,

Alexandria, Virginia 22302; by telephone (703) 305-2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Consumer Service (FCS) has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule provides greater flexibility to schools, institutions and homes participating in the NSLP, SBP, CACFP and SFSP rather than imposing more restrictive requirements upon them. The overall types and frequency of service of foods used in the meals served in these programs will not be significantly affected by this rule, and thus, this rule will not have a significant economic impact.

Catalog of Federal Assistance

The NSLP, SBP, SFSP and CACFP are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.553, 10.559 and 10.558, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V and final rule-related notice at 48 (FR) 29112, June 24, 1983.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this final rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the NSLP and SBP, the

administrative procedures are set forth under the following regulations: (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q) and 220.14(e); (2) school food authority appeals of FCS findings as a result of an administrative review must follow FCS hearing procedures as established pursuant to 7 CFR 210.30(d)(3) and 220.14(g); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow the FCS Administrative Review Process as established pursuant to 7 CFR 235.11(f). In the SFSP, (1) Program sponsors and food service management companies must follow State agency hearing procedures issued pursuant to 7 CFR 225.13; and (2) disputes involving procurement by State agencies and sponsors must follow administrative appeal procedures to the extent required by 7 CFR 225.17 and 7 CFR part 3015. In the CACFP, (1) institution appeal procedures are set forth in 7 CFR 226.6(k); and (2) disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR 226.22 and 7 CFR part 3015.

Information Collection

This final rule does not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The programs being amended are approved by OMB under the following control numbers: NSLP, 0584-0006; SBP, 0584-0012; SFSP, 0584-0280; and CACFP, 0584-0055.

Background

On July 5, 1996, the Department published a proposed rule to authorize the crediting of yogurt as a meat/meat alternate for all meals served under the NSLP, SBP, CACFP and SFSP (61 FR 35152-35157). Under this proposal, local food services would have the option of offering yogurt as a meat alternate with four ounces of yogurt equaling one ounce of meat. The Department proposed the four-to-one ratio of yogurt to meat in order to allow adequate levels of iron and niacin to continue being provided. The proposal also stipulated that the crediting change

would apply only to commercially prepared products which meet the definition and standard of identity for yogurt as established by the Food and Drug Administration (FDA) for yogurt, low fat yogurt and nonfat yogurt. (See 21 CFR 131.200, 131.203 and 131.206.) The proposal would not apply to the yogurt found on or in noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruits and/or nuts or similar products. Finally, as a practical matter, the Department noted that the proposed regulation would apply only to meals planned and prepared using a food-based menu planning system, because schools planning and preparing meals on the basis of nutrient analysis do not have to observe specific component/quantity requirements and, therefore, are not subject to crediting requirements. For a complete discussion of the background to the proposed rule and the issues surrounding its provisions, interested parties should refer to the preamble of the proposal.

The Department issued the proposed rule as part of the School Meals Initiative for Healthy Children, a comprehensive, integrated plan to provide school children with varied, nutritious, healthful and appealing meals. As the first step in the School Meals Initiative for Healthy Children, the Department published a final rule on June 13, 1995, which established updated nutrition requirements for school lunches and breakfasts and provided local food service professionals with unprecedented flexibility to plan and prepare meals using a menu planning system that best meets their needs (60 FR 31188). Beginning July 1, 1996, schools are required to serve lunches that, over a week's time, provide one-third of the Recommended Dietary Allowances (RDA) for key nutrients and one-third of the calories needed by children of different ages. School breakfasts must provide one-fourth of the RDA for key nutrients and calories. In addition, school meals must comply with the recommendations of the Dietary Guidelines for Americans, including the limitations on calories from fat (no more than 30 percent of total calories) and saturated fat (less than 10 percent of total calories). The only exceptions to these standards are for schools that have been authorized by the State agency to delay implementation for not more than two years.

To achieve compliance with these requirements, school meal planners may select one of four menu planning

options. Schools may elect to use Nutrient Standard Menu Planning, under which they conduct a nutrient analysis of the foods being prepared and make adjustments as needed. A second option is a variant of Nutrient Standard Menu Planning called Assisted Nutrient Standard Menu Planning, under which the analysis and subsequent development of recipes and menus are conducted by an outside party. In addition, there are two food-based menu planning systems from which to choose: The traditional meal pattern, consisting of the same component and quantity requirements that were in effect on July 1, 1995, and the enhanced meal pattern, that is based on the traditional pattern but has increased amounts of fruits/vegetables and grains/breads.

Because local planners using nutrient analysis do not have to satisfy specific component/quantity requirements or meet crediting standards, they are able to select various lowfat and nonfat sources of protein for their meals. To provide planners using food-based systems with similar flexibility, State agencies and local food service professionals requested the Department to reevaluate the use of yogurt as a meat/meat alternate for these menu planning systems. They also requested the Department to extend this consideration to the CACFP and the SFSP. Based on this reevaluation, the Department issued the July 5, 1996, proposed rule.

During the official comment period, which ended on September 3, 1996, the Department received 2077 comments. The following groups generated the greatest number of responses: general public (857), local food service personnel (528), other local agency personnel (534) and industry (90). Over 1900 of the comments supported the proposal, generally on the grounds that it would provide greater flexibility for local food services to reduce fat content. Some commenters also noted that the crediting of yogurt would enhance the ability of local planners to meet the nutrition needs of children who are lactose intolerant or who are vegetarians. Commenters who disapproved of the proposed rule essentially raised three objections. First, they voiced concern that the Department was attempting to eliminate meat products from meals served under the Child Nutrition Programs. Second, they maintained that it would be inappropriate to use a dairy product as a substitute for meat. Third, they noted that yogurt is inherently low in iron and niacin, both of which are generally provided by the meat/meat alternate.

The remainder of this preamble discusses these issues.

Elimination of Meat Products

The Department emphasizes that the proposed rule was not intended as an endorsement of yogurt at the expense of meat products or other meat alternates. On the contrary, the proposal simply provides local food services with an additional option for meeting a variety of the needs and tastes of children. In fact, the Department does not envision any significant reduction in meat offerings given the traditional popularity of meat products. Moreover, it should be noted that even when yogurt is served, it would not necessarily replace meat entirely. For example, a school might serve a four ounce portion of yogurt in combination with a half sandwich, a cup of soup or salad containing a one ounce or equivalent portion of meat/meat alternate. Finally, some children who could benefit from this rule would not consume meat even if there were no alternative, because they are vegetarians or otherwise are not permitted to eat certain kinds of meat. For these reasons, the Department does not believe that the meat industry will be adversely affected by providing local food services with the option of serving yogurt.

Inappropriate Substitution

The purpose of the meat/meat alternate component in food-based menu planning systems is to ensure that an adequate source of protein is available as part of the meal. This specific requirement is not necessary in meal planning systems based on nutrient analysis because protein is one of the nutrients automatically measured as the meal is planned. However, the Department has long recognized that some non-meat products can provide the protein and other nutrients normally supplied by meat. Nuts and seeds as well as cheese/cheese alternates have been available as meat alternates for years. The Department also notes that yogurt is already credited as a meat alternate for snacks in the Child Nutrition Programs. Finally, allowing yogurt as a meat alternate would enable local food services to better serve children who, for religious or other reasons, are unable to eat meat.

Inadequacy of Certain Key Nutrients

A number of commenters were concerned that yogurt is inherently low in two key nutrients—iron and niacin—generally provided by the meat/meat alternate component. The Department recognizes this shortcoming and shares commenters' concern for the nutritional

adequacy of meals served to children. The nutritional contributions of yogurt were carefully considered when the Department proposed to credit yogurt at the ratio of four ounces of yogurt to one ounce of meat. The Department notes, however, that children will continue to obtain key nutrients from a variety of foods. For example, when averaged over a week, other foods such as lean meats, beans, eggs and grains will be able to supplement the nutrients available in yogurt. Moreover, meal planners can also serve yogurt in combination with other foods. For example, as noted above, a local meal planner could offer children four ounces of yogurt along with a half sandwich, a cup of soup or salad. Finally, in response to requests from the school food service and nutrition advocacy communities, the Department intends to provide guidance material to assist local meal planners.

Definition and Standard of Identity

In the proposed rule, the Department stipulated that, to be credited, a yogurt product would have to meet the standard of identity for yogurt established by the FDA. However, the current definition and standard of identity includes yogurt products that contain no live bacteria cultures because the extremely high temperatures at which the products are processed to remove the tartness kill the bacteria. In response, the National Yogurt Association has petitioned to FDA to have yogurt products without live and active cultures excluded from the definition and standard of identity of yogurt. A large number of comments recommended that the Department follow the Association's recommendation and stipulate in the final rule that only yogurt containing live and active bacterial cultures be credited in the Child Nutrition Programs.

The Department appreciates commenters' position on this issue. However, the FDA is the Federal agency responsible for making decisions about product definitions and standards of identity, and it would be inappropriate for the Department to anticipate whether or not the FDA will adopt the recommendation of the National Yogurt Association's petition to exclude

products which do not contain active live bacteria cultures from the definition and standard of identity of yogurt. It should also be noted that any amendments to the FDA definition and standard of identity for yogurt will be automatically implemented in the Child Nutrition Programs by virtue of the cross reference in this regulation to the FDA regulations. Moreover, the Department will make any other amendments as necessary. Finally, this final rule makes a technical change to the proposed rule to change the phrase "standard of identity" to read "definition and standard of identity."

Conclusion

For the reasons described above, the Department is adopting the July 5, 1996, proposal without change. The Department emphasizes, however, that it is aware that many of the yogurt products that could satisfy the regulatory requirements as the meat/meat alternate component of the meal are actually more like dessert items. The Department continues to expect that schools and institutions will exercise good judgment in selecting yogurt products for their meals. The Department also notes that this crediting policy does not extend to noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covering on fruit and/or nuts and similar products.

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs-social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Children, Food assistance programs, Grants programs-social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

7 CFR Part 225

Food assistance programs, Grant programs—health, infants and children,

Reporting and Recordkeeping requirements.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Surplus agricultural commodities.

Accordingly, the Department is amending 7 CFR part 210, 220, 225 and 226 as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

2. In § 210.2 a definition for *Yogurt* is added in alphabetical order to read as follows:

§ 210.2 Definitions.

* * * * *

Yogurt means commercially prepared coagulated milk products obtained by the fermentation of specific bacteria, that meet milk fat or milk solid requirements and to which flavoring foods or ingredients may be added. These products are covered by the Food and Drug Administration's Definition and Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203, and 21 CFR 131.206, respectively.

3. In § 210.10:

a. The meat or meat alternate section in the first column of the table in paragraph (k)(2) is amended by adding a new entry for yogurt after the entry for "Peanut butter or other nut or seed butters";

b. New paragraph (k)(3)(iii) is added;

c. Paragraph (n)(3)(iv) is amended by removing the words "in the snack only" from the first sentence of footnote 4 in the "Meal Supplement Chart for Children".

The additions read as follows:

§ 210.10 Nutrition standards for lunches and menu planning methods.

* * * * *

(k) *Food-based menu planning.* * * *

(2) *Minimum quantities.* * * *

Meal component	Minimum quantities required for				Option for grades K-3
	Ages 1-2	Preschool	Grades K-6	Grades 7-12	
* * *	*	*	*	*	*
Meat or Meat Alternate (quantity of the edible portion as served).	* * *				

Meal component	Minimum quantities required for				Option for grades K-3
	Ages 1-2	Preschool	Grades K-6	Grades 7-12	
Yogurt, plain or flavored, unsweetened or sweetened.	4 oz. or 1/2 cup	6 oz. or 3/4 cup	8 oz. or 1 cup	8 oz. or 1 cup	6 oz. or 3/4 cup.
*	*	*	*	*	*

(3) * * * * *

(iii) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or 1/2 cup (volume)

of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.
* * * * *

4. In § 210.10a:
a. the meat or meat alternate section in the first column of the table in paragraph (c) is amended by adding a new entry for yogurt after the entry for "Peanut butter or other nut or seed butters";
b. new paragraph (d)(2)(iii) is added;

c. paragraph (j)(3) is amended by removing the words "in the snack only" from the first sentence of footnote 4 in the "Meal Supplement Chart for Children."
The additions read as follows:
§ 210.10a Lunch components and quantities for the meal pattern.
* * * * *
(c) Minimum required lunch quantities. * * *

SCHOOL LUNCH PATTERN-PER LUNCH MINIMUMS

Food components and food items	Minimum quantities				Recommended quantities: group V, 12 years and older (7-12)
	Group I, age 1-2, (preschool)	Group II, age 3-4 (preschool)	Group III, age 5-8 (K-3)	Group IV, age 9 and older (4-12)	
Meat or Meat Alternate (quantity of the edible portion as served): * * *	*	*	*	*	*
Yogurt, plain or flavored, unsweetened or sweetened..	4 oz. or 1/2 cup	6 oz. or 3/4 cup	6 oz. or 3/4 cup	8 oz. or 1 cup	12 oz. or 1 1/2.
*	*	*	*	*	*

(d) *Lunch components.* * * *
(2) *Meat or meat alternate.* * * *
(iii) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or 1/2 cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.
* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM
1. The authority citation for part 220 continues to read as follows:
Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.
2. In § 220.2 a new paragraph (bb) is added to read as follows:
§ 220.2 Definitions
* * * * *
(bb) *Yogurt* means commercially prepared coagulated milk products obtained by the fermentation of specific bacteria, that meet milk fat or milk solid requirements and to which flavoring foods or ingredients may be added.

These products are covered by the Food and Drug Administration's Definition and Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203, and 21 CFR 131.206, respectively.
3. In § 220.8, the meat or meat alternates section in the first column of the table in paragraph (g)(2) is amended by adding a new entry for yogurt after the entry for "Nut and/or seeds" to read as follows:
§ 220.8 Nutrition standards for breakfast and menu planning alternatives.
* * * * *
(g) Food-based menu planning. * * *
(2) Minimum quantities. * * *

Meal component	Minimum quantities required for			Option for grades 7-12
	Ages 1-2	Preschool	Grades K-12	
Meat or Meat Alternates: * * *	*	*	*	*
Yogurt, plain or flavored, unsweetened or sweetened.	2 oz. or 1/4 cup	2 oz. or 1/4 cup	4 oz. or 1/2 cup	4 oz. or 1/2 cup

* * * * *

4. In § 220.8a, the meat or meat alternates section in the first column of the table in paragraph (a)(2) is amended by adding a new entry for yogurt after

the entry for "Nuts and/or seeds" to read as follows:

§ 220.8a Breakfast components and quantities for the meal pattern.

- (a) (1) Food components. * * *
- (2) Minimum required breakfast quantities. * * *

SCHOOL BREAKFAST PATTERN
[Required minimum serving sizes]

Food components/items	Ages 1 and 2	Ages 3, 4, and 5	Grades K–12
* * * * *			
Meat/Meat Alternates: * * *			
Yogurt, plain or flavored, unsweetened or sweetened	2 oz. or ¼ cup	2 oz. or ¼ cup	4 oz. or ½ cup.

* * * * *

PART 225—SUMMER FOOD SERVICE PROGRAM

1. The authority citation for Part 225 continues to read as follows:

Authority: Secs. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

2. In § 225.16:

a. the Meat and Meat Alternates (Optional) section of the table in paragraph (d)(1) is amended by adding a new entry for yogurt after the entry for "Peanut butter or an equivalent quantity of any combination of meat/meat alternate";

b. the Meat and Meat Alternates section of the table in paragraph (d)(2) is amended by adding a new entry for

yogurt after the entry for "Peanuts or soybeans or tree nuts or seed".

The additions read as follows:

§ 225.16 Meal service requirements.

* * * * *

(d) *Meal patterns.* * * *

BREAKFAST

(1) * * *

Food components	Minimum amount
* * * * *	
Meat and Meat Alternates (Optional) * * * or	
Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or ½ cup.

LUNCH OR SUPPER

(2) * * *

Food components	Minimum amount
* * * * *	
Meat and Meat Alternates * * * or	
Yogurt, plain or flavored, unsweetened or sweetened	8 oz. or 1 cup.

* * * * *

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.20:

a. new paragraph (a)(2)(ii)(C) is added;

b. the Meat and Meat Alternates section in the first column of the tables in paragraphs (c)(2) and (c)(3) are amended by adding a new entry for

yogurt after the entries for "Peanuts or soybeans or tree nuts or seeds";

c. paragraph (d)(1) is amended by adding a semicolon and the words "or 4 oz of yogurt;" after the words "peanut butter".

The additions read as follows:

§ 226.20 Requirements for meals.

(a) * * *

(2) * * *

(ii) * * *

(C) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or

nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or ½ cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

* * * * *

(c) *Meal patterns for children age one through 12 and adult participants.*

LUNCH

(2) * * *

Food components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹	Adult participants
* * * * *	*	*	*	*
Meat and Meat Alternates * * * or				
Yogurt, plain or flavored, unsweetened or sweetened.	4 oz. or 1/2 cup	6 oz. or 3/4 cup	8 oz. or 1 cup	8 oz. or 1 cup.
* * * * *	*	*	*	*

¹ The text is unchanged.

* * * * *
(3) * * *

SUPPER

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12	Adult participants
* * * * *	*	*	*	*
Meat and Meat Alternates * * * or.				
Yogurt, plain or flavored, unsweetened or sweetened.	4 oz. or 1/2 cup	6 oz. or 3/4 cup	8 oz. or 1 cup	8 oz. or 1 cup.
* * * * *	*	*	*	*

* * * * *
Dated: February 28, 1997.
William E. Ludwig,
Administrator, Food and Consumer Service.
[FR Doc. 97-5537 Filed 3-5-97; 8:45 am]
BILLING CODE 3410-30-P

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 97-009-1]

Brucellosis in Cattle; State and Area Classifications; Tennessee

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Tennessee from Class A to Class Free. We have determined that Tennessee meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Tennessee.

DATES: Interim rule effective February 28, 1997. Consideration will be given only to comments received on or before May 5, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-009-1, 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. 97-009-1. 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. Michael J. Gilsdorf, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7708; or e-mail: mgilsdorf@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*.

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as the regulations), provide a system for classifying States or portions of States according to the rate of *Brucella* infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes.

Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail (1) maintaining a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) tracing back to the farm of origin and successfully closing a stated percent of all brucellosis reactors found in the course of Market Cattle Identification (MCI) testing; (3) maintaining a surveillance system that includes testing of dairy herds, participation of all recognized slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection (including herds adjacent to infected herds and herds from which infected animals have been sold or received), and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) maintaining minimum procedural standards for administering the program.

Before the effective date of this interim rule, Tennessee was classified as a Class A State.

To attain and maintain Class Free status, a State or area must (1) remain free from field strain *Brucella abortus* infection for 12 consecutive months or longer; (2) trace back at least 90 percent of all brucellosis reactors found in the course of MCI testing to the farm of origin; (3) successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12 consecutive month period immediately prior to the most recent anniversary of