

committee determines, the costs may not be reimbursed.

(d) Eligible orchardists may elect not to replant the entire eligible stand. If so, the county committee shall calculate payment based on the number of qualifying trees, bushes or vines actually replanted.

(e) The cumulative total quantity of acres planted to trees, bushes or vines for which a person may receive assistance at any time under this part shall not exceed 500 acres.

(f) The cumulative amount of TAP benefits which any person, as defined in accordance with part 1400 of this title, may receive under this part shall not exceed \$75,000.

(g) In the event the total amount of claims submitted under this part during a sign-up period exceeds the applicable funds available for such period, such payments shall be reduced by a uniform national percentage or by such other method deemed appropriate by the Deputy Administrator. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

#### § 783.7 Obligations of a participant.

(a) Eligible orchardists must execute all required documents and complete the TAP funded practice within 12 months of application approval.

(b) If a person was erroneously determined to be eligible or becomes ineligible for all or part of a TAP benefit, the person and successor shall refund any payment paid under this part together with interest from the date of disbursement at a rate in accordance with part 1403 of this title.

(c) Participants must allow representatives of FSA to visit the site for the purposes of certifying compliance with TAP requirements.

#### § 783.8 Multiple benefits.

Persons may not receive or retain payments for production losses from trees, vines and bushes under this part if they have been compensated under another program for the same loss. However, this restriction does not apply to emergency Federal loans or payments resulting from purchase of the additional coverage insurance, as defined in 7 CFR 400.651. However, in no case shall the total amount received from all sources exceed the amount of the owner's actual loss, unless the Deputy Administrator shall approve an exemption in writing.

#### § 783.9 Miscellaneous.

(a) Any payment or portion thereof due any person under this part shall be allowed without regard to questions of

title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government.

(b) Persons shall be ineligible to receive or retain assistance under this program if they have:

(1) Adopted any scheme or device intended to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(c) TAP benefits paid to a person as a result of misrepresentation shall be refunded to FSA with interest and costs of collection. The party engaged in acts prohibited by this part and the party receiving payment and their successors shall be jointly and severally liable for any amount due. The remedies provided to FSA in this part shall be in addition to other civil, criminal, or administrative remedies which may apply.

(d) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(e) A minor who is an owner that has met all other eligibility criteria shall be eligible for TAP assistance if:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by statute; or

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

(f) The regulations regarding reconsideration's and appeals at part 11 of this title and part 780 of this chapter apply to this part.

Signed in Washington DC on February 13, 2004.

**Michael W. Yost,**

*Acting Administrator, Farm Service Agency.*  
[FR Doc. 04-4524 Filed 3-01-04; 8:45 am]

**BILLING CODE 3410-05-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. 01-015-1]

#### Brucellosis in Cattle; State and Area Classifications; Missouri

**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 Missouri from Class A to Class Free. We have determined that Missouri meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Missouri.

**DATES:** This interim rule was effective February 26, 2004. We will consider all comments that we receive on or before May 3, 2004.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 01-015-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-015-1.

- *E-mail:* Address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01-015-1" on the subject line.

- *Agency Web Site:* Go to <http://www.aphis.usda.gov/ppd/rad/cominst.html> for a form you can use to submit an e-mail comment through the APHIS Web site.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

*Other Information:* You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Debra A. Donch, Senior Staff Veterinarian, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-6954.

**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 A and Class B 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 percentage of all brucellosis reactor cases 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, Missouri 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 consecutive 12-month period immediately prior to the most recent anniversary of the date the State or area was classified Class Free; and (4) have a specified surveillance system, as described above, including an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

The last brucellosis-infected cattle herd in Missouri was depopulated in October 2002. Since then, no brucellosis-affected herds have been detected.

After reviewing the brucellosis program records for Missouri, we have concluded that this State meets the standards for Class Free status. Therefore, we are removing Missouri from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a). This action relieves certain restrictions on moving cattle interstate from Missouri.

**Immediate Action**

Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Missouri. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

**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.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of Missouri from Class A to Class Free will promote economic growth by reducing certain testing and other requirements governing the interstate movement of cattle from this State. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Missouri, as well as buyers and importers of cattle from this State.

There are an estimated 61,500 cattle operations in Missouri that may be affected by this rule. About 99 percent of these are owned by small entities. Test-eligible cattle offered for sale interstate from other than certified-free herds must have a negative test under present Class A status regulations, but not under regulations concerning Class Free status. If such testing were distributed equally among all animals affected by this rule, Class Free status would save owners of cattle operations approximately \$3 to \$4 per head.

Therefore, we believe that changing the brucellosis status of Missouri will not have a significant economic effect on the small entities affected by this interim rule.

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 interim 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 interim 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 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 9 CFR part 78 as follows:

#### PART 78—BRUCELLOSIS

■ 1. The authority citation for part 78 continues to read as follows:

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

##### § 78.41 [Amended]

■ 2. Section 78.41 is amended as follows:

■ a. In paragraph (a), by adding “Missouri,” in alphabetical order.

■ b. In paragraph (b), by removing the word “Missouri.”

Done in Washington, DC, this 26th day of February 2004.

**Kevin Shea,**

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

[FR Doc. 04–4599 Filed 3–1–04; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 00–112–2]

#### Cattle From Mexico

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the animal importation regulations to prohibit the importation of Holstein cross steers and Holstein cross spayed heifers from Mexico. The regulations have prohibited the importation of Holstein steers and Holstein spayed heifers from Mexico due to the high incidence of bovine tuberculosis in that breed, but have not placed any special restrictions on the importation of Holstein cross steers and Holstein cross spayed heifers from Mexico. Given that the incidence of bovine tuberculosis in Holstein cross steers and Holstein cross spayed heifers from Mexico is comparable to the incidence of tuberculosis in Holstein steers and Holstein spayed heifers from Mexico, this action is necessary to protect the health of domestic livestock in the United States.

**EFFECTIVE DATE:** April 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dr. Roger Perkins, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8419.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 93 prohibit or restrict the importation of certain animals, birds, and poultry into the United States in order 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) governs the importation of ruminants. Section 93.427 of the regulations contains restrictions on the importation of ruminants from Mexico.

On June 3, 2003, we published in the **Federal Register** (68 FR 33028–33030, Docket No. 00–112–1) a proposal to amend the regulations in § 93.427 to prohibit importation of Holstein cross steers and Holstein cross spayed heifers from Mexico. Given that the incidence of bovine tuberculosis in Holstein cross steers and Holstein cross spayed heifers from Mexico is comparable to that of bovine tuberculosis in Holstein steers and Holstein spayed heifers, which have been prohibited entry from Mexico since May 1994, we believed it was necessary to prohibit the importation of those Holstein cross animals in order to eliminate a pathway for the introduction of bovine tuberculosis into the United States.

We solicited comments concerning our proposal for 60 days ending August 4, 2003. We received three comments by that date. They were from a State agricultural agency, a foreign animal health agency, and a domestic milk producers organization. Two of the commenters supported the proposal.

The remaining commenter expressed concern that the identification criteria adopted by inspectors on the United States-Mexico border could create disagreement, since it may prove difficult to differentiate Holsteins or Holstein crosses from other cattle that simply resemble Holsteins or Holstein crosses.

Personnel at U.S. ports, both veterinarians and non-veterinarian inspectors, are thoroughly trained and experienced in identifying all types of breeds and breed crosses. We do not, therefore, believe it is necessary to make any changes in this final rule in response to that comment.

Therefore, for the reasons given in the proposed rule and in this document, 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. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are amending the animal importation regulations to prohibit the importation of Holstein cross steers and Holstein cross spayed heifers from Mexico. The regulations have prohibited the importation of Holstein steers and Holstein spayed heifers from Mexico due to the high incidence of tuberculosis in that breed, but have not placed any special restrictions on the importation of Holstein cross steers and Holstein cross spayed heifers from Mexico. Given that the incidence of tuberculosis in Holstein cross steers and Holstein cross spayed heifers from Mexico is comparable to the incidence of tuberculosis in Holstein steers and Holstein spayed heifers, this action is necessary to protect the health of domestic livestock in the United States.

Given the size of U.S. livestock inventories and the volume of animal and animal product sales, consequences of a large tuberculosis outbreak in the United States could be catastrophic. Cattle in U.S. herds in 2000 were valued at \$67 billion, with 1999 cash receipts of \$36.5 billion from the sale of cattle, calves, beef, and veal. Cash receipts from the sale of milk and cream in 1999 reached \$23.2 billion. The value of fresh beef and veal exports by the United States totaled \$2.7 billion in 1999 and \$3 billion in 2000. A widespread bovine tuberculosis outbreak in the United States could potentially cause significant production and trade losses.

The value of cattle imported from Mexico in 1998 through 2001 represented less than 1 percent of the value of the total U.S. domestic cattle supply. Further, the volume of U.S. imports of live cattle from Mexico has generally increased since 1997. Imports of Holstein cross-bred steers and spayed heifers have generally increased during the same period.

#### Effect on Small Entities

Under the Regulatory Flexibility Act, agencies are required to analyze the economic effects of their regulations on small businesses and to use flexibility to provide regulatory relief when regulations create economic disparities between different-sized entities. According to the Small Business Administration's (SBA's) Office of