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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 04-009-2]

Brucellosis in Cattle; State and Area Classifications; Wyoming

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 brucellosis regulations concerning the interstate movement of cattle by changing the classification of Wyoming from Class Free to Class A. We determined that Wyoming no longer met the standards for Class Free status. The action was necessary to prevent the interstate spread of brucellosis.

EFFECTIVE DATE: The interim rule became effective on February 13, 2004.

FOR FURTHER INFORMATION CONTACT: Dr. Debra Donch, National Brucellosis Epidemiologist, 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.

In an interim rule effective February 13, 2004, and published in the **Federal Register** on February 20, 2004 (69 FR 7863-7864, Docket No. 04-009-1), we amended the regulations in § 78.41 by changing the classification of Wyoming from Class Free to Class A. The action was necessary to prevent the interstate spread of brucellosis.

Comments on the interim rule were required to be received on or before April 20, 2004. We received three comments by that date. The comments were from private citizens and a cattle producer. The comments are discussed below.

Two commenters stated that our current system for controlling the spread of brucellosis is ineffective because it does not address the greater threat posed by Wyoming's infected wildlife. One commenter added that the brucellosis infected wildlife is in the Greater Yellowstone Area (GYA) and stated that a brucellosis control program in Wyoming should be based on the livestock's proximity to the GYA. The commenter proposed certain changes to our program, including stricter surveillance for cattle within a certain vicinity of GYA wildlife during elk and bison calving season, brucellosis testing based on proximity to the GYA, and focusing on early intervention for these cattle herds.

We acknowledge that infected elk and bison populations in the GYA may be a source of brucellosis transmission to Wyoming's cattle. Transmission of brucellosis from wild elk to cattle occurred in Wyoming in 2003 and Idaho in 2002. The Brucellosis Coordination Team appointed by the Governor of Wyoming and organizations like the Greater Yellowstone Interagency Brucellosis Committee are working to find ways to address the brucellosis situation in the GYA. APHIS' brucellosis program is designed so that it can be applied to all States, while leaving States some latitude to assess their own risks and implement additional regulations appropriate to individual needs. Furthermore, implementing a new program, as the commenter suggests, would require a separate action and cannot be done in this final rule.

The third commenter stated that all interstate movement of cattle should be prohibited. We do not believe that such an extreme step is warranted or necessary to prevent the spread of brucellosis in the United States.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

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 its review under Executive Order 12866.

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.)

List of Subjects in 9 CFR Part 78

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

PART 78—BRUCELLOSIS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 69 FR 7863-7864 on February 20, 2004.

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

Done in Washington, DC, this 30th day of June 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04-15333 Filed 7-6-04; 8:45 am]

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