

Done in Washington, DC, this 20th day of August 2004.

**Bill Hawks,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 04-19519 Filed 8-25-04; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. 01-015-2]

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

**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 Missouri from Class A to Class Free. The interim rule was based on our determination that Missouri meets the standards for Class Free status. The interim rule relieved certain restrictions on the interstate movement of cattle from Missouri.

**DATES:** *Effective Date:* The interim rule became effective on February 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dr. Debra A. 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

In an interim rule effective February 26, 2004, and published in the **Federal Register** on March 2, 2004 (69 FR 9747-9749, Docket No. 01-015-1), we amended the brucellosis regulations in 9 CFR part 78 (referred to below as the regulations) concerning the interstate movement of cattle by changing the classification of Missouri from Class A to Class Free. The interim rule was based on our determination that Missouri meets the standards for Class Free status. The interim rule relieved certain restrictions on the interstate movement of cattle from Missouri.

Comments on the interim rule were required to be received on or before May 3, 2004. We received one comment by that date, from a private citizen. This commenter was opposed to the change in Missouri's classification. The issues

raised by the commenter are discussed below.

The commenter objected to the use of the word "free" to describe a State or area designated as Class Free for brucellosis on the basis that our regulations do not require every animal in a State or area be tested; the commenter asserted, therefore, that we cannot be certain that a State or area classified as Class Free is free of brucellosis.

The regulations provide a system for classifying States or areas of States according to the rate of *Brucella* infection present and the general effectiveness of a brucellosis control and eradication program. To attain and maintain Class Free status, a State or area must, among other requirements, (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 Market Cattle Identification (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. A full listing of the standards that a State must meet to be classified as Class Free may be found in the definition of *Class Free State* in § 78.1 of the regulations. We have no evidence that testing every animal, as the commenter suggests, would increase the accuracy of the classification system to a degree that would warrant the massive additional burden of testing every animal in a State or area.

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. Accordingly, the interim rule designated Missouri as a Class Free State for brucellosis, thereby relieving certain restrictions on the interstate movement of cattle from Missouri. We have no evidence that Missouri should not have been classified Class Free and the commenter did not provide any such evidence. We are making no changes in response to this comment.

The commenter asserted that our immediate action to change the

classification of Missouri from Class A to Class Free was not warranted.

It is important to reclassify States when they have met the criteria for reclassification as Class Free. This encourages cooperation and compliance with the brucellosis control and eradication program and regulations by relieving certain restrictions on the interstate movement of cattle when they are determined to be no longer necessary. We have no evidence indicating that Missouri does not meet the standards for being declared Class Free, and the commenter did not provide any such evidence. We are making no changes in response to this comment.

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 Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### 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 9747-9749 on March 2, 2004.

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

Done in Washington, DC, this 19th day of August, 2004.

**Kevin Shea,**

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

[FR Doc. 04-19517 Filed 8-25-04; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9154]

RIN 1545-BD64

#### Extension of Time To Elect Method for Determining Allowable Loss

**AGENCY:** Internal Revenue Service (IRS), Treasury.