

present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more certificates for each arriving aircraft that carries packages employing solid wood packing material. The company may present one certificate in cases where the company has arranged treatment of all solid wood packing material on the flight, and may present multiple certificates in cases where packages with solid wood packing material were accepted for delivery by the company from multiple customers, each of whom arranged for treatment and certification of their respective packages. The certificates must be signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the Hong Kong Special Administrative Region, and must state that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated and aerated, or treated with preservatives using a treatment schedule contained in § 319.40-7 or in the Plant Protection and Quarantine Treatment Manual. If the aircraft contains no packages that employ solid wood packing material, or contains both packages that do and do not employ solid wood packing material, the overnight courier or express delivery company must also present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more exporter statements stating that the packages on the aircraft not covered by a certificate contain no solid wood packing material.

(j) *Customs entry or entry summary filing requirements.* By instruction, the United States Customs Service will inform importers of any information that may be required on entry or entry summary documentation under the Automated Broker Interface or other entry filing systems, electronic or otherwise, with regard to recording the existence of certificates, importer statements affirming that the importer has on file at his or her office any certificate required, and exporter statements that there is no solid wood packing material in a shipment.

(k) *Liability under the Customs import bond and international carrier bond.* Any failure of an importer to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the Customs basic import bond. Any failure of a carrier to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result

in liability under the international carrier bond.

\* \* \* \* \*

**Effective Date Note:** At 69 FR 55733, Sept. 16, 2004, § 319.40-5 was amended in paragraphs (b)(1)(i)(C), (b)(2), and (b)(2)(i), by removing the words "solid wood packing materials" each time they occur and adding the words "regulated wood packaging material" in their place, and removing paragraphs (g) through (k), effective Sept. 16, 2005.

■ 4. In § 319.40-10, footnote 6, the words "without meeting the requirements of this subpart" are removed and the words "without a complete certificate or exporter statement" are reinstated in its place, and an effective date note is added to the end of the section to read as follows:

**§ 319.40-10 Costs and charges.**

\* \* \* \* \*

**Effective Date Note:** At 69 FR 55733, Sept. 16, 2004, § 319.40-10 was amended in footnote 6, the words "without a complete certificate or exporter statement" are removed and the words "without meeting the requirements of this subpart" are added in their place, effective Sept. 16, 2005.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. 05-009-1]

#### Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States

**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 swine by adding Florida to the list of validated brucellosis-free States. We have determined that Florida meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on the interstate movement of breeding swine from Florida.

**DATES:** This interim rule is effective on May 2, 2005. We will consider all comments that we receive on or before July 1, 2005.

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

- *Edocket:* Go to <http://www.epa.gov/feddocket> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View Open APHIS Dockets" link to locate this document.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 05-009-1, 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. 05-009-1.

- *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 on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Korslund, Staff Veterinarian (Swine Health), Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-5914.

#### SUPPLEMENTARY INFORMATION:

##### Background

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella*. The disease mainly affects cattle, bison, and swine, but goats, sheep, horses, and even humans are susceptible. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. In humans, brucellosis initially causes flu-like symptoms, but the disease may develop into a variety of chronic conditions, including arthritis. Humans can be treated for brucellosis with antibiotics.

The brucellosis regulations in 9 CFR part 78 (referred to below as the regulations) contain specific provisions for cattle, bison, and swine. Under the regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for animals are based upon the disease status of the individual animals or the herd or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated swine brucellosis-free States, to include Florida. A State may apply for validated brucellosis-free status when:

- Any herd found to have swine brucellosis during the 2-year qualification period preceding the application has been depopulated. More than one finding of a swine brucellosis-infected herd during the qualification period disqualifies the State from validation as brucellosis-free; and
- During the 2-year qualification period, the State has completed surveillance, annually, by either complete herd testing, market swine testing, or statistical analysis.

Breeding swine originating from a validated brucellosis-free State or herd may be moved interstate without having been tested with an official test for brucellosis within 30 days prior to interstate movement, which would otherwise be required.

After reviewing the State's brucellosis program records, we have concluded that Florida meets the criteria for classification as a validated brucellosis-free State. Therefore, we are adding Florida to the list of validated brucellosis-free States in § 78.43. This action relieves certain restrictions on the interstate movement of breeding swine from Florida.

#### Immediate Action

Immediate action is warranted to remove restrictions that are no longer necessary on the interstate movement of swine from Florida. 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

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

We are amending the brucellosis regulations concerning the interstate movement of swine by adding Florida to the list of validated brucellosis-free States. As of January 1, 2005, 48 States, plus Puerto Rico and the U.S. Virgin Islands, were classified as validated brucellosis-free States. The State of Florida has been classified as a Stage II State, but now meets the requirements for being listed as Stage III (validated brucellosis-free) State.

This interim rule grants swine producers in Florida validated brucellosis-free status. This rule will benefit breeding stock owners in Florida who will no longer have to incur the cost of brucellosis testing on sows and other breeding stock. The estimated cost of brucellosis testing ranges from \$7.50 to \$15 per animal, which includes veterinary and handling fees. As of October 2004, the national average value of a sow was \$207 per head. Thus, cost savings associated with suspending brucellosis testing for breeding swine to be moved interstate from Florida is roughly between 3.6 and 7.2 percent of the value of the animal.

According to the 2002 Census of Agriculture, there were 887 farms in Florida with hogs or pigs used or to be used for breeding, with an inventory of 7,799 animals. Of those farms, 830 had inventories of 1–24 animals, and another 41 had inventories of 25–49 animals. The small business size standards for hog and pig operations, as identified by the Small Business Administration, is \$750,000 or less in annual receipts. Given that criterion, it is reasonable to assume that over 90 percent of farms with breeding swine in Florida are small entities.

Florida has been classified as a Stage II State requiring annual testing of the breeding stock in its swine operations. However, Florida has met the requirements to be listed as a validated brucellosis-free State. The change in the status of Florida would lead to cost savings to the breeding segment of swine production, but we do not expect the cost savings will have a significant economic impact on affected small entity producers. This rule will not result in any additional costs for affected small entities.

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 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.

#### § 78.43 [Amended]

- 2. Section 78.43 is amended by adding, in alphabetical order, the word, “Florida.”

Done in Washington, DC, this 26th day of April 2005.

**Kevin Shea,**

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

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