

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. APHIS–2008–0003]

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

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

**DATES:** This interim rule is effective February 1, 2008. We will consider all comments that we receive on or before April 1, 2008.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0003> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0003, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0003.

*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:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Debbi A. Donch, National Brucellosis Epidemiologist, Ruminant Health Programs Staff, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–5952.

#### 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, Texas 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 Texas was detected in August 2005. The brucellosis reactors in the herd were depopulated. The remaining cattle in the herd were tested and found to be free of brucellosis; they were released from quarantine in September 2006. Since then, no brucellosis-affected herds have been detected.

After reviewing the brucellosis program records for Texas, we have concluded that this State meets the standards for Class Free status. Therefore, we are removing Texas 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 Texas.

#### Immediate Action

Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Texas. 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.

Brucellosis is a contagious, costly disease of ruminants and other animals that can also affect humans. It is mainly a threat to cattle, bison, and swine. The disease causes decreased milk production, weight loss in animals, loss of young, infertility, and lameness. There is no known effective treatment.

The State of Texas has met all the requirements for obtaining Class Free status as outlined in the definition of "Class Free State or area" in § 78.1 of the regulations. The interim rule upgrades the brucellosis status of Texas from Class A to Class Free. Cattle and bison that are to be moved interstate from Class A States, except those moving directly to slaughter or to quarantined feedlots, must be tested before they are eligible for movement. Attaining Class Free status allows producers in Texas to forgo the cost of this test.

Brucellosis testing, including veterinary fees and handling expenses, costs about \$7.50 to \$15 per test. The expenses forgone as a result of this reclassification in status will be insignificant to cattle owners in Texas. There were 14 million cattle and calves in Texas in 2002. Of this total, 50.7 percent were breeding animals; the rest were composed of non-breeding animals in and outside feedlots. About 9.2 percent of cattle and calves in Texas are moved interstate.<sup>1</sup> The average per head value of cattle in Texas was \$790 in 2006.<sup>2</sup> Thus, the cost of testing

represents between 0.9 and 1.8 percent of the average value of the animals sold. The upgrading of the State to brucellosis Class Free status will result in a small savings for those entities moving cattle interstate other than directly to slaughter or to quarantined feeding.

We expect that the majority of cattle and calves operations that will be affected by the interim rule are small entities. Under guidelines established by the Small Business Administration (SBA), an enterprise producing cattle and calves is considered small if it has annual receipts of \$750,000 or less.<sup>3</sup> There were 125,518 farms with sales of cattle and calves in Texas in 2002.<sup>4</sup> Over 99 percent of these farms had annual receipts not exceeding \$750,000. These small farms had average sales of \$17,700.

The interim rule will benefit producers that sell cattle and calves out of State for breeding and feeding purposes. However, the savings from the forgone testing will be very small, estimated to be between approximately 1 and 2 percent of the value of the animals sold.

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 the word "Texas," after the word "Tennessee,".

■ b. In paragraph (b), by removing the word "Texas" and adding the word "None" in its place.

Done in Washington, DC, this 28th day of January 2008.

**Kevin Shea,**

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

[FR Doc. E8–1853 Filed 1–31–08; 8:45 am]

**BILLING CODE 3410–34–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA–2008–0101; Directorate Identifier 2007–SW–76–AD; Amendment 39–15357; AD 2007–26–51]

**RIN 2120–AA64**

#### **Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135 Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2007–26–51, which was sent previously to all known U.S. owners and operators of Eurocopter Deutschland GmbH (Eurocopter) Model EC135 helicopters by individual letters. This AD requires, within 5 hours time-in-service (TIS), inspecting the tail rotor control rod (control rod) and adjoining ball pivot and replacing any unairworthy parts before further flight. This amendment is prompted by a report of a fatal accident involving the failure of a control rod. The actions specified by this AD are intended to prevent failure of a control rod and subsequent loss of control of the helicopter.

<sup>1</sup>Dennis A. Shields and Kenneth H. Mathews, Jr., Interstate Livestock Movements, U.S. Department of Agriculture (USDA)/Economic Research Service, June 2003.

<sup>2</sup>USDA/National Agricultural Statistics Service (NASS), Meat Animals Production, Disposition, and Income 2006 Summary, April 2007.

<sup>3</sup>SBA, Table of Small Business Size Standards, effective October 1, 2007.

<sup>4</sup>USDA/NASS, 2002 Census of Agriculture.