

PART 1901—PROGRAM-RELATED INSTRUCTIONS**Subpart D—[Removed and Reserved]**

1. Under the Authority 7 U.S.C. 1989, 42 U.S.C. 1480, and subpart D, consisting of §§ 1901.151–1901.158 and Exhibit A, is removed and reserved.

PART 1924—CONSTRUCTION AND REPAIR

2. The authority citation for part 1924 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—Planning and Performing Construction and Other Development

3. Section 1924.6 is amended in paragraph (a)(3)(iv) by revising the words “and/or” to “or;” in paragraph (a)(6) by revising the reference to “SCS” to read “NRCS;” in the first sentence of paragraph (a)(8) by revising the phrase “physically handicapped persons” to read “people with disabilities”; and by revising paragraph (a)(5) to read as follows:

§ 1924.6 Performing development work.

* * * * *

(a) * * *

(5) *Labor standards provisions.* The provisions of the Davis-Bacon and related acts, which are published by the Department of Labor (29 CFR parts 1, 3 and 5), will apply when the contract involves either LH grant assistance, or 9 or more units in a project being assisted under the HUD section 8 housing assistance payment program for new construction.

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§ 1924.13 [Amended]

4. Section 1924.13 is amended in paragraph (e)(1)(ii), Item XVI by removing the phrase “[Exhibit A to Subpart D of Part 1901 of this chapter, where applicable.]” and by adding the phrase “[Where applicable.]”.

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PART 1944—HOUSING

5. The authority citation for part 1944 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

6. Section 1944.169 is amended in paragraph (c)(4)(v) by revising the reference to the “Administrator of the Soil Conservation Service” to read

“Chief of the Natural Resources Conservation Service;” and by revising paragraph (c)(2) to read as follows:

§ 1944.169 Technical, legal, and other services.

* * * * *

(c) * * *

(2) *Labor standards provisions.*

Construction financed with the assistance of an LH grant will be subject to the provisions of the Davis-Bacon and related acts, and the regulations implementing those acts published by the Department of Labor regulations at 29 CFR parts 1, 3, and 5.

* * * * *

Subpart D [Amended]

7. Exhibit A–1 to subpart D is amended by removing the last two sentences in paragraph II (E) and adding a new sentence in their place to read “If an LH grant is proposed, construction will be subject to the provisions of the Davis-Bacon and related Acts. LH grant applicants should, therefore, obtain a copy of the Department of Labor regulations (29 CFR part 5), which contain the applicable labor standards provisions.”

Dated: August 16, 1996.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 96–27766 Filed 10–30–96; 8:45 am]

BILLING CODE 3410–XY–U

Animal and Plant Health Inspection Service**9 CFR Parts 71 and 75**

[Docket No. 96–040–2]

CEM; Remove Interstate Movement Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On September 10, 1996, the Animal and Plant Health Inspection Service published a direct final rule. (See 61 FR 47669–47671, Docket No. 96–040–1.) The direct final rule notified the public of our intention to remove the regulations governing the interstate movement of horses affected with or exposed to contagious equine metritis and to add this disease to a list of diseases not known to exist in the United States. The last areas of the United States quarantined for contagious equine metritis were removed from quarantine in 1987, and the disease has not been known to exist

in the United States since that time. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as: November 12, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Tim Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–3279.

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, and 134–134h; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, D.C., this 24th day of October 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–27973 Filed 10–30–96; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 78

[Docket No. 96–043–1]

Brucellosis in Cattle; State and Area Classifications; Louisiana

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

DATES: Interim rule effective October 31, 1996. Consideration will be given only to comments received on or before December 30, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–043–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–043–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Gilsdorf, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7708.

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 B and Class A 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 percent of all brucellosis reactors 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, Louisiana 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 12 consecutive 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.

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

Therefore, we are removing Louisiana 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 Louisiana.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Louisiana.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the Federal Register. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

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 process required by Executive Order 12866.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of Louisiana 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 Louisiana, as well as buyers and importers of cattle from this State.

There are an estimated 19,000 cattle herds in Louisiana that would be affected by this rule. Ninety-eight 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 herds affected by this rule, Class Free status would save approximately \$3.64 per herd.

Therefore, we believe that changing the brucellosis status of Louisiana will not have a significant economic impact 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 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 document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (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, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

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

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 78.41 [Amended]

2. In § 78.41, paragraph (a) is amended by adding “Louisiana,” immediately after “Indiana.”

3. In § 78.41, paragraph (b) is amended by removing “Louisiana.”

Done in Washington, DC, this 29th day of October 1996.

Terry L. Medley,
Administrator, Animal and Plant Health
Inspection Service.

[FR Doc. 96–28057 Filed 10–30–96; 8:45 am]

BILLING CODE 3410–34-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 510

[96–102]

RIN 1550–AB01

Civil Monetary Penalty Inflation Adjustment

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: Congress, in the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, required all federal agencies with the statutory authority to impose civil monetary penalties (CMPs) to regularly evaluate those CMPs and adjust the maximum CMPs to reflect inflation to ensure that the CMPs continue to maintain their deterrent value. Consequently, OTS is issuing this final rule to implement the required adjustments to each of OTS's CMP statutes.

EFFECTIVE DATE: October 31, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Blanks, Counsel (Banking and Finance), (202) 906–7037, Chief Counsel's Office, Regulations and Legislation Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990 (FCMPIAA) ¹ provided for the regular

evaluation of CMPs ² to ensure that they continued to maintain their deterrent value and that penalty amounts due the Federal Government were properly accounted for and collected. Section 31,001(a) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (OCRRA) sets forth the Debt Collection Improvement Act of 1996 (DCIA), ³ which was enacted to provide more effective tools for governmentwide collection of delinquent debt. More specifically, section 31,001(s)(1) of the OCRRA amended the FCMPIAA by requiring each agency to make inflationary adjustments to the CMPs found in statutes that it administers. ⁴ Such adjustments must be made by regulation published in the Federal Register. The first inflation adjustment is required by October 23, 1996—180 days after the enactment of the DCIA. Thereafter, agencies must make inflation adjustments by regulation at least once every four years. Any increase in a CMP applies only to violations that occur after the date the increase takes effect. ⁵ These increases in maximum CMPs will not necessarily affect the amount of any CMP OTS seeks in connection with a particular violation because OTS calculates particular CMPs on a case-by-case basis based upon a variety of factors (including the gravity of the violation, whether it was willful or recurring, and any harm to the depository institution). Thus, the maximums merely serve as a cap beyond which CMPs may not go.

The statute provides that the inflation adjustment shall be determined by increasing the maximum CMP for each CMP by a cost-of-living adjustment. The term “cost-of-living” adjustment is defined as the percentage for each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June

of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. Any increase calculated under the statute must be rounded according to rounding rules set forth in the statute. Agencies do not have discretion in choosing whether to adjust a maximum CMP, by how much to adjust a maximum CMP, or the methods used to determine the adjustment.

To help explain the six-step statutorily-mandated inflation adjustment calculation, we will use the following example. Pursuant to 12 U.S.C. 1818(i), OTS may impose a daily maximum third-tier CMP not to exceed \$1,000,000 for violations of certain banking laws. The first step in the calculation requires finding the Consumer Price Index for the All Urban Consumers (CPI-U) for two different time periods. ⁶ The statute requires that the CPI-U for the year preceding the year of adjustment be used, which here, because the adjustment will occur in 1996, will be the CPI-U for June, 1995, which is 456.7. The CPI-U for June of the year the CMP was last set by law or adjusted for inflation also must be determined. Because section 1818(i) was adopted in August, 1989, the CPI-U used is June, 1989, which is 371.7.

Second, to calculate the cost of living adjustment or inflation factor, we divide the CPI-U for June of the preceding year of the adjustment by the CPI-U for June of the year the CMP was last set by law or adjusted for inflation. Using our example, the CPI for June, 1995 (456.7) divided by the CPI-U for June, 1989 (371.7) equals 1.23. Therefore, 1.23 is our inflation factor.

Third, to calculate the raw inflation adjustment, we multiply the maximum penalty amounts set by law by the inflation factor. In our example, \$1,000,000 multiplied by our inflation factor of 1.23 equals \$1,230,000.

Fourth, we have to round the raw inflation adjustment amounts according to the rounding rules set forth in the FCMPIAA. Since we round the *increased* amount, we calculate the increased amount by subtracting the original maximum penalty amounts from the raw maximum inflation adjustments. The increased amount for the maximum penalty in our example is \$1,230,000 minus \$1,000,000, which equals \$230,000. According to the rounding rules, if the penalty is greater

² Under the FCMPIAA, the term CMP means any penalty, fine, or other sanction that (1) is for a specific monetary amount as provided by federal law, or has a maximum amount provided for by federal law; (2) is assessed or enforced by an agency pursuant to federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts. See 12 U.S.C. 2461 note. All three requirements must be met for a fine to be defined as a CMP.

³ Pub. L. 104–134 (April 26, 1996) (to be codified at 28 U.S.C. 2461 note).

⁴ Some of OTS's CMPs are in a commonly administered statute, 12 U.S.C. 1818. Each agency that administers this statute is making the identical adjustments.

⁵ We note here that while the CMP statutes of other agencies frequently provide for a minimum and maximum penalty amount, all of OTS's CMP statutes provide only for a daily maximum amount and do not contain daily minimum amounts. Today's rule therefore refers only to maximum CMPs.

⁶ The Consumer Price Index described herein was obtained from the Bureau of Labor Statistics of the Department of Labor. There are several Consumer Price Indices. The statute requires the use of the CPI-U.

¹ Pub. L. 101–410; 28 U.S.C. 2461 note.