

Background

The Secretary of Agriculture published on April 16, 1998, an interim final rule with request for comments and a notice inviting applications for 5 additional rural empowerment zone designations as authorized by title IX of the Taxpayer Relief Act of 1997 (Pub. L. 105-34, approved August 5, 1997) (Round II). The deadline for applications is October 9, 1998. The statutory deadline when Round II designations must be made by the Secretary is January 1, 1999.

These 5 new rural empowerment zones are in addition to the 3 rural empowerment zones and 30 enterprise communities designated on December 21, 1994 by the Secretary of Agriculture pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 (Round I).

Discussion of Comments

Only two comments were received. In each case the party commenting sought a change in USDA's implementation of the developable site provision available to Round II designees. The requested change is implemented by this final rule.

One change and one clarification of the Round II interim final rule in the final rule is as follows: a change to allow an aggregate of 6 noncontiguous land parcels, inclusive of developable sites, rather than 3 as published in the interim final rule, and clarification that the data to be utilized in demonstrating outmigration over the period 1980-1994 is to be taken from the 1980 Census together with interim data gathered after the 1990 Census. The clarification of data utilized in demonstrating outmigration corrects an unintended omission.

The original Empowerment Zone legislation (1993) provided that a nominated area wholly within a given state could consist of not more than three noncontiguous parcels. The August 1997 legislation modified the eligibility criteria for Round II designations to allow for special sites known as "developable sites," not exceeding 2,000 acres (3.14 square miles) in the aggregate, not exceeding three in number. An interpretive question arose as to whether the 3 possible stand alone, non-contiguous developable sites were in addition to the original limit of 3, or whether 3 was an overarching cap on the number of possible noncontiguous parcels. Developable sites are not subject to the same poverty rate criteria as otherwise imposed on nominated areas.

List of Subjects in 7 CFR Part 25

Community development, Economic development, Empowerment zones, Enterprise communities, Housing, Indians, Intergovernmental relations, Reporting and recordkeeping requirements, Rural development.

In accordance with the reasons set out in the preamble, 7 CFR part 25 is amended by adopting the interim rule published April 16, 1998 [63 FR 19108] as a final rule with the following amendments as set forth below.

PART 25—RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

1. The authority citation for part 25 continues to read as follows:

Authority: 5 U.S.C. 301; 26 U.S.C. 1391

Subpart A—General Provisions

§ 25.101 [Amended]

2. Section 25.101(a) is amended by adding the words "data from the 1980 Census and" before the word "interim".

3. In § 25.103, the introductory text of paragraph (b)(3) is revised to read as follows:

§ 25.103 Area size and boundary requirements.

* * * * *

(b) * * *

(3) For purposes of applying paragraph (a)(2) of this section to Round II designations, the following shall not be treated as violating the continuous boundary requirement nor the limit on the number of noncontiguous parcels:

* * * * *

Dated: September 28, 1998.

Dan Glickman,
Secretary.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98-097-1]

Brucellosis in Cattle; State and Area Classifications; Mississippi

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 Mississippi from Class A to Class Free.

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

DATES: Interim rule effective October 7, 1998. Consideration will be given only to comments received on or before December 7, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98-097-1, 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. 98-097-1. 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. R.T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7709; or e-mail: reed.t.rollo@usda.gov.

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, Mississippi 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 Mississippi, we have concluded that this State meets the standards for Class Free status. Therefore, we are removing Mississippi 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 Mississippi.

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 Mississippi.

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 this action 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**. The document 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 Mississippi 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 Mississippi, as well as buyers and importers of cattle from this State.

There are an estimated 30,000 cattle herds in Mississippi that will be affected by this rule. About 98 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 animals affected by this rule, Class Free status would save approximately \$4 per head.

Therefore, we believe that changing the brucellosis status of Mississippi 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 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, 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 “Mississippi,” immediately after “Minnesota,”.

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

Done in Washington, DC, this 1st day of October 1998.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98–101–1]

Validated Brucellosis-Free States; South Carolina

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.