

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.*

[FR Doc. 98–26828 Filed 10–6–98; 8:45 am]

BILLING CODE 3410–34–P

#### 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.

**SUMMARY:** We are amending the brucellosis regulations concerning the interstate movement of swine by adding South Carolina to the list of validated brucellosis-free States. We have determined that South Carolina meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on the interstate movement of breeding swine from South Carolina.

**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. 98-101-1, 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. 98-101-1. 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. Arnold Taft, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231, (301) 734-4916.

#### **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), prescribe conditions for the interstate movement of cattle, bison, and swine.

Under the swine brucellosis regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for swine are based upon the disease status of the individual animal or the herd or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated brucellosis-free States, to include South Carolina. A State may apply for validated brucellosis-free status when: (1) 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 (2) 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 its brucellosis program records, we have concluded that South Carolina meets the criteria for classification as a validated brucellosis-free State. Therefore, we are adding South Carolina to the list of States in § 78.43. This action relieves certain restrictions on the interstate movement of breeding swine from South Carolina.

#### **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 swine from South Carolina.

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.

This action removes the requirement that breeding swine be tested for brucellosis prior to movement interstate from South Carolina.

There are approximately 1,600 swine producers in South Carolina, and all of them are small businesses (defined by the Small Business Administration as having annual gross receipts of less than

\$500,000). Currently, these small producers have about 33,000 adult swine tested annually for brucellosis, at a cost to producers of approximately \$5 per test. We are not able to determine exactly how many of these tests are performed for the purpose of certifying breeding swine for movement interstate, but we estimate the number to be small.

We anticipate, therefore, that this action will have a minimal positive economic impact, if any, on swine producers in South Carolina.

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 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:** 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).

#### **§ 78.43 [Amended]**

2. Section 78.43 is amended by adding "South Carolina," immediately after "Rhode Island,".

Done in Washington, DC, this 30th day of September 1998.

**Joan M. Arnoldi,**

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

[FR Doc. 98-26829 Filed 10-6-98; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 93

[Docket No. 95-054-3]

#### Importation of Horses

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Technical amendment.

**SUMMARY:** We are making a technical amendment to the regulations regarding the importation of horses to restore a reference to vesicular stomatitis that was inadvertently removed from those regulations.

**EFFECTIVE DATE:** October 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Kathy Holmes, Regulatory Coordination Specialist, Regulatory Analysis and Development, Policy and Program Development, APHIS, USDA, 4700 River Road Unit 118, Riverdale, MD 20737-1238; (301) 734-8682.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart C—Horses, §§ 93.300 through 93.326 of the regulations, pertains to the importation of horses into the United States.

(**Note:** At the time the final rules referred to in this document were published, the regulations described in the previous paragraph were located in 9 CFR part 92. However, on October 28, 1997, we published in the **Federal Register** (62 FR 56000-56026, Docket No. 94-106-9) a final rule that redesignated part 92 as part 93. In describing the actions taken in the final rules, we will cross-reference the former part 92 citations with their current locations in part 93.)

In a final rule published in the **Federal Register** on August 23, 1996 (61 FR 43417-43418, Docket No. 95-079-2), and effective September 23, 1996, we amended § 92.314 (current § 93.314) by adding vesicular stomatitis to the list of diseases from which a horse's premises of origin and adjoining premises must

be free before the horse may be imported into the United States.

That same section of the regulations was amended again in a subsequent final rule published in the **Federal Register** on October 7, 1996 (61 FR 52236-52246, Docket No. 95-054-2), and effective November 6, 1996. In the October 1996 final rule, we amended the regulations by, among other things, organizing the undesignated regulatory text of § 92.314 (current § 93.314) into paragraphs (a) through (c). However, the text of the newly reorganized § 92.314 (current § 93.314) that we set out in the October 1996 final rule was the same text that had been included in our June 4, 1996, proposed rule (61 FR 28073-28085, Docket No. 95-054-1), so it failed to reflect the August 1996 addition of vesicular stomatitis to that section. It was never our intention to remove that reference to vesicular stomatitis; indeed, no such change was discussed in the final rule or in the proposed rule that preceded it. Therefore, to rectify that error, we are amending § 93.314(a)(4) (former § 92.314) to restore the reference to vesicular stomatitis. List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 93 as follows:

#### **PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS**

1. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

##### **§ 93.314 [Amended]**

2. In § 93.314, paragraph (a)(4) is amended by adding the words "vesicular stomatitis," immediately following the word "encephalomyelitis,".

Done in Washington, DC, this 30th day of September 1998.

**Joan M. Arnoldi,**

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

[FR Doc. 98-26826 Filed 10-6-98; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 130

[Docket No. 94-115-2]

RIN 0579-AA70

### Veterinary Diagnostic Services User Fees

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are revising user fees for veterinary diagnostic services to reflect changes in operating costs and changes in calculations. We are also adding user fees to cover the costs of additional veterinary diagnostic services. In addition, we are reorganizing these user fees to list user fees by type of service and location where the service is provided, and to group reagents into categories. We are also revising user fees for the use of animal import centers operated by the Animal and Plant Health Inspection Service and adding user fees for new spaces. These actions are necessary to ensure that we recover our costs. The Food, Agriculture, Conservation, and Trade Act of 1990, as amended, authorizes us to set and collect these user fees.

**EFFECTIVE DATE:** November 6, 1998.

**FOR FURTHER INFORMATION CONTACT:** For information concerning services provided for live animals and germ plasm, contact Dr. Gary S. Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-3294.

For information concerning services provided for veterinary diagnostics, contact Dr. James E. Pearson, Director, National Veterinary Services Laboratories, VS, APHIS, P.O. Box 844, Ames, IA 50010; (515) 239-8266.

For information concerning program operations for Veterinary Services, contact Ms. Louise Lothery, Director, Veterinary Services Resource Management Staff, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737-1231; (301) 734-7517.

For information concerning rate development of the proposed user fees, contact Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Division, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737-1232; (301) 734-8351.