

**Animal and Plant Health Inspection Service****9 CFR Part 78**

[Docket No. 95-074-1]

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

**DATES:** Interim rule effective December 29, 1995. Consideration will be given only to comments received on or before February 27, 1996.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 95-074-1, 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. 95-074-1. 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, suite 3B08, 4700 River Road Unit 43, Riverdale, MD 20737-1231, (301) 734-4916.

**SUPPLEMENTARY INFORMATION:****Background**

Brucellosis is a contagious disease affecting animals and man, 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 Georgia. 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 Georgia meets the criteria for classification as a validated brucellosis-free State. Therefore, we are adding Georgia to the list of States in § 78.43. This action relieves certain restrictions on the interstate movement of breeding swine from Georgia.

**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 Georgia.

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.

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

Swine herd producers in Georgia are all small businesses (defined by the Small Business Administration as having annual gross receipts of less than \$500,000). Currently, these small producers have about 50,000 adult swine tested annually for brucellosis. 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 very small.

Currently, swine are routinely tested for pseudorabies and swine brucellosis with the same blood sample at an approximate cost to the producer of \$5 per blood sample. Even though the swine will no longer have to be tested for swine brucellosis to move interstate as a result of this change in the regulations, they will still need to be tested for pseudorabies. Therefore, this change in the regulations will not create or remove any costs for swine producers in Georgia.

We anticipate, therefore, that this action will have a minimal, if any, economic impact on swine herd producers in Georgia. The few small producers that do move breeder swine interstate will still have to pay for a pseudorabies test for the swine.

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 12778**

This rule has been reviewed under Executive Order 12778, 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