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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 50, 51, 71, 76, 77, 78, 86, 93, and 161

[Docket No. APHIS-2011-0044]

RIN 0579-AD65

Brucellosis and Bovine Tuberculosis; Update of General Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; partial withdrawal.

SUMMARY: We are announcing a partial withdrawal of a proposed rule published in the *Federal Register* on December 16, 2015, that, if finalized, would have consolidated the regulations governing bovine tuberculosis and those governing brucellosis. Specifically, we are withdrawing those portions of the proposed rule that would have affected the provisions governing our domestic brucellosis and tuberculosis programs. We are taking this action after considering the comments we received following the publication of the proposed rule.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the proposed amendments to 9 CFR parts 50, 51, 71, 76, 77, 78, 86, and 161 that were contained in the proposed rule published December 16, 2015 (80 FR 78462) are withdrawn.

FOR FURTHER INFORMATION CONTACT: Dr. C. William Hench, Senior Staff Veterinarian, Cattle Health Center, Strategy and Policy VS, APHIS, 2150 Centre Avenue, Building B-3E20, Fort Collins, CO 80526-8117; (970) 494-7378.

SUPPLEMENTARY INFORMATION:

On December 16, 2015, we published in the *Federal Register* (80 FR 78462-78520, Docket No. APHIS-2011-0044) a proposed rule¹ to amend the regulations in 9 CFR parts 50, 51, 71, 76, 77, 78, 86, 93, and 161 to consolidate the regulations governing bovine tuberculosis, and those governing brucellosis. The proposed rule would have affected both domestic and import regulations for the two diseases.

We solicited comments concerning our proposal for 90 days ending on March 15, 2016. We extended the deadline for comments until May 16, 2016, in a document published in the *Federal Register* on March 11, 2016 (81 FR 12832-12833, Docket No. APHIS-2011-0044,). We received a total of 164 comments by that date. They were from captive cervid producers and captive cervid breeders' associations, cattle industry groups, State agriculture departments, State game and fish departments, veterinarians, representatives of foreign governments, and private citizens. The commenters raised a number of comments and concerns about the proposed rule.

The commenters were especially concerned with the proposal to combine the bovine tuberculosis and brucellosis domestic programs into a single program for cattle, bison, and captive cervids. The commenters pointed to differing disease epidemiology, source populations, modes of transmission, surveillance streams, movement controls, testing, and management practices.

Commenters were also concerned by our proposal to require States to submit animal health plans that detail cattle, bison, and captive cervid demographics in the State, information regarding sources of bovine tuberculosis or brucellosis in the State, surveillance and mitigations in the State, and personnel available to enforce the plan. The commenters expressed concern that

¹To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0044>.

the States may lack personnel, resources, and funding to implement and maintain Animal Health Plans, based on the proposed requirements.

Commenters expressed concern about our proposal to base State statuses on whether a State has implemented and is maintaining an Animal Health Plan instead of prevalence rates, saying that it seemed to be a move away from disease eradication and international standards, and pointing out that it would require foreign trading partners to re-evaluate their requirements for importing U.S. cattle.

We proposed that, if an area had a known source of tuberculosis and brucellosis that presents a risk, that area could not be accredited or reaccredited. We further proposed to require whole herd tests and individual animal tests for captive cervids as a condition of interstate movement, unless they come from accredited herds for brucellosis. Many captive cervid producers expressed concern that if these changes were adopted, they would lose their current accreditation. Several commenters questioned the need for a national requirement for what they consider a regional problem. Elk breeders expressed concern about the cost of this requirement, and stated that our economic analysis underestimated testing costs.

We proposed that exhibited, rodeo, and event cattle and bison would have to be tested 60 days prior to initial interstate movement, then at 180 day intervals after initial interstate movement, with limited exceptions. Many State animal health officials and several industry groups objected to considering exhibited cattle and bison equivalent to rodeo and event cattle and bison in terms of disease risk. They stated that exhibited cattle and bison are, in their experience, a very low risk for bovine tuberculosis and brucellosis, and these requirements could adversely impact regional fairs and exhibitions.

Finally, wildlife and animal health authorities expressed significant concern about our proposal that, if a State has known wildlife sources of bovine tuberculosis or brucellosis that pose a risk of transmission to program animals, the State would have to conduct surveillance of these source populations in a manner sufficient to detect brucellosis or tuberculosis in an animal within the source population. Several animal health officials stated that wildlife authorities in some States are not authorized to conduct testing for bovine tuberculosis or brucellosis. Others stated they could not compel them to do so. Several wildlife authorities stated that the surveillance goal was too stringent, and should be set at a level sufficient to gauge prevalence, rather than detect an infected animal. Both animal health and wildlife authorities stated that the Animal and Plant Health Inspection Service would need to fund this testing in order for it to be conducted.

After considering all the comments we received, we have concluded that it is necessary to reexamine the proposed changes to the domestic bovine tuberculosis and brucellosis programs. Therefore, we are withdrawing the proposed amendments to parts 50, 51, 71, 76, 77, 78, 86, and 161 in our December 16, 2015, proposed rule referenced above. At this time we intend to continue considering the proposed amendments to part 93 that govern the importation of cattle with respect to bovine tuberculosis and brucellosis as we proposed in the December 16, 2015,

proposed rule. The concerns and recommendations of all the commenters will be considered if any new proposed regulations regarding the domestic bovine tuberculosis and brucellosis programs are developed.

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 22nd day of March 2019 .

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

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