

### Impact on Small Entities

In 2007, there were 12,400 cattle operations in Montana with a total inventory of approximately 2.4 million head. Industry statistics indicate that the average value of cattle in Montana for 2007 was \$1,050 per head, yielding a total estimated cattle herd value of \$2.52 billion.<sup>6</sup>

Based on data from the 2002 Census of Agriculture and Small Business Administration (SBA) guidelines, we expect a majority of operations affected by the interim rule will be small entities. Entities that comprise the North American Industry Classification System (NAICS) categories of beef cattle ranching and farming (NAICS 112111) and dairy cattle and milk production (NAICS 112120) are considered small if their total annual receipts do not exceed \$750,000. The 2002 Census of Agriculture indicates that 99 percent of entities within NAICS 112111, and 89 percent of entities within NAICS 112120, earned less than \$500,000 annually. Most, if not all, of the beef and dairy herds in Montana are considered small entities.

The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) provides the statutory authority for APHIS to carry out operations and measures to detect, control, and eradicate brucellosis. While this change in status will result in additional requirements for interstate movement of cattle for Montana producers, the benefits of the restriction in preventing the spread of brucellosis to other parts of the United States outweighs the additional costs of brucellosis testing. APHIS does not expect additional costs to have a significant impact on a substantial number of small entities. This rulemaking is necessary on an emergency basis to prevent the interstate spread of brucellosis.

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.)

*animal\_diseases/brucellosis/downloads/bruc-facts.pdf*. Accessed 8/4/08.

<sup>6</sup>National Agricultural Statistics Service/U.S. Department of Agriculture (USDA). Agricultural Statistics 2007. [http://www.nass.usda.gov/Statistics\\_by\\_State/Montana/index.asp](http://www.nass.usda.gov/Statistics_by_State/Montana/index.asp).

### 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 interim 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:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

#### § 78.41 [Amended]

■ 2. Section 78.41 is amended as follows:

■ a. In paragraph (a), by removing the word “Montana,”.

■ b. In paragraph (b), by removing the word “None” and adding the word “Montana” in its place.

Done in Washington, DC, this 27th day of August 2008.

**Kevin Shea,**

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

[FR Doc. E8–20374 Filed 9–2–08; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 430

[Docket No. 2007–0046]

### Control of *Listeria monocytogenes* in Ready-To-Eat Meat and Poultry Products

**AGENCY:** Food Safety and Inspection Service (FSIS), USDA.

**ACTION:** Interim final rule; schedule for review under section 610 requirements.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing that it did not conduct a review of the

interim final rule, Control of *Listeria monocytogenes* in Ready-to-Eat Meat and Poultry Products, in 2007 as stated in its amended schedule plan for reviewing regulations under Section 610 of the Regulatory Flexibility Act, as amended. The Agency has decided to wait until it publishes a final rule in this proceeding before amending its plan so it can conduct a review of that final rule instead of the interim final rule.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Rachel Edelstein, Director, Policy Issuances Division, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 3538, Washington, DC 20250–3700, (202) 202/720–5627.

#### SUPPLEMENTARY INFORMATION:

#### Background

Section 610 of the Regulatory Flexibility Act (RFA), as amended (5 U.S.C. 601–612), requires that all Federal agencies review any regulations that have been identified as having a significant economic impact upon a substantial number of small entities as a means to determine whether the associated impact can be minimized by considering the following factors: (1) The continued need for the rule; (2) the nature of the complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules; and (5) the length of time since the rule has been initially evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

On January 28, 2005, FSIS published an amended scheduling plan in the **Federal Register** (70 FR 4047) for reviewing regulations. This plan scheduled a review in 2007 of the interim final rule, Control of *Listeria monocytogenes* in Ready-to-Eat Meat and Poultry Products (68 FR 34208; June 6, 2003). Because FSIS intends to issue a final rule in this rulemaking, it does not plan to review the interim final rule. Once the Agency publishes the final rule, it will amend its plan so it will be able to properly assess the impact of the final rule.

#### Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at <http://>

[www.fsis.usda.gov/regulations\\_&\\_policies/2008\\_Notices\\_Index/index.asp](http://www.fsis.usda.gov/regulations_&_policies/2008_Notices_Index/index.asp).

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The Update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at [http://www.fsis.usda.gov/news\\_and\\_events/email\\_subscription/](http://www.fsis.usda.gov/news_and_events/email_subscription/). Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on August 27, 2008.

**Alfred V. Almanza,**  
Administrator.

[FR Doc. E8-20368 Filed 9-2-08; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2008-0550; Airspace Docket 08-AEA-21]

#### Modification of Class D and Class E Airspace; Rome, NY

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule, request for comments.

**SUMMARY:** This action modifies the Class D and E airspace at Griffiss Airfield in Rome, NY. After the development of specific Departure Procedures (DPs) at the airfield, it was determined the Class D and E Surface airspace should be reduced in size to facilitate a more efficient operation. This rule increases

the safety and management of the National Airspace System (NAS) around Griffiss Airfield.

**DATES:** Effective 0901 UTC, November 20, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments should be received no later than October 3, 2008.

**ADDRESSES:** Send comments on this rule to: U. S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12-140, 1200 New Jersey, SE., Washington, DC 20590-0001; Telephone: 1-800-647-5527; Fax: 202-493-2251. You must identify the Docket Number FAA-2008-0550; Airspace Docket No. 08-AEA-21, at the beginning of your comments. You may also submit and review received comments through the Internet at <http://www.regulations.gov>.

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

**FOR FURTHER INFORMATION CONTACT:** Melinda Giddens, Operations Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5610.

#### SUPPLEMENTARY INFORMATION:

##### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. This rule is effective and there will be no further action by the FAA unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the

direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

#### Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the **Federal Register's** Web page at <http://www.gpoaccess.gov/fr/index.html>. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2008-0550; Airspace Docket No. 08-AEA-21." The postcard will be date stamped and returned to the commenter.

#### The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class D and E2 airspace at Rome, NY by reducing the controlled airspace, extending upward from the surface of the Earth to support IFR operations at Griffiss Airfield to a 5.0-mile radius with minor extensions for arrivals. Class D and E2 Surface airspace is usually predicated on departures from an airport with a control tower climbing at a standard rate of climb in random