Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 77 and 91

[Docket No. 92–076–1]

RIN 0579–AA53

Tuberculosis in Cervids

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the regulations concerning tuberculosis and the interstate movement of animals by adding provisions regarding testing, identification, and interstate movement of captive cervids, such as deer and elk. We also propose to amend the regulations concerning exportation of animals and animal products to require that, to be eligible for export, captive cervids be accompanied by a certificate stating that they have tested negative for tuberculosis within 90 days prior to export. Captive cervids have been determined to be a source of tuberculosis infection. The proposed amendments appear necessary to help prevent the spread of tuberculosis and facilitate the eradication of tuberculosis in livestock in the United States.

DATES: Consideration will be given only to comments received on or before June 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 92–076–1, 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. 92–076–1. 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. Joseph VanTiem, Staff Veterinarian, Cattle Diseases and Surveillance, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–8715.

SUPPLEMENTARY INFORMATION:

Background

Tuberculosis Eradication Program

Bovine tuberculosis is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis.* It affects cattle, bison, deer, elk, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other bodily parts, causes weight loss and general debilitation, and can be fatal.

At the beginning of this century, bovine tuberculosis was causing more losses of livestock than all other livestock diseases combined. This prompted the institution of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock. (For the remainder of this document, bovine tuberculosis will be referred to as TB).

The eradication program for TB in livestock provides for testing of cattle and bison for TB and regulates the interstate movement of cattle and bison. Most of the regulations governing the eradication program are found in 9 CFR part 77 (referred to below as the regulations), including provisions for conferring or removing ''accredited-free State'' status, a key feature of the TB eradication program. To establish or maintain status as an accredited-free State, a State must have no findings of TB in any cattle or bison in the State for at least 5 years. The State must also comply with all of the provisions of the ''Uniform Methods and Rules—Bovine Tuberculosis Eradication'' (UMR for TB) regarding accredited-free States. The UMR for TB is incorporated into the Code of Federal Regulations by reference at § 77.1. Detection of TB in any cattle or bison in the State will result in suspension of accredited-free State status. Detection of TB in two or more herds of cattle or bison in the State within 48 months will result in revocation of accredited-free State status.

The advantage of maintaining status as an accredited-free State is that buyers from other States and countries prefer to buy cattle and bison, as well as cattle and bison byproducts, from an accredited-free State. Many States and nations ban cattle imports from regions that are not certified as accredited-free for TB. Loss of accredited-free State status can cause losses in interstate and international trade for the State in question.

Cervid Industry Information and Bovine Tuberculosis

Breeding and production of deer, elk, and other exotic *Cervidae* (cervids) has taken place in the United States since at least the 1930's. U.S. production of cervids has increased over the decades and is expected to continue to grow. Currently, there are more than 1,600 deer and elk owners in the United States, raising about 250,000 head of captive cervids.

TB affects cervids similarly to the way it affects cattle and bison. Cervids infected with TB can and have been known to spread the disease to cattle and bison. In 1984, 24 bison herds were discovered to be infected with TB in 10 States, 7 of which were accredited-free States. The source of this outbreak proved to be their association with TB-infected elk that had been purchased by an elk rancher from an exotic animal collection in another State. In 1992, New York slaughtered 2 dairy herds that were found to be infected with TB by being exposed to a tuberculous cervid herd, and tested and quarantined 18 additional dairy herds because of TB. Also in 1992, TB was found in a beef cattle herd in Pennsylvania that had been in contact with a tuberculous cervid herd. As a result of these outbreaks, New York and Pennsylvania lost their accredited-free State status. Since January 1, 1991, TB has been confirmed in 29 herds of elk and deer in 15 States.

In addition to concerns over livestock health, another issue of concern to the United States is the considerable impact TB would have on the nation's wild cervids and other wildlife if the disease were to become established. Captive cervids are maintained within fenced areas. However, captive cervids have been known to escape their enclosures and mingle with wild cervids. At present, there are two confirmed

instances of TB in wild cervids (each involving only one animal), and it has been determined that at least one of those incidences resulted from contact with a captive cervid herd. We believe that if a widespread outbreak of TB were to occur in wild cervids or in other wildlife, it would be very costly to manage, would reduce wildlife populations, and would pose a serious human health risk.

Proposal

The regulations in 9 CFR part 77 restrict the interstate movement of cattle and bison to help prevent the interstate spread of TB. We propose to divide 9 CFR part 77 into two subparts: ''Subpart A—Cattle and Bison'' and ''Subpart B—Captive Cervids.'' ''Subpart A—Cattle and Bison'' would contain the regulations currently in part 77 plus a new § 77.7, ''Cleaning and disinfection of premises, conveyances, and materials,'' regarding the cleaning and disinfection of premises, conveyances, and materials used in the interstate movement of tuberculous cattle or bison. ''Subpart B—Captive Cervids'' would add provisions concerning testing, identification, and interstate movement of captive cervids to help prevent the interstate spread of TB and facilitate the eradication of TB in livestock in the United States.

Cervid industry associations recognize the importance of controlling TB and endorse participation in a testing and control program at the Federal level. The North American Elk Breeders Association (NAEBA), for example, through a unanimous vote of its board of directors, has set as a major goal the inclusion of members' herds of elk and deer within the scope of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program. NAEBA members number more than 650, and own about 85 percent of the 20,000 captive elk in North America.

We modeled the proposed subpart B for cervids after the regulations in part 77 for cattle and bison, and after the UMR for TB for cattle and bison.

Following is a description of and rationale behind each section of the proposed regulations:

Proposed § 77.8 Definitions

This section would establish definitions of terms used throughout the subpart. The definitions of ''Administrator,'' ''Animal and Plant Health Inspection Service (APHIS),'' and ''USDA'' are consistent with our use of these terms in other regulations in 9 CFR chapter I. The definitions of ''Accredited veterinarian,'' ''Approved slaughtering establishment,'' ''Herd,'' ''Official eartag,'' ''Permit,'' ''Suspect,'' ''Tuberculin,'' and ''Tuberculosis'' are consistent with our use of these terms in either §§ 77.1 through 77.6 of the regulations or with our use of these terms in the UMR for TB.

We propose to define additional terms, which are used in these proposed regulations, in § 77.8 as follows:

Accredited herd. A herd of captive cervids that has tested negative to at least three consecutive official tuberculosis tests of all eligible cervids in accordance with § 77.10(f), and that meets the standards set forth in § 77.12 of this subpart. The tests must be conducted at 10–14 month intervals.

A herd of cattle and bison is only required to pass two annual official tuberculin tests in order to be qualified as an accredited herd. However, livestock industry associations have requested that we require three official tuberculosis tests to qualify a cervid herd as an accredited herd, because of a lack of testing history and the present seriousness of the TB situation concerning cervids. Classification as an accredited herd would allow cervids from the herd to move freely interstate. This classification is part of our proposed regulations for interstate movement of cervids, which will be explained in detail later in this document.

Affected herd. A herd of captive cervids that contains, or that has been identified as the source of, one or more cervids infected with *Mycobacterium bovis* (determined by bacterial isolation of *M. bovis*) and that has not tested negative to the tests prescribed in § 77.16(d) of this subpart.

This definition is in accordance with the definition of affected herd that appears in the UMR for TB, with the addition of an explanation of how infection of cervids with *M. bovis* is to be determined.

Captive cervid. All species of deer, elk, and moose raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag with which to trace the animal back to a herd of origin.

This definition excludes wild cervids, which we do not propose to regulate under this proposed rule.

Classified herd. An accredited, qualified, or monitored herd.

See the definitions for these terms, below.

Cooperating State and Federal animal health officials. The State and Federal animal health officials responsible for overseeing and implementing the National Cooperative State/Federal Bovine Tuberculosis Eradication Program.

Depopulate. To destroy all cervids in a herd by slaughter or by death otherwise.

Designated accredited veterinarian. An accredited veterinarian who is trained and approved by cooperating State and Federal animal health officials to conduct the single cervical tuberculin (SCT) test on cervids.

This definition would differentiate accredited veterinarians who have been trained to perform the SCT test on cervids from those who have not.

Exposed cervid. Any cervid that has been exposed to tuberculosis by reason of associating with tuberculous cervids, cattle, or bison.

This definition is in accordance with the definition of exposed animals that appears in the UMR for TB.

Monitored herd. A herd on which identification records are maintained on captive cervids inspected for tuberculosis at an approved slaughtering establishment or an approved diagnostic laboratory, and which meets the standards set forth in § 77.14 of this subpart.

Moved directly. Moved without unloading en route if moved in a means of conveyance, or without stopping if moved in any other manner, and without stopover or diversion to assembly points of any type.

We will propose to require throughout the subpart that cervids be ''moved directly'' to slaughter, or that cervids be ''moved directly'' from a classified herd, for example. Requiring in these instances that the cervids be moved directly, as defined above, would minimize the risk of the cervids spreading tuberculosis to other animals, should any of them have tuberculosis, and would minimize the risk of healthy cervids becoming diseased through contact with tuberculous animals en route to their destination.

Negative. Showing no response to an official tuberculosis test or classified negative for tuberculosis by the testing veterinarian based upon history, supplemental tests, examination of the carcass, or laboratory results.

This definition is consistent with our use of the term ''negative animals'' as it appears in the UMR for TB.

No gross lesions (NGL). Having no visible lesion or lesions of bovine tuberculosis detected upon necropsy or slaughter.

Cervids can react to tuberculosis tests, but upon necropsy or slaughter, show no physical signs (lesions) of tuberculosis. Proposed § 77.16 would

require testing of tissue samples from NGL cervids to determine whether or not the cervids are infected with tuberculosis.

Official tuberculosis test. Any of the following tests for bovine tuberculosis in cervids, applied and reported in accordance with this subpart:

(1) The single cervical tuberculin (SCT) test; (2) the comparative cervical tuberculin (CCT) test; and (3) the blood tuberculosis (BTB) test.

We call these tests official tuberculosis tests (as opposed to the official tuberculin tests for cattle and bison) because of the inclusion of the BTB test, which is not a tuberculin test. The definitions of the SCT test and the CCT test are consistent with our use of these terms in the UMR for TB as they relate to cattle and bison, and would read as follows:

Comparative cervical tuberculin (CCT) test. The intradermal injection of biologically balanced USDA bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area to determine the probable presence of bovine tuberculosis (*M. bovis*) by comparing the response of the two tuberculins 72 hours (plus or minus 6 hours) following injection.

Single cervical tuberculin (SCT) test. The intradermal injection of 0.1 mL (5,000 tuberculin units) of USDA PPD bovis tuberculin in the mid-cervical area with reading by visual observation and palpation in 72 hours (plus or minus 6 hours) following injection.

The definition of the BTB test would read as follows:

Blood tuberculosis (BTB) test. A supplemental test for tuberculosis in cervids.

The BTB test is a relatively new TB test and is explained in detail under the description of proposed § 77.11 later in this document.

Qualified herd. A herd of captive cervids that has tested negative to at least one official tuberculosis test of all eligible cervids (described in § 77.10 (f)) within the past 12 months, and that is not classified as an accredited herd.

Quarantine. A prohibition from any interstate movement, except for interstate movement to slaughter or necropsy in accordance with § 77.17.

Proposed § 77.17 concerns necropsy procedures, approved slaughtering establishments, and permits and identification requirements for reactor, suspect, and exposed cervids moving interstate to slaughter or necropsy.

Reactor. Any cervid that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian; or any suspect cervid that is classified a reactor upon slaughter or necropsy by the USDA or State veterinarian performing or supervising the necropsy.

A cervid that shows a response to an official tuberculosis test would be classified as a reactor in accordance with criteria discussed later in this document under proposed § 77.11, ''Official Tuberculosis Tests.'' This definition of a reactor cervid is consistent with our definition for reactor cattle, bison, or dairy goats in the UMR for TB, with the clarification that a cervid may be classified as reactor upon slaughter or necropsy. A cervid that is not classified as reactor upon testing, but that is classified as reactor upon slaughter or necropsy would have had a response to an official tuberculosis test, but would have been classified as suspect by the testing veterinarian. If evidence of tuberculosis is found upon slaughter or necropsy, the suspect's response to the official tuberculosis test would be reclassified as a reactor response, and the owner of the cervid could then claim reactor indemnity for the slaughter of the animal.

Regular-kill slaughter animal. An animal that is slaughtered for food or any reason other than because of a disease regulated under 9 CFR chapter I (such as tuberculosis, brucellosis, or any other livestock disease for which movement of animals is restricted under 9 CFR chapter I).

This term is used in § 77.10(b), concerning approved diagnostic laboratories.

Tuberculous. Infected with, exposed to, or having lesions indicative of tuberculosis, or classified as suspect or reactor based on an official tuberculosis test.

Whole herd test. An official tuberculosis test of all test eligible animals in the herd.

Whole herd testing would be necessary in herds containing reactors, in affected herds, and in other situations, as described in the proposed regulations below.

Proposed § 77.9 General Restrictions

This section would establish general requirements for interstate movement of cervids that would apply to all captive cervids, regardless of their classification status.

Under this proposed section, no captive cervid may be moved interstate unless it has been tested using an official tuberculosis test, and it is moved in compliance with the regulations of proposed subpart B. No captive cervid with a response to any official tuberculosis test would be eligible for interstate movement unless the cervid subsequently tests negative to an official tuberculosis test or is moved directly to slaughter or necropsy under permit in accordance with proposed § 77.17 (which is discussed below). A response to an official tuberculosis test does not mean that the cervid has TB—a response means that the cervid is not negative for TB, and *may* be infected with TB. For example, a cervid may respond to an official tuberculosis test because the tuberculin was cross reactive with a microbacterial disease or immune stimulant present in the animal that is not *M. bovis.* Many animals that respond to a tuberculosis test are not found to be infected with *M. bovis* upon necropsy and bacterial culture. Therefore, an animal is not considered to positively have tuberculosis until *M. bovis* has been isolated from a bacterial culture. As discussed later, a cervid in an affected herd that responds to the SCT will be considered a reactor for several reasons.

Also, this section would require that, except for captive cervids moving under permit directly to slaughter or necropsy, each cervid or shipment of cervids to be moved interstate must be accompanied by a certificate issued by a State or Federal animal health official or an accredited veterinarian before movement. The certificate would have to state the official eartag number of each captive cervid to be moved, the number of cervids covered by the certificate, the purpose of movement, the origin and destination of the cervids, the consignor, and the consignee. If a cervid is moving under permit directly to slaughter or necropsy, it would not need a certificate because the permit would include virtually the same information as a certificate. The permit and certificate in this proposal are virtually identical to the permit and certificate for movement required for cattle and bison under current part 77.

This section would exempt cervids in zoological parks that are accredited by the American Association of Zoological Parks and Aquariums (AAZPA) from these regulations when the cervids are moved directly interstate between AAZPA member facilities. Any cervids moved interstate that are not moved directly from an AAZPA member facility to another AAZPA member facility would have to be moved in accordance with these proposed regulations. AAZPA facilities monitor their animals for tuberculosis and other diseases, and interstate movement between the parks would not involve contact with animals that are not in the respective parks. Zoos that are not AAZPA members are not required to conform to a standardized animal health

system, and would therefore need to comply with these proposed regulations to ensure that tuberculous animals are not moved interstate.

Proposed § 77.10 Testing Procedures for Tuberculosis in Cervids

This section would set forth testing procedures to be followed when using the official tuberculosis tests. Paragraph (a) would require that, with two exceptions, official tuberculosis tests may only be given by a veterinarian employed full-time by the State in which the test is administered or by a veterinarian employed full-time by USDA. The exceptions are that a designated accredited veterinarian may conduct the SCT test (except with affected herds, suspected source herds, and herds that have received cervids from affected herds; see proposed §§ 77.11(a)(2) and 77.16 (e) and (f)), and any accredited veterinarian may conduct the BTB test.

Proposed paragraph (b) concerns approved diagnostic laboratories, and states that, with one exception, results for all laboratory diagnoses would only be accepted from the National Veterinary Services Laboratories (NVSL) in Ames, Iowa. The exception would be histopathological results from a laboratory of the Food Safety and Inspection Service (FSIS), USDA, which would be acceptable for tissue examination of regular-kill slaughter animals in those cases where no submission was made to NVSL. NVSL and FSIS laboratories are the official reference laboratories for the U.S. Department of Agriculture. We also propose to require that BTB test samples must be sent for diagnosis to the laboratory at Texas A&M University in College Station, Texas. This is the only laboratory in the United States equipped to evaluate the BTB test.

Proposed paragraph (c) would require that any captive cervid tested with an official tuberculosis test be individually identified by an official eartag at the time of the official tuberculosis test. As stated in the definitions, an official eartag would provide unique identification for each cervid by conforming to the alpha-numeric National Uniform Eartagging System. In the event that a cervid is found to be infected with tuberculosis, the official eartag identification would help State and Federal animal health officials to trace the history of ownership of the animal and find the source of the infection.

Paragraph (d) would require that the testing veterinarian submit a report to cooperating State and Federal animal health officials of the State in which the captive cervid is tested. The report would have to include the following information for all official tuberculosis tests administered: the individual eartag number; the age, sex, and breed of each captive cervid tested; a record of all responses; the size of each response (if appropriate for that test); and the test interpretation.

Paragraph (e) would provide for interpretation of an SCT test to be based upon the judgment of the testing veterinarian after observation and palpation of the injection site, in accordance with the classification requirements described in proposed § 77.11(a) (discussed below). The SCT test is subjective by nature. A veterinarian determines the response to the tuberculin by observing and palpating the injection site and evaluating the increase (if any) in skin thickness. Also, the TB history of the herd and the individual cervid, and the tester's own experience must be factored into the interpretation. Paragraph (e) would require that interpretation of the CCT test be in accordance with proposed § 77.11(b), which prescribes standards for classifying a cervid based on measuring the response to the tuberculins. Further, paragraph (e) would require that interpretation of a BTB test be in accordance with patented standards for the BTB test,[1] and the classification requirements described in proposed § 77.11(c). The laboratory at Texas A&M University in College Station, Texas, has purchased the right to use the patented software that interprets the BTB test and is, therefore, equipped to evaluate the BTB test (see proposed § 77.10(b)(2)).

Paragraph (f) would require that testing of herds for classification include all captive cervids 1 year of age or over and any captive cervids other than natural additions (cervids born into the herd) under 1 year of age. Natural additions under 1 year of age would not need testing since, if we know the TB status of the rest of the herd, we can surmise that cervids under 1 year of age have the same TB status. Any cervid under 1 year of age that is not a natural addition would require testing, since we would not necessarily know the TB status of the herd from which it came. All natural additions under 1 year of age would have to be individually identified by an official eartag and recorded in the test report as members of the herd at the time of the herd test, even though they are not tested.

Proposed § 77.11 Official Tuberculosis Tests

This section describes each of the three official tuberculosis tests, when each could be used, and the classification the testing veterinarian would have to confer depending upon a cervid's response to each test.

Single Cervical Tuberculin (SCT) Test

The SCT test is one of two tuberculin tests that this proposal designates as official tuberculosis tests. (A tuberculin test requires the injection of tuberculin into the cervid's skin. A visible reaction to the tuberculin, such as swelling, may indicate the presence of *M. bovis*.) Of the two tuberculin tests, the SCT is the most sensitive. Under this proposal, the SCT test would be the primary test to be used in individual captive cervids, and in captive cervid herds of unknown tuberculous status. Because the SCT test is very sensitive, it is more likely than other tuberculin tests to detect *M. bovis* in an animal. It is also, however, more likely to react to other microbacterial diseases or immune stimulants present in the animal that are not *M. bovis*. For this reason, we would require that each cervid in a herd of unknown tuberculous status that responds to the SCT test be classified as a suspect for tuberculosis until it is retested with either the CCT test or the BTB test and is either found negative for tuberculosis or is classified as a reactor, unless the testing veterinarian determines that the cervid should be classified as a reactor based on its response to the SCT test, the circumstances under which the cervid is being tested, and any previous association with TB the cervid has had.

However, we would require that a designated accredited veterinarian could only classify a cervid as a reactor with the concurrence of the State and/or regional tuberculosis epidemiologist for the State in which the animal is being tested. Classifying an animal as a reactor always necessitates further serious regulatory actions, including quarantine, traceback, and usually, the slaughter of the reactor and other cervids in the herd. It is for this reason that, as explained below, we would require that official tuberculosis tests must be conducted by a State or USDA veterinarian in cases where it is highly probable that reactor animals will be found (for example, affected herds and herds containing suspects that are being retested with the CCT). It is also for this reason that we would require designated accredited veterinarians to obtain the concurrence of a State and/or regional

[1] The patented standards for the BTB test may be obtained from the Deer Research Laboratory, Department of Microbiology, University of Otago, P.O. Box 56, Dunedin, New Zealand, or from the Texas Veterinary Medical Center, College of Veterinary Medicine, Texas A&M University, College Station, Texas.

tuberculosis epidemiologist in those unusual cases where a designated accredited veterinarian determines that a cervid should be judged a reactor instead of a suspect.

As explained previously in this document, the testing veterinarian may interpret the SCT test based upon his or her own professional judgment, taking into account the circumstances under which the cervid is being tested, any previous association with TB the cervid or herd has had, and the veterinarian's own experience with conducting the SCT test. These factors could cause the testing veterinarian to determine a cervid is a reactor instead of a suspect. Before conducting an SCT test, the testing veterinarian would inform the owner of the cervids of the possibility that cervids responding to the test may be classified as suspects or reactors. For example, if the testing veterinarian is using the SCT test for annual routine tuberculosis testing of a herd, the veterinarian would classify cervids that respond to the test as suspects. However, if the SCT test is being conducted on a herd considered to be at a high risk for tuberculosis (such as a herd newly assembled on premises where a tuberculous herd had been depopulated, a herd suspected of being a source of a tuberculous animal found at slaughter, or a herd recently released from quarantine for tuberculosis) the testing veterinarian may classify cervids that respond to the SCT test as reactors. This proposed rule would require that the testing veterinarian classify a cervid that responds to the SCT test as a reactor if the herd being tested is an affected herd (discussed below), or if it is a herd that has received cervids from an affected herd (discussed under proposed § 77.16). In individual cervids, a testing veterinarian may classify an individual cervid as a reactor if, for example, the cervid is being tested as part of a traceback investigation and there is strong evidence that the cervid is the source of tuberculosis.

This section would also designate the SCT test as the primary test to be used in affected herds and herds that have received cervids from affected herds. When used with affected herds or herds that have received cervids from an affected herd, the SCT test could only be administered by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. In affected herds, each cervid that responds to the SCT test must be classified as a reactor. In other cases, a cervid that responds to the SCT test would be classified as a suspect and retested with either the CCT test or the BTB test. However, in an affected herd, it is known that the cervid has been exposed to TB. That, combined with the fact that the SCT test is more sensitive than the CCT test or the BTB test, makes it more likely that a response to the SCT test indicates an animal with TB. Therefore, we would require that a cervid that is in an affected herd and that responds to the SCT be classified as a reactor.

Comparative Cervical Tuberculin (CCT) Test

The CCT test is the second of the two tuberculin tests designated as official tuberculosis tests under this proposal. As discussed previously, the CCT test is less sensitive than the SCT test. The CCT test would not be used as a primary test for cervid herds because the fact that it is less sensitive makes it more likely that it may not detect some *M. bovis* infections in herds of unknown tuberculous status. However, it is also more likely that a cervid responding to the CCT test is actually infected with *M. bovis*. For this reason, we propose to use the CCT test as a supplemental test that may only be used for retesting captive cervids classified as suspects. The CCT test may be used in affected herds only after the herd has tested negative to two whole herd SCT tests, and only with the prior written consent of cooperating State or Federal animal health officials. The CCT test may not be used as a primary test for herds of unknown tuberculous status. Any cervid with a response to bovine PPD tuberculin that is less than 1 mm would be classified as negative for TB. Any cervid with a response to the avian PPD tuberculin that is greater than the response to the bovine PPD tuberculin would be classified as negative for tuberculosis. Any cervid with a response to the bovine PPD tuberculin which is 2 mm or greater and that is equal to the response to the avian PPD tuberculin would be classified as a suspect, unless the testing veterinarian determines that the cervid should be classified as a reactor. Any cervid with a response to the bovine PPD tuberculin that is 2 mm or greater and that is at least 0.5 mm greater than the response to the avian PPD tuberculin would be classified as a reactor. Animals classified as suspects on two successive CCT tests would be classified as reactors. Any exceptions to reactor classification under the conditions described above would have to be justified by the testing veterinarian in writing and have the concurrence of cooperating State or Federal animal health officials.

Blood Tuberculosis (BTB) Test

Unlike the two tuberculin tests described above, the BTB test requires the laboratory analysis of a blood sample taken from the cervid. Under this proposal, the BTB test would be a supplemental test that may be used in place of the CCT test for retesting captive cervids classified as suspects. Based on a cervid's response to the BTB test, a cervid is classified by the testing laboratory as either ''*M. bovis* positive,'' ''avian,'' ''equivocal,'' or ''negative.'' This proposal would require that any cervid classified by the testing laboratory as ''equivocal'' be classified as a suspect, and any cervid classified by the testing laboratory as ''*M. bovis* positive'' be classified as a reactor. Any cervid classified by the testing laboratory as ''avian'' or ''negative'' would be considered negative for TB. Copies of the BTB test results would have to be submitted by the person, firm, or corporation responsible for the management of the herd to the cooperating State and Federal animal health officials.

Since this proposal would not require that the BTB test be used for diagnosis of a cervid or cervid herd, we propose to require that the cost of the BTB test be born by the owner of the tested animal(s). The BTB test costs approximately $100 per cervid to perform and evaluate. We have included the BTB test within the scope of these proposed regulations because some herd owners prefer to use the BTB test on their animals. However, APHIS does not have the funds to bear the cost of this test, and we believe that the SCT and the CCT tuberculin tests provide results as reliable as the BTB test.

Proposed §§ 77.12, 77.13, 77.14, and 77.15 Interstate Movement of Cervids

Unlike the TB eradication program for cattle and bison, we are not proposing at this time that the TB status of cervids affect the TB status of a State. There are 15 States that have had TB-infected herds of deer and elk. Of these, eight are accredited-free States, and would lose or have suspended their accredited-free State status if we required that cervids be TB-free in order for States to maintain their accredited-free status. Further, although we do offer indemnity payments for cervids under 9 CFR part 50, we do not at this time have sufficient funds to pay indemnity to all cervid owners so that herd depopulation would be an affordable option for their infected herds. Without depopulation of TB-infected cervid herds, it would be difficult for many States to maintain their accredited-free status. For these

reasons, we are proposing herd accreditation for cervids which would be separate from the State herd accreditation for cattle and bison. The herd accreditation for cervids would help prevent the spread of TB from cervids without allowing the TB status of an individual cervid herd to affect the TB status of an entire State. The provisions for herd accreditation would be found in §§ 77.12 through 77.15 of proposed subpart B. After 3 years, the regulations we are proposing here will be subject to review, and States that have infected cervid herds will have their State TB status reviewed. If at that time, we determine that the TB infection rate of cervid herds is at a level which would make it appropriate for the TB status of cervids to affect the TB status of States, we will revise the regulations accordingly.

Participation in the herd accreditation plan for cervids would be voluntary. However, interstate movement of cervids would be easier for an animal from a classified herd. We propose to create three classes of herds—accredited, qualified, and monitored. A captive cervid that is not known to be infected or exposed to TB could be moved interstate from an unclassified herd—a herd not participating in the herd accreditation plan or a herd that has not yet been classified as accredited, qualified, or monitored—only if accompanied by a certificate stating that: (1) The cervid has tested negative to two official tuberculosis tests, which were conducted no less than 90 days apart; (2) the second tuberculosis test was conducted within 90 days prior to the date of movement; and (3) the cervid was isolated from all other animals during the testing period (the period beginning at the time of the first test and ending at the time of interstate movement). (These provisions are located in proposed § 77.15.)

The herd classifications we propose are described below:

Accredited Herds

These provisions are located in proposed § 77.12. To be recognized as an accredited herd, all captive cervids in the herd that are eligible for testing must have tested negative to at least three consecutive official tuberculosis tests conducted at 10–14 month intervals. If a herd meets this requirement, the owner of the herd must obtain a document issued by cooperating State and Federal animal health officials stating that the herd meets the requirement above and that the herd is classified as an accredited herd.

A captive cervid from an accredited herd would be allowed to move interstate without further TB testing, provided it is accompanied by a certificate, as described in proposed § 77.9, that includes a statement that the cervid is from an accredited herd. If a group of captive cervids from an accredited herd is being moved interstate together to the same destination, all cervids in the group could be moved under one certificate.

Captive cervids could be added to an accredited herd if: (1) The cervid to be added is moved directly from an accredited herd; or (2) the cervid to be added is moved directly from a qualified or monitored herd and has tested negative to an official tuberculosis test within 90 days prior to movement to the premises of the accredited herd; or (3) if the cervid to be added is not moved directly from a classified herd, it must be isolated from all other members of the unclassified herd and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart and the second test must be conducted within 90 days prior to movement to the premises of the new herd.

In addition, a herd addition that is not being moved directly from an accredited or qualified herd must be kept isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. Such herd additions would not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation. A cervid to be added may not have been exposed for 90 days prior to its movement to a cervid with a lower classification status than its own.

To maintain accredited herd status, all cervids in the herd that are eligible for testing must test negative to an official tuberculosis test within 22–26 months from the anniversary date of the third consecutive test (that is, the test on which the herd was recognized as accredited, or the accrediting test). Each time the herd is tested for reaccreditation, it must be tested 22–26 months from the anniversary date of the accrediting test, not from the last date of reaccreditation (for example, if a herd is accredited on January 1 of a given year, the anniversary date will be January 1 of every second year). Accredited herd status would be valid for 24 months (730 days) from the anniversary date of the accrediting test.

The 22–26 month leeway time for retesting would be necessary to allow for some flexibility to accommodate herds that cannot be tested, for whatever reason, at exactly 24 month intervals. However, this also means there may be a lapse in accreditation. For example, if the date of a herd's accrediting test is January 1, 1996 (making the anniversary date January 1 of every second year), the status would be valid until January 1, 1998 (24 months). If the herd is not retested until March 1, 1998 (26 months), its accredited herd status would be suspended for the 2-month interim between the anniversary date and the reaccreditation. During the suspension period, the herd would be considered ''unclassified'' and cervids moved from the herd would have to comply with the proposed regulations for unclassified herds (found in proposed § 77.15).

Qualified Herds

These provisions are located in proposed § 77.13. To be recognized as a qualified herd, all captive cervids in the herd that are eligible for testing must have tested negative to one official tuberculosis test. If a herd meets this requirement, the owner of the herd must obtain a document from cooperating State and Federal animal health officials stating that the herd meets the requirement above and is classified as a qualified herd.

A captive cervid from a qualified herd would be allowed to move interstate only if the cervid is not known to be infected with or exposed to TB and the cervid is accompanied by a certificate, as described in proposed § 77.9(c), that includes a statement that: (1) The cervid is from a qualified herd; and (2) the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a qualified herd is being moved interstate together to the same destination, all cervids in the group could be moved under one certificate.

Captive cervids could be added to a qualified herd if: (1) The cervid to be added is moved directly from an accredited herd; or (2) the cervid to be added is moved directly from a qualified or monitored herd and has tested negative to an official tuberculosis test within 90 days prior to movement to the premises of the qualified herd; or (3) if the cervid to be added is not moved directly from a classified herd, the cervid must be kept isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test.

The tests must be conducted at least 90 days apart and the second test must be conducted within 90 days prior to movement to the premises of the new herd. The cervid must then be kept isolated from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the qualified herd. Such herd additions would not receive status as members of the qualified herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation. Any cervid to be added may not have been exposed for 90 days prior to its movement to a cervid with a lower classification status than its own.

To maintain status as a qualified herd, all cervids in the herd that are eligible for testing must test negative to an official tuberculosis test within 10–14 months from the anniversary date of the first test with no evidence of TB disclosed (this is the qualifying test). Each time the herd is retested for qualified status, it must be tested 10–14 months from the anniversary date of the qualifying test, not from the last date of requalification (for example, if a herd is qualified on January 1 of a given year, the anniversary date will be January 1 of each consecutive year). Status as a qualified herd would remain in effect for 12 months (365 days) following the anniversary date of the qualifying test. As with accredited herds, qualified herd status would be suspended between the anniversary date and the date of retest. If the herd owner waits longer than 12 months to retest, the herd would be considered unclassified during the suspension period.

Monitored Herds

These provisions are found in proposed § 77.14. The provisions for monitored herds have been included mainly to accommodate very large cervid herds raised under range conditions. These herds are extremely difficult to gather at one time for whole herd testing. This section allows them to be monitored for tuberculosis according to their slaughter records, as explained below.

To be recognized as a monitored herd, identification records must be maintained by the person, firm, or corporation responsible for the management of the herd on all cervids in the herd that are slaughtered, inspected, and found negative for TB at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory. A sufficient number of cervids in the herd must be slaughtered, as determined by the Administrator, to ensure that TB infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. This would require that a maximum number of 148 cervids be slaughtered over a 3-year period, no matter the size of the herd. We would include a footnote in this paragraph to state that information and a chart concerning how many cervids would have to be slaughtered depending on the size of a herd would be available by contacting APHIS.

A captive cervid that is from a monitored herd would be allowed to move interstate only if the cervid is not known to be infected with or exposed to TB and the cervid is accompanied by a certificate, as described in proposed § 77.9, that includes a statement that: (1) The cervid is from a monitored herd; and (2) the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a monitored herd is being moved interstate together to the same destination, all cervids in the group could be moved under one certificate.

The requirements for herd additions to a monitored herd would be the same as the requirements for herd additions to a qualified herd.

To maintain status as a monitored herd, the person, firm, or corporation responsible for the management of the herd would have to submit an annual report to cooperating State or Federal animal health officials prior to the anniversary date of classification to give the number of captive cervids currently in the herd and the number of captive cervids over 1 year of age identified, slaughtered, and inspected at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory during the preceding year. We would require the report to include only slaughtered cervids over 1 year of age because animals younger than 1 year do not develop lesions adequately to serve as a true indication of the TB infection rate. The number of slaughter inspections reported in any given year would have to be at least 25 percent of the total number of slaughter inspections required over a 3-year period to qualify a herd for monitored herd status. During each consecutive 3-year period, however, 100 percent of the qualifying total would have to be reported.

Proposed § 77.16 Other Interstate Movements

This section would regulate the interstate movement of captive cervids from herds containing reactors, suspects, or exposed cervids, and from herds that have been identified as the possible source of a tuberculous cervid. This section would also establish testing to be administered under those circumstances. In most cases, we would require that a herd be ''quarantined'' until the results of tests are known. Quarantine is defined in proposed § 77.8 to mean ''a prohibition from any interstate movement, except for interstate movement to slaughter or necropsy in accordance with § 77.17.'' Tuberculous herds may also be subject to State quarantines, which could prohibit cervids from being moved intrastate.

Proposed paragraph (a) concerns herds containing a suspect, and paragraph (a)(1) provides that a suspect on the SCT test would have to be quarantined until it is retested with the CCT test or the BTB test and found negative for tuberculosis. If the suspect is retested using the CCT test, the CCT test would have to be administered within 10 days following the SCT test, or at least 90 days after the SCT test. If the CCT test is administered within 10 days of the SCT test, the testing veterinarian would have to inject the neck on the side opposite the injection for the SCT test. If the suspect is retested with the BTB test, the sample for the BTB test would have to be taken at least 12 days after the injection for the SCT test. However, we would also recommend that the BTB sample be taken within 30 days following the SCT test. The antibody production stimulated by the SCT reaches its highest level 12–30 days after the SCT injection. Therefore, the antibody levels during this period may produce more reliable results for the BTB test than might be possible after 30 days. However, we would not require that the sample for the BTB test be drawn within 30 days following the SCT injection to allow for situations in which it is impossible to test the animal within that time (this is often the case with very large herds or herds permitted to graze on very large areas).

Paragraph (a)(1) also provides that a suspect on the CCT test or the BTB test would be quarantined until the suspect on the CCT test is retested with the CCT test at least 90 days after the previous test and found negative for TB, or the suspect on the BTB test is retested with the BTB test 30–60 days after the previous test and is found negative for TB.

Paragraph (a)(2) provides that the remainder of the herd containing a suspect would be quarantined until the suspect is found negative for TB upon retesting, slaughter, or necropsy. If the suspect is found negative for

tuberculosis, the herd would be released from quarantine and would return to the herd classification status in effect before the herd was quarantined. If the suspect is classified as a reactor upon retesting, slaughter, or necropsy, the herd could be released from quarantine only in accordance with proposed paragraph (b), which concerns herds containing a reactor.

Proposed paragraph (b)(1) provides that captive cervids classified as reactors would have to be quarantined. Proposed paragraph (b)(2) provides that the remainder of the herd containing a reactor would be quarantined until the reactors are slaughtered or necropsied in accordance with proposed § 77.17, and in accordance with one of the following scenarios:

1. If upon slaughter or necropsy any reactors exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without isolation of *M. bovis*, the remainder of the herd will be subject to the provisions of proposed § 77.16(c), which concerns herds found to have only lesions of tuberculosis (discussed below).

2. If *M. bovis* is isolated from any reactors, the remainder of the herd would be considered an affected herd, and would be subject to the provisions of proposed § 77.16(d), which concerns affected herds (discussed below).

3. If upon slaughter or necropsy all reactors exhibit no gross lesions (NGL) of tuberculosis and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals, the remainder of the herd would be released from quarantine, and cervids from the herd could be moved interstate in accordance with the herd classification status in effect before the herd was quarantined if one of the following conditions are met: (1) The remainder of the herd is given a whole herd test and is found negative for tuberculosis; or (2) The remainder of the herd is given a whole herd test, and all reactors to the whole herd test exhibit no gross lesions (NGL) of tuberculosis upon slaughter or necropsy and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals.

4. If no evidence of tuberculosis is found in any reactor upon slaughter or necropsy, but it is not possible to conduct a whole herd test on the remainder of the herd, the herd would be evaluated, based on criteria such as the testing history of the herd and the State history of tuberculosis infection, by the State and/or regional tuberculosis epidemiologist to determine whether or not the herd may be released from quarantine.

Proposed paragraph (c) of § 77.16 concerns herds in which captive cervids with lesions compatible with or suggestive of tuberculosis are found by histopathology without the isolation of *M. bovis.* These herds would already have been quarantined under paragraphs (a), (b), or (d) for herds containing a reactor, a suspect, or an exposed cervid, or under paragraph (e) for source herds. Paragraph (c) would provide that if a herd is found to have only lesions of tuberculosis, the herd could be released from quarantine and return to the herd classification status in effect before the herd was quarantined, with the concurrence of the regional tuberculosis epidemiologist, if the herd tests negative to tuberculosis on a whole herd test conducted 90 days following the removal of the lesioned cervid, provided the herd has not been exposed to *M. bovis* during the 90 days. In order to maintain its herd classification status, the herd would have to test negative to two annual whole herd tests beginning 10–12 months after the herd is released from quarantine. If any cervids in the herd respond to one of the tests, the herd would be subject to the provisions of § 77.16 (a) or (b). If the herd is not given the two annual whole herd tests, it would become an unclassified herd.

Proposed paragraph (d) of § 77.16 provides that a herd determined to be an affected herd would be quarantined until it has tested negative to three whole herd tests in succession, with the first test given 90 days or more after the last test yielding a reactor and the last two tests given at intervals of not less than 180 days. (As stated earlier in this document, an affected herd would be defined as a herd of cervids that contains, or that has been identified as the source of, one or more cervids infected with *M. bovis* and that has not tested negative to the required tests prescribed in this paragraph). If the herd tests negative to the three whole herd tests, it would be considered an unclassified herd, and cervids could only be moved interstate from the herd in accordance with the provisions for unclassified herds in § 77.15, discussed previously in this document. In addition, the herd would have to be given an additional five consecutive annual whole herd tests after release from quarantine. These five tests would count towards qualifying the herd for herd classification. As an alternative to testing, the herd could be depopulated.

Proposed paragraph (e) of § 77.16 concerns herds that have received cervids from an affected herd. It provides that if a herd has received cervids from an affected herd, the cervids would be considered exposed, and the exposed cervids and the receiving herd would be quarantined. The exposed cervids would have to be slaughtered, necropsied, or tested with the SCT test by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. The BTB test could be used simultaneously with the SCT test as an additional diagnostic test.

Paragraphs (e)(1), (e)(2), (e)(3), and (e)(4) of § 77.16 would describe the disposition of the receiving herd depending on what disease status the exposed cervids are determined to have. Paragraph (e)(1) states that if any exposed cervid tests positive to either the SCT test or the BTB test, it would be classified as a reactor, and would be considered as part of the affected herd of origin for purposes of testing, quarantine, and the five annual whole herd tests required for affected herds in § 77.16(d). The receiving herd would then be subject to the provisions of § 77.16(b), for herds containing a reactor. If bovine tuberculosis is confirmed in any of the exposed cervids by bacterial isolation of *M. bovis*, the receiving herd would be classified as an affected herd and would be subject to § 77.16(d), for affected herds. If any of the exposed cervids are found to exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the herd would be subject to § 77.16(c) for herds found to have only lesions of tuberculosis. If all of the exposed cervids test negative for tuberculosis, paragraph (e)(2) provides that the receiving herd could be released from quarantine, and would return to the herd classification in effect before the herd was quarantined. In addition, the herd would have to be given a whole herd test with the SCT test 1 year after release from quarantine in order for cervids from the herd to continue to be moved interstate. Supplemental diagnostic tests could be used if any cervids in the herd show a response to the SCT test.

Paragraph (f) of § 77.16 concerns source herds, and would provide that a herd suspected of being the source of tuberculous animals based on a slaughter traceback investigation would be quarantined upon notification (by the person conducting the investigation) to the USDA Area Veterinarian-in-Charge for the State in which the herd resides, and a whole herd test would have to be scheduled. If the herd is suspected of being the source of slaughter animals having lesions of tuberculosis, the whole herd test would have to be done

by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA.

If the herd is positively identified as the source of animals having lesions of tuberculosis and *M. bovis* has been confirmed by bacterial isolation from the slaughter animal, the herd would be considered affected and would have to be prohibited from interstate movement and tested in accordance with the provisions for affected herds in §§ 77.11(a)(2) and 77.16(d).

If the herd is positively identified as the source of cervids that exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the herd would be subject to the provisions for herds found to have only lesions of tuberculosis in § 77.16(c).

If the herd is not positively identified as the source herd, the herd would be released from quarantine if the herd is given a whole herd test and is found negative for tuberculosis. The herd would then return to the herd classification status in effect before the herd was quarantined.

Proposed paragraph (g) of § 77.16 concerns herds newly assembled on premises where a tuberculous herd has been depopulated. Such herds would have to be given two consecutive annual whole herd tests. The first test would have to be administered at least 6 months after the assembly of the new herd. If the whole herd tests are not conducted within the indicated timeframe, the herd would be quarantined. If the herd tests negative to the whole herd tests, there would be no further requirements. If any cervids in the herd respond to one of the whole herd tests, the herd would be subject to the provisions of § 77.16 (a) or (b). If the premises has been vacant for more than 1 year preceding the assembly of the new herd on the premises, these requirements could be waived in accordance with the judgment of cooperating State and Federal animal health officials.

Proposed § 77.17 Procedures for and Interstate Movement to Necropsy and Slaughter

Under this proposal, necropsy and slaughter are listed as options for the disposition of suspects, reactors, and exposed cervids. Paragraph (a) of this section would set forth required procedures for necropsy and slaughter. It would require that necropsies be performed by or under the supervision of a veterinarian who is employed full-time by USDA or employed full-time by the State in which the cervid was classified, and who is trained in tuberculosis necropsy procedures. This requirement would allow for necropsy to be performed anywhere, as long as the required USDA or State veterinarian is available to perform or supervise the procedure. If, upon necropsy, a cervid is found without evidence of *M. bovis* infection by histopathology or culture (including specimens from cervids having no gross lesions indicative of tuberculosis), the cervid would be considered negative for tuberculosis.

Paragraph (a) would also require that reactors, suspects, and exposed cervids may only be slaughtered at an approved slaughtering establishment, as defined in § 77.8. As defined, approved slaughtering establishments operate under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), or have inspection by a State inspector at the time of slaughter. Most often, owners of reactors, suspects, and exposed cervids would send their animals to slaughter in an attempt to recover some value from the animal (meat or other byproducts). Requiring the animals to be slaughtered only at approved slaughtering establishments would ensure that carcasses of tuberculous cervids are properly examined and disposed of in accordance with Federal Meat Inspection Act requirements to protect public health. If reactors, suspects, or exposed cervids are not slaughtered, but are necropsied at a diagnostic laboratory or other location that is not an approved slaughtering establishment, the disposal of the cervid carcasses would be subject to State or county laws and regulations.

Paragraph (b) of this section would concern interstate movement to necropsy or slaughter, and would require that any reactor, suspect, or exposed cervid to be moved interstate to necropsy or slaughter be accompanied by a permit issued by a cooperating State or Federal animal health official or an accredited veterinarian. The cervid would have to remain on the premises where it was identified as a reactor, suspect, or exposed cervid until a permit for its interstate movement is obtained. The permit would have to list: The reactor eartag number (if applicable) or the official eartag number; the owner's name and address; the origin and destination of the cervids; the number of cervids covered by the permit; and the purpose of the movement. No stopover or diversion from the destination listed on the permit would be permitted. If a change in destination would become necessary, a new permit would have to be obtained from a cooperating State or Federal animal health official or an accredited veterinarian before the interstate movement begins.

Paragraph (b) would also require specific identification for reactors and exposed cervids moving interstate to slaughter. The identification we propose is identical to identification already required for cervids moving interstate to slaughter under 9 CFR part 50 (see interim rule Docket No. 94–133–1, 60 FR 37804–37810, published July 24, 1995). Reactors would have to be tagged with an official eartag attached to the left ear and bearing a serial number and the inscription ''U.S. Reactor,'' and branded with the letter ''T'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size. Reactors could be moved interstate without branding if they are permanently identified by the letters ''TB'' tattooed legibly in the left ear, sprayed with yellow paint on the left ear, and either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals would have to be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

Exposed cervids would have to be identified by an official eartag and branded with the letter ''S'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size. Exposed cervids could be moved interstate without branding if they are either accompanied directly to necropsy or slaughter by an APHIS or State representative, or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals would have to be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

Proposed § 77.18 Cleaning and Disinfection of Premises, Conveyances, and Materials

This proposed section would establish requirements for cleaning and disinfecting premises, conveyances, and materials that may be contaminated with TB because they were used in handling tuberculous cervids. These requirements would help prevent cervids or other livestock (such as cattle, bison, or horses) from becoming infected with tuberculosis. Similar requirements are contained 9 CFR part 50 for animals destroyed because of tuberculosis, and in part 76 for swine to

prevent the spread of hog cholera and other communicable diseases of swine.

Under this proposed section, all conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering captive cervids in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous cervids must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting would have to be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. These procedures may vary by State, but would include removing all litter and manure from floors and other surfaces, cleaning interior and exterior surfaces, emptying all feeding or watering appliances, and saturating surfaces with a disinfectant. Cleaning and disinfection would have to be completed before the premises, conveyances, or materials could again be used to convey, hold, or in any way come in contact with any livestock.

We are also proposing to add a new § 77.7 to the regulations in subpart A, ''Cattle and Bison,'' that would contain requirements for cleaning and disinfecting premises, conveyances, and materials that may be contaminated with TB because they were used in handling tuberculous cattle or bison. These requirements would be identical to those described above for captive cervids. Currently, cleaning and disinfection requirements concerning TB in cattle and bison are contained in the UMR for TB. Hence, the requirements we are proposing to add to part 77 for cattle and bison would not be an addition to the tuberculosis eradication program for cattle and bison. We are only adding these requirements to the regulations so that any person reading the regulations is aware that premises, conveyances, and materials that may be contaminated with TB because they were used in handling tuberculous cattle or bison must be cleaned and disinfected. This is necessary to ensure the effectiveness of the tuberculosis eradication program.

Revisions to Existing Regulations in Part 77

We are proposing to make several nonsubstantive changes to the regulations in part 77 in order to allow for the creation of a subpart B and to make it clear that the existing regulations refer only to cattle and bison. To do this, we propose to title §§ 77.1–77.7 as ''Subpart A—Cattle and Bison.'' We also propose to add the phrase ''cattle and bison'' to some sentences and to replace the word ''part'' with ''subpart'' in those sentences where the word occurs. Additionally, we propose to correct a typographical error in the heading of § 77.5.

We are also proposing to amend the regulations in part 77 to update the incorporation by reference of the Uniform Methods and Rules—Bovine Tuberculosis Eradication. This action is necessary because the regulations refer to the 1985 edition of the Uniform Methods and Rules—Bovine Tuberculosis Eradication. This edition has been superseded by the edition (for cattle and bison only) adopted by the United States Animal Health Association (USAHA) in October, 1988, and approved by APHIS' Veterinary Services on February 3, 1989. APHIS has also approved an addendum to this edition that includes the provisions for interstate movement of cervids that we are proposing in this document. The addendum was adopted by the USAHA on October 29, 1993, and approved by APHIS' Veterinary Services on May 15, 1994. Copies of the new edition of the Uniform Methods and Rules—Bovine Tuberculosis Eradication and the addendum can be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.**

International Movement

Finally, we propose to revise the regulations in 9 CFR part 91, which concern exportation of animals and animal products, by adding a new § 91.7, *Captive cervids,* to regulate the exportation of captive cervids. The new section would require that, to be eligible for export, a captive cervid be accompanied by an origin health certificate (as already defined in § 91.1) stating that the captive cervid has tested negative to an official single cervical tuberculin test for tuberculosis, as described in part 77, subpart B, of this chapter, within 90 days prior to export. The origin health certificate would have to specify the date the test was conducted and the test results. We would also add ''captive cervids'' to the list of animals included in the definition of *Animals* in part 91. This would make the general export requirements in part 91 (which now apply to horses, cattle, bison, sheep, swine, and goats) also apply to captive cervids.

These requirements would help ensure that captive cervids exported from the United States are not infected with tuberculosis.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Breeding and production of captive deer, elk, and other *Cervidae* (cervids) has taken place in the United States since at least the 1930's. The first owners were ranchers who kept these animals as novelties. While cervids continue to be raised for their aesthetic value, most herds also earn income for their owners in the venison and antler markets. U.S. production of cervids has increased over the decades and is expected to continue to grow. In a 1990 survey of existing herd owners, over 70 percent of the respondents planned to expand their operations; only 3 percent intended to decrease or discontinue production.[2] The industry's combined sales probably exceed $10 million. Most cervid holdings are either small businesses or are parts of larger agricultural enterprises.

There are more than 1,600 captive cervid (elk and deer) producers in the United States today, raising about 250,000 head of captive cervids. Holdings vary in size and degree of commercialization, with most producers relying on other sources of income, particularly dairy farming or cattle ranching, for their livelihoods. Elk and deer farming yield a higher return on investment than do most other types of livestock enterprises, but also require larger initial investment and operating costs.

Industry-wide, elk producers are building up their herds, with almost all newborns sold as breeding stock. A heifer elk is worth about $3,500. Annual income is also earned from the sale of antlers cut in the velvet stage of growth. The antlers sell for about $70 per pound. A bull elk can produce up to 18 pounds each year, for more than 10 years. Thus, a gross income of $1200–1300 can be earned per year from one bull elk.

The value per animal for deer is lower than for elk. Currently, good quality fallow does are sold for about $400 per head, and slaughter bucks can be sold for $150–200 each. Fallow does will produce one offspring per year, valued at about $200 per head.

This proposed rule, if adopted, would include captive cervids in the National

[2] Mjelde, James. ''Exotic Ungulate Production: Summary of Survey Results.'' Department of Agricultural Economics, Texas A&M University.

Cooperative State/Federal Bovine Tuberculosis (TB) Eradication Program. APHIS considered the alternative of not adding provisions concerning captive cervids to this program. Under this alternative, the interstate movement of captive cervids would remain unregulated, increasing the risk for further spread of TB from captive cervids to cattle, bison, and other livestock, as well as to wildlife. Therefore, this alternative was rejected.

Under this proposal, producers of captive cervids would bear certain costs of testing the animals. Routine testing with the SCT test would be paid for by the owner of the herd, and would cost about $25–30 per cervid, based on a herd of about 200 cervids over 6 months of age. Approximately two-fifths of this cost would be for additional labor needed to assist in the testing (rounding up the herd, holding animals for injection, etc.), and three-fifths of the cost would be for a veterinarian's professional services. Owners would not be responsible for the cost of the CCT test, retesting affected herds with the SCT test, or any other testing with the SCT test other than routine testing. Cervid owners would also bear costs of the BTB test (approximately $100 per cervid) if they desire to use this test. However, the test would only be an option under this proposed rule, and would not be required.

Individual owners would benefit from the regulations by having a way to ensure only TB-free cervids are added to their herds, and in the long run, by a decrease in the incidence of TB. Also, current TB testing and transport restrictions for cervids vary by State. National disease control standards, effective as a result of this rule, would facilitate interstate trade.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 92–076–1. Please send a copy of your comments to: (1) Docket No. 92–076–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This rule would require that, to be eligible for export, captive cervids must be accompanied by a certificate stating that they have tested negative for tuberculosis within 90 days of export. This rule would also introduce various information collection requirements to enable us to accurately monitor the interstate movement of captive cervids, and to ensure that captive cervids being moved interstate are properly tested and identified. We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 2.34 hours per response.

Respondents: Importers and veterinarians.

Estimated number of respondents: 238.

Estimated number of responses per respondent: 5.8.

Estimated total annual burden on respondents: 557 hours.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects

9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR parts 77 and 91 would be amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 would continue to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. In part 77, a subpart heading, ''Subpart A—Cattle and Bison'', would be added before § 77.1.

3. Section 77.1 would be amended as follows:

a. The introductory sentence would be amended by removing the word ''part'' and adding the word ''subpart'' in its place.

b. The definition of *Permit* would be amended by removing the word ''animals'' the first time it appears and adding the words ''cattle or bison'' in its place, and by removing the word ''part'' each time it appears and adding the word ''subpart'' in its place.

c. The definition of *Transportation document* would be amended by adding the phrase ''of cattle or bison'' immediately after ''interstate movement''.

d. The definition for *Uniform Methods and Rules—Bovine Tuberculosis Eradication* would be revised to read as follows:

§ 77.1 Definitions.

* * * * *

Uniform Methods and Rules—Bovine Tuberculosis Eradication. Uniform

methods and rules for eradicating bovine tuberculosis in the United States, adopted by the United States Animal Health Association (USAHA) in October, 1988, and approved by APHIS on February 3, 1989, and also including an addendum adopted by the USAHA on October 29, 1993, and approved by APHIS on May 15, 1994. The *Uniform Methods and Rules—Bovine Tuberculosis Eradication* were approved for incorporation by reference into the Code of Federal Regulations by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.[1]

* * * * *

§ 77.6 [Amended]

4. In § 77.6, in the first sentence, the word ''part'' would be removed and the word ''subpart'' would be added in its place.

5. A new § 77.7 would be added to read as follows:

§ 77.7 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering cattle or bison in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous cattle and bison must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

6. In part 77, a new subpart B would be added following § 77.7 to read as follows:

Subpart B—Captive Cervids

Sec.

[1] Copies may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, Cattle Diseases and Surveillance, 4700 River Road Unit 36, Riverdale, Maryland 20737–1231.

Subpart B—Captive Cervids

§ 77.8 Definitions.

Accredited herd. A herd of captive cervids that has tested negative to at least three consecutive official tuberculosis tests of all eligible cervids in accordance with § 77.10(f), and that meets the standards set forth in § 77.12 of this subpart. The tests must be conducted at 10–14 month intervals.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform the functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Affected herd. A herd of captive cervids that contains, or that has been positively identified as the source of, one or more cervids infected with *Mycobacterium bovis* (determined by bacterial isolation of *M. bovis*) and that has not tested negative to the required tests prescribed in § 77.16(d) of this subpart.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Approved slaughtering establishment. A slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq*.) or a slaughtering establishment that has inspection by a State inspector at the time of slaughter.

Blood tuberculosis (BTB) test. A supplemental test for tuberculosis in cervids.

Captive cervid. All species of deer, elk, and moose raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag with which to trace the animal back to a herd of origin.

Classified herd. An accredited, qualified, or monitored herd.

Comparative cervical tuberculin (CCT) test. The intradermal injection of biologically balanced USDA bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area to determine the probable presence of bovine tuberculosis (M. bovis) by comparing the response of the two tuberculins 72 hours (plus or minus 6 hours) following injection.

Cooperating State and Federal animal health officials. The State and Federal animal health officials responsible for overseeing and implementing the National Cooperative State/Federal Bovine Tuberculosis Eradication Program.

Depopulate. To destroy all cervids in a herd by slaughter or by death otherwise.

Designated accredited veterinarian. An accredited veterinarian who is trained and approved by cooperating State and Federal animal health officials to conduct the single cervical tuberculin (SCT) test on cervids.

Exposed cervid. Any cervid that has been exposed to tuberculosis by reason of associating with tuberculous cervids, cattle, or bison.

Herd. A group of captive cervids or a group of captive cervids and other hoof stock maintained on common ground, or two or more groups of captive cervids or cervids and other hoof stock under common ownership or supervision that are geographically separated but that have movement of animals between groups without regard to health status. (A group means one or more animals.)

Monitored herd. A herd on which identification records are maintained on captive cervids inspected for tuberculosis at an approved slaughtering establishment or an approved diagnostic laboratory, and which meets the standards set forth in § 77.14.

Moved directly. Moved without unloading en route if moved in a means of conveyance, or without stopping if moved in any other manner, and without stopover or diversion to assembly points of any type.

Negative. Showing no response to an official tuberculosis test or classified negative for tuberculosis by the testing veterinarian based upon history, supplemental tests, examination of the carcass, or laboratory results.

No gross lesions (NGL). Having no visible lesion or lesions of bovine tuberculosis detected upon necropsy or slaughter.

Official eartag. An eartag that provides unique identification for each individual cervid by conforming to the alpha-numeric National Uniform Eartagging System.

Official tuberculosis test. Any of the following tests for bovine tuberculosis in cervids, applied and reported in accordance with this subpart:

(1) The single cervical tuberculin (SCT) test;

(2) The comparative cervical tuberculin (CCT) test; and

(3) The blood tuberculosis (BTB) test.

Permit. An official document issued by a representative of APHIS, a State representative, or an accredited veterinarian that must accompany any reactor, suspect, or exposed cervid moved interstate to slaughter or necropsy.

Qualified herd. A herd of captive cervids that has tested negative to at least one official tuberculosis test of all eligible cervids (described in § 77.10(f)) within the past 12 months, and that is not classified as an accredited herd.

Quarantine. A prohibition from any interstate movement, except for interstate movement to slaughter or necropsy in accordance with § 77.17.

Reactor. Any cervid that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian; or any suspect cervid that is classified a reactor upon slaughter or necropsy by the USDA or State veterinarian performing or supervising the necropsy.

Regular-kill slaughter animal. An animal that is slaughtered for food or any reason other than because of a disease regulated under 9 CFR chapter I (such as tuberculosis, brucellosis, or any other livestock disease for which movement of animals is restricted under 9 CFR chapter I).

Single cervical tuberculin (SCT) test. The intradermal injection of 0.1 mL (5,000 tuberculin units) of USDA PPD bovis tuberculin in the mid-cervical area with reading by visual observation and palpation in 72 hours (plus or minus 6 hours) following injection.

Suspect. Any cervid that is not negative to any official tuberculosis test and that is not classified as a reactor by the testing veterinarian.

Tuberculin. A product that is approved by and produced under USDA license for injection into cervids and other animals for the purpose of detecting bovine tuberculosis.

Tuberculosis. The contagious, infectious, and communicable disease caused by *Mycobacterium bovis.* (Also referred to as bovine tuberculosis.)

Tuberculous. Infected with, exposed to, or having lesions indicative of tuberculosis, or identified as a suspect or reactor based on an official tuberculosis test.

USDA. The United States Department of Agriculture.

Whole herd test. An official tuberculosis test of all test eligible animals in the herd.

§ 77.9 General restrictions.

(a) No captive cervid may be moved interstate unless it has been tested using an official tuberculosis test, and it is moved in compliance with this subpart.

(b) No captive cervid with a response to any official tuberculosis test is eligible for interstate movement unless the cervid subsequently tests negative to a supplemental official tuberculosis test or is moved interstate directly to slaughter or necropsy in accordance with § 77.17.

(c) Except for captive cervids moving interstate under permit directly to slaughter or necropsy, each cervid or shipment of cervids to be moved interstate must be accompanied by a certificate issued before the movement by a State or Federal animal health official or an accredited veterinarian. The certificate must state the official eartag number of each captive cervid to be moved, the number of cervids covered by the certificate, the purpose of movement, the origin and destination of the cervids, the consignor, and the consignee.

(d) Cervids in zoological parks that have been accredited by the American Association of Zoological Parks and Aquariums (AAZPA) are exempt from the regulations in this subpart when the cervids are moved directly interstate between AAZPA member facilities. Any cervids moved interstate that are not moved directly from an AAZPA member facility to another AAZPA member facility must be moved in accordance with the regulations in this subpart.

§ 77.10 Testing procedures for tuberculosis in cervids.

(a) *Approved testers.* Except as explained in paragraphs (a)(1) and (a)(2) of this section, official tuberculosis tests may only be given by a veterinarian employed full-time by the State in which the test is administered or by a veterinarian employed full-time by USDA.

(1) A designated accredited veterinarian may conduct the SCT test, except as provided in § 77.11(a)(2) and § 77.16(e) and (f).

(2) Any accredited veterinarian may conduct the BTB test.

(b) *Approved diagnostic laboratories.* (1) With one exception, histopathology and culture results for all tuberculosis diagnoses will be accepted only from the National Veterinary Services Laboratories (NVSL) in Ames, Iowa. The exception is that results will be accepted from a laboratory of the Food Safety and Inspection Service, USDA, for tissue examination of regular-kill slaughter animals in those cases where no submission is made to NVSL.

(2) BTB test samples must be sent for diagnosis to the Texas Veterinary Medical Center laboratory at Texas A&M University in College Station, Texas.

(c) *Identification.* Any captive cervid tested with an official tuberculosis test must be individually identified by an official eartag at the time of the official tuberculosis test.

(d) *Reporting of tests.* The testing veterinarian must submit a report to cooperating State and Federal animal health officials of the State in which the captive cervid is tested. The report must include the following information for all official tuberculosis tests administered: the individual eartag number; the age, sex, and breed of each captive cervid tested; a record of all responses; the size of each response (if appropriate for that test); and the test interpretation.

(e) *Test interpretation.* (1) Interpretation of an SCT test will be based upon the judgment of the testing veterinarian after observation and palpation of the injection site, in accordance with the classification requirements described in § 77.11(a).

(2) Interpretation of a CCT test will be in accordance with the classification requirements described in § 77.11(b).

(3) Interpretation of a BTB test will be in accordance with the patented standards for the BTB test [1] and the classification requirements described in § 77.11(c).

(f) *Captive cervids eligible for testing.* Testing of herds for classification must include all captive cervids 1 year of age or over and any captive cervids other than natural additions (cervids born into the herd) under 1 year of age. All natural additions under 1 year of age must be individually identified by an official eartag and recorded in the test report as members of the herd at the time of the herd test, even though they are not tested.

§ 77.11 Official tuberculosis tests.

(a) *Single cervical tuberculin (SCT) test.* (1) The SCT test is the primary test to be used in individual captive cervids and in herds of unknown tuberculous status. Each cervid that responds to the SCT test must be classified as a suspect until it is retested with either the CCT test or the BTB test and is either found

[1] The patented standards for the BTB test may be obtained from the Deer Research Laboratory, Department of Microbiology, University of Otago, P.O. Box 56, Dunedin, New Zealand, or from the Texas Veterinary Medical Center, College of Veterinary Medicine, Texas A&M University, College Station, Texas.

negative for tuberculosis or is classified as a reactor, unless the testing veterinarian judges that the cervid should be classified as a reactor based on its response to the SCT test. A designated accredited veterinarian may only classify a cervid as a reactor with the concurrence of the State and/or regional tuberculosis epidemiologist for the State in which the animal is being tested.

(2) The SCT test is the primary test to be used in affected herds and in herds that have received cervids from an affected herd. When used with affected herds or in herds that have received cervids from an affected herd, the SCT test may only be administered by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. In affected herds or herds that have received cervids from an affected herd, each cervid that responds to the SCT test must be classified as a reactor.

(b) *Comparative cervical tuberculin (CCT) test.* (1) The CCT test is a supplemental test that may only be used for retesting captive cervids classified as suspects. The CCT test may be used in affected herds only after the herd has tested negative to two whole herd SCT tests, and only with the prior written consent of cooperating State or Federal animal health officials. The CCT test may not be used as a primary test for herds of unknown tuberculous status.

(2) A captive cervid tested with the CCT test must be classified as negative if:

(i) It has a response to the bovine PPD tuberculin that is less than 1 mm; or

(ii) It has a response to the avian PPD tuberculin that is greater than the response to the bovine PPD tuberculin.

(3) A captive cervid tested with the CCT test must be classified as a suspect if it has a response to the bovine PPD tuberculin that is 2 mm or greater and that is equal to the response to the avian PPD tuberculin, unless the testing veterinarian judges that the cervid should be classified as a reactor.

(4) A captive cervid tested with the CCT test must be classified as a reactor if:

(i) It has a response to the bovine PPD tuberculin that is 2 mm or greater and that is at least 0.5 mm greater than the response to the avian PPD tuberculin; or

(ii) It has been classified as a suspect on two successive CCT tests.

(iii) Any exceptions to reactor classification under the conditions in paragraph (b)(4)(i) and (ii) of this section must be justified by the testing veterinarian in writing and have the concurrence of cooperating State or Federal animal health officials.

(c) *Blood tuberculosis (BTB) test.* (1) The BTB test is a supplemental test that may be used in place of the CCT test for retesting captive cervids classified as suspects.

(2) Any captive cervid classified by the testing laboratory as ''equivocal'' must be classified as a suspect.

(3) Any captive cervid classified by the testing laboratory as ''*M. bovis* positive'' must be classified as a reactor.

(4) Any captive cervid classified by the testing laboratory as ''avian'' or ''negative'' will be considered negative for TB.

(5) Copies of the BTB test results must be submitted by the testing laboratory to the person, firm, or corporation responsible for the management of the herd, cooperating State and Federal animal health officials, and the testing veterinarian.

(6) The owner of the captive cervid tested is responsible for the cost of the BTB test.

§ 77.12 Interstate movement from accredited herds.

(a) *Qualifications.* To be recognized as an accredited herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.10(f) must have tested negative to at least three consecutive official tuberculosis tests, conducted at 10–14 month intervals.

(2) The owner of the herd must have a document issued by cooperating State and Federal animal health officials stating that the herd has met the requirements in paragraph (a)(1) of this section and is classified as an accredited herd.

(b) *Movement allowed.* A captive cervid from an accredited herd may be moved interstate without further tuberculosis testing if it is accompanied by a certificate, as provided in § 77.9, that includes a statement that the cervid is from an accredited herd. If a group of captive cervids from an accredited herd is being moved interstate together to the same destination, all cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to an accredited herd except in accordance with paragraphs (c)(4) and (c)(5), and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the accredited herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the cervid must be isolated from all other members of the herd of origin and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the accredited herd.

(4) If the captive cervid to be added is not being moved directly from an accredited or qualified herd, the cervid must be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. Such herd additions will not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(5) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to a cervid with a lower classification status than its own.

(d) *Maintenance of accredited herd status.* To maintain status as an accredited herd, the herd must test negative to an official tuberculosis test within 22–26 months from the anniversary date of the third consecutive test with no evidence of tuberculosis disclosed (that is, the test on which the herd was recognized as accredited, or the accrediting test). Each time the herd is tested for reaccreditation, it must be tested 22–26 months from the anniversary date of the accrediting test, not from the last date of reaccreditation (for example, if a herd is accredited on January 1 of a given year, the anniversary date will be January 1 of every second year). Accredited herd status is valid for 24 months (730 days) from the anniversary date of the accrediting test. If the herd is tested between 24 and 26 months after the anniversary date, its accredited herd status will be suspended for the interim between the anniversary date and the reaccreditation test. During the suspension period, the herd will be considered ''unclassified'' and cervids may be moved interstate from the herd only in accordance with § 77.15.

§ 77.13 Interstate movement from qualified herds.

(a) *Qualifications.* To be recognized as a qualified herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.10(f) must have tested negative to one official tuberculosis test.

(2) The owner of the herd must have a document issued by cooperating State and Federal animal health officials stating that the herd has met the requirement in paragraph (a)(1) of this section and is classified as a qualified herd.

(b) *Movement allowed.* A captive cervid from a qualified herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.9(c), that includes a statement that the cervid is from a qualified herd. The certificate must also state that the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a qualified herd is being moved interstate together to the same destination, all cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to a qualified herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the qualified herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the cervid must be isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the qualified herd. The cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date it arrives at the premises of the qualified herd. Such herd additions will not receive status as members of the qualified herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) During the 90 days prior to its movement, a captive cervid to be added may not have been exposed to a cervid with a lower classification status than its own.

(d) *Maintenance of qualified herd status.* To maintain status as a qualified herd, the herd must test negative to an official tuberculosis test within 10–14 months from the anniversary date of the first test with no evidence of tuberculosis disclosed (this is the qualifying test). Each time the herd is retested for qualified status, it must be tested 10–14 months from the anniversary date of the qualifying test, not from the last date of requalification (for example, if a herd is qualified on January 1 of a given year, the anniversary date will be January 1 of each consecutive year). Qualified herd status remains in effect for 12 months (365 days) following the anniversary date of the qualifying test. Qualified herd status will be suspended between the anniversary date and the requalifying test, if the herd is not tested within 12 months. During the suspension period, the herd will be considered ''unclassified'' and cervids may be moved interstate from the herd only in accordance with § 77.15.

§ 77.14 Interstate movement from monitored herds.

(a) *Qualifications.* To be recognized as a monitored herd:

(1) Identification records must be maintained by the person, firm, or corporation responsible for the management of the herd on all captive cervids in the herd that are slaughtered, inspected, and found negative for tuberculosis at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory; and

(2) A sufficient number of cervids in the herd must be slaughtered, as determined by the Administrator, to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. This requires a maximum number of 148 cervids slaughtered over a 3-year period, no matter the size of the herd.[2]

(b) *Movement allowed.* A captive cervid from a monitored herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.9(c), that includes a statement that the cervid is from a monitored herd. The certificate must also state that the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of cervids from a monitored herd is being moved interstate together to the same destination, all cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to a monitored herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the monitored herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the cervid must be isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the monitored herd. The cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date it arrives at the premises of the monitored herd. Such herd additions will not receive status as members of the monitored herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) During the 90 days prior to its movement, a captive cervid to be added may not have been exposed to a cervid with a lower classification status than its own.

(d) *Maintenance of monitored herd status.* The person, firm, or corporation responsible for the management of the herd must submit an annual report to cooperating State or Federal animal health officials prior to the anniversary date of classification to give the number of captive cervids currently in the herd and the number of captive cervids from the herd over 1 year of age identified,

[2] Information and a chart concerning how many cervids would need to be slaughtered depending on the size of a herd to meet this requirement may be obtained from the Cattle Diseases and Surveillance staff, Veterinary Services, APHIS, Suite 3B03, 4700 River Road Unit 36, Riverdale, MD 20737–1231.

slaughtered, and inspected at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory during the preceding year. The number of slaughter inspections reported in any given year must be at least 25 percent of the total number of slaughter inspections required over a 3-year period to qualify a herd for monitored herd status. During each consecutive 3-year period, 100 percent of the qualifying total must be reported.

§ 77.15 Interstate movement from unclassified herds.

A captive cervid that is not known to be infected with or exposed to tuberculosis and that is from a herd not classified as accredited, qualified, or monitored, may be moved interstate if the cervid is accompanied by a certificate that states that:

(a) The cervid has tested negative to two official tuberculosis tests conducted no less than 90 days apart;

(b) The second tuberculosis test was conducted within 90 days prior to the date of movement; and

(c) The cervid was isolated from all other animals during the testing period (the period beginning at the time of the first test and ending at the time of interstate movement).

§ 77.16 Other interstate movements.

(a) *Herds containing a suspect.*—(1) *The suspect.* (i) A captive cervid classified as a suspect on the SCT test must be quarantined until it is retested by the CCT test or the BTB test and found negative for tuberculosis. Retesting must be as follows:

(A) The CCT test must be administered within 10 days following the SCT test or at least 90 days after the SCT test. If the CCT test is administered within 10 days of the SCT test, the injection must be on the side of the neck opposite the injection for the SCT test.

(B) The sample for the BTB test may not be taken until at least 12 days after the injection for the SCT test. It is recommended that the sample be taken within 30 days following the SCT test.

(ii) A captive cervid classified as a suspect on the CCT test or the BTB test must be quarantined until the following has occurred:

(A) A suspect on the CCT test is retested with the CCT test at least 90 days after the previous test and is found negative for tuberculosis; or

(B) A suspect on the BTB test is retested with the BTB test 30–60 days after the previous test and is found negative for tuberculosis.

(2) *The remainder of the herd.* Any herd containing a suspect to an official tuberculosis test must be quarantined until the suspect is retested by the CCT test or the BTB test and found negative for tuberculosis, or the suspect is slaughtered and found negative for tuberculosis, or the suspect is necropsied and found negative for tuberculosis. If the suspect is found negative for tuberculosis upon testing, slaughter, or necropsy, the herd may be released from quarantine and will return to the herd classification status in effect before the herd was quarantined. If the suspect is classified as a reactor upon testing, slaughter, or necropsy, the herd may be released from quarantine only in accordance with § 77.16(b) for herds containing a reactor.

(b) *Herds containing a reactor*—(1) *The reactor.* Captive cervids classified as reactors must be quarantined.

(2) *The remainder of the herd.* Any herd containing reactors must be quarantined until the reactors are slaughtered or necropsied in accordance with § 77.17 and:

(i) If upon slaughter or necropsy any reactors exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the remainder of the herd will be subject to the provisions of § 77.16(c).

(ii) If *M. bovis* is isolated from any reactors, the remainder of the herd will be considered an affected herd, and will be subject to the provisions of § 77.16(d).

(iii) If upon slaughter or necropsy all reactors exhibit no gross lesions (NGL) of tuberculosis and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals, the remainder of the herd may be released from quarantine, and cervids from the herd may be moved interstate in accordance with the herd classification status in effect before the herd was quarantined if one of the following conditions is met:

(A) The remainder of the herd is given a whole herd test and is found negative for tuberculosis.

(B) The remainder of the herd is given a whole herd test, and all reactors to the whole herd test exhibit no gross lesions (NGL) of tuberculosis upon slaughter or necropsy and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on selected specimens from NGL animals.

(iv) If no evidence of tuberculosis is found in any reactor upon slaughter or necropsy, but it is not possible to conduct a whole herd test on the remainder of the herd, the herd will be evaluated, based on criteria such as the testing history of the herd and the State history of tuberculosis infection, by the State and/or regional tuberculosis epidemiologist to determine whether or not the herd may be released from quarantine.

(c) *Herds found to have only lesions of tuberculosis.* A herd in which captive cervids with lesions compatible with or suggestive of tuberculosis are found by histopathology without the isolation of M. bovis may be released from quarantine and return to the herd classification status in effect before the herd was quarantined, with the concurrence of the regional tuberculosis epidemiologist, if the herd tests negative to tuberculosis on a whole herd test conducted 90 days following the removal of the lesioned cervid, provided the herd has not been exposed to *M. bovis* during the 90 days. To maintain its herd classification status, the herd must test negative to two annual whole herd tests beginning 10–12 months after the herd is released from quarantine. If any cervids in the herd respond to one of the tests, the herd will be subject to the provisions of § 77.16 (a) or (b). If the herd is not given the two annual whole herd tests, it will become an unclassified herd.

(d) *Affected herds.* A herd determined to be an affected herd must be quarantined until the herd has tested negative to three whole herd tests in succession, with the first test given 90 days or more after the last test yielding a reactor and the last two tests given at intervals of not less than 180 days. If the herd tests negative to the three whole herd tests, it will be released from quarantine, but will be considered an unclassified herd, and cervids may only be moved interstate from the herd in accordance with § 77.15. In addition, the herd must be given five consecutive annual whole herd tests after release from quarantine. (These five tests will count towards qualifying the herd for herd classification.) As an alternative to testing, the herd may be depopulated.

(e) *Herd that have received cervids from an affected herd.* If a herd has received cervids from an affected herd, the cervids from the affected herd of origin will be considered exposed. The exposed cervids and the receiving herd must be quarantined. The exposed cervids must be slaughtered, necropsied, or tested with the SCT test by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA. The BTB test may be used simultaneously with the SCT test as an additional diagnostic test.

(1) If any exposed cervid tests positive to either the SCT test or the BTB test, it must be classified as a reactor, and will be considered as part of the affected

herd of origin for purposes of testing, quarantine, and the five annual whole herd tests required for affected herds in § 77.16(d). The receiving herd will be subject to the provisions of § 77.16(b).

(i) If bovine tuberculosis is confirmed in any of the exposed cervids by bacterial isolation of *M. bovis,* the receiving herd will be classified as an affected herd and will be subject to the provisions for affected herds in § 77.16(d).

(ii) If any of the exposed cervids are found to exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the receiving herd will be subject to the provisions of § 77.16(c).

(2) If all of the exposed cervids test negative for tuberculosis, the exposed cervids and the receiving herd may be released from quarantine, and will return to the herd classification in effect before the herd was quarantined. In addition, the receiving herd must be given a whole herd test with the SCT test 1 year after release from quarantine in order for cervids from the herd to continue to be moved interstate. Supplemental diagnostic tests may be used if any cervids in the herd show a response to the SCT test.

(f) *Source herds.* A herd suspected of being the source of tuberculous animals based on a slaughter traceback investigation must be quarantined upon notification (by the person conducting the investigation) to the USDA Area Veterinarian-in-Charge for the State in which the herd resides, and a whole herd test must be scheduled. If the herd is suspected of being the source of slaughter animals having lesions of tuberculosis, the whole herd test must be done by a veterinarian employed full-time by the State in which the test is administered or employed full-time by USDA.

(1) If the herd is positively identified as the source of animals having lesions of tuberculosis and *M. bovis* has been confirmed by bacterial isolation from the slaughter animal, the herd will be considered affected and will be subject to the provisions of § 77.11(a)(2) and § 77.16(d).

(2) If the herd is positively identified as the source of cervids that exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis,* the herd will be subject to the provisions of § 77.16(c).

(3) If the herd is not positively identified as the source herd, the herd will be released from quarantine if the herd is given a whole herd test and is found negative for tuberculosis. The herd will then return to the herd classification status in effect before the herd was quarantined.

(g) *Newly assembled herds.* A herd newly assembled on premises where a tuberculosis herd has been depopulated must be given two consecutive annual whole herd tests. The first test must be administered at least 6 months after the assembly of the new herd. If the whole herd tests are not conducted within the indicated timeframe, the herd will be quarantined. If the herd tests negative to the two whole herd tests, there are no further requirements. If any cervid in the herd responds to one of the whole herd tests, the herd will be subject to the provisions of § 77.16 (a) or (b). If the premises has been vacant for more than 1 year preceding the assembly of the new herd on the premises, these requirements may be waived in accordance with the judgment of cooperating State and Federal animal health officials.

§ 77.17 Procedures for and interstate movement to necropsy and slaughter.

(a) *Procedures for necropsy and slaughter.* (1) A necropsy must be performed by or under the supervision of a veterinarian who is employed full-time by USDA or employed full-time by the State in which the cervid was classified, and who is trained in tuberculosis necropsy procedures.

(2) If, upon necropsy, a cervid is found without evidence of *M. bovis* infection by histopathology or culture, the cervid will be considered negative for tuberculosis.

(3) Reactors, suspects, and exposed cervids may only be slaughtered at an approved slaughtering establishment, as defined in § 77.8.

(b) *Interstate movement to necropsy or slaughter.*—(1) *Permit.* Any reactor, suspect, or exposed cervid to be moved interstate to necropsy or slaughter must be accompanied by a permit issued by a representative of APHIS, a State representative, or an accredited veterinarian. The cervid must remain on the premises where it was identified as a reactor, suspect, or exposed cervid until a permit for its movement is obtained. No stopover or diversion from the destination listed on the permit is allowed. If a change in destination becomes necessary, a new permit must be obtained from a cooperating State or Federal animal health official or an accredited veterinarian before the interstate movement begins. The permit must list:

(i) The reactor eartag number, or, for suspects and exposed cervids, the official eartag number;

(ii) The owner's name and address;

(iii) The origin and destination of the cervids;

(iv) The number of cervids covered by the permit; and

(v) The purpose of the movement.

(2) *Identification of reactors.* Reactors must be tagged with an official eartag attached to the left ear and bearing a serial number and the inscription ''U.S. Reactor,'' and either:

(i) Branded with the letter ''T'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Permanently identified by the letters ''TB'' tattooed legibly in the left ear, sprayed on the left ear with yellow paint, and either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals.

Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(3) *Identification of exposed cervids.* Exposed cervids must be identified by an official eartag and either:

(i) Branded with the letter ''S'' high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Either accompanied directly to necropsy or slaughter by an APHIS or State representative, or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

§ 77.18 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering captive cervids in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculosis cervids must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey,

hold, or in any way come in contact with any livestock.

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

7. The authority citation for part 91 would continue to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, and 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.22, 2.80, and 371.2(d).

§ 91.1 [Amended]

8. In § 91.1, the definition of *Animals* would be amended by adding ''captive cervids,'' immediately after ''cattle (including American bison),''.

9. Section 91.7 would be added to read as follows:

§ 91.7 Captive cervids.

To be eligible for export, a captive cervid must be accompanied by an origin health certificate stating that the cervid has tested negative to an official single cervical tuberculin test for tuberculosis, as described in part 77, subpart B, of this chapter, within 90 days prior to export. The origin health certificate must specify the date the test was conducted and the test results.

Done in Washington, DC, this 29th day of March 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–8303 Filed 4–3–96; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 94

[Docket No. 96–014–1]

Change in Disease Status of The Netherlands Because of Hog Cholera and Swine Vesicular Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare The Netherlands free of hog cholera and swine vesicular disease. As part of this proposed action, we would add The Netherlands to the list of countries that, although declared free of hog cholera and swine vesicular disease, are subject to restrictions on pork and pork products offered for importation into the United States. Declaring The Netherlands free of hog cholera and swine vesicular disease appears to be appropriate because there have been no confirmed outbreaks of hog cholera and swine vesicular disease in The Netherlands since 1992 and 1994, respectively. This proposed rule would relieve certain restrictions on the importation of pork and pork products into the United States from The Netherlands. However, because The Netherlands shares common land borders with countries affected by swine vesicular disease, the importation into the United States of pork and pork products from The Netherlands would continue to be restricted.

DATES: Consideration will be given only to comments received on or before June 3, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–014–1, 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. 96–014–1. 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. John Cougill, Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–8688; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease (SVD). These are dangerous and destructive communicable diseases of ruminants and swine.

Sections 94.9(a) and 94.10(a) of the regulations provide that hog cholera exists in all countries of the world except those listed in §§ 94.9(a) and 94.10(a), which are declared to be free of hog cholera.

Section 94.12(a) of the regulations provides that SVD is considered to exist in all countries of the world except those listed in § 94.12(a), which are declared to be free of SVD.

The last outbreaks of hog cholera and SVD in The Netherlands occurred in 1992 and 1994, respectively. This information has been confirmed by the Government of The Netherlands.

The Netherlands has applied to the U.S. Department of Agriculture (USDA) to be recognized as free of hog cholera and SVD. The Animal and Plant Health Inspection Service (APHIS) has reviewed the documentation submitted by the Government of The Netherlands in support of its request. A team of APHIS officials recently conducted an on-site evaluation of the animal health program in The Netherlands in regard to the hog cholera and SVD situation in that country. The evaluation consisted of a review of the capability of The Netherlands veterinary services, laboratory and diagnostic procedures, disease reporting and surveillance procedures, vaccination practices, and the administration of laws and regulations to prevent the introduction into The Netherlands of hog cholera and SVD through the importation of animals, meat, and other animal products.

Based on our review and on-site evaluation, we are proposing to add The Netherlands to the lists of countries in §§ 94.9(a), 94.10(a), and 94.12(a) of the regulations that have been declared free of hog cholera and SVD. This action would relieve certain restrictions on the importation of pork and pork products into the United States from The Netherlands.

At the same time, we are proposing to add The Netherlands to the list of countries in § 94.13 that have been declared free of SVD, but from which the importation of pork and pork products is restricted.

The countries listed in § 94.13 are subject to these restrictions because at least one of the following conditions applies: (1) They supplement their national meat supply by importing fresh, chilled, or frozen pork from countries where SVD is considered to exist; (2) They have a common land border with countries where SVD is considered to exist; or (3) They have certain trade practices that are less restrictive than are acceptable to the United States.

The Netherlands has common land borders with Belgium, which is designated in § 94.12(a) as a country in which SVD is considered to exist, and it supplements its meat supply by importing fresh, chilled, or frozen pork from countries where SVD is considered to exist. As a result, even though we propose to designate The Netherlands free of hog cholera and SVD, the pork and pork products produced in The Netherlands may be commingled with fresh, chilled, or frozen meat of animals from a country in which SVD is