

1–July 31), U.S. imports averaged about 4 percent of U.S. production.

Finally, in response to the comments regarding the marketing order benefiting handlers rather than producers, the goal of the program is to improve the marketing conditions for both producers and handlers. The marketing order is intended to allow the industry to solve marketing and other problems that producers and handlers could not handle individually. It helps the industry as a whole. The marketing order is not geared toward meeting the needs of individual producers and handlers.

### **The Complexity of the Marketing Order**

The raisin marketing order is somewhat complex, reflecting the complexity of the industry itself. AMS has attempted to ensure that the regulations are no more complex than necessary to achieve desired objectives consistent with industry operations. Implementing rules and regulations under the order also reflect the marketing order provisions. The Committee and its various subcommittees review the regulations periodically and make recommendations for change. The recommendations reflect and address the concerns of the raisin industry and its complex nature. AMS has a continuing dialogue with the industry and reviews Committee recommendations taking into account marketing order complexity. Finally, Committee staff provides materials to handlers explaining the programs and regulations, and makes every effort to assist handlers when necessary.

### **The Extent to Which the Marketing Order Overlaps, Duplicates, or Conflicts With Other Federal Rules, and to the Extent Feasible, With State and Local Regulations**

USDA has not identified any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with this order's requirements. There is a companion State program that regulates the raisin industry, but it does not duplicate, overlap, or conflict with the Federal program. The State program, the California Raisin Marketing Board, engages in marketing and promotion activities not undertaken under the Federal order. Both programs work in concert to assist the California raisin industry.

### **The Length of Time Since the Marketing Order Has Been Evaluated or the Degree to Which Technology, Economic Conditions, or Other Factors Have Changed in the Area Affected By the Marketing Order**

AMS and the California raisin industry monitor the production and marketing of raisins on a continuing basis. Changes in regulations are implemented to reflect industry operating practices, and to solve marketing problems. The goal of these evaluations is to ensure that the order and the regulations issued under it fit the needs of the industry, while remaining consistent with the Act and USDA policies.

Since its inception in 1949, the order has gone through numerous changes. These changes were made, in part, because of changing economic conditions affecting the production and handling of raisins. As noted in the Committee's comment, it meets often each year and discussions about the order and the various activities and regulations issued thereunder are frequent and sometimes extensive. The Committee or its subcommittees deliberate whether changes would improve the activities, order, and regulations to reflect current industry operating practices, and resolve current industry problems to the extent possible. In addition to reviewing its regulations, the Committee reviews and evaluates its programs on a continuing basis.

The numerous formal order amendments, the many changes to the rules and regulations over the years, and the Committee's and AMS's continuing review and adjustments to its programs, show that the order is a dynamic, not static, program.

AMS will continue to work with and maintain a dialogue with the California raisin industry in improving the program and in addressing the concerns expressed by the industry.

Dated: January 23, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 06–821 Filed 1–27–06; 8:45 am]

**BILLING CODE 3410–02–P**

## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

#### **9 CFR Part 77**

[Docket No. APHIS–2006–0004]

### **Tuberculosis in Cattle and Bison; State and Zone Designations; Minnesota**

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the bovine tuberculosis regulations regarding State and zone classifications by removing Minnesota from the list of accredited-free States and adding it to the list of modified accredited advanced States. This action is necessary to help prevent the spread of tuberculosis because Minnesota no longer meets the requirements for accredited-free State status.

**DATES:** This interim rule was effective January 24, 2006. We will consider all comments that we receive on or before March 31, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the “Search for Open Regulations” box, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click on “Submit.” In the Docket ID column, select APHIS–2006–0004 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the “Advanced Search” function in Regulations.gov.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0004, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0004.

**Reading Room:** You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael Dutcher, Senior Staff Veterinarian, National Tuberculosis Eradication Program, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road, Unit 43, Riverdale, MD 20737-1231; (301) 734-5467.

**SUPPLEMENTARY INFORMATION:**

**Background**

Bovine tuberculosis is a contagious and infectious granulomatous disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other warm-blooded species, including humans. Tuberculosis in infected animals and humans manifests itself in lesions of the lung, lymph nodes, bone, and other body parts, causes weight loss and general debilitation, and can be fatal. At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock. Through this program, the Animal and Plant Health Inspection Service (APHIS) works cooperatively with the national livestock industry and State animal health agencies to eradicate tuberculosis from domestic livestock in the United States and prevent its recurrence.

Federal regulations implementing this program are contained in 9 CFR part 77, "Tuberculosis" (referred to below as the regulations), and in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (UMR), which is incorporated by reference into the regulations. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis. Subpart B of the regulations contains requirements for the interstate movement of cattle and bison not known to be infected with or exposed to tuberculosis. The interstate movement requirements depend upon whether the animals are moved from an accredited-free State or zone, modified accredited advanced State or zone, modified accredited State or zone, accreditation preparatory State or zone, or nonaccredited State or zone.

The status of a State or zone is based on its freedom from evidence of tuberculosis in cattle and bison, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the

standards for cattle and bison contained in the UMR. Prior to this interim rule, Minnesota was designated accredited-free.

Recently, five tuberculosis-affected herds have been detected in Minnesota. Under the regulations in § 77.7(c), if two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will be removed from the list of accredited-free States or zones and will be reclassified as modified accredited advanced. Therefore, we are amending the regulations by removing Minnesota from the list of accredited-free States or zones and adding it to the list of modified accredited advanced States or zones.

The five affected herds detected in the State have been quarantined, four of the herds have been depopulated, and a complete epidemiological investigation into the potential sources of the disease is being conducted.

Under the regulations in § 77.10, cattle or bison that originate in a modified accredited advanced State or zone, and are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

- The cattle or bison are moved directly to slaughter at an approved slaughtering establishment (§ 77.10(a));
- The cattle or bison are sexually intact heifers moved to an approved feedlot, or are steers or spayed heifers; and are either officially identified or identified by premises of origin identification (§ 77.10(b));
- The cattle or bison are from an accredited herd and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement (§ 77.10(c)); or
- The cattle or bison are sexually intact animals, are not from an accredited herd, are officially identified, and are accompanied by a certificate stating that they were negative to an official tuberculin test conducted within 60 days prior to the date of movement (§ 77.10(d)).

**Delay in Compliance With Certain Provisions**

In a document published in the **Federal Register** on March 22, 2004 (69 FR 13218-13219, Docket No. 03-072-2), we delayed the date for compliance with certain identification requirements in § 77.10, "Interstate movement from modified accredited advanced States and zones," until further notice. The specific provisions of § 77.10 that have a delayed compliance date are:

- The identification of sexually intact heifers moving to approved feedlots and steers and spayed heifers moving to any destination (§ 77.10(b));

- The identification requirements for sexually intact heifers moving to feedlots that are not approved feedlots (§ 77.10(d)); and

- Because identification is required for certification, the certification requirements for sexually intact heifers moving to unapproved feedlots (§ 77.10(d)).

The March 2004 compliance date delay followed a series of shorter-term delays that we had issued when Texas, California, and New Mexico were classified as modified accredited advanced States in 2002 and 2003 (a complete time line of those events can be found in the March 2004 document cited above).

Although the compliance date was delayed originally for Texas, we extended its applicability to California and New Mexico when those States were downgraded to modified accredited advanced to provide equitable treatment for producers in those two States, and have allowed producers in the modified accredited advanced zone in Michigan to operate under the delay as well. While the delay is no longer applicable to California and the majority of New Mexico because of the return of those areas to accredited-free status, the delay in compliance remains in effect for Texas and the modified accredited advanced zones in New Mexico and Michigan. Therefore, in the interests of equitable treatment for producers in Minnesota, the delay in compliance with the specific provisions of § 77.10(b) and (d) cited above is hereby extended to Minnesota.

**Emergency Action**

This rulemaking is necessary on an emergency basis to prevent the spread of tuberculosis in the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Prior to this rule, the State of Minnesota was classified as an accredited-free State for cattle and bison. However, five infected herds have been discovered within a 48-month period. Under the regulations, if two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone must be reclassified as modified accredited advanced. In keeping with that requirement, this interim rule removes Minnesota from the list of accredited-free States and adds it to the list of modified accredited advanced States.

As of January 2005, there were approximately 27,000 cattle and bison operations in Minnesota, totaling 2.4 million head. According to the National Agricultural Statistics Service, the total cash value of cattle in Minnesota was over \$2.3 billion as of that year. Over 99 percent of Minnesota's cattle operations yield less than \$750,000 annually and are, therefore, considered small entities under criteria established by the Small Business Administration.

This interim rule changes the status of Minnesota to modified accredited advanced, resulting in interstate movement restrictions where none existed previously. Specifically, as explained previously, § 77.10 requires that, for movement to certain destinations, animals must test negative to an official tuberculin test and/or be officially identified by premises of origin identification before interstate movement.

This rule will prove beneficial by preventing the spread of tuberculosis to other areas of the United States. However, the stricter requirements for interstate movement will have an economic effect on those producers involved in the interstate movement of cattle and bison from Minnesota. As such, this analysis will focus on the expenses incurred by those producers engaged in interstate movement and in determining whether those negative impacts are significant.

The cost of tuberculin testing and individual identification is between \$10 and \$15 per head, which includes the labor costs of the veterinarian to test and apply official identification. On January 1, 2005, the average value per animal in Minnesota was estimated to be \$950. Thus, we believe that the added cost of

the required tuberculin testing and identification is small relative to the average value of cattle and bison, representing between 1 and 1.6 percent of the average animal's value. Further, since this rule provides for a delay in date of compliance with the identification requirements in § 77.10(b) and (d), some herd owners' identification costs may be deferred.

The expenses stemming from the testing and identification requirements are not expected to be substantial for cattle and bison owners in Minnesota. The more a particular herd owner engages in interstate movement, the greater the resulting expense. However, Minnesota is a net importing State in the interstate movement of live cattle, and the latest data on interstate cattle movement shows that in 2003, Minnesota imported 370,640 live cattle from other States, and exported 104,729 live cattle to other States (ERS/USDA). Minnesota's net interstate imports of live cattle were 265,911 head and that year was not an exception to this trend of a net inflow.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

### Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 9 CFR Part 77

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

■ Accordingly, we are amending 9 CFR part 77 as follows:

## PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

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

### § 77.7 [Amended]

■ 2. In § 77.7, paragraph (a) is amended by removing the word “Minnesota,”.

### § 77.9 [Amended]

■ 3. In § 77.9, paragraph (a) is amended by adding the words “Minnesota and” immediately before the word “Texas”.

Done in Washington, DC, this 24th day of January 2006.

**Kevin Shea,**

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

[FR Doc. 06–839 Filed 1–27–06; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 94

[Docket No. 04–083–3]

### Add Argentina to the List of Regions Considered Free of Exotic Newcastle Disease

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations by adding Argentina to the list of regions considered free of exotic Newcastle disease. We have conducted a risk evaluation and have determined that Argentina has met our requirements for being recognized as free of this disease. This action eliminates certain restrictions on the importation into the United States of poultry and poultry products from Argentina. We are also adding Argentina to the list of regions that, although declared free of exotic Newcastle disease, must provide an additional certification to confirm that any poultry or poultry products offered for importation into the United States originate in a region free of exotic Newcastle disease and that, prior to importation into the United States, such poultry or poultry products were not commingled with poultry or poultry products from regions where exotic Newcastle disease exists.

**DATES:** *Effective Date:* March 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Dr. David Nixon, Senior Staff Veterinarian, Regionalization Evaluation Services,