

category in accordance with instructions issued by the Deputy Administrator, if the:

(1) Livestock producer submits an approved proof of loss in accordance with § 1439.305; and

(2) County or State committee determines that because of an eligible disaster condition the livestock producer had a loss in the specific livestock category in excess of the normal mortality rate established by CCC, based on the number of animals in the livestock category that were in the producer's inventory at the time of the disaster.

(b) If the number of losses in the animal category exceeds the normal mortality rate established by CCC for such category, the loss of livestock that shall be used in making a payment shall be the number of animal losses in the animal category that exceed the normal mortality threshold established by CCC.

(c) Payments shall be calculated by multiplying the national payment rate for the livestock category as determined by CCC, by the number of qualifying animals determined under (b) of this section. Adjustments, if necessary, shall apply in accordance with § 1439.307.

(d) Payments which are earned by a person under the livestock indemnity program may be assigned in accordance with the provisions of part 1404 of this chapter.

§ 1439.307 Availability of funds

In the event that the total amount of eligible claims submitted under this subpart exceeds the \$3,000,000 appropriation, then each payment shall be reduced by a uniform national percentage. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

§ 1439.308 Limitations on payments

No person, as determined in accordance with part 1400 of this chapter, may receive benefits under this subpart in excess of \$50,000 for any year and no person may receive payments under this subpart for losses for the producer has received or will receive compensation under any other program provided for in this part. Payments under this part for other losses shall not, however, reduce the amount payable under this part. As provided for in § 1439.11, no person shall be eligible to receive any payment under this subpart if such person's annual gross revenue exceeds \$2.5 million.

PART 1477—1998 SINGLE-YEAR AND MULTI-YEAR CROP LOSS DISASTER ASSISTANCE PROGRAM

3. The authority citation for part 1477 continues to read as follows:

Authority: Sec. 1101 and 1102 of Pub. L. 105-277, 112 Stat. 2681; 15 U.S.C 714b and 714c.

§ 1477.109 [Amended]

4. Section 1477.109 is amended by:

- Removing the phrase "in accordance with § 1403.8" in paragraph (a) and adding the phrase "using the standard set forth in § 1403.8(b) (1)-(7)" in its place,
- Removing the phrase "will be made" in paragraph (k) and adding the phrase "may be made" in its place,
- Removing the second sentence of paragraph (k) and,
- By adding a new paragraph (m) to read as follows:

* * * * *

(m) For the purposes of 28 U.S.C. 3201(e), the restriction on receipt of funds or benefits under this program is waived; however, this waiver shall not preclude withholding or offsetting where it is deemed by the Deputy Administrator to be appropriate.

Signed at Washington, DC, on October 20, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99-28369 Filed 10-29-99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 99-008-1]

Tuberculosis in Cattle and Bison; State Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the bovine tuberculosis regulations to allow zones within a State to be assigned different risk statuses and to clarify the conditions for assigning a particular risk status for bovine tuberculosis. We are also amending the regulations to increase the amount of testing that must be done before certain cattle and bison may be moved interstate. These changes are necessary to help prevent the spread of tuberculosis and to further the

progress of the domestic bovine tuberculosis eradication program.

DATES: This interim rule is effective October 20, 1999. We invite you to comment on this docket. We will consider all comments that we receive by January 3, 2000.

The incorporation by reference listed in this rule is approved by the Director of the Federal Register as of October 20, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-008-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 99-008-1.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Van Tiem, Senior Staff Veterinarian, VS, APHIS, USDA, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7716.

SUPPLEMENTARY INFORMATION:

Background

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

At the beginning of this century, bovine 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 bovine tuberculosis in livestock.

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. (This interim rule updates the edition that is incorporated, as discussed below under the heading “UMR.”) The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of bovine tuberculosis.

Restrictions on the interstate movement of cattle and bison not known to be affected with or exposed to tuberculosis have been based on whether the animals are moved from States designated as accredited-free States, accredited-free (suspended) States, modified accredited States, or nonmodified accredited States. Although the restrictions on the interstate movement of captive cervids are currently not based on the tuberculosis status of a State, we are developing regulations that would establish such a relationship.

The status of a State 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. Currently, a State's tuberculosis status is not determined or affected by evidence of tuberculosis in cervids.

Section 77.1 of the regulations has defined and listed accredited-free, accredited-free (suspended), modified accredited, and nonmodified accredited States. Prior to this interim rule, these terms were defined in the regulations as follows:

Accredited-free State. An accredited-free State was defined as a State that has had no findings of tuberculosis in any cattle or bison anywhere in the State for at least 5 years. (As noted above, there are currently no defined State tuberculosis statuses with regard to cervids.) The definition also provided that a State must comply with all the provisions of the UMR regarding accredited-free States. These provisions include a requirement that the State demonstrate annually that an adequate amount of testing and slaughter surveillance is done in that State to discover any bovine tuberculosis that might be present. The definition of accredited-free State provided that detection of tuberculosis in any cattle or bison in the State would result in suspension of the State's accredited-free status, and that, if tuberculosis were detected in two or more herds anywhere in the State within a 48-month period, the State's accredited-free status would be downgraded.

Accredited-free (suspended) State. An accredited-free (suspended) State was defined as an accredited-free State in which tuberculosis has been detected in any cattle or bison.

Modified accredited State. A modified accredited State was defined as a State that complies with all the provisions of the UMR regarding modified accredited States. The UMR requires that, to retain modified accredited status, a State must demonstrate annually that an adequate amount of testing and slaughter surveillance is done in that State to discover any bovine tuberculosis that might be present. The UMR also provides that disclosure of tuberculosis in the State or failure of the State to take progressive steps to comply with the UMR to seek out and eliminate bovine tuberculosis will be cause for downgrading of the modified accredited status. Further, the regulations provided that if any livestock other than cattle or bison were included in a newly assembled herd on a premises where a tuberculous herd had been depopulated, the State must apply the UMR herd test requirements for such newly assembled herds to those other livestock as well as to cattle and bison in the new herd.

Nonmodified accredited State. A nonmodified accredited State was defined as a State that has not received accredited-free status or modified accredited status.

Need for this Interim Rule

Prior to this interim rule, the regulations did not provide for different areas, or zones, within a State to be assigned different tuberculosis risk statuses. There have historically been a number of reasons for not considering areas smaller than a State for regulatory purposes. Generally, the legal authority to issue and enforce regulations concerning tuberculosis under the animal quarantine laws is limited to interstate, rather than intrastate, movement of regulated products and animals. Additionally, each State has in place its own administrative and veterinary infrastructure and legal authority for monitoring, detecting, recording, controlling, and eradicating animal diseases in that State. This centralization of veterinary efforts at the State level has made it natural to consider one uniform disease status for each State. Further, because State borders are clearly defined legal boundaries, they have lent themselves to delineating a readily identifiable area for disease risk.

However, just as the United States has recently begun to recognize regions smaller than a country when considering the risk of disease from

imports from a foreign country,¹ there are compelling reasons for considering areas smaller than a State when considering tuberculosis risk in the United States.

Under the regulations prior to this interim rule, if tuberculosis was determined to exist in any part of a State, the entire State was designated as being at risk. This “all or nothing” approach did not always provide sufficient incentive for a State to restrict movement of tuberculosis-susceptible animals from high-risk areas within the State and to otherwise rapidly contain the disease and move toward eradication. Failure to rapidly identify and address high-risk areas significantly increased the risk of tuberculosis spread among livestock.

In this interim rule, we establish requirements (discussed below) for achieving APHIS recognition of zones within a State for the purpose of tuberculosis status. Providing for zones will allow for APHIS recognition of distinct tuberculosis risk levels within a State. For example, a State that contains several herds that are affected with tuberculosis in an identifiable area might nonetheless qualify for accredited-free status in the rest of the State, provided it meets certain conditions, discussed below, to ensure containment and eradication of the disease in the affected area. This will give States the incentive to isolate affected areas from the rest of the State and to implement effective containment and eradication measures, thereby decreasing tuberculosis risk intrastate and interstate.

The key criteria in establishing a “zone” for the purpose of tuberculosis risk status are that the boundary of the zone be identifiable and that it be located where factors such as physical barriers, distance, lack of livestock, or animal movement controls make it unlikely that tuberculosis will be transmitted across the boundary. The criteria we will apply to identify a zone within a State are the same criteria we use to identify regions in foreign countries.

In § 77.1 of this interim rule, we define zone as a defined geographic land area identifiable by geological, political, manmade, or surveyed boundaries, with mechanisms of disease spread, epidemiological characteristics, and the ability to control the movement

¹ See, for example, “64 FR 34155–34168, Docket No. 97–086–2, Recognition of Animal Disease Status of Regions in the European Union,” published June 25, 1999, and “64 FR 8755–8761, Docket No. 97–079–1, Importation of Pork and Pork Products from Yucatan and Sonora, Mexico,” published February 23, 1999.

of animals across the boundaries of the zone taken into account. By "mechanisms of disease spread," we mean the ways in which tuberculosis can be transmitted to animals, such as in aerosol fashion or through ingestion of contaminated food or water. "Epidemiological characteristics" include factors such as the presence or absence of livestock in a zone, the distance between animals within and outside a zone, the prevalence of disease within a zone, and the density of potential wildlife hosts within a zone.

We consider mechanisms of disease spread and epidemiological characteristics important components in how the boundaries of a zone will be determined, because a zone by its nature should present a different level of disease risk than the zone from which it is distinguished. Therefore, the distance between livestock in two different zones and the manner in which the disease is transmitted need to be considered in determining where to draw a boundary that clearly divides two areas with differing tuberculosis risks.

In § 77.8 of this interim rule, we set forth conditions and procedures for requesting that the Administrator of APHIS designate part of a State as a zone that has a different tuberculosis status than the rest of the State. We provide that a State animal health official may request such designation of a distinct zone if the State has the legal and financial resources to implement and enforce a tuberculosis eradication program; has the infrastructure, laws, and regulations to require and ensure tuberculosis cases are reported to State and Federal regulatory authorities; and maintains or will maintain clinical and epidemiological surveillance of animal species at risk of tuberculosis at a rate that allows detection of tuberculosis in the overall population of livestock herds in each zone at a 2 percent prevalence rate (the average prevalence in a herd containing infected animals) with 95 percent confidence. We require that the zone being requested be delineated by State animal health authorities, subject to approval of the zone by the Administrator. Because of the amount of monitoring and movement controls necessary for a State to adequately administer different status zones, we are limiting the number of zones allowable in each State to two.

Definitions

The definitions for terms used in part 77 are contained in § 77.1. We are revising the definitions of accredited-free State, accredited-free (suspended) State, modified accredited State, and

nonmodified accredited State, so that each category applies to zones as well as to entire States. Additionally, we are making some formatting changes to those definitions, such as moving lists of States and the requirements for applying for status redesignation or renewal from the definitions section to other sections of the regulations. We are also including in the definition of accredited-free State or zone a provision that was previously set forth in the UMR and that was incorporated by reference into the regulations. Under this provision, a modified accredited or nonmodified accredited State or zone that was previously accredited-free can regain accredited-free status in 2 years provided it meets the following requirements: The State or zone has zero prevalence of affected cattle and bison herds; all herds of cattle and bison affected with tuberculosis have been depopulated; there have been no findings of tuberculosis in cattle or bison for 2 years from the depopulation of the last infected herd in the State or zone; and the State or zone complies with the provisions of the UMR. Because this provision was included in the UMR, which has been incorporated by reference into the regulations, it was in effect prior to this interim rule. We are also making certain substantive changes to the definitions, which we discuss below.

Accredited-free State or zone. The definition of accredited-free State until now has provided that to establish or maintain such status, a State must have no findings of tuberculosis in any cattle or bison in the State for at least 5 years and must comply with all of the provisions of the UMR. In this interim rule, we are retaining that requirement and are further defining an accredited-free State or zone as one that has zero percent prevalence of affected cattle and bison herds. Although zero percent prevalence may be self-evident in a State or zone in which no affected herds have been diagnosed, we consider it useful to include such a criterion to be consistent with our use of disease prevalence in defining modified accredited State or zone, discussed below. In this interim rule, we add a definition of zero percent prevalence in § 77.1 to mean "no finding of tuberculosis in any cattle or bison herd in the State or zone."

Accredited-free (suspended) State or zone. We are not revising the definition of accredited-free (suspended) State, except to apply it to zones as well as States and to move the requirements for regaining accredited-free status to § 77.3.

Modified accredited State or zone. The regulations until now defined a modified accredited State as one that complies with all of the provisions of the UMR regarding modified accredited States. Under the regulations prior to this interim rule, it was not always clear what standards a State needed to meet to achieve modified accredited status. With the establishment of zones under this interim rule, it is essential to the prevention of tuberculosis spread in States that this lack of clarity be rectified so that States are clear regarding the standards for achieving status and, consequently, regarding the restrictions they must impose on the movement of livestock from zones that do not meet the standards for modified accredited or accredited-free status.

In this interim rule, we are specifying that, in addition to complying with the UMR, a modified accredited State or zone is one in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years. However, because it is likely that some zones will contain a relatively small number of herds, we are also providing, as discussed below, that in a State or zone with fewer than 30,000 herds, the Administrator, upon his or her review, may allow the State or zone to have up to 3 affected herds for each of the most recent 2 years, if the Administrator determines that the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone are adequate to prevent the spread of tuberculosis.

We are using 0.01 percent of the total number of herds in the State or zone as the standard maximum allowable percentage of affected herds. This number represents a progression from the requirements of the tuberculosis eradication program of the 1940's, when 0.5 percent was considered an acceptable maximum percentage of prevalence of affected herds. Since that time, significant gains in the tuberculosis eradication program have consistently reduced the national percentage of herds affected with tuberculosis, so that today the national percentage stands at approximately 0.0002 percent. With such minimal tuberculosis prevalence, we consider it appropriate to set the allowable maximum prevalence percentage at 0.01 percent, which we believe will contribute to continued progress in the tuberculosis program, while not being so impractically stringent that States will lose incentive to achieve or retain modified accredited status.

Although we consider a maximum of 0.01 percent to be appropriate in most cases, we recognize there are situations where the circumstances in a State or zone might warrant some deviation from that standard. For instance, the requirement for less than 0.01 percent prevalence means that, for every 10,000 herds in the State or zone, no more than 1 herd can be affected. In a State or zone with fewer than 10,000 herds, even the presence of 1 affected herd would cause the prevalence rate to exceed the allowable maximum. We do not necessarily consider one affected herd to pose a disease risk significant enough to disqualify a State or zone from modified accredited status. Additionally, in some States or zones that do not have a relatively large number of herds (by comparison, some States have as many as 140,000 herds), it is possible that circumstances might warrant a modified accredited State or zone having up to 3 affected herds. The factors the Administrator will consider in determining whether a prevalence level in excess of 0.01 percent is acceptable include (1) how effectively the veterinary infrastructure in the State or zone could respond to the discovery of an affected herd and (2) the risk of transmission of the disease from an affected herd to other herds, based on factors such as the density of the livestock population and patterns of herd distribution. If the Administrator determines that such factors in a State or zone are adequate to prevent the spread of tuberculosis, a State or zone with fewer than 30,000 herds will qualify for modified accredited status even if the percentage of affected herds exceeds 0.01 percent of the total number of herds.

Nonmodified accredited State or zone. We are making no substantive changes to the definition of nonmodified accredited State, other than to make the definition applicable to zones as well as to States.

In addition to the changes to the definitions in § 77.1 that are described above, we are revising that section by adding other definitions. We discuss each of these added terms below as part of our discussion of the regulatory requirements in which they appear.

Designation of Bovine Tuberculosis Status: § 77.2

In § 77.2 of this interim rule, we provide that the Administrator will designate the tuberculosis status of each State according to the criteria listed in subpart A of part 77. The section also provides that the Administrator will give only part of a State a particular designation, upon request of the State,

if the Administrator determines that the State meets the requirements of the regulations for establishing zones (discussed below) and enforces restrictions on the intrastate movement of cattle and bison that are substantially the same as our restrictions on the interstate movement of those animals. Additionally, § 77.2 provides that designation of partial State status is dependent on the Administrator's determination that such designation will otherwise be adequate to prevent the interstate spread of tuberculosis.

It is essential that a State that is requesting recognition of a zone have in place effective regulations governing intrastate movement because, in most cases, our authority to regulate the movement of animals and animal products is limited to interstate movement. Therefore, we must be confident that the State will effectively enforce movement between zones within State borders.

Accredited-Free State or Zone Status: § 77.3

In § 77.3(a), we list those States and zones designated as accredited-free. The list of States is the same as that in the regulations in effect prior to this interim rule, except for the addition of an accredited-free zone in Michigan. We discuss below our rationale for designating the zone in Michigan as accredited-free. (See "Recognition of Tuberculosis Status Zones in Michigan.")

In § 77.3(c), we include the provision that formerly appeared in the definition of accredited-free State that the accredited-free status of a State will be suspended if tuberculosis is detected in any one cattle or bison herd in the State and are expanding it to apply to zones as well as States. Similarly, we are moving from the definitions section to § 77.3(c) the provision that if two or more affected herds are detected in an accredited-free State within a 48-month period, the State will be removed from the list of accredited-free States. We are also amending that provision to include zones. We are also amending the requirements for renewing accredited-free status to include zones and are moving the renewal requirements from the definitions in § 77.1 to § 77.3(f).

We are providing in § 77.3(e) that if tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically included in the regulations and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must adopt a tuberculosis management plan, approved jointly by

the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock and wildlife, the prevention of the spread of the disease to other wildlife and livestock, increased surveillance of tuberculosis in wildlife, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not adopt such a plan within the required 6 months, the State or zone will lose its accredited-free status. We consider this requirement necessary because of the risk of wildlife coming into contact with domestic livestock, both through free-ranging wildlife and wildlife held by the growing number of exhibitors in the United States.

Modified Accredited States or Zones: § 77.4

In § 77.4, we list those States and zones designated as modified accredited and provide the criteria for renewing modified accredited status. The list of States is the same as the list in the regulations in effect prior to this interim rule. The criteria for renewing modified accredited status are also the same, except that they apply to zones as well as States. However, we are adding a provision that if tuberculosis is diagnosed within a modified accredited State or zone in an animal not specifically included in the regulations and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must adopt a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. If a State or zone does not adopt such a plan within the required 6 months, the State or zone will be reclassified as nonmodified accredited.

Nonmodified Accredited States or Zones: § 77.5

Any nonmodified accredited States or zones will be listed in § 77.5. In this interim rule, we are listing one zone in Michigan as nonmodified accredited (discussed below under the heading "Recognition of Tuberculosis Status Zones in Michigan").

Interstate Movement from Accredited-Free States and Zones: § 77.6

Consistent with the regulations in § 77.3 in effect prior to this interim rule, we are providing in new § 77.6 that cattle and bison that are not known to

be infected with or exposed to tuberculosis and that originate in a State or zone listed as accredited-free, accredited-free (suspended), or modified accredited may be moved interstate without restriction.

Interstate Movement from Nonmodified Accredited States and Zones: § 77.7

Under § 77.4 of the regulations in effect prior to this interim rule, cattle and bison not known to be affected with or exposed to tuberculosis that originated in a nonmodified accredited State could be moved interstate only if they met one of the following conditions:

1. The cattle and bison were certified as testing negative to an official tuberculin test conducted within 30 days prior to movement and were identified as specified in the regulations;

2. The cattle and bison were certified as coming from an accredited herd; or
3. The cattle and bison were moved directly to a qualifying slaughtering establishment.

In § 77.7 of this interim rule, we are retaining the second two conditions regarding movement from an accredited herd and movement to slaughter. However, we are revising and clarifying the condition regarding the testing of animals intended for movement and are making testing requirements dependent on the type of animal involved, as discussed below, in order to help prevent the spread of tuberculosis and to further the progress of the tuberculosis eradication program.

As set forth in this interim rule, if the cattle or bison to be moved interstate from a nonmodified accredited State or zone are breeding animals that are not from an accredited herd, they will need to be individually identified and be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 30 days prior to the date of movement. Until now, such animals had to be tested only once within 30 days prior to the date of movement. However, we consider one test to be insufficient because of the combination of the high or unknown risk of tuberculosis in a nonmodified accredited State or zone and the possibility that an animal that tested negative to one tuberculosis test may have been incubating the disease agent at the time of testing and could develop clinical signs of the disease following the first test.

Under this interim rule, if the cattle or bison are steers or spayed heifers, or

are officially identified sexually intact heifers moved to an approved feedlot, they must be accompanied by a certificate stating they have been classified negative to an official tuberculin test that was conducted within 30 days prior to the date of movement. Because of the high or unknown risk of the presence of tuberculosis in a nonmodified accredited State or zone, we consider it necessary that such animals test negative to an official tuberculin test before they are moved interstate so that if they are later found to be infected with the disease, they can be traced back to the source herd. However, we consider one negative test to be sufficient for animals moved through slaughter channels, which reduces the risk of disease spread.

Although our statutory authority is generally limited to interstate movement, one of the conditions for APHIS recognition of zones within a State is that the State has adopted and is enforcing regulations that impose restrictions on the intrastate movement of cattle and bison that are substantially the same as those in the regulations for the interstate movement of cattle and bison. Therefore, for a State to achieve and retain APHIS recognition of zones, it will need to impose requirements on intrastate movement from any nonmodified zone that are substantially the same as the testing requirements described above. We consider such requirements within a State necessary to control any outbreaks of tuberculosis.

In § 77.1, we define *approved feedlot* as a confined area approved jointly by the State animal health official and the Administrator for feeding cattle and bison for slaughter, with no provisions for pasturing or grazing. We define *State animal health official* as the State official responsible for livestock and poultry disease control and eradication programs.

In the condition for movement described above, we refer to heifers that are "officially identified." In the definitions in § 77.1, we define *officially identified* to mean identified by means of an official eartag, individual tattoo, or individual hot brand. We define official eartag to mean an eartag approved by the Administrator as providing unique identification for each individual animal by conforming to the alphanumeric National Uniform Eartagging System.

Movement of Captive Cervids

The regulations in subpart A of part 77 with regard to tuberculosis apply to cattle and bison. The regulations in subpart B of part 77 apply to captive

cervids. As noted above, under § 77.2(b) of this interim rule, one of the conditions for a State to be eligible for APHIS recognition of zones is that it imposes restrictions on the intrastate movement of cattle and bison that are substantially the same as those in the regulations for the interstate movement of cattle and bison. However, as evidenced by the regulations regarding captive cervids in part 77, subpart B, in addition to cattle and bison, captive cervids infected with tuberculosis also pose a significant risk of transmitting tuberculosis to other livestock. Therefore, in § 77.2(b) of this interim rule, we provide that, as a condition for APHIS recognition of zones, a State must also impose intrastate restrictions on the movement of captive cervids that are substantially the same as those in place in part 77, subpart B, for the interstate movement of captive cervids.

Classes or Species of Greater Risk

Although at this time we are applying the provisions of this interim rule in the same way to all cattle and bison, it is possible the Administrator will in the future determine that a specific breed or usage type of cattle or bison poses a significantly greater risk of being a reservoir of tuberculosis than other cattle or bison. For instance, regulations in 9 CFR 93.427(c)(5) prohibit the importation of Holstein steers and Holstein spayed heifers from Mexico. This is because APHIS determined that such dairy cattle pose a greater risk than other cattle of being infected with tuberculosis. In any case where a particular breed or usage type of cattle or bison presents a greater tuberculosis risk than other cattle or bison, it may be necessary to establish requirements for interstate movement for that breed or usage type that are more restrictive than those for other cattle and bison, or it may be necessary to prohibit interstate movement altogether. If such restrictions are necessary, we will publish a rulemaking document to that effect in the **Federal Register**.

Application for Recognition of Tuberculosis Status Zones

In § 77.8(a) of this interim rule, we set forth conditions a State must meet to receive APHIS recognition of an area in the State as a separate zone for tuberculosis status. Unless requested otherwise by a State, we will continue to designate entire States with regard to tuberculosis status. However, we provide that a State animal health official may request at any time that the Administrator designate part of the State as having a different tuberculosis status than the rest of the State, with the

limitation that each State may be divided into no more than two different zones (i.e., one area that differs in status from the rest of the State).

Under the procedures in this interim rule for requesting recognition of a zone, the State will be responsible for delineating the boundaries of the requested zone, subject to approval by the Administrator. As defined in § 77.1, a zone is a defined geographic land area identifiable by geological, political, manmade, or surveyed boundaries, with mechanisms of disease spread, epidemiological characteristics, and the ability to control the movement of animals across the boundaries of the zone taken into account.

To qualify for APHIS recognition of a zone, the State must demonstrate in its request that it has in place an infrastructure, laws, and regulations that require and ensure that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife. Additionally, the State in which the zone is located must have the legal and financial resources to implement and enforce a tuberculosis eradication program.

Further, the State must maintain clinical and epidemiological surveillance of animal species at risk of tuberculosis in each zone in the State, at a rate that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. Because 2 percent is the average prevalence in a herd that contains animals infected with tuberculosis, being able to detect such prevalence with 95 percent certainty gives adequate assurance that herds in which tuberculosis is present will be identified. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing. (In the definitions in § 77.1, we define designated tuberculosis epidemiologist to mean "a State or Federal epidemiologist designated by the Administrator to make decisions concerning the use and interpretation of diagnostic tests for tuberculosis and the management of tuberculosis affected herds.")

In § 77.8(a)(3) of this interim rule, we provide that a State seeking APHIS recognition of a zone with regard to tuberculosis must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request. Such a memorandum of understanding is necessary to address epidemiological circumstances that apply to that

particular State. For instance, in a State in which free-ranging wildlife may be a reservoir of tuberculosis, it may be necessary to conduct baseline surveillance among such wildlife; whereas in a State with less of a risk of tuberculosis in wildlife, such surveillance may not be necessary.

Retention of Recognition of Tuberculosis Status Zones

In § 77.8(b) we provide that designation of zones within a State will be subject to annual review by the Administrator and that, in order to retain APHIS recognition of a zone, a State must continue to meet the requirements for achieving recognition of the zone and must retain for 2 years all certificates that are required by the regulations for the movement of cattle, bison, and captive cervids.

Recognition of Tuberculosis Status Zones in Michigan

The conditions for obtaining APHIS recognition of a tuberculosis status zone within a State are discussed above. In this interim rule, we are recognizing such zones in Michigan. Michigan has demonstrated to APHIS that it has the resources to enforce a tuberculosis eradication program and to ensure that diagnoses of tuberculosis are reported to State and Federal authorities. Additionally, Michigan has demonstrated it is capable of maintaining surveillance that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. Michigan will enter into a memorandum of understanding with APHIS regarding any conditions for zone recognition particular to that State's circumstances.

Michigan: In Michigan, the smaller of two zones in the State is bounded as follows: Starting at the juncture of State Route 55 and Interstate 75, head northwest and north along Interstate 75 to the Straits of Mackinac, then southeast and south along the shoreline of Michigan to the eastern terminus of State Route 55, then west along State Route 55 to Interstate 75. The second zone in Michigan is comprised of the rest of the State.

State animal health officials in Michigan have demonstrated to APHIS that, except for the smaller zone, the State meets the criteria for accredited-free status set forth in the definition of *accredited free* in this interim rule. Except for the smaller zone, Michigan has zero percent prevalence of affected cattle or bison herds and has had no findings of tuberculosis in any cattle or bison for the past 5 years. Additionally,

the State complies with the provisions of the UMR. Because the smaller zone in Michigan does not meet the requirements for either accredited-free or modified accredited, it is being listed as nonmodified accredited.

UMR

Among the definitions in § 77.1 is a definition of *Uniform Methods and Rules—Bovine Tuberculosis Eradication*. The edition of the UMR referred to in that definition was approved by APHIS on February 3, 1989, and was approved for incorporation by reference into the Code of Federal Regulations (CFR) by the Director of the Federal Register. On January 22, 1999, an updated edition of the UMR was approved by APHIS. Among other provisions, the updated edition includes changes to the tuberculosis eradication program discussed in this interim rule with regard to split-State tuberculosis status. This interim rule revises the definition of *Uniform Methods and Rules—Bovine Tuberculosis Eradication* to reflect the incorporation by reference of the January 22, 1999, edition of the UMR.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. We believe that failure to provide the option for "split-State status" would hinder the progress of the tuberculosis eradication program in this country and increase the likelihood of the spread of the disease. Under the regulations prior to this interim rule, if tuberculosis was determined to exist in any part of a State, the entire State was designated as being at risk. This "all or nothing" approach did not always provide sufficient incentive for a State to stringently restrict movement of tuberculosis-susceptible animals from high-risk areas within the State and to otherwise rapidly contain the disease and move toward eradication. Failure to rapidly identify and address high-risk areas has significantly increased the risk of tuberculosis spread among livestock.

In this interim rule, we establish requirements for achieving APHIS recognition of zones within a State for the purpose of tuberculosis status. Providing for zones will allow APHIS to recognize areas of distinct tuberculosis risk levels within a State. This will encourage States to rapidly isolate affected areas from the rest of the State and to implement effective containment and eradication measures, thereby decreasing tuberculosis risk in the State.

The regulations until now defined a modified accredited State as one that complies with all of the provisions of the UMR regarding modified accredited States. Under the regulations prior to this interim rule, it was not always clear what standards a State needed to meet to achieve modified accredited status. With the establishment of zones under this interim rule, it is essential to the prevention of tuberculosis spread in States that this lack of clarity be rectified so that States are clear regarding the standards for achieving status and, consequently, regarding the restrictions they must impose on the movement of livestock from zones that do not qualify for modified accredited or accredited-free status.

As set forth in this interim rule, if cattle or bison to be moved interstate from a nonmodified accredited State or zone are breeding animals that are not from an accredited herd, they will need to be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests. Based on our experience enforcing the regulations, we have determined that requiring less than two negative tests before such potentially high-risk animals may be moved interstate creates an unacceptable risk that the animals will transmit tuberculosis to other livestock, due to the possibility that an animal that tests negative to one test could be incubating the tuberculosis disease agent at the time of that first test.

Under this interim rule, if the cattle or bison to be moved from a nonmodified accredited State or zone are steers or spayed heifers or are officially identified sexually intact heifers moved to an approved feedlot, they must be accompanied by a certificate stating they have been classified negative to an official tuberculin test that was conducted within 30 days prior to the date of movement. Because of the high or unknown risk of the presence of tuberculosis in a nonmodified accredited State or zone, we consider it necessary that such animals test negative to an official tuberculin test before they are moved interstate so that if they are found to be infected with the disease, they can be traced back to the source herd. Inclusion of this requirement in the interstate regulations will ensure that States seeking recognition of zones impose like requirements on intrastate movement of livestock and thus more rapidly control any outbreaks of tuberculosis within the State.

Because prior notice and other public procedures with respect to this action

are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

Statutory authorities including 21 U.S.C. 111, 114, 114a, and 120 authorize the Secretary of Agriculture to conduct programs and promulgate regulations to prevent the dissemination of any contagious, infectious, or communicable disease of animals from one State to another.

In this interim rule, we are allowing for APHIS recognition of zones within a State that have different risk statuses for tuberculosis, are clarifying the conditions for assigning a particular risk status, and are increasing the amount of testing that must be done before certain cattle and bison may be moved interstate.

In considering this rulemaking, we considered three options. The first was to retain the regulations already in place and make no changes. We did not consider this an acceptable option because it would have had the effect of increasing the risk of the interstate transmission of tuberculosis, while at the same time retaining unnecessarily stringent disease status designations for parts of some States. A second option would have been to expand the number of possible tuberculosis status levels for States and zones to more precisely reflect the potential gradations of eradication efforts and disease risk among different areas. We believe this option is one that should be pursued, and we are in the process of developing rulemaking that would propose such changes to the regulations. However, because we believe such substantive changes to the tuberculosis eradication program should be presented to the public for comment before being implemented, we did not include such extensive changes in this interim rule. The option we chose was to implement

the provisions of this interim rule that establish criteria for our recognition of two zones within a State for tuberculosis status and to address immediately those provisions of the regulations that, because of lack of clarity or insufficient safeguards, unacceptably increased the risk of the spread of tuberculosis among livestock in this country.

Below is an analysis of the potential effects of this rule on small entities as required by the Regulatory Flexibility Act. We do not have enough data for a comprehensive analysis of the economic effects of this rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis for this rule. We are inviting comments about this rule as it relates to small entities. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this rule and the economic effects of those benefits or costs.

Economic Analysis

In 1998, the total number of cattle and bison in the United States was approximately 99.5 million, valued at approximately \$58.6 billion. There were 1,115,650 U.S. operations with cattle and bison. Over 99 percent of these operations had gross cash value of less than \$500,000. These holdings vary in size and degree of commercialization, with many producers relying on other sources of income.

The cattle industry plays a very significant role in international trade. In 1998, the total earnings from exports of live cattle, beef, and veal was approximately \$2.6 billion. The competitiveness of the United States in international markets depends to a great degree upon its reputation for producing high quality animals, a reputation that would be enhanced if bovine tuberculosis were permanently eradicated. The actual product, as well as the purchasers' perception of the quality of the product, contribute to continued world market acceptance. Thus, efforts to maintain an effective tuberculosis program, to clarify the regulations, and to secure the health of the cattle industry will continue to serve the best economic interests of the Nation.

Under the regulations, each State is designated as having one of the following tuberculosis statuses: Accredited-free, accredited-free (suspended), modified accredited, and nonmodified accredited. Prior to this rule, there were 48 accredited-free States (including Puerto Rico and the

Virgin Islands of the United States), 2 States that were modified accredited States, and one State that was accredited-free (suspended). There were no nonmodified accredited States.

We are changing the testing requirements for moving breeding animals interstate from a nonmodified accredited State or zone. Under this interim rule, breeding animals from a nonmodified accredited State or zone require a certificate stating that the animals tested negative twice to an official tuberculin test. This represents one more test than has been required and, therefore, will result in additional cost for owners moving breeding animals from a nonmodified accredited State or zone. The average cost of the test is about \$380 per herd. The per animal cost varies depending on the size of the herd. For an average-sized herd of 90 animals, the average cost per animal would be approximately \$4.22. The total cost for testing will depend on the number of animals that are being moved interstate.

Prior to this interim rule, there were no States or zones designated as nonmodified accredited. In this interim rule, we are listing a small portion of Michigan as being a nonmodified accredited zone. This zone includes approximately 100 herds of cattle and bison. Breeding animals from this zone will have to test negative twice to an official tuberculin test prior to interstate movement. However, we do not anticipate this testing will impose a significant burden on entities in that zone because very few animals are moved from that area of Michigan.

The provisions of this interim rule establishing mechanisms for defining "zones" within a State with regard to tuberculosis will benefit the United States at minimal or no cost because they will allow quicker response to tuberculosis outbreaks and will establish a way to manage the disease in regional zones, rather than penalize entire States. It is expected that enhanced international trade will result from establishing a regionalized approach to tuberculosis in the United States.

Prior to this interim rule, the accredited-free (suspended) State was Michigan. As of result of this rule, Michigan will assume a split status, with a small section of Michigan being assigned nonmodified accredited status, and the remainder of Michigan being assigned accredited-free status. We expect that the assignment of accredited-free status to most of the area of Michigan will have a positive economic effect on the State. Many States impose movement restrictions on

livestock from States that are not accredited-free. Under this rule, of 15,000 cattle herds in Michigan, only 100 herds will be located in a nonmodified accredited zone. All other herds will be located in an accredited-free zone.

The changes to the regulations in this interim rule will result in new information collection or recordkeeping requirements, as described below under the heading "Paperwork Reduction Act."

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 interim 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

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 interim rule have received emergency approval from the Office of Management and Budget (OMB). OMB has assigned control number 0579-0146 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Docket No. 99-008-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. Please state that your comments refer to Docket No. 99-008-1 and send your comments within 60 days of publication of this rule.

This interim rule amends the bovine tuberculosis regulations to allow zones within a State to be assigned different risk statuses and to clarify the conditions for assigning a particular risk status for bovine tuberculosis. Additionally, it amends the regulations to increase the amount of testing that

must be done before certain cattle and bison may be moved interstate.

In order to apply for APHIS designation of zones within a State, a State animal health official submits a request to the APHIS Administrator demonstrating that the State complies with the criteria for recognition of a zone. Additionally, the State must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request. To retain recognition of zones, the State must retain for 2 years a certificate that documents the movement of cattle, bison, and captive cervids into and out of the zones.

In accordance with this interim rule, if tuberculosis is diagnosed within an accredited-free State or zone or a modified accredited State or zone and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must adopt a tuberculosis management plan, approved jointly by the State animal health official and the APHIS Administrator.

We are soliciting comments from the public concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the 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; and

(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 of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .575 hours per response.

Respondents: State animal health authorities, including State veterinarians and designated State tuberculosis epidemiologists.

Estimated annual number of respondents: 56.

Estimated annual number of responses per respondent: 3.785.

Estimated annual number of responses: 212.

Estimated total annual burden on respondents: 122 hours.

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

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Incorporation by reference, 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: 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. Section 77.1 is amended as follows:

a. The following definitions are revised to read as set forth below: *Accredited herd*, *Negative cattle and bison*, *Official tuberculin test*, *Reactor cattle and bison*, *Suspect cattle and bison*, and *Uniform Methods and Rules—Bovine Tuberculosis Eradication*.

b. The following definitions are removed: *Accredited-free state*, *Accredited-free (suspended) State*, *Modified accredited State*, and *Nonmodified accredited state*.

c. The following definitions are added in alphabetical order to read as set forth below: *Accredited-free State or zone*, *Accredited-free (suspended) State or zone*, *Approved feedlot*, *Designated tuberculosis epidemiologist*, *Modified accredited State or zone*, *Nonmodified accredited State or Zone*, *Official eartag*, *Officially identified*, *State animal health official*, *Zero percent prevalence*, and *Zone*.

§ 77.1 Definitions.

Accredited-free State or zone. A State or zone that has zero percent prevalence of affected cattle and bison herds, that has had no findings of tuberculosis in any cattle or bison in the State or zone for the previous 5 years, and that complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” except that the requirement of freedom from tuberculosis is 2 years from the depopulation of the last infected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated.

Accredited-free (suspended) State or zone. A State or zone with the status of an accredited-free State is designated as accredited-free (suspended) if tuberculosis is detected in any cattle or bison in the State or zone.

Accredited herd. To establish or maintain accredited herd status, the herd owner must comply with all of the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” regarding accredited herds. All cattle and bison in a herd must be free from tuberculosis.

Approved feedlot. A confined area approved jointly by the State animal health official and the Administrator for feeding cattle and bison for slaughter, with no provisions for pasturing or grazing.

Designated tuberculosis epidemiologist. A State or Federal epidemiologist designated by the Administrator to make decisions concerning the use and interpretation of diagnostic tests for tuberculosis and the management of tuberculosis affected herds.

Modified accredited State or zone. A State or zone that complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years, except that the Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Negative cattle and bison. Cattle and bison that are classified negative for tuberculosis in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” based on the results of an official tuberculin test.

Nonmodified accredited State or zone. A State or zone that has not received accredited-free State or zone status or modified accredited State or zone status.

Official eartag. An eartag approved by the Administrator as providing unique identification for each individual animal by conforming to the alphanumeric National Uniform Eartagging System.

Official tuberculin test. Any test for tuberculosis conducted on cattle or bison in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

Officially identified. Identified by means of official eartag, individual tattoo, or individual hot brand.

Reactor cattle and bison. Cattle and bison that are classified as reactors for tuberculosis in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

Suspect cattle and bison. Cattle and bison that are classified as suspects for tuberculosis in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

Uniform Methods and Rules—Bovine Tuberculosis Eradication. Uniform methods and rules for eradicating bovine tuberculosis in the United States approved by APHIS on January 22, 1999. The Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition was 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

Zero percent prevalence. No finding of tuberculosis in any cattle or bison herd in a State or zone.

Zone. A defined geographic land area identifiable by geological, political, manmade, or surveyed boundaries, with mechanisms of disease spread, epidemiological characteristics, and the ability to control the movement of animals across the boundaries of the zone taken into account.

3. Section 77.2 is revised to read as follows:

§ 77.2 Bovine tuberculosis status of States and zones.

The Administrator shall designate each State in accordance with this subpart according to its tuberculosis status. A defined zone comprised of a portion of an entire State will be given

¹ Copies may be obtained from the National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, Maryland 20737–1231. You may inspect a copy at the APHIS reading room, room 1141, USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

a particular status designation upon request of the State only if the Administrator determines that:

(a) The State meets the requirements of this subpart for establishment of disease status zones;

(b) The State has adopted and is enforcing regulations that impose restrictions on the intrastate movement of cattle and bison that are substantially the same as those in place under this subpart for the interstate movement of cattle and bison, and has adopted and is enforcing regulations that impose restrictions on the intrastate movement of captive cervids that are substantially the same as those in place under subpart B of this part for the interstate movement of captive cervids; and

(c) The designation of part of a State as a zone will otherwise be adequate to prevent the interstate spread of tuberculosis.

4. Section 77.3 is revised to read as follows:

§ 77.3 Accredited-free States or zones.

(a) The following are accredited-free States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, the Virgin Islands of the United States, Washington, West Virginia, Wisconsin, and Wyoming.

(b) The following are accredited-free zones: A zone in Michigan consisting of that part of the State outside the zone in Michigan described in § 77.5(b).

(c) Detection of tuberculosis in any one herd of cattle or bison in an accredited-free State or zone will result in suspension of accredited-free State or zone status. If two or more accredited 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 either a modified accredited State or zone or a nonmodified accredited State or zone.

(d) If the accredited-free status of a State or zone has been suspended, the State or zone may qualify for redesignation of accredited-free status after the herd in which tuberculosis is detected has been quarantined, an epidemiological investigation has confirmed that the disease has not spread from the herd, and all reactor

cattle and bison have been destroyed. If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" January 22, 1999, edition, which was 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 51,² for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in reclassification of the State or zone as either a modified accredited State or zone or a nonmodified accredited State or zone.

(e) If tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must adopt a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock and wildlife, the prevention of the spread of the disease to other wildlife and livestock, increased surveillance of tuberculosis in wildlife, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not adopt such a plan within the required 6 months, the State or zone will lose its accredited-free status and will be reclassified as either a modified accredited State or zone or a nonmodified accredited State or zone.

(f) Accredited-free State or zone status must be renewed annually. To qualify for renewal of accredited-free State or zone status, a State must submit an annual report to APHIS certifying that the State or zone within the State complies with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding accredited-free States. The report must

be submitted to APHIS each year between October 1 and November 30.

5. Section 77.4 is revised to read as follows:

§ 77.4 Modified accredited States or zones.

(a) The following are modified accredited States: New Mexico and Texas.

(b) The following are modified accredited zones: None.

(c) If tuberculosis is diagnosed within a modified accredited State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must adopt a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock and wildlife, the prevention of the spread of the disease to other wildlife and livestock, increased surveillance of tuberculosis in wildlife, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not adopt such a plan within the required 6 months, the State or zone will be reclassified as nonmodified accredited.

(d) If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999 edition," which was 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 51,³ for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of modified accredited States or zones and its being reclassified as a nonmodified accredited State or zone.

(e) Modified accredited State or zone status must be renewed annually. To qualify for renewal of a modified

² Copies may be obtained from the National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, Maryland 20737-1231. You may inspect a copy at the APHIS reading room, room 1141, USDA South Building, 14th Street and Independence Ave., SW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

³ Copies may be obtained from the National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, Maryland 20737-1231. You may inspect a copy at the APHIS reading room, room 1141, USDA South Building, 14th Street and Independence Ave., SW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

accredited State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding modified accredited States. The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for accredited-free status, a modified accredited State or zone must demonstrate to the Administrator that it has zero percent prevalence of affected cattle and bison herds, has had no findings of tuberculosis in any cattle or bison in the State or zone for the previous 5 years, and complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," except that the requirement of freedom from tuberculosis is 2 years from the depopulation of the last infected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated.

§§ 77.10 and 77.14 [Amended]

6. Section 77.10 is amended by redesignating footnote 3 as footnote 5, and § 77.14 is amended by redesignating footnote 4 as footnote 6.

§§ 77.5–77.18 [Redesignated §§ 77.9–77.22]

7. Sections 77.5, 77.6, 77.7, 77.8, 77.9, 77.10, 77.11, 77.12, 77.13, 77.14, 77.15, 77.16, 77.17, and 77.18 are redesignated as §§ 77.9, 77.10, 77.11, 77.12, 77.13, 77.14, 77.15, 77.16, 77.17, 77.18, 77.19, 77.20, 77.21, and 77.22, respectively, and new §§ 77.5, 77.6, 77.7, and 77.8 are added to read as follows:

§ 77.5 Nonmodified accredited States or zones.

(a) The following are nonmodified accredited States: None.

(b) The following are nonmodified accredited zones: A zone in Michigan delineated by starting at the juncture of State Route 55 and Interstate 75, then heading northwest and north along Interstate 75 to the Straits of Mackinac, then southeast and south along the shoreline of Michigan to the eastern terminus of State Route 55, then west along State Route 55 to Interstate 75.

(c) To qualify for accredited-free status, a nonmodified accredited State or zone must demonstrate to the Administrator that it has zero percent prevalence of affected cattle and bison herds, has had no findings of tuberculosis in any cattle or bison in the State or zone for the previous 5 years, and complies with the provisions of the "Uniform Methods and Rules—Bovine

Tuberculosis Eradication, January 22, 1999 edition," which was incorporated 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 51,⁴ except that the requirement of freedom from tuberculosis is 2 years from the depopulation of the last infected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated.

(d) To qualify for modified accredited status, a nonmodified accredited State or zone must demonstrate that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," and that tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years, except that the Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

§ 77.6 Interstate movement from accredited-free, accredited-free (suspended), and modified accredited States and zones.

Cattle and bison that originate in an accredited-free State or zone, an accredited-free (suspended) State or zone, or a modified accredited State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without restriction.

§ 77.7 Interstate movement from nonmodified accredited States and zones.

Cattle or bison that originate in a nonmodified accredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under the following conditions:

(a) The cattle or bison are moved interstate directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a State-inspected slaughtering

establishment that has inspection by a State inspector at the time of slaughter;

(b) If the cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers moved to an approved feedlot, they must be accompanied by a certificate stating that they have been classified negative to an official tuberculin test that was conducted within 30 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be individually identified by an APHIS-approved metal eartag or tattoo;

(c) Cattle and bison that are breeding animals from an accredited herd may be moved interstate if they are accompanied by a certificate showing the cattle or bison are from such a herd; or

(d) If the cattle or bison are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 30 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be individually officially identified.

§ 77.8 Application for and retention of recognition of tuberculosis status zones.

(a) A State animal health official may request at any time that the Administrator designate part of a State as having a different tuberculosis status under this subpart than the rest of the State, except that each State may be divided into no more than two different zones. The requested zone must be delineated by the State animal health authorities, subject to approval by the Administrator. The request from the State must demonstrate that the State complies with the following requirements:

(1) The State must have the legal and financial resources to implement and enforce a tuberculosis eradication program and must have in place an infrastructure, laws, and regulations that require and ensure that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife;

(2) The State in which the intended zones are located must maintain, in each intended zone, clinical and epidemiological surveillance of animal species at risk of tuberculosis, at a rate that allows detection of tuberculosis in

⁴Copies may be obtained from the National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, Maryland 20737–1231. You may inspect a copy at the APHIS reading room, room 1141, USDA South Building, 14th Street and Independence Ave., SW., Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing; and

(3) The State must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request.

(b) Retention of APHIS recognition of a tuberculosis status zone is subject to annual review by the Administrator. To retain recognition of a zone, a State must continue to comply with the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this section, and must retain for 2 years all certificates required under this part for the movement of cattle, bison, and captive cervids.

§ 77.12 [Amended]

8. Newly redesignated § 77.12 is amended as follows:

a. In the definition of *Accredited herd*, by removing the reference to “§ 77.10(f)” and adding in its place a reference to “§ 77.14(f)”, and by removing the reference to “§ 77.12” and adding in its place a reference to “§ 77.16”.

b. In the definition of *Affected herd*, by removing the reference to “§ 77.16(d)” and adding in its place a reference to “§ 77.20(d)”.

c. In the definition of *Monitored herd*, by removing the reference to “§ 77.14” and adding in its place a reference to “§ 77.18”.

d. In the definition of *Qualified herd*, by removing the reference to “§ 77.10(f)” and adding in its place a reference to “§ 77.14(f)”.

§ 77.13 [Amended]

9. Newly redesignated § 77.13 is amended as follows:

a. In paragraph (a), by removing the reference to “§ 77.12” and adding in its place a reference to “§ 77.16”.

b. In paragraph (b), by removing the reference to “§ 77.17” and adding in its place a reference to “§ 77.21”.

c. In paragraph (c), by removing the reference to “§ 77.17” and adding in its place a reference to “§ 77.21”.

§ 77.14 [Amended]

10. Newly redesignated § 77.14 is amended as follows:

a. In paragraph (a)(1), by removing the reference to “§ 77.11(a)(2)” and adding in its place a reference to “§ 77.15(a)(2)”, and by removing the reference to “§ 77.16(e)” and adding in its place a reference to “§ 77.20(e)”.

b. In paragraph (e)(1), by removing the reference to “§ 77.11(a)” and adding in its place a reference to “§ 77.15(a)”.

c. In paragraph (e)(2), by removing the reference to “§ 77.11(b)” and adding in its place a reference to “§ 77.15(b)”.

d. In paragraph (e)(3), by removing the reference to “§ 77.11(c)” and adding in its place a reference to “§ 77.15(c)”.

e. In paragraph (f), by removing the reference to “§ 77.12(a)(1)” and adding in its place a reference to “§ 77.16(a)(1)”, and by removing the reference to “§ 77.13(a)(1)” and adding in its place a reference to “§ 77.17(a)(1)”.

§ 77.15 [Amended]

11. In newly redesignated § 77.15, paragraph (c)(2) is amended by removing the reference to “§ 77.16(e)” and replacing it with a reference to “§ 77.20(e)”.

§ 77.16 [Amended]

12. In newly redesignated § 77.16, paragraph (a)(1) is amended by removing the reference to “§ 77.10(f)” and adding in its place a reference to “§ 77.14(f)”, and paragraph (b) is amended by removing the reference to “§ 77.9(c)” and adding in its place a reference to “§ 77.13(c)”.

§ 77.17 [Amended]

13. In newly redesignated § 77.17, paragraph (a)(1) is amended by removing the reference to “§ 77.10(f)” and adding in its place a reference to “§ 77.14(f)”, and paragraph (b)(2) is amended by removing the reference to “§ 77.9(c)” and adding in its place a reference to “§ 77.13(c)”.

§ 77.18 [Amended]

14. In newly redesignated § 77.18, paragraph (b)(2) is amended by removing the reference to “§ 77.9(c)” and adding in its place a reference to “§ 77.13(c)”.

§ 77.20 [Amended]

15. Newly redesignated § 77.20 is amended as follows:

a. In paragraph (a)(2), by removing the reference to “§ 77.16(b)” and adding in its place a reference to “§ 77.20(b)”.

b. In the introductory text to paragraph (b), by removing the reference to “§ 77.16(e)” and adding in its place a reference to “§ 77.20(e)”.

c. In paragraph (b)(2), by removing the reference to “§ 77.17” and adding in its place a reference to “§ 77.21”.

d. In paragraph (b)(2)(i), by removing the reference to “§ 77.16(c)” and adding in its place a reference to “§ 77.20(c)”.

e. In paragraph (b)(2)(ii), by removing the reference to “§ 77.16(d)” and adding in its place a reference to “§ 77.20(d)”.

f. In paragraph (c), by removing the reference to “§ 77.16(a)” and adding in its place a reference to “§ 77.20(a)”.

g. In paragraph (d), by removing the reference to “§ 77.15” and adding in its place a reference to “§ 77.19”.

h. In paragraph (e), by removing the reference to “§ 77.16(d)” and adding in its place a reference to “§ 77.20(d)”.

i. In paragraph (e)(1), by removing the reference to “§ 77.16(d)” and adding in its place a reference to “§ 77.20(d)”.

j. In paragraph (g)(2), by removing the reference to “§ 77.16(a)” and adding in its place a reference to “§ 77.20(a)”.

§ 77.21 [Amended]

16. In newly redesignated § 77.21, paragraph (a)(3) is amended by removing the reference to “§ 77.8” and adding in its place a reference to “§ 77.12”.

Done in Washington, DC, this 20th day of October 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

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FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Regulation K; Docket No. R-1048]

International Banking Operations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interpretation.

SUMMARY: The Board of Governors of the Federal Reserve System has issued an interpretation concerning the scope of the data processing provision of Regulation K. The interpretation clarifies that a banking organization may not engage in a broader range of data processing activities outside the United States under Regulation K than is permissible under Regulation Y, without the Board's approval.

EFFECTIVE DATE: November 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Kathleen M. O'Day, Associate General Counsel (202/452-3786), or Jonathan D. Stoloff, Counsel (202/452-3269), Legal Division. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Diane Jenkins (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Regulation K provides that a bank holding company or Edge corporation may control a foreign company that engages in