

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this interim rule.

#### Paperwork Reduction Act

This interim rule does not contain any information collection requirements that require OMB approval under the provisions of the Paperwork Reduction Act.

#### Executive Order 12372

This interim rule is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 46 FR 29115 (June 24, 1983).

#### Executive Order 12988

This interim rule has been reviewed under the Executive Order 12988, Civil Justice Reform. The interim rule would have pre-emptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The interim rule would not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

In accordance with section 416(b) of the Agricultural Act of 1949, 7 U.S.C. 1431(b), ("section 416(b)") and the Food for Progress Act of 1985, 7 U.S.C. 1736o, ("FFP"), Commodity Credit Corporation ("CCC") donates agricultural commodities overseas to meet food needs and to support economic development efforts in foreign countries. The recipient of a donation, commonly referred to as a "cooperating sponsor," is required to contract for the ocean transportation of the donated commodities. Current regulations governing section 416(b) and FFP require cooperating sponsors to follow certain procedures when contracting for

ocean transportation of bulk cargoes and non-liner shipments of packaged commodities that parallel procedures required under title I of the Agricultural Trade Development and Assistance Act of 1954, (Pub. L. 480). The Pub. L. 480 Operations Division, Export Credits, Foreign Agricultural Service, has the responsibility of overseeing the contracting process for all these programs.

On October 10, 1997, CCC published a final rule applicable to title I, Pub. L. 480 at 7 CFR part 17 that changed certain requirements regarding the procedures for contracting for ocean transportation of bulk cargoes and non-liner shipments of packaged commodities and also reorganized part 17 (62 FR 52929). The purpose of this interim rule is to amend the regulations applicable to section 416(b) and FFP to be consistent with the new title I, P.L. 480 requirements. In particular, the interim rule deletes the prohibition in § 1499.8(b)(4) against "clarification or submission of additional information" under competitive freight invitations for bids and updates a cross reference to the title I, Pub. L. 480 regulations regarding information and certifications required from prospective shipping agents. Public participation in these rule changes is unnecessary because the changes were the subject of public comments during the title I, Pub. L. 480 rule-making process. Also, any delay in promulgating these changes may delay implementation of these foreign assistance programs this fiscal year. For these reasons, CCC is promulgating this rule as an interim rule, effective on publication. However, comments on the provisions of this regulation are invited. CCC will consider all comments received and may make changes based on the comments received.

#### List of Subjects in 7 CFR Part 1499

Agricultural commodities, Exports, Foreign aid.

Accordingly, CCC proposes to amend 7 CFR part 1499 as follows:

#### PART 1499—FOREIGN DONATION PROGRAMS

1. The authority citation for part 1499 continues to read as follows:

**Authority:** 7 U.S.C. 1431(b); 7 U.S.C. 1736o; E.O. 12752.

2. In § 1499.8, paragraph (b)(4) is amended by revising the first sentence to read as follows:

#### § 1499.8 Ocean transportation.

\* \* \* \* \*

(b) \* \* \*

(4) In the case of shipments of bulk commodities and non-liner shipments of packaged commodities, the Cooperating Sponsor shall open offers in public in the United States at the time and place specified in the invitation for bids and consider only offers that are responsive to the invitation for bids without negotiation. \* \* \*

\* \* \* \* \*

#### § 1499.8 [Amended]

3. In § 1499.8, paragraph (c)(2) is amended by removing "7 CFR 17.5" and adding, in its place, "7 CFR 17.4".

Signed at Washington, DC on November 20, 1997.

**Christopher E. Goldthwait,**

*General Sales Manager, FAS, and Vice President, Commodity Credit Corporation.*

[FR Doc. 98-4430 Filed 2-20-98; 8:45 am]

BILLING CODE 3410-10-M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 77

[Docket No. 97-062-1]

#### Tuberculosis Testing of Livestock Other Than Cattle and Bison

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

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

**SUMMARY:** We are amending the tuberculosis regulations to include species of livestock other than cattle and bison in the requirement for two annual herd tests for newly assembled herds on premises where a tuberculous herd has been depopulated. This requirement is necessary because, without testing, such livestock could become infected and spread tuberculosis to the cattle or bison in the herd before the disease was detected in the herd. Adding this requirement to the tuberculosis regulations will help ensure continued progress toward eradicating tuberculosis in the U.S. livestock population.

**DATES:** Interim rule effective February 23, 1998. Consideration will be given only to comments received on or before April 24, 1998.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 97-062-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-062-1. Comments

received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. James P. Davis, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7727; or e-mail: jdavis@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

Bovine tuberculosis is the contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. The regulations in 9 CFR part 77, "Tuberculosis" (referred to below as the regulations), regulate the interstate movement of cattle and bison because of tuberculosis. Cattle or bison not known to be affected with or exposed to tuberculosis may be moved interstate without restriction if those cattle or bison are moved from a State designated as an accredited-free, accredited-free (suspended), or modified accredited State. The regulations restrict the interstate movement of cattle or bison not known to be affected with or exposed to tuberculosis if those cattle or bison are moved from a nonmodified accredited State.

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 contained in a document titled "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (referred to below as the UM&R), which, as explained in the definition of *Uniform Methods and Rules—Bovine Tuberculosis Eradication* in § 77.1, has been incorporated by reference into the regulations.

Under the provisions of the UM&R, disclosure of tuberculosis in any herd must be followed by a complete epidemiologic investigation to determine the source of the infection in the herd and delimit the possible spread of the disease from the herd. Given the serious effects of the disease and the need to contain its spread, the Animal and Plant Health Inspection Service (APHIS) believes that every effort needs to be made to ensure the immediate elimination of tuberculosis from all species of domestic livestock on the

affected premises. The most effective and immediate means of eliminating tuberculosis from a premises is the depopulation—i.e., removal directly to slaughter—of the entire herd.

When an affected herd has been depopulated, there is still some risk that the bovine tuberculosis disease agent, *M. bovis*, could persist on the premises from which the affected herd was removed. Because of that risk, the UM&R requires that two annual herd tests be applied to all cattle and bison in a newly assembled herd on premises where a tuberculous herd has been depopulated, with the first test being applied approximately 6 months after the assembly of the new herd. These two tests are intended to ensure that the animals in the new herd have not been infected with tuberculosis through environmental exposure to *M. bovis* remaining on the premises. The provisions of the UM&R do, however, recognize that the *M. bovis* organism cannot persist indefinitely in the environment without an animal host. Thus, the UM&R provides that the requirement for two annual herd tests for a newly assembled herd can be waived if the premises has remained vacant—i.e., free of livestock—for 1 year or more.

We believe that the testing requirement described in the previous paragraph is a necessary and sound approach to reducing the risk of tuberculosis being introduced into a newly assembled herd on a premises where a tuberculous herd has been depopulated. Because the UM&R currently incorporated specifically calls for the herd tests to be applied to all cattle and bison, the herd test requirement does not extend to other species of livestock that may be included in a new herd. However, it is becoming increasingly common for herd owners to maintain mixed groups of livestock on common ground, with cattle and bison commingling with animals such as llamas, alpacas, or captive deer. These other species are as susceptible to tuberculosis as cattle or bison and are capable of spreading the disease to, or contracting the disease from, the other livestock in the herd. Thus, the UM&R's omission of livestock other than cattle and bison from the herd testing requirement makes it possible for tuberculosis-infected livestock to be present in a mixed herd without being diagnosed, which could result in the herd's cattle or bison becoming infected with tuberculosis.

This potential risk presented by other species of livestock is recognized in our regulations in 9 CFR part 50, which provide for the payment of indemnity to

the owners of animals destroyed because of tuberculosis. Specifically, § 50.14(f) of those regulations provides that a claim for compensation for exposed cattle, bison, or cervids destroyed during a herd depopulation will not be allowed if a designated epidemiologist determines that exotic bovidae (such as antelope) or other species of livestock in the herd were exposed to tuberculosis by reason of association with tuberculous livestock but were not destroyed as part of the herd depopulation. This basis for the denial of a compensation claim is intended to encourage herd owners to destroy all exposed livestock in a herd, not just the cattle, bison, or cervids for which compensation would be paid. This ensures that when the cattle, bison, or cervids in an affected herd are depopulated, other exposed species do not remain on the premises to infect the healthy livestock with which the owner reassembles the herd.

Given that the risk of tuberculosis exposure applies to all the livestock—not just the cattle and bison—in a newly assembled herd on a premises where a tuberculous herd was depopulated, we believe that it is necessary to include other species of livestock in the requirement for two annual herd tests for such herds. To do so, we have amended the definitions of *Accredited-free (suspended) State* and *Modified accredited State* in § 77.1 of the regulations. To support those changes, we have also amended the definition of *herd* in § 77.1 and have added a definition for *livestock* to that section.

The definition of *Accredited-free (suspended) State* provides that a State 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. Such a State will qualify for redesignation as an accredited-free State 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. The definition of *Modified accredited State* provides, in part, that a State must comply with all the provisions of the UM&R regarding modified accredited States, and must apply those provisions to bison in the same manner as to cattle, in order to establish or maintain status as a modified accredited State. To each of those definitions, we have added the further requirement that 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 must apply

the herd test requirements of the UM&R for such newly assembled herds to those other livestock in the same manner as to cattle and bison.

Because, as discussed above, the composition of a herd may not be limited to cattle or bison, we have also amended the definition of *herd* in § 77.1. The scope of the definition had been limited to groups of cattle, bison, or both; as amended by this interim rule, the definition of *herd* now includes other livestock. We have also added the following definition of *livestock*: "Cattle, bison, cervids, swine, dairy goats, and other hoofed animals (such as llamas, alpacas, and antelope) raised or maintained in captivity for the production of meat and other products, for sport, or for exhibition." These two definitions are the same as those already provided for those terms in § 50.1 of the tuberculosis indemnity regulations.

#### **Applicability to State Tuberculosis Status**

Although this interim rule provides for the testing of all livestock in a newly assembled herd on a premises where a tuberculosis herd has been depopulated, a State's tuberculosis status will continue to be based on the presence or absence of tuberculosis in cattle or bison in herds within the State. The intent of this interim rule is to provide for the identification and elimination of potential sources of tuberculosis infection in those newly assembled herds when they contain cattle or bison and other livestock. The detection of tuberculosis in livestock other than cattle and bison in a herd as a result of the testing provisions of this interim rule will not affect a State's tuberculosis status unless it is conclusively determined, in accordance with the existing regulations and the provisions of the UM&R, that tuberculosis infection is also present in the herd's cattle or bison.

#### **Immediate Action**

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to change the regulations in order to close a loophole in the herd testing requirements that could result in the spread of tuberculosis within mixed herds of cattle, bison, and other species of livestock. Without this testing requirement, it is possible for a tuberculosis-infected animal to spread the disease throughout a newly assembled herd, and for the disease to remain undetected until the cattle or

bison in the herd are tested for tuberculosis. Two notable examples of tuberculosis being spread in this way occurred in 1992. In the State of New York, two dairy herds were depopulated after cattle in the herds were found to be infected with tuberculosis, and an additional 18 dairy herds were quarantined and tested. It was determined that the cattle in one of the herds that was depopulated had been exposed to tuberculous cervids that shared the premises. Similarly, tuberculosis was found in beef cattle in Pennsylvania that had been in contact with tuberculous cervids in the herd. As a result of these outbreaks, New York and Pennsylvania lost their accredited-free State status. Further, in one State there is a premises where cattle and bison were depopulated because of bovine tuberculosis, but other livestock exposed to the tuberculous cattle and bison remained after the depopulation. These exposed livestock have now commingled with the newly reassembled cattle and bison on that same premises. It is necessary to immediately implement this interim rule to ensure that all livestock on that premises have been properly tested before upgrading the State's tuberculosis status to accredited-free.

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 it effective upon 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**. It 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. The 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.

This interim rule amends the tuberculosis regulations by including species of livestock other than cattle and bison in the requirement for two annual herd tests for newly assembled herds on premises where a tuberculous herd has been depopulated. We are taking this action because, without testing, such livestock could become infected and spread tuberculosis to the cattle or bison in the herd before the disease was

detected in the herd. Adding this requirement to the tuberculosis regulations will help ensure continued progress toward eradicating tuberculosis in the U.S. livestock population.

The U.S. livestock industry relies on healthy animals for its economic well-being, and the industry's role in the U.S. economy is significant. As an example, the total value of U.S. livestock output in 1991 was \$66.6 billion, about half of the value of all agricultural production in the United States for that year. The value of live animal exports and exports of meat products totaled \$4.3 billion in 1991, equivalent to 10 percent of the value of all U.S. agricultural exports that year. In 1996, there were 1,194,390 domestic operations with cattle and calves, and the inventory of cattle and calves at the end of that year stood at 101.2 million head with a value of more than \$52 billion (U.S. Department of Agriculture, National Agricultural Statistics Service, "Agricultural Statistics 1995-96," Table 370).

Recent studies on the economic impact of bovine tuberculosis in the United States are not available. However, a comprehensive computer model developed by Canada in 1979 indicates that, if the United States' tuberculosis eradication program were discontinued, annual losses in the United States would exceed \$1 billion. Another study, conducted in 1972, concluded that APHIS' tuberculosis eradication program was fully justified from an economic standpoint, as benefits exceeded costs by a margin of 3.64 to 1.<sup>1</sup>

The Regulatory Flexibility Act requires that agencies consider the economic impact of rule changes on small entities. The entities potentially affected by this rule change are herd owners, most of whom are classified as small entities under the Small Business Administration's (SBA's) criteria. In 1992, for example, 92 percent of all 1,074,349 farms in the U.S. with cattle inventory had herds of fewer than 200 cattle (U.S. Department of Commerce, "1992 Census of Agriculture," 1993). In that same year, 98 percent of all 921,695 livestock and dairy farms in the United States had sales of less than \$0.5 million, the small entity size standard established by the SBA for firms engaged in livestock and animal specialty services.

This interim rule is not expected to have a significant economic impact on a substantial number of herd owners, large or small, for several reasons. First,

<sup>1</sup> Information about these studies can be obtained by contacting the person listed under FOR FURTHER INFORMATION CONTACT.

only a very small percentage of herds will be affected. It is estimated that only about 1 percent of all herds in the United States are mixed herds comprised of both cattle and/or bison and other species of livestock. Second, the testing of these other species of livestock will be conducted by Federal or State veterinary medical officers at no cost to herd owners. Herd owners will have to bear the cost of presenting the animals for testing, but that cost should be minimal in most cases. Only in rare situations, such as those where exotic animals have to be sedated, would the cost of presenting animals exceed minimal levels. Third, if it is necessary to destroy cattle or bison that have been identified as tuberculosis-exposed on the basis of a herd test that considers livestock other than cattle and bison, the economic impact on herd owners will be mitigated, if not entirely offset, by the payment of indemnity by APHIS.

For the reasons stated above, this interim rule is not expected to have an adverse impact on a significant number of herd owners. Indeed, herd owners are more likely to benefit over time as continued progress toward the eradication of tuberculosis serves to enhance livestock values.

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, 9 CFR part 77 is amended 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. In the definition of *Accredited-free (suspended) State*, paragraph (1)(ii) is revised to read as set forth below.

b. The definition of *Herd* is revised to read as set forth below.

c. A definition of *Livestock* is added, in alphabetical order, to read as set forth below.

d. In the definition of *Modified accredited state*, paragraph (1)(i) is revised to read as set forth below.

**§ 77.1 Definitions.**

\* \* \* \* \*

*Accredited-free (suspended) State.* (1) \* \* \*

(ii) A State is qualified 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 must apply the herd test requirements of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” for such newly assembled herds to those other livestock in the same manner as to cattle and bison.

\* \* \* \* \*

*Herd.* Any group of livestock maintained on common ground for any purpose, or two or more groups of livestock under common ownership or supervision, geographically separated but that have an interchange or movement of livestock without regard to health status, as determined by the Administrator.

\* \* \* \* \*

*Livestock.* Cattle, bison, cervids, swine, dairy goats, and other hoofed animals (such as llamas, alpacas, and antelope) raised or maintained in captivity for the production of meat and other products, for sport, or for exhibition.

*Modified accredited State.* (1)(i) To establish or maintain status as a modified accredited State, a State must

comply with all of the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” regarding modified accredited States, and must apply these provisions to bison in the same manner as to cattle. Further, 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 must apply the herd test requirements of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Modified accredited State status must be renewed annually.

\* \* \* \* \*

Done in Washington, DC, this 18th day of February 1998.

**Craig A. Reed,**

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

[FR Doc. 98–4490 Filed 2–20–98; 8:45 am]

BILLING CODE 3410–34–P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of Federal Housing Enterprise Oversight**

**12 CFR Part 1720  
RIN 2550-AA05**

**Implementation of the Privacy Act of 1974**

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Interim regulation with request for comments.

**SUMMARY:** The Office of Federal Housing Enterprise Oversight is issuing an interim regulation to implement the Privacy Act of 1974. The regulation sets forth the procedures by which an individual may request access to records about him/her that are maintained by OFHEO, amendment of such records, or an accounting of disclosures of such records. OFHEO is requesting comments on the regulation.

**DATES:** This interim regulation is effective February 23, 1998. Comments regarding the regulation must be received in writing on or before April 24, 1998.

**ADDRESSES:** Send written comments to Anne E. Dewey, General Counsel, Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. Copies of all comments received will be available for examination by interested parties at the Office of Federal Housing Enterprise