

For the reasons set forth in the preamble, 7 CFR part 928 is amended as follows:

**PART 928—PAPAYAS GROWN IN HAWAII**

1. The authority citation for 7 CFR part 928 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. The suspensions of §§ 928.150 and 928.152 are removed and introductory text is added to each section to read as follows:

**§ 928.150 Exemption from inspection.**

The requirements in this section apply through January 2, 2002.

\* \* \* \* \*

**§ 928.152 Maturity exemption.**

The requirements in this section apply through January 2, 2002.

\* \* \* \* \*

3. In § 928.160, paragraph (a)(1) is revised to read as follows:

**§ 928.160 Utilization reports.**

(a) \* \* \*

(1) Quantity of papayas handled subject to assessments and regulations including the date, destination, and inspection certificate number of each shipment when inspection requirements specified in § 928.313 apply January 2, 2001, through January 2, 2002; \* \* \*

4. The suspension of § 928.313 is removed and the section is revised to read as follows:

**§ 928.313 Hawaiian Papaya Regulation 13.**

(a) During the period January 2, 2001, through January 2, 2002, no handler shall ship any container of papayas to any destination (except immature papayas handled pursuant to § 928.152) unless such papayas grade at least Hawaii No. 1: *Provided*, That the weight requirements specified in this grade shall not apply to such shipments.

(b) *Hawaii No. 1* cited in this regulation is specified in the Hawaii Department of Agriculture, Standards for Fruits and Vegetables (Title 4, Subtitle 4, Chapter 41, Subchapter 7, § 4–41–52, Standards for Hawaii-Grown Papaya) (8/6/90). Copies of the grade specifications are available from the Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; and they are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a), and 1 CFR part 51. The materials

are incorporated as they exist on the date of approval and a notice of any changes in the material will be published in the *Federal Register*.

Dated: November 14, 2000.

**Eric M. Forman,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–29706 Filed 11–21–00; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Part 77**

[Docket No. 99–092–1]

**Tuberculosis in Cattle, Bison, and Captive Cervids; State and Zone 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 recognize two separate zones with different tuberculosis risk classifications in the State of Texas. This action is necessary to prevent the spread of tuberculosis and to further the progress of the domestic bovine tuberculosis eradication program.

**DATES:** This interim rule is effective November 22, 2000. We invite you to comment on this docket. We will consider all comments that we receive on or before January 22, 2001.

**ADDRESSES:** Please send four copies of your comment (an original and three copies) to: Docket No. 99–092–1, 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. 99–092–1.

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.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph Van Tiem, Senior Staff Veterinarian, National Animal Health Programs, 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 the 20th 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. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis. In this interim rule, we are amending the regulations to establish two tuberculosis classification zones in Texas.

**Note:** On October 23, 2000, we published a final rule in the *Federal Register* (65 FR 63501–63533, Docket No. 99–038–5) that revised part 77 in its entirety. That final rule is scheduled to become effective on November 22, 2000. In describing the actions to be taken in this interim rule, which also becomes effective on November 22, 2000, we will refer to the regulations as they appear in our October 23, 2000, final rule.

*Conditions for Zone Recognition*

Under §§ 77.3 and 77.4 of the regulations, in order to qualify for zone classification by the Animal and Plant Health Inspection Service (APHIS), the State must meet the following requirements:

1. The State must have adopted and must be enforcing regulations that impose restrictions on the intrastate movement of cattle, bison, and captive cervids that are substantially the same as those in place in part 77 for the interstate movement of those animals.

2. The designation of part of a State as a zone must otherwise be adequate to prevent the interstate spread of tuberculosis.

3. The zones must be delineated by the animal health authorities in the State making the request for zone

recognition and must be approved by the APHIS Administrator.

4. The request for zone classification must demonstrate that the State has the legal and financial resources to implement and enforce a tuberculosis eradication program and 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.

5. The request for zone classification must demonstrate that the State maintains, in each intended zone, 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 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.

6. 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.

#### *Request for Zone Recognition in Texas*

In our October 23, 2000, final rule, we classified the entire State of Texas as modified accredited advanced with regard to cattle and bison and as modified accredited with regard to captive cervids. However, we have received from the State of Texas a request for zone recognition in which State animal health officials demonstrate that Texas meets the requirements listed above for zone recognition. Therefore, in this interim rule, we are recognizing two zones in Texas as described below.

1. The smaller of the two zones is bounded as follows: Beginning at the point where the Hudspeth-El Paso County line intersects U.S. Highway 62; then west along U.S. Highway 62 to its intersection with the El Paso city limits; then southwest along the El Paso city limits to the Rio Grande River; then southeast along the Rio Grande River to the Fort Hancock-El Porvenir Bridge; then northeast along an imaginary line to Interstate 10; then northwest along Interstate 10 to its intersection with the Hudspeth-El Paso County line; then north along the Hudspeth-El Paso County line to the point of beginning.

2. The second zone in Texas consists of the rest of the State.

With regard to cattle and bison, State animal health officials in Texas have demonstrated to APHIS that, except for the smaller zone, Texas meets the

criteria for accredited-free status set forth in the definition of *accredited-free State or zone* in § 77.5 of the regulations. In accordance with these conditions, Texas has demonstrated that the larger zone has zero percent prevalence of affected cattle or bison herds and has had no findings of tuberculosis in any cattle or bison herds for the past 5 years. Additionally, the State complies with the conditions of the UMR.

State animal health officials in Texas have demonstrated that the smaller zone meets the criteria for modified accredited advanced status for cattle and bison set forth in the definition of *modified accredited advanced State or zone* in § 77.5 of the regulations. According to those criteria, the Administrator, upon his or her review, may classify a State or zone as modified accredited advanced—depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone—if the State or zone has fewer than 30,000 herds total and, of those, no more than 3 are affected herds for each of the most recent 2 years. Within the smaller zone in Texas, there are a total of approximately 17 cattle herds and no bison herds. Of those cattle herds, two are known to be affected with tuberculosis, and Texas is conducting an aggressive program to eradicate the disease in the zone. There are no known affected herds in the remainder of the State. Under those conditions, the Administrator has determined that the smaller zone in Texas qualifies for modified accredited advanced status with regard to cattle and bison.

With regard to captive cervids, because both of the zoned areas in Texas continue to qualify as modified accredited, in § 77.26 we continue to list Texas in its entirety as a modified accredited State.

#### **Correction**

We are amending § 77.9(b) to correct an omission in our October 23, 2000, final rule. Section 77.9 contains provisions pertaining to modified accredited advanced States and zones. In § 77.9(b), the word “advanced” was omitted. We are adding the word “advanced” to § 77.9(b).

#### **Emergency Action**

This rulemaking is necessary on an emergency basis to establish two zones with separate tuberculosis risk classifications in Texas with regard to cattle and bison. Failure to provide “split-State status” in Texas with regard to tuberculosis on an emergency basis could increase the likelihood of the

spread of that disease by reducing the incentive for Texas to stringently restrict movement of tuberculosis-susceptible animals from high-risk areas within the State and to implement effective containment and eradication measures. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that are received on or before January 22, 2001. 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. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Bovine tuberculosis is a communicable disease of cattle, bison, cervids and other species, including humans, and results in losses in meat and milk production among infected animals. As part of the Cooperative State/Federal Tuberculosis Eradication Program, which has virtually eliminated bovine tuberculosis from the Nation's livestock populations, the regulations classify each State according to its tuberculosis risk and place certain restrictions on the movement of cattle and bison from States with high-risk classifications. In this interim rule, we are dividing Texas into two separate zones for the purpose of tuberculosis risk classification. One of these zones will be classified as accredited-free with regard to cattle and bison; the other will be classified as modified accredited advanced. We discuss below the projected effects of this regulatory action.

#### *Cattle and Bison*

In 1999, the total number of cattle in the United States was approximately 99.115 million, valued at approximately \$58.833 billion. There were 1,095,960 U.S. operations with cattle. Over 99 percent of these operations were small businesses with annual gross receipts of less than \$500,000. There were about 112,700 bison held as livestock in the United States, valued at about \$169 million, on 1,150 premises.

Under the regulations in part 77, each State is assigned one of five risk classifications: Accredited-free, modified accredited advanced, modified accredited, accreditation preparatory, or nonaccredited. In our October 23, 2000, final rule, we classified the entire State of Texas as modified accredited advanced with regard to cattle and bison. In this interim rule, we are classifying most of Texas as accredited-free with regard to cattle and bison and a portion of El Paso and Hudspeth Counties, TX, as modified accredited advanced. We analyze below the expected effect of changing Texas from one statewide classification of modified accredited advanced with regard to cattle and bison to two separate zone classifications—one of accredited-free and one of modified accredited advanced.

Under the three-tier classification that remains in effect until the November 22, 2000, effective date of the October 23, 2000, final rule, the entire State of Texas is classified as modified accredited, which means that cattle not known to be infected with or exposed to tuberculosis may be moved interstate from anywhere in Texas without restriction. Although the October 23, 2000, final rule classifies the State of Texas as modified accredited advanced, this interim rule, which classifies most of the State of Texas as an accredited-free zone, also becomes effective on November 22, 2000. Because cattle or bison that originate in an accredited-free zone may be moved interstate without restriction, there will be, for all practical purposes, no change in the restrictions that apply to the interstate movement of cattle and bison from the accredited-free zone established in this interim rule.

Additional testing and identification requirements will, however, apply to the interstate movement of certain cattle and bison that originate in the modified accredited advanced zone that we are establishing in El Paso and Hudspeth Counties, TX. Specifically, for interstate movement of cattle or bison from a modified accredited advanced State or zone, the regulations require sexually intact cattle and bison not from an accredited herd to have one negative test within 60 days prior to being moved interstate and also require that they be officially identified. Additionally, sexually intact heifers moved to an approved feedlot, steers, and spayed heifers must be either officially identified or identified to a premises of origin before they can be moved interstate.

As of January 1999, there were about 153,000 cattle herds in Texas with 14.9 million cattle, valued at \$7.1 billion. (In

addition, there were 40 operations with bison, with a total of 1,370 animals.) In the portion of El Paso and Hudspeth Counties, TX, that we are establishing as a modified accredited advanced zone in this interim rule, there are approximately 17 cattle herds totaling approximately 12,000 to 13,000 head. There are no bison herds. Of the cattle in this zone, only approximately 1,000 are expected to require testing to be moved interstate. Another 120 are expected to require identification but no testing.

The approximate per-animal testing cost is \$4.30, compared to an average sale value of approximately \$600 for a head of cattle. The cost of official identification by applying an eartag is about \$0.50 per head.

Applying the unit testing and identification costs to the number of animals that are likely to require testing and identification, or simply identification, to be eligible for movement from the modified accredited advanced zone yields the approximate economic effect of this interim rule. The testing cost is projected to be no more than \$4,300 annually, and the identification cost is projected to be no more than \$560, for a total estimated annual testing and identification cost in Texas of no more than \$4,860. This cost is relatively small when compared to the total size and significance of the cattle and bison industry in Texas and in the United States overall.

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 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**

This interim rule contains no new information collection or recordkeeping requirements under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 9 CFR Part 77**

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

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

**PART 77—TUBERCULOSIS**

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

**Authority:** 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

2. Section 77.7 is amended by revising paragraph (b) to read as follows:

**§ 77.7 Accredited-free States or zones.**

\* \* \* \* \*

(b) The following are accredited-free zones: All of the State of Texas except for the zone that comprises those portions of El Paso and Hudspeth Counties, TX, described in § 77.9(b).

\* \* \* \* \*

3. Section 77.9 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 77.9 Modified accredited advanced States or zones.**

(a) The following are modified accredited advanced States: None.

(b) The following are modified accredited advanced zones: A zone in Texas delineated as follows: Beginning at the point where the Hudspeth-El Paso County line intersects U.S. Highway 62; then west along U.S. Highway 62 to its intersection with the El Paso city limits; then southwest along the El Paso city limits to the Rio Grande River; then southeast along the Rio Grande River to the Fort Hancock-El Porvenir Bridge; then northeast along an imaginary line to Interstate 10; then northwest along Interstate 10 to its intersection with the Hudspeth-El Paso County line; then north along the Hudspeth-El Paso County line to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 16th day of November 2000.

**Bobby R. Acord,**

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

[FR Doc. 00–29832 Filed 11–21–00; 8:45 am]

**BILLING CODE 3410–34–U**