

# Proposed Rules

Federal Register

Vol. 68, No. 66

Monday, April 7, 2003

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 77

[Docket No. 02-112-1]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the bovine tuberculosis regulations by establishing two separate zones with different tuberculosis risk classifications in the State of Michigan and raising the designation of one of those zones from modified accredited to modified accredited advanced. We are proposing this action based on our determination that Michigan meets the requirements for zone recognition and that one of the zones meets the criteria for designation as modified accredited advanced.

**DATES:** We will consider all comments that we receive on or before June 6, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-112-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-112-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02-112-1" on the subject line.

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 dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph VanTiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 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. We propose to amend the regulations to establish two tuberculosis classification zones within Michigan.

##### 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 restriction 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 the infrastructure, laws, and regulations to 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 Michigan

Currently, the State of Michigan is classified as modified accredited for cattle and bison. However, we have received from the State of Michigan a request for zone recognition in which State animal health officials demonstrate that Michigan meets the requirements listed above for the requested zone recognition. Therefore, we propose to recognize two zones in Michigan as follows:

- The smaller of the two zones would consist of Alcona, Alpena, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle

Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest.

- The second zone in Michigan would consist of the remainder of the State.

The criteria for modified accredited advanced status are 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 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. State animal health officials in Michigan have demonstrated to APHIS that, except for the smaller zone, Michigan now meets these criteria.

The criteria for modified accredited status are set forth in the definition of *Modified accredited State or zone* in § 77.5 of the regulations. According to those criteria, the Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures. State animal health officials in Michigan have demonstrated to APHIS that the smaller zone meets these criteria.

#### **Executive Order 12866 and Regulatory Flexibility Act**

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

Bovine tuberculosis is a communicable disease of cattle, bison, cervids and other species, including humans, and results in losses of 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.

Currently, the State of Michigan is classified as modified accredited for cattle and bison. We propose to amend the regulations to establish two classification zones within Michigan. Alcona, Alpena, Cheboygan, Crawford,

Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest would be classified as modified accredited. The designation of the remaining counties in the State would be raised from modified accredited to modified accredited advanced. We discuss below the projected effects of the proposed action.

As of January 2002, there were approximately 15,500 cattle operations in Michigan, totaling 990,000 head of cattle. According to the National Agricultural Statistics Service, the reported total cash value of cattle in Michigan is \$900.9 million as of that year. Over 98 percent of Michigan's cattle operations yield less than \$750,000 in yearly revenues and are therefore considered small entities under criteria established by the Small Business Administration.

For those counties or portions of counties in the smaller zone that would remain under modified accredited status, there would be no change in production costs. These 11 counties contribute approximately 63,100 head of cattle to the statewide total, representing only 6.4 percent of total cattle production in Michigan. The counties or portions of counties in the larger zone that would be raised from modified accredited status to modified accredited advanced status would experience fewer interstate movement restrictions associated with pre-movement testing requirements. Decreased tuberculin testing would result in decreased production costs for the affected producers, thus providing the monetary benefit described below.

The approximate per head tuberculin testing cost is \$6.33, based on an average Michigan herd consisting of 60 animals. This is compared to an average sale value of approximately \$910 per head. Thus, savings resulting from reduced testing represent less than 1 percent of the per-head value. This benefit is relatively small when compared to the total size and significance of the cattle and bison industry in Michigan and the United States overall.

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

#### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to

Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### **Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act**

This proposed 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 propose to amend 9 CFR part 77 as follows:

#### **PART 77—TUBERCULOSIS**

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

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

2. In § 77.9, paragraph (b) would be revised to read as follows:

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

\* \* \* \* \*

(b) The following are modified accredited advanced zones: All of the State of Michigan except for the zone that comprises those counties or portions of counties in Michigan described in § 77.11(b).

\* \* \* \* \*

3. In § 77.11, paragraphs (a) and (b) would be revised to read as follows:

#### **§ 77.11 Modified accredited States or zones.**

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

(b) The following are modified accredited zones: A zone in Michigan that comprises Alcona, Alpena, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest.

\* \* \* \* \*

Done in Washington, DC, this 1st day of April, 2003.

**Peter Fernandez,**

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

[FR Doc. 03-8332 Filed 4-4-03; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-SW-53-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Eurocopter France Model EC 155B, SA-365N and N1, AS-365N2, and AS 365 N3 Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC 155B, SA-365N and N1, AS-365N2, and AS 365 N3 helicopters with emergency flotation gear installed. This proposal would require inspecting the hydraulic brake hose (hose) for crazing, pinching, distortion, or leaks at the torque link hinge and replacing the hose, if necessary. This proposal would also require inspecting the hose and the emergency flotation gear pipe to ensure adequate clearance, and adjusting the landing gear leg, if necessary. This proposal is prompted by a report of a hose compression due to interference with a clamp that attaches the emergency flotation gear pipe. The actions specified by this proposed AD are intended to prevent failure of the hose, resulting in failure of hydraulic pressure to the brakes on the affected landing gear wheel and subsequent loss of control of the helicopter during a run-on landing.

**DATES:** Comments must be received on or before June 6, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002-SW-53-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: [9-asw-adcomments@faa.gov](mailto:9-asw-adcomments@faa.gov). Comments may be inspected at the Office of the Regional Counsel between

9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110, telephone (817) 222-5123, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2002-SW-53-AD." The postcard will be date stamped and returned to the commenter.

**Discussion**

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model EC 155 B, AS 365 N, N1, N2, and N3 helicopters. The DGAC advises of receiving a report of a hose compression due to interference with a clamp that attaches the emergency flotation gear pipe.

Eurocopter has issued Alert Telex No. 32.00.09, for Model AS 365N, N1, N2, and N3 helicopters, and Alert Telex No. 32A004, for Model EC 155B helicopters, both dated July 31, 2002. These alert telexes specify checks of the condition of the hose, as well as ensuring that there is no interference between the hose and the emergency flotation gear

pipe when the landing gear is retracted. The DGAC classified these alert telexes as mandatory and issued AD No. 2002-475-007(A) for Model EC 155 B helicopters, and AD No. 2002-474-058(A), for Model AS 365 N, N1, N2, and N3 helicopters, both dated September 18, 2002, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This unsafe condition is likely to exist or develop on other helicopters of the same type designs registered in the United States. Therefore, the proposed AD would require, within the next 10 hours time-in-service (TIS), inspecting the hose for crazing, pinching, distortion, or leaks at the torque link hinge and replacing the hose before further flight, if necessary. The proposed AD would also require, at the next 100-hour TIS inspection, inspecting the hose and the emergency flotation gear pipe to ensure adequate clearance, and adjusting the landing gear leg, if necessary. The actions would be required to be accomplished in accordance with the alert telexes described previously.

The FAA estimates that 44 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per helicopter to accomplish the inspection and 5 work hours to replace any parts, as necessary, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$459 for the hose; if replacing the hose on two sides is required, the cost would be approximately \$918. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$1,518 per helicopter, or \$50,094 for the entire fleet, assuming 75 percent of the fleet (33 helicopters) is equipped with emergency flotation gear and the hoses are replaced on all 33 helicopters.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of