

changes at a public meeting and interested parties had an opportunity to provide input; and (4) a 60-day comment period is provided and all comments received will be considered prior to finalization of this rule.

List of Subjects

7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

7 CFR Part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

■ For the reasons set forth in the preamble, 7 CFR parts 993 and 999 are amended as follows:

■ 1. The authority citation for 7 CFR parts 993 and 999 continues to read as follows:

Authority: 7 U.S.C. 601-674.

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

■ 2. In § 993.50:

■ a. Paragraphs (a), (b), (c), (d), (e), and (f) are suspended in their entirety effective August 1, 2003, through July 31, 2006.

■ b. Paragraph (g) is amended by suspending the words “, and reasonably comparable in size, to” in the third sentence; suspending the fourth and fifth sentences in their entirety; and suspending the words “Any such tolerance, together with any” and “and that such prunes are reasonably comparable to the undersized prunes so received,” in the sixth sentence, effective August 1, 2003, through July 31, 2006.

■ 3. Section 993.51 is amended by suspending the words “, and before shipping or disposing” and “or the pack specifications, including labeling,” in the first sentence, effective August 1, 2003, through July 31, 2006.

■ 4. In § 993.97, section II pertaining to minimum standards for processed prunes is suspended in its entirety effective August 1, 2003, through July 31, 2006.

■ 5. In § 993.150:

■ a. Paragraphs (a), (b), (d), (e), and (f) are suspended in their entirety effective August 1, 2003, through July 31, 2006.

■ b. Paragraph (g) is amended by suspending paragraph (g)(1) in its entirety effective August 1, 2003, through July 31, 2006, and by removing paragraphs (g)(2)(i), (g)(2)(iii), and (g)(2)(iv) in their entirety effective August 1, 2003.

■ c. Paragraph (g)(2)(ii) is redesignated as paragraph (g)(2)(i) and revised as follows effective August 1, 2003:

§ 993.150 Disposition of prunes by handlers.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(i) Documentation of shipment or other disposition. For each quantity of undersized prunes so shipped or otherwise disposed of, the handler shall promptly forward to the Committee one copy of the applicable bill of lading, truck receipt, or related documentation of disposition which shall show: (a) The name of the consignee; (b) the destination by name and address of the person designated to receive the prunes; (c) the date of shipment or other disposition; (d) the net weight of the prunes; and (e) identification of the prunes as undersized prunes.

■ d. Paragraphs (g)(3)(i) and (g)(3)(ii) are revised effective August 1, 2003, to read as follows:

§ 993.150 Disposition of prunes by handlers.

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(i) Undersized French prunes. Whenever an undersized regulation specifies an opening for French prunes, any quantity of any size of French prunes disposed of by a handler in compliance with § 993.50(g) shall satisfy a handler’s undersized disposition.

(ii) Undersized non-French prunes. Whenever an undersized regulation specifies an opening for non-French prunes, any quantity of any size of non-French prunes disposed of by a handler in compliance with § 993.50(g) shall satisfy a handler’s undersized disposition.

§ 993.150 Disposition of prunes by handlers.

■ 6. Sections 993.515, 993.516, 993.517, and 993.518 are suspended in their entirety effective August 1, 2003, through July 31, 2006.

■ 7. In § 993.601(a) the words, “and outgoing”, “and the minimum standards which handlers’ shipments or other final dispositions of prunes are required to meet pursuant to § 993.50(a)”, “IIC(3)”, and “IIC(6)” are suspended effective August 1, 2003, through July 31, 2006.

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

■ 8. Section 999.200 is suspended in its entirety effective August 1, 2003, through July 31, 2006.

Dated: July 16, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03-18778 Filed 7-23-03; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 03-044-1]

Tuberculosis in Cattle and Bison; State Designations; New Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

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

DATES: This interim rule is effective July 24, 2003.

Compliance Date: The date for complying with certain requirements of 9 CFR 77.10 for sexually intact heifers, steers, and spayed heifers moving interstate from the State of New Mexico is September 30, 2003 (see “Delay in Compliance” under SUPPLEMENTARY INFORMATION). The compliance date for all other provisions in 9 CFR part 77 applicable to the interstate movement of cattle and bison from the State of New Mexico is July 24, 2003.

Comment Date: We will consider all comments that we receive on or before September 22, 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. 03-044-1, 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. 03-044-1. If you use e-mail, address your comment to 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. 03-044-1" 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. Terry Beals, Senior Staff Veterinarian, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-5467.

#### SUPPLEMENTARY INFORMATION:

##### Background

Bovine tuberculosis is a contagious, 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 bovine tuberculosis. Subpart B of the regulations contains requirements for the interstate movement of cattle and bison not known to be infected with or exposed to tuberculosis. The interstate movement requirements depend upon whether the animals are moved from an accredited-free State or zone, modified accredited advanced State or zone,

modified accredited State or zone, accreditation preparatory State or zone, or nonaccredited State or zone.

The status of a State or zone is based on its freedom from evidence of tuberculosis in cattle and bison, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the standards for cattle and bison contained in the UMR. In an interim rule published in the **Federal Register** on October 23, 2000, and effective on November 22, 2000 (65 FR 63502-63533, Docket No. 99-038-5), we, among other things, raised the designation of New Mexico from modified accredited to accredited-free.

Recently, two tuberculosis-affected herds (one dairy herd in the fall of 2002 and another dairy herd in the winter of 2002-2003) were detected in Roosevelt County, NM. Under the regulations in § 77.7(c), if two or more affected herds are detected in an accredited-free State or zone within a 48-month period, the State or zone will be removed from the list of accredited-free States or zones and will be reclassified as modified accredited advanced. Therefore, we are amending the regulations by removing New Mexico from the list of accredited-free States or zones and adding it to the list of modified accredited advanced States or zones.

The two affected herds detected in the State have been quarantined, and a complete epidemiological investigation into the potential sources of the disease is being conducted. In cooperation with the State, we have continuously tested area cattle for tuberculosis since the investigation began.

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

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

and are accompanied by a certificate stating that they were negative to an official tuberculin test conducted within 60 days prior to the date of movement (§ 77.10(d)).

##### Delay in Compliance

In an interim rule effective June 3, 2002, and published in the **Federal Register** on June 6, 2002 (67 FR 38841-38844, Docket No. 02-021-1), we amended the regulations by classifying the State of Texas as modified accredited advanced. In another interim rule effective and published in the **Federal Register** on April 25, 2003 (68 FR 20333-20336, Docket No. 03-005-1), we amended the regulations by classifying the State of California as modified accredited advanced. Given the size and complexity of the cattle industries in Texas and California, we delayed the date for complying with certain identification and certification requirements in § 77.10 for sexually intact heifers, steers, and spayed heifers moving interstate from the States of Texas and California until September 30, 2003.

In the interests of equitable treatment for producers in New Mexico, we are similarly delaying the date of compliance with the following interstate movement requirements of § 77.10 for sexually intact heifers, steers, and spayed heifers moving interstate from the State of New Mexico until September 30, 2003:

- The identification of sexually intact heifers moving to approved feedlots and steers and spayed heifers (§ 77.10(b));
- The identification requirements for sexually intact heifers moving to feedlots that are not approved feedlots (§ 77.10(d));
- Because identification is required for certification, the certification requirements for sexually intact heifers moving to unapproved feedlots (§ 77.10(d)).

All other applicable provisions of the regulations will be in effect as of the effective date of this rule.

##### Emergency Action

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

We will consider comments we receive during the comment period for this interim rule (see **DATES** above).

After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

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

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

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

In 2001, there were approximately 8,500 cattle and bison operations in New Mexico, totaling 1.58 million head. According to the National Agricultural Statistics Service, the total cash value of cattle in New Mexico was over \$1.3 billion as of that year. Over 92 percent of New Mexico's cattle operations yield less than \$750,000 annually and are, therefore, considered small entities under criteria established by the Small Business Administration.

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

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

The approximate per head tuberculin testing cost is \$3.76, and the cost of official identification (an eartag) and an

applicator is about \$0.16 per head plus the cost of labor to apply the eartags. On January 1, 2002, the average value per animal in New Mexico was estimated to be \$840, which translates to an average value per 185-head herd of about \$155,400. Thus, we believe that the added cost of the required tuberculin testing and identification is small relative to the average value of cattle and bison, representing less than 1 percent of the per head value. Further, since this rule provides for a delay in date of compliance with the identification requirements in § 77.10(b) and (d), some herd owners' identification costs may be deferred until at least September 30, 2003.

The expenses stemming from the testing and identification requirements are not expected to be substantial for cattle and bison owners in New Mexico. The more a particular herd owner engages in interstate movement, the greater the resulting expense. Unfortunately, the exact number of herd owners involved in interstate movement is unknown. However, it is clear that this change in status will not have an economically substantial effect on cattle and bison herd owners in New Mexico.

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 inconsistent 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(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0229 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) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 03-044-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 03-044-1 and send your comments within 60 days of publication of this rule.

This interim rule removes New Mexico from the list of accredited-free States for bovine tuberculosis and adds it to the list of modified accredited advanced States. Cattle or bison that originate in a modified accredited advanced State or zone, and are not known to be infected with or exposed to tuberculosis, may be moved interstate only if the animals meet certain conditions with regards to transport, identification, and accreditation. These conditions are detailed in the **SUPPLEMENTARY INFORMATION** portion of this document as well as in § 77.10 of the regulations. As previously noted however, these requirements are suspended until September 30, 2003. We are soliciting comments from the public (as well as affected agencies) 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 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 0.016 hours per response.

*Respondents:* Certain herd owners in New Mexico.

*Estimated annual number of respondents:* 375.

*Estimated annual number of responses per respondent:* 100.

*Estimated annual number of responses:* 37,500.

*Estimated total annual burden on respondents:* 600 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

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

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

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

#### PART 77—TUBERCULOSIS

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

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

##### § 77.7 [Amended]

■ 2. In § 77.7, paragraph (a) is amended by removing the words "New Mexico,".

##### § 77.9 [Amended]

■ 3. In § 77.9, paragraph (a) is amended by adding the words ", New Mexico," immediately after the word "California".

##### § 77.10 [Amended]

■ 4. Section 77.10 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0146, 0579-0220, and 0579-0229)".

Done in Washington, DC, this 18th day of July 2003.

**Peter Fernandez,**

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

[FR Doc. 03-18850 Filed 7-23-03; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-NM-257-AD; Amendment 39-13244; AD 2003-15-02]

RIN 2120-AA64

#### Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to all EMBRAER Model EMB-145 series airplanes, that currently requires repetitive replacement of the bleed-air check valve and associated gaskets on the bleed low-pressure lines of the engines with new parts. This amendment continues to require repetitive replacement of the bleed-air check valves and associated gaskets. Additionally, this amendment provides for optional terminating action for the repetitive replacement of bleed-air check valves by installing new improved check valves, and adds airplanes to the applicability of the existing AD. This amendment also clarifies that the replacement and follow-on actions are required for the left- and right-hand engines. The actions specified by this AD are intended to prevent failure of the bleed-air check valves on the bleed low-pressure lines of the engines, which could result in engine compressor stall and consequent flameout of the affected engines. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 28, 2003.

The incorporation by reference of EMBRAER Service Bulletin 145-36-0011, dated January 28, 2000; and Change No. 01, dated March 23, 2000; as listed in the regulations; is approved by the Director of the Federal Register as of August 28, 2003.

The incorporation by reference of EMBRAER Alert Service Bulletin 145-36-A011, dated March 19, 1999, as listed in the regulations, was approved

previously by the Director of the Federal Register as of June 2, 1999 (64 FR 26835, May 18, 1999).

**ADDRESSES:** The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 99-11-01, amendment 39-11172 (64 FR 26835, May 18, 1999), which is applicable to all EMBRAER Model EMB-145 series airplanes, was published in the **Federal Register** on March 20, 2001 (66 FR 15667). The action proposed to continue to require repetitive replacement of the bleed-air check valves and associated gaskets on the bleed low-pressure lines of the engines with new parts. That action also proposed to require repetitive replacement of an additional bleed-air check valve with a check valve having the same part number, or with a new improved check valve; and eventual replacement of the bleed-air check valves with new improved check valves, and various follow-on actions. In addition, that action proposed to add airplanes to the applicability of the existing AD.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received from a single commenter.

#### Request To Clarify Replacement Requirements

The commenter requests revising paragraph (b) of the proposed AD to specify that replacement of the bleed-air check valves on the bleed-air low-pressure lines applies to both the left- and right-hand engines. A reference to the left-hand engine was omitted from this paragraph.

The FAA concurs. Although a reference to the left-hand engine was