

Proposed Rules

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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. 99-038-1]

Tuberculosis in Cattle, Bison, Goats, and Captive Cervids; State and Zone Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the bovine tuberculosis requirements to establish several new levels of tuberculosis risk classifications to be applied to States and zones within States. Additionally, we are proposing to classify States and zones according to their tuberculosis risk with regard to captive cervids. We are also proposing to amend the regulations to specify that the regulations apply to goats as well as to cattle, bison, and captive cervids and to increase the amount of testing that must be done before certain cattle, bison, and goats may be moved interstate. We believe these changes are necessary to help prevent the spread of tuberculosis and to further the progress of the domestic tuberculosis eradication program.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by April 21, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-038-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 99-038-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading

room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

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

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

SUPPLEMENTARY INFORMATION:

Background

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

At the beginning of this century, bovine tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock.

Federal regulations implementing this program are contained in 9 CFR part 77, "Tuberculosis" (referred to below as the regulations), and in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (UMR), January 22, 1999, edition, which is incorporated into the regulations by reference. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of bovine tuberculosis.

Tuberculosis Risk Level Status

Until the Animal and Plant Health Inspection Service (APHIS) made a recent regulatory change to allow zones within a State to be assigned different risk classifications (discussed in the following paragraph), restrictions on the interstate movement of cattle and bison not known to be affected with or exposed to tuberculosis were based on

whether the entire State was classified as either accredited-free, accredited-free (suspended), modified accredited, or nonmodified accredited. In determining the tuberculosis status of a State, APHIS based its classification on the State's freedom from evidence of tuberculosis, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the standards contained in the UMR.

In an interim rule published in the **Federal Register** on November 1, 1999 (64 FR 58769-58780, Docket No. 99-008-1), we amended the regulations to allow a State to be divided into two zones for the purpose of assigning risk classifications with regard to tuberculosis in cattle and bison. As a result of this change, the conditions required by the regulations for the interstate movement of cattle and bison might be different for cattle and bison from the same State, depending on the tuberculosis classification of the zone each animal is moved from.

State and Zone Status System for Captive Cervids

In our interim rule, we applied the provisions for allowing for risk zones within a State only to cattle and bison and not to captive cervids. This is because the regulations did not and still do not provide for State classifications for tuberculosis based on the tuberculosis status of captive cervids; nor is the tuberculosis status of captive cervids taken into account when determining the risk classification with regard to cattle and bison. The regulations in 9 CFR part 77 are divided into subpart A for cattle and bison and subpart B for captive cervids and are applied independently of each other.

While the requirements in subpart A for the interstate movement of cattle and bison are based largely on the risk classification of the State or zone the animals move from, the requirements in subpart B for the interstate movement of captive cervids are based on the tuberculosis status of individual herds of cervids, not on the State status. Because there was no State classification system with regard to captive cervids at the time our interim rule was published, there was no reason to allow for zones with separate risk classifications for captive cervids within a State.

In this document, however, we are proposing to make a system of State and zone risk classifications applicable to captive cervids. We have several reasons for making such a proposal. First, although the current system of basing movement requirements for captive cervids on the status of individual herds has been effective in preventing tuberculosis transmission, it is a system that relies on making each herd owner responsible for having the necessary testing done for that herd. We believe that at least the same level of biosecurity can be attained, at reduced cost to individual owners, by linking interstate movement requirements to a State or zone classification that would be dependent on surveillance conducted by the State.

Second, by allowing for a system of State or zone classifications with regard to captive cervids, we would likely accelerate the eradication of tuberculosis among captive cervids. The current system of basing interstate movement requirements on individual captive cervid herd status is effective in preventing the interstate spread of tuberculosis. However, it does not contain an incentive for owners to have their herds tested if they do not intend to move those cervids interstate. As with the current State or zone classification system for cattle and bison, a State or zone classification system for captive cervids would encourage States to aggressively conduct surveillance among all captive cervid herds in that State, whether or not any particular herd is intended for interstate movement.

We are not, however, proposing to eliminate the option of basing the eligibility of captive cervids to move interstate on individual herd status. For example, an accredited herd may be located in a State or zone that is classified as modified accredited because of the presence of several affected herds in herd in the State or zone. If the accredited herd has undergone adequate surveillance under the current regulations to ensure that individual animals moved from that herd present a negligible risk of being infected with tuberculosis, we do not believe it is necessary to subject animals from that herd to movement restrictions that would otherwise apply to the entire State or zone. Many owners have invested significant resources in conducting the monitoring and surveillance required to achieve a particular herd status. We believe it is warranted and appropriate to allow such owners to continue to move their cervids under the current regulations governing such movement if those

movement requirements would be less restrictive than the proposed requirements based on the risk classification of the State or zone in which the herd is located.

Conversely, we believe it would be appropriate to allow captive cervids to move interstate under the proposed requirements based on the risk classification of the State or zone in which the animals are located if such conditions would be less restrictive than those in the current regulations based on individual herd status. For all State or zone risk classifications under this proposed rule except for nonaccredited, the required compliance with the UMR means that a sufficient number of herds of captive cervids in the State or zone must be tested to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. If the State or zone achieves that level of certainty in the State or zone overall, we believe that an individual herd in the State or zone that is not known to be affected with tuberculosis can be moved under the interstate movement requirements established for that entire State or zone with negligible risk of spreading tuberculosis.

(It should be noted that, under the provisions of the UMR, a herd that is known to be affected with tuberculosis that is located in a State or zone that otherwise presents a low tuberculosis risk is subject to quarantine and would not be eligible for interstate movement, regardless of the State or zone's risk classification.)

Therefore, we are proposing to add language to the current captive cervid regulations to indicate that captive cervids may move interstate under the proposed movement requirements applicable to an entire State or zone if those requirements are less restrictive than those for movement based on individual herd status. This language would be added at §§ 77.32(a), 77.35(b), 77.36(b), and 77.37(b) of this proposed rule, which include the provisions set forth in §§ 77.9(a), 77.12(b), 77.13(b), and 77.14(b), respectively, of the current regulations.

Change in Risk Classifications

We are also proposing in this document to revamp and expand the categories of tuberculosis risk classifications that apply to cattle and bison (discussed below) and to use this new classification system when determining the risk classifications of States or zones with regard to captive cervids. However, although we would use the same type of tuberculosis risk

classification system for both captive cervids and cattle and bison, the specific risk classification we would apply to a State or zone with regard to cattle and bison would not necessarily be the same as that assigned to the State or zone with regard to captive cervids. Although our goal by the year 2010 is to have each State or zone have one tuberculosis classification that applies to all regulated animals in the State or zone, at this time we are keeping State and zone classifications for cattle and bison independent of the classifications for captive cervids. Our rationale for keeping these classifications separate is explained below under the heading "Captive Cervids."

Goats

Additionally, we are proposing to make the tuberculosis provisions that apply to cattle and bison also apply to goats. The current regulations, except for limited usage as part of the term "livestock," do not refer to goats, although the UMR does. The production of goats, however, is a rapidly growing industry, particularly with regard to dairy goats, and it has been demonstrated by incidences of tuberculosis among goats held for exhibition that goats can harbor and transmit the disease. In order to protect the goat industry in this country, and to protect other susceptible livestock from goats that might become infected with tuberculosis, we are including goats in this proposed rule in provisions that refer to cattle and bison, as appropriate. It should be noted that, although no cases of tuberculosis have been found to date in goats used as livestock in the United States, regulating the movement of goats is consistent with the regulations of the U.S. Food and Drug Administration (FDA) regarding the potential transmission of tuberculosis to humans through goat's milk. (See, for example, 21 CFR 1210.13, which requires tuberculin testing of animals whose raw milk is intended for importation into the United States, and also the FDA Pasteurized Milk Ordinance, Section 7(C), which provides that goat milk for pasteurization must be from a herd that has passed an annual tuberculin herd test.)

Each of the proposed changes noted above, and our reasons for proposing them, are discussed at greater length below.

Scope of this Proposed Rule

In addition to the proposed substantive additions and revisions to the current regulations that we discuss in this supplementary information, we

are proposing to make nonsubstantive changes to the current regulations to make them easier to read. The primary nonsubstantive change we are proposing is the reformatting of the regulations, discussed below under the heading "Reformatting of Part 77."

In order to make it easier to follow our proposed reformatting changes, we set out all of part 77 in this proposal, including those provisions of the current regulations to which we are proposing no amendments, except to change section designations. Because we are proposing no changes to large parts of the current regulations, we are not soliciting public comment on those unchanged provisions. In certain other sections, we are proposing very limited changes, and are soliciting public comment only on the limited portion of the section that would be amended.

The regulatory sections addressing captive cervids that are set out in this proposed rule only for readability with no substantive changes, or with very limited changes, are §§ 77.9 through 77.18 of the current regulations (designated as proposed §§ 77.32 through 77.41). The several places we are proposing limited changes to those sections are identified and discussed in this supplementary information, below. With regard to cattle and bison, we are proposing no substantive changes to §§ 77.5 through 77.7 of the current regulations (designated as proposed §§ 77.17 through 77.19) except to apply those provisions to goats as well as to cattle and bison where applicable.

Reformatting of Part 77

As noted above, under this proposed rule, the provisions for tuberculosis risk classification and for recognition of zones within a State would be expanded to apply to captive cervids and goats as well as to cattle and bison. Because the status classifications for captive cervids may not coincide with those for cattle, bison, and goats, we would continue to set forth most of the provisions relevant to captive cervids in a separate subpart from those relevant to cattle, bison, and goats.

In contrast, the provisions for applying for recognition of risk zones within a State will apply in the same way to captive cervids as to cattle, bison, and goats. Whatever zones are recognized will be used for captive cervids, as well as for cattle, bison, and goats, although the status of a zone may be different for captive cervids than it is for cattle, bison, and goats.

Therefore, to avoid redundancy in the regulations, we are proposing to include all provisions regarding application for recognition of zones in one subpart,

rather than duplicate the information in the subparts specific to cattle, bison, and goats and specific to captive cervids. In addition, we are proposing to include in that "general" subpart the definitions that apply to all of the regulations in part 77. This "general" subpart would be subpart A. The regulations specific to cattle, bison, and goats would be set forth in subpart B, and the regulations specific to captive cervids would be set forth in subpart C. All of the current sections in part 77 would be renumbered to accommodate this reformatting.

In subpart A of this proposed rule, we are including one substantive change from the current provisions regarding application for recognition of zones. Currently, a State may have no more than two zones. In our November 1, 1999, interim rule, we explained that we were limiting the number of zones in a State to two because of the amount of monitoring and movement controls necessary for the State to adequately administer different status zones. We now believe that it is not necessary to limit a State to two zones, if the State can adequately demonstrate that each of its proposed zones meets the criteria in the current regulations for recognition of a zone.

Under these criteria, a zone must be a defined geographic land area identifiable by geological, political, manmade, or surveyed boundaries, with mechanisms of disease spread, epidemiological characteristics, and the ability to control the movement of animals across the boundaries of the zone taken into account. Additionally, the State in question must have sufficient resources to implement and enforce a tuberculosis eradication program, and means of ensuring that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife. Further, the State must maintain, in each intended zone, surveillance that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence.

We believe that if a State can meet each of the above requirements for each of the proposed zones, it is not necessary to limit the State's request to two zones. Therefore, we are not including in this proposed rule a provision limiting a State to no more than two zones.

Current Risk Classification System

The possible risk classifications of States and zones with regard to cattle and bison under the current regulations are *accredited-free*, *accredited-free*

(*suspended*), *modified accredited*, and *nonmodified accredited*. Some of the current provisions governing each classification appear in the definitions in § 77.1, while the remainder of the provisions for each classification appear in other sections of part 77. We discuss below the provisions governing each of the current classifications.

Accredited-Free State or Zone

Criteria for being classified as an accredited-free State or zone. An accredited-free State or zone is defined as a State or zone that complies with the UMR, has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle or bison in the State or zone for the previous 5 years, except that the requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated. Compliance with the UMR includes meeting the requirement that the State demonstrates annually that an adequate amount of testing and slaughter surveillance is done in that State to discover any bovine tuberculosis that might be present.

If tuberculosis is detected in any one herd of cattle or bison in an accredited-free State or zone, the accredited-free status of the State or zone is suspended. In such a case, the State or zone may qualify for redesignation of accredited-free status after the herd in which the tuberculosis is detected has been quarantined, an epidemiological investigation has confirmed that the disease has not spread from the herd, and all reactor cattle and bison have been destroyed.

If any livestock other than cattle or bison are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must test those other livestock in the same way as cattle and bison when conducting a herd test according to the UMR, or else be reclassified as either a modified accredited State or zone or a nonmodified accredited State or zone.

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 also be reclassified.

If tuberculosis is diagnosed in an animal not specifically covered by the regulations and a risk assessment conducted by APHIS determines the outbreak poses a tuberculosis risk to livestock in the State or zone, the State or zone must adopt, within 6 months of

diagnosis, a tuberculosis management plan, approved jointly by the State animal health official and the APHIS Administrator, or else be reclassified.

Accredited-free State or zone status must be renewed annually.

Interstate movement from an accredited-free State or zone. Cattle and bison that originate in an accredited-free State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without restriction.

Accredited-Free (Suspended) State or Zone

Criterion for being classified as an accredited-free (suspended) State or zone. An accredited-free (suspended) State or zone is defined as an accredited-free State or zone in which tuberculosis has been detected in cattle or bison.

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

Modified Accredited State or Zone

Criteria for being classified as a modified accredited State or zone. A modified accredited State or zone is defined as a State or zone that complies with the UMR and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years. However, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone, the Administrator may, upon review, allow modified accredited status in a State or zone that has fewer than 30,000 herds and that has had up to 3 affected herds for each of the most recent 2 years.

The same requirements apply to modified accredited States or zones as those discussed above for accredited-free States or zones regarding the testing of livestock other than cattle or bison included in a newly assembled herd on a premises where a tuberculous herd has been depopulated.

Likewise, the same requirements apply to modified accredited States or zones as those discussed above for accredited-free States or zones regarding the need to adopt a tuberculosis management plan if tuberculosis is diagnosed in the State or zone in an animal not specifically covered by the regulations and a risk assessment conducted by APHIS determines the

outbreak poses a tuberculosis risk to livestock in the State or zone.

Modified accredited State or zone status must be renewed annually.

Interstate movement from a modified accredited State or zone. Cattle and bison that originate in a modified accredited State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without restriction.

Nonmodified Accredited State or Zone

Criterion for being classified as a nonmodified accredited State or zone. A nonmodified accredited State is defined as a State or zone that has not received accredited-free status or modified accredited status.

Conditions for interstate movement from a nonmodified accredited State or zone. Cattle and bison that originate in a nonmodified accredited State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate only if they meet one of the following conditions:

1. The cattle or bison are moved directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act or to a State-inspected slaughtering establishment that has State inspection at the time of slaughter.

2. The cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot, and are accompanied by a certificate stating that they have tested negative to an official tuberculin test conducted within 30 days prior to the date of movement. If the cattle or bison moved under this condition are not individually identified by a registration name and number, they must be individually identified by an APHIS-approved metal eartag or tattoo.

3. The cattle or bison are breeding animals from an accredited herd and are accompanied by a certificate showing they are from such a herd.

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

Reasons for Proposing a Revised Classification System

Although it has undergone some refinement through the years, including

the clarifications we made in our November 1, 1999, interim rule, a tuberculosis risk classification system that includes accredited free, modified accredited, and nonmodified accredited classifications has been in effect since the 1940's. It has been an integral part of the tuberculosis eradication program that has virtually eliminated the disease in U.S. livestock. Currently, all but three States are classified as accredited free in their entirety for cattle and bison, which means they contain no herds affected with tuberculosis. Two States (New Mexico and Texas) are nearing accredited-free status, and one State (Michigan) is accredited free except for a single zone in the State. Today, the national percentage of herds of cattle and bison affected with tuberculosis stands at approximately 0.0002 percent.

Although the current system of risk level classifications has been effective in helping reduce the incidence of tuberculosis in the United States to a very low level, it has not yet eliminated the disease in this country. The danger still exists that tuberculosis could spread among livestock, and we do not believe the current regulations best recognize the different levels of risk that can exist with regard to tuberculosis.

As discussed above, one of the criteria for being classified as a modified accredited State or zone is that, with certain exceptions, the State or zone is one in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for the most recent 2 years. The current regulations do not specifically address levels of prevalence greater than or equal to 0.01 percent of the herds in the State or zone, other than to provide that all States or zones that do not qualify for accredited-free or modified accredited will be classified as nonmodified accredited.

Although we consider the current interstate requirements for animals from nonmodified accredited States or zones to adequately address States or zones that have prevalence levels of tuberculosis close to 0.01 percent, we believe those interstate requirements are not adequate to address any States or zones that develop prevalence levels well in excess of 0.01 percent. In this proposal, we are proposing to address such higher prevalence levels by expanding the possible levels of risk classification, as discussed below.

Additionally, we believe two other factors make it necessary to change the current classification system. The first involves the captive cervid industry; the second involves international trade.

Captive Cervids

Although we believe it is necessary to begin classifying States or zones according to their tuberculosis risk with regard to captive cervids, as noted above we are proposing to keep classifications with regard to cattle, bison, and goats independent of classifications for captive cervids. We are proposing to keep these classifications separate because, in general, programs for surveillance for tuberculosis in captive cervids are not as advanced as those for cattle and bison. Although all but three States are considered accredited free with regard to cattle and bison, based on the information available to us, we believe only 24 States would qualify for accredited-free status in their entirety for captive cervids. However, we do not consider it appropriate to downgrade the status of a State or zone with regard to cattle and bison because that State or zone has a higher risk status for captive cervids. Captive cervids usually represent only a minor percentage of the livestock industry in most States, and those captive cervids that are held or transported in a State are generally raised and marketed in channels separate from cattle, bison, and goats, so there is less risk that a captive cervid that is infected with tuberculosis will transmit the disease to cattle, bison, or goats.

Tuberculosis and International Trade

Another reason we believe it is necessary to refine and expand the tuberculosis risk classification system involves growing international trade. Although the majority of States are grouped at the accredited-free level and would not be affected by the changes in the risk classification system set forth in this proposal, there is a broad spectrum of risk levels among other countries. With growing international trade, we find it increasingly necessary to be able to explain to our trading partners in a transparent fashion why we consider them to be at a particular risk level for tuberculosis and why we believe particular mitigation measures are necessary to allow their animals to be imported into the United States. The risk classification system we are proposing in this document represents the same criteria we would use to assess the risk in another country and the measures necessary to mitigate any risk to a negligible level. We are in the process of developing rulemaking that will specifically address tuberculosis risk levels in foreign countries and other foreign regions.

Proposed New Tuberculosis Risk Classification System

In the following paragraphs we explain how the new classification system would work. We are proposing to provide for five risk classifications, as follows:

1. Accredited Free.
2. Modified Accredited Advanced.
3. Modified Accredited.
4. Accreditation Preparatory.
5. Nonaccredited.

It is important to keep in mind that when we refer in our discussion below to "specifically regulated animals," we are talking exclusively about cattle, bison, and goats for subpart A and exclusively about captive cervids for subpart B. For instance, although cattle, bison, goats, and captive cervids would all be "specifically regulated" in some way under part 77, in subpart B the prevalence level of affected herds of captive cervids alone would be considered in determining the classification of States or zones and would not influence the classification of the State or zone for cattle, bison, and goats in subpart A.

Accredited-Free States or Zones

We are proposing to retain the provisions in the current regulations governing accredited-free status, described above under the heading "Accredited-Free State or Zone," with two additions and one revision.

The additions involve the waiting period without findings of tuberculosis that a State or zone must meet before achieving accredited-free status. To achieve accredited-free status under the current regulations, a State or zone must have had no findings of tuberculosis for the previous 5 years, except that the requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis have been depopulated.

In the definition of *accredited-free State or zone* in both § 77.5 for cattle, bison, and goats and § 77.20 for captive cervids, we are proposing to add two additional ways to achieve accredited-free status. First, the waiting period would be 3 years in States or zones that were not previously accredited free but that have depopulated all affected herds. We believe this shortened waiting period is appropriate in States or zones where such depopulation has been carried out because depopulation is an effective method of ensuring that infected animals are removed from a State or zone.

Alternatively, the waiting period would be 3 years in States or zones that have conducted surveillance that demonstrates that wildlife and livestock herds other than the animals specifically regulated under the subpart in question (cattle, bison, and goats in subpart A; captive cervids in subpart B) are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS. We believe that including such an option in the regulations provides States and zones with an incentive to conduct increased surveillance for tuberculosis in all susceptible animals in the area of an affected herd and thus to accelerate eradication of the disease in that State or zone.

We believe it is necessary to allow the Administrator the discretion to assess the adequacy of the surveillance because there are a number of valid methods of surveying for tuberculosis, and we expect that each State will implement a surveillance program suitable to the livestock and wildlife of that State. Among the different methods of surveillance a State might implement are testing of animals at slaughter, testing for tuberculosis of any animals tested for another reason, target area testing, or epidemiological sampling of herds in a particular area.

The provision we are proposing to revise involves how we will address States or zones in which an affected herd is detected. Under § 77.3(c) of the current regulations, such a State or zone is reclassified as accredited free (suspended). However, the current regulations do not specify how long the suspension of accredited-free status can last before the State or zone is downgraded in status, nor do they specify what the State or zone must do to regain accredited-free status. To address these two areas, § 77.7(c) of this proposed rule provides for cattle, bison, and goats that if an affected herd is detected in a State or zone classified as accredited free, and the herd is depopulated and an epidemiologic investigation is completed within 90 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. Proposed § 77.22 includes a similar provision for States and zones classified accredited free for captive cervids, with the one difference that, in such States and zones, the depopulation and epidemiologic investigation must be completed within 120 days of the detection of the affected herd.

Based on our experience enforcing the regulations, we believe that for cattle,

bison, and goats, 90 days is enough time to investigate the incidence of tuberculosis and trace the movement of animals from an affected herd. Ninety days will allow time for herd owners who have tested their livestock once with negative results to wait at least an additional 60 days before retesting to ensure valid results from the retesting. However, we believe it is warranted to allow 120 days for completion of depopulation and investigation for captive cervids, due to the longer waiting period necessary between tests of cervids than those of cattle, bison, and goats. In animals that have been tested for tuberculosis, the immune system is depressed following the test and will not respond definitively to a second test unless some time is allowed for the animal's immune system to "reset" following the first test. In cattle, bison, and goats, a valid second test can be done 60 days following the first test. For captive cervids, it is necessary to wait 90 days following the first test.

To clarify our intent with regard to what constitutes an epidemiologic investigation, we are including a definition of that term in proposed § 77.2. We would define an epidemiologic investigation as one that is conducted by the State in conjunction with APHIS representatives, in which an official test for tuberculosis is conducted on all livestock in any tuberculosis-affected herd in a State or zone, as well as on all livestock in any herd into which livestock from the affected herd have been moved.

As in the current regulations for cattle and bison, we would allow specifically regulated animals that are not known to be infected with or exposed to tuberculosis to be moved interstate without restriction from accredited-free States or zones.

Modified Accredited Advanced States or Zones

Prior to our November 1, 1999, interim rule, a modified accredited State was defined as one that complied with all of the provisions of the UMR regarding modified accredited States. Because it was not always clear what standards a State needed to meet to achieve modified accredited status, in our interim rule we clarified our intent with regard to the standards that needed to be met. These standards are described above under the heading "Modified Accredited State or Zone."

Because tuberculosis has been virtually eradicated in cattle and bison in this country, and because two of the three States not classified as accredited free in their entirety are classified as modified accredited, the standards

currently set forth in subpart A of the regulations for modified accredited States are relatively stringent. We consider those standards necessary to ensure that all States maintain an aggressive program to become or stay accredited free with regard to cattle, bison, and goats.

However, because tuberculosis surveillance programs for captive cervids have not yet progressed as far as those for cattle, bison, and goats, and because not all foreign regions are as close to the eradication of tuberculosis as the United States, we believe it is necessary to provide for risk classifications that accommodate a greater disease risk than the modified accredited status of the current regulations, but at the same time give more recognition for progress toward eradication than the current nonmodified accredited classification. We believe that providing for such classifications will further the eradication of tuberculosis in this country and establish standards that we can apply in equivalent fashion to foreign regions in future rulemaking. The classifications we are proposing to add are titled modified accredited (with different standards than the modified accredited classification under the current regulations) and accreditation preparatory. Both of these classifications are discussed below under their respective headings.

With the addition of these two classifications, we believe it is necessary to make clear that the classification currently known as modified accredited describes a State or zone that is close to the eradication of tuberculosis in the animals in question. Therefore, we are proposing to rename the current modified accredited classification as modified accredited advanced. The requirements for achieving and maintaining modified accredited advanced status would be the same as those in the current regulations for achieving and maintaining modified accredited status (described above under the heading "Modified Accredited State or Zone").

The requirements for the interstate movement of animals from a modified accredited advanced State or zone (proposed § 77.10 for cattle, bison, and goats; proposed § 77.25 for captive cervids) would differ from the current provisions for movement from a modified accredited State or zone in one significant respect. Under the current regulations, cattle and bison that originate in a modified accredited State or zone and that are not known to be infected with or exposed to tuberculosis may be moved interstate without

restriction. However, because any State or zone other than an accredited-free State or zone includes at least one herd affected with tuberculosis, we consider it necessary to test animals moved from States or zones that are other than accredited free, unless certain other conditions exist that mitigate the tuberculosis risk to a negligible level. Therefore, in this document, we are proposing that specifically regulated animals may not be moved interstate from a modified accredited advanced State or zone without testing negative for tuberculosis unless they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

2. The animals are moved directly for slaughter to an approved slaughtering establishment. (Currently, subpart A with regard to cattle and bison refers to movement to a slaughtering "establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State-inspected slaughtering establishment that has inspection by a State inspector at the time of slaughter." Such an establishment is defined in current subpart B as an *approved slaughtering establishment*. In this proposed rule, wherever we refer in the regulations to such an establishment, we use the term "approved slaughtering establishment").

3. The animals are cattle or bison that are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

If the animals meet none of the above conditions, they may not be moved interstate unless they are accompanied by a certificate stating that they have been classified negative to an official tuberculin test that was conducted within 60 days prior to the date of movement for cattle, bison, and goats, and within 90 days prior to the date of movement for captive cervids.

The proposed requirement that the testing required for cattle and bison be done within 60 days prior to the date of movement differs from testing requirements in the current regulations (for nonmodified accredited States and zones), which require that the testing be done within 30 days prior to the date of movement. We are proposing to allow testing to be done within 60 days prior to movement in order to minimize

disruption to standard livestock marketing practices. Under the current regulations, for example, cattle and bison tested 31 days prior to an intended date of movement could not be moved interstate. Because, as discussed above, an interval of at least 60 days is necessary between tuberculin tests for cattle, bison, and goats, under the current regulations cattle or bison tested 31 days prior to the intended date of movement would have to wait 29 days beyond the intended date of movement before being retested. We believe that this delay in movement, which can significantly impact the ability of owners to market their animals, is not warranted from an animal health perspective, because we believe the risk is negligible that an infected animal will not be detected because a test was done 60 days prior to movement rather than 30 days.

With regard to captive cervids, allowing a required test to be conducted within 90 days prior to movement would be consistent with the current provisions regarding the testing required for interstate movement from individual herds. Ninety days would be allowed for the testing of captive cervids for the same reason that 60 days would be allowed for cattle, bison, and goats—*i.e.*, to minimize disruption of standard livestock practices. We would allow the additional time for captive cervids, compared to cattle, bison, and goats, because of the longer waiting period that is necessary between tuberculosis tests of captive cervids.

We believe it is necessary to establish the above requirements for animals moved from modified accredited advanced States or zones to provide assurance that the tuberculosis risk from animals moving from a modified accredited advanced State or zone is no more than that from animals already in an accredited-free State or zone.

Modified Accredited States or Zones

The new tuberculosis risk classification titled modified accredited would apply to States and zones whose animals represent a greater disease risk than those from States and zones classified as modified accredited advanced.

In proposed § 77.5 for cattle, bison, and goats and proposed § 77.20 for captive cervids, a modified accredited State or zone would be defined as a State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the UMR and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of specifically regulated animals in the State or zone

for the most recent year. However, the regulations would also provide that the Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds of the animals in question 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 in the State or zone.

The provision that would allow the Administrator to give the proposed modified accredited classification to a State or zone with fewer than 10,000 herds that has up to 10 affected herds is similar to a provision in the current regulations for modified accredited States, retained in this proposed rule under the standards for achieving and maintaining modified accredited advanced status. Under the current regulations, the prevalence level of tuberculosis for modified accredited status must be less than 0.01 percent of the total number of herds, except that in States or zones with fewer than 30,000 herds, the Administrator may, upon his or her review, allow the State or zone to have up to 3 affected herds.

Although we consider a disease prevalence of less than 0.1 percent of the herds to be appropriate for the proposed modified accredited classification in most cases, we recognize that there are situations where the circumstances in a State or zone might warrant some deviation from that standard. For instance, the requirement for less than 0.1 percent prevalence means that, for every 10,000 herds in the State or zone, fewer than 10 herds may be affected. In a State or zone with fewer than 10,000 herds, the presence of fewer than 10 affected herds could cause the prevalence rate to exceed the allowable maximum. We do not necessarily consider this number of affected herds to represent a disease risk significant enough to disqualify a State or zone from the proposed modified accredited classification.

The factors the Administrator will consider in determining whether a prevalence level of 0.1 percent or more is acceptable include: (1) How effectively the veterinary infrastructure in the State or zone could detect and respond to the presence of an affected herd and (2) the risk of transmission of the disease from an affected herd to other herds, based on factors such as the density of the livestock population and the patterns of herd distribution.

As with accredited-free and modified accredited advanced States and zones, we are proposing to require for modified accredited States and zones (proposed § 77.11 for cattle, bison, and goats;

proposed § 77.26 for captive cervids) 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 or zone must test those other livestock in the same way as cattle and bison when conducting a herd test according to the UMR, or else have its classification downgraded, in this case to accreditation preparatory.

Additionally, as with accredited-free and modified accredited advanced States and zones, we are proposing to require that if tuberculosis is diagnosed in a modified accredited State or zone in an animal not specifically covered by the regulations, and a risk assessment conducted by APHIS determines the outbreak poses a tuberculosis risk to livestock in the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the APHIS Administrator, within 6 months of the diagnosis, or have its classification downgraded, in this case to accreditation preparatory. It should be noted that our use of the word "implement" differs from the wording of the current regulations, which use the word "adopt." We would use the word "implement" to make clear that a tuberculosis management plan must actually be in operation to meet the requirements of the regulations.

Modified accredited State or zone status would have to be renewed annually.

Interstate movement from proposed modified accredited States or zones: In this document, we are proposing (proposed § 77.12 for cattle, bison, and goats; proposed § 77.27 for captive cervids) that specifically regulated animals may not move interstate from a modified accredited State or zone without having to be tested for tuberculosis, unless they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

2. The animals are moved directly to slaughter to an approved slaughtering establishment.

If the animals meet neither of the above conditions, they may not be moved interstate unless they meet one of the following conditions:

1. The animals are cattle or bison that are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot, and are accompanied by a certificate stating that they have been

classified negative to an official tuberculin test conducted within 60 days prior to movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

2. If the animals are cattle, bison, or goats, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. If the animals are captive cervids, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All animals that are so moved that are not individually identified by a registration name and number must be officially identified.

The proposed interstate movement requirements from modified accredited States and zones differ from those for modified accredited advanced States and zones in two ways. First, steers, spayed heifers, and officially identified sexually intact heifers moved to an approved feedlot from a modified accredited State or zone would have to test negative to one official tuberculin test (proposed § 77.12(b)). This requirement would not exist for movement from modified accredited advanced States and zones. Second, breeding animals not from an accredited herd would have to test negative to two official tuberculin tests (proposed § 77.12(d) for cattle, bison, and goats; proposed § 77.27(c) for captive cervids), rather than just one test as for movement from modified accredited advanced States and zones. We believe these additional safeguards are necessary for animals moved from modified accredited States or zones to provide assurance that the tuberculosis risk from animals moving from a modified accredited State or zone is no more than that from animals already in an accredited-free State or zone or a modified accredited advanced State or zone.

Accreditation Preparatory States and Zones

The tuberculosis risk classification titled accreditation preparatory would apply to States and zones that represent a greater disease risk than those classified as modified accredited.

In proposed § 77.5 for cattle, bison, and goats and proposed § 77.20 for captive cervids, an accreditation

preparatory State or zone would be defined as a State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the UMR and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of specifically regulated animals in the State or zone.

As with the classifications discussed above, we are proposing to require for accreditation preparatory States and zones that if any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must test those other livestock in the same way as cattle, bison, and goats when conducting a herd test according to the UMR, or else have its classification downgraded, in this case to nonaccredited (proposed § 77.13 for cattle, bison, and goats; proposed § 77.28 for captive cervids).

Additionally, as with the classifications discussed above, we are proposing to require that if tuberculosis is diagnosed in an accreditation preparatory State or zone in an animal not specifically covered by the regulations, and a risk assessment conducted by APHIS determines the outbreak poses a tuberculosis risk to livestock in the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the APHIS Administrator, within 6 months of the diagnosis, or else have its classification downgraded, in this case to nonaccredited.

Accreditation preparatory State or zone status would have to be renewed annually.

Interstate movement from accreditation preparatory States or zones: In this document, we are proposing (proposed § 77.14 for cattle, bison, and goats; proposed § 77.29 for captive cervids) that specifically regulated animals may not be moved interstate from an accreditation preparatory State or zone unless they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement for cattle, bison, and goats, and within 90 days prior to the date of movement for captive cervids. All animals that are so moved that are not individually

identified by a registration name and number must be officially identified.

2. The animals are moved directly to slaughter to an approved slaughtering establishment.

3. The animals are cattle or bison that are steers or spayed heifers, or are officially identified sexually intact heifers that are moved to an approved feedlot, and are accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

4. The animals are accompanied by a certificate stating that they originated in a herd that has undergone a tuberculosis herd test with negative results conducted within 1 year prior to movement. Additionally, for cattle, bison, and goats, the certificate must state that the animals have been classified negative to two additional official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. For captive cervids, the certificate must state that the cervids have been classified negative to two additional official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All animals that are so moved that are not individually identified by a registration name and number must be officially identified.

The proposed interstate movement requirements from accreditation preparatory States and zones differ from those for modified accredited States and zones in three ways. First, steers, spayed heifers, and officially identified sexually intact heifers moved to an approved feedlot from an accredited preparatory State or zone would have to test negative to two official tuberculin tests, rather than just one as for modified accredited States and zones. Second, in addition to testing negative to two additional official tuberculin tests, breeding animals not from an accredited herd would have to originate in a herd that has undergone a tuberculosis herd test with negative results. Third, animals from an accredited herd would have to originate in a herd that has completed the necessary testing for accredited status within 1 year prior to the date of movement, and test negative to an official tuberculin test within 60

days prior to movement for cattle, bison, and goats, and within 90 days prior to movement for captive cervids. We believe the additional safeguards are necessary for animals from an accreditation preparatory State or zone to provide assurance that the tuberculosis risk from animals moving from an accreditation preparatory State or zone is no more than that from animals already in an accredited-free State or zone, a modified accredited advanced State or zone, or a modified accredited State or zone.

Nonaccredited States and Zones

In the current regulations, there is a tuberculosis State and zone classification called "nonmodified accredited." The nonmodified accredited classification is a default category for all States or zones that do not qualify for accredited free, accredited free (suspended), or modified accredited. Currently, except for nonmodified accredited, modified accredited represents the highest tuberculosis risk. Therefore, any State or zone not meeting the minimum standards for modified accredited is classified as nonmodified accredited. The current criteria for modified accredited status are that the State or zone comply with the UMR and have had less than a 0.01 percent prevalence of tuberculosis among all herds in the State or zone for the most recent 2 years (with up to 3 affected herds allowed under certain conditions in States or zones with fewer than 30,000 herds). Currently, the only area that is classified as nonmodified accredited is a zone in the State of Michigan.

Under this proposal (proposed § 77.5 for cattle, bison, and goats; proposed § 77.20 for captive cervids), the nonaccredited classification would not cover as wide a risk range as the nonmodified accredited classification under the current regulations. Instead of applying to all States and zones that do not comply with the UMR or that have more than a 0.01 tuberculosis herd prevalence, as does the current nonmodified accredited, it would apply to all States and zones that do not comply with the UMR or that have a tuberculosis herd prevalence rate equal to or in excess of 0.5 percent, since 0.5 percent is the level at which a State or zone would cease to qualify for accreditation preparatory status.

Because any State or zone classified as nonaccredited would represent a relatively high tuberculosis risk, we believe it is necessary to impose stringent restrictions on interstate movement from such States or zones. Therefore, we are proposing (proposed

§ 77.16 for cattle, bison, and goats; proposed § 77.31 for captive cervids) that no regulated animals may be moved interstate from a nonaccredited State or zone unless they are not known to be infected with or exposed to tuberculosis and they meet one of the following conditions:

1. The animals are accompanied by a certificate stating that they originated in an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that they have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement for cattle, bison, and goats, and within 90 days prior to movement for captive cervids.

2. The animals are accompanied by VS Form 1-27 and are moved interstate in an officially sealed means of conveyance directly to slaughter to an approved slaughtering establishment.

Classification of States and Zones With Regard to Cattle, Bison, and Goats

Under § 77.7 of this proposed rule for cattle, bison, and goats, all States and zones currently designated as accredited free would retain that classification. In addition, the State of New Mexico, currently designated as modified accredited, would be classified as accredited free because New Mexico is a State that has had no affected herds of cattle, bison, or goats for the most recent 3 years and the Administrator has determined that New Mexico has conducted surveillance that demonstrates that wildlife and livestock herds other than cattle, bison, and goats are not infected with tuberculosis.

Under § 77.9 of this proposed rule for cattle, bison, and goats, the State of Texas, currently designated as modified accredited, would be classified as modified accredited advanced. Texas would qualify as modified accredited advanced because it complies with the UMR and, with a prevalence rate of affected herds of approximately .0002 percent, has had a tuberculous herd prevalence rate of less than 0.01 for the most recent 2 years.

The smaller zone in the State of Michigan, currently designated as nonmodified accredited, would be classified as modified accredited. (This zone, described in § 77.11(b) of this proposal with regard to cattle, bison, and goats, is the same zone as that delineated below with regard to captive cervids.) The State of Michigan complies with the UMR and, with a total of four affected herds in the past year, the zone is eligible for consideration by the Administrator for

modified accredited status. Because we believe the veterinary infrastructure in the State could effectively detect and respond to the presence of an affected herd in the zone, and because of the limited number of herds in the zone (fewer than 600), it appears that modified accredited status for the smaller zone is warranted.

Classification of States and Zones With Regard to Captive Cervids

Under this proposed rule, we are classifying States and zones according to their tuberculosis risk with regard to captive cervids. We based the classifications we are proposing on preliminary information made available to us by State officials. This preliminary information enabled us to estimate the prevalence of tuberculosis among captive cervid herds in the States, and to determine whether the State has the authority to enforce and complies with the UMR. However, in general, the information we have received from States to date has not enabled us to document that a sufficient number of herds of captive cervids in the State or zone have been tested to ensure that tuberculosis infection at a prevalence level of 2 percent or more will be detected with a confidence level of 95 percent. This level of confidence is required by the regulations through its inclusion in the UMR.

Therefore, although we are proposing to classify States and zones according to tuberculosis risk in captive cervids as listed below, we wish to emphasize that, following the public comment period on this proposal, we will make final each proposed classification only if we have not received information demonstrating that the proposed classification should be other than that proposed, and if the State in question has provided us with the information necessary to document that surveillance in the State or zone meets the required standards. In order for each State to know exactly what information it will be required to provide under the final rule, we will allow a "grace" period for submission of the necessary information following publication of the final rule. We will not make final any State or zone classifications with regard to captive cervids until each State has had 90 days after publication of the final rule on the general requirements for State risk classification to submit the required information.

We are proposing that States and zones be classified for tuberculosis risk in captive cervids as follows:

Accredited-free States and zones. In proposed § 77.20, an accredited-free State or zone for captive cervids is

defined, with certain exceptions, as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, has zero percent prevalence of affected captive cervid herds, and has had no findings of tuberculosis in any captive cervids in the State or zone for the previous 5 years.

Based on the information available to us, we believe the following States and zones meet the conditions in the preceding paragraph and, therefore, we are proposing to classify them as accredited free: Alaska, Colorado, Hawaii, Idaho, Indiana, Louisiana, Maine, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New York, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, Wyoming, and that part of Michigan other than the zone described under "Modified accredited States and zones," below.

Modified accredited advanced States and zones. In proposed § 77.20, a modified accredited advanced State or zone for captive cervids is defined, with one exception, as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of captive cervids in the State or zone for the most recent 2 years.

Based on the information available to us, we believe the following States meet the conditions in the preceding paragraph and, therefore, we are proposing to classify them as modified accredited advanced: Arizona, California, Florida, Georgia, Kansas, Kentucky, Mississippi, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, and Wisconsin.

Modified accredited States and zones. In proposed § 77.20, a modified accredited State or zone for captive cervids is defined, with one exception, as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year.

Based on the information available to us, we believe the following zone meets the conditions in the preceding paragraph and, therefore, we are proposing to classify it as modified accredited: A zone in Michigan delineated by starting at the juncture of State Route 55 and Interstate 75, then heading northwest and north along Interstate 75 to the Straits of Mackinac,

then southeast and south along the shoreline of Michigan to the eastern terminus of State Route 55, then west along State Route 55 to Interstate 75.

Accreditation preparatory States and zones. In proposed § 77.20, an accreditation preparatory State or zone for captive cervids is defined as a State or zone that is or is part of a State that has the authority to enforce and complies with the UMR, and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

Based on the information available to us, we believe the following States meet the conditions in the preceding paragraph and, therefore, we are proposing to classify them as accreditation preparatory: Alabama, Arkansas, Connecticut, Delaware, Illinois, Iowa, Maryland, Massachusetts, New Mexico, Ohio, Puerto Rico, Rhode Island, the Virgin Islands of the United States, and West Virginia.

Nonaccredited States and zones. In proposed § 77.20, a nonaccredited State or zone for captive cervids is defined as a State or zone that is or is part of a State that does not meet the standards of the UMR or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of captive cervids in the State or zone.

Based on the information available to us, we do not believe that any States or zones meet the criteria for nonaccredited status.

Captive Cervids From Unclassified Herds

Under the current regulations, the interstate movement requirements for captive cervids are based on the status of the herds the animals are part of. The four categories of herds for captive cervids under the current regulations are accredited, qualified, monitored, and unclassified. As noted above, we are proposing to allow captive cervids to be moved interstate according to the applicable State or zone movement requirements or the applicable individual herd requirements, whichever are less restrictive.

We are proposing however, to make a change to the provisions governing the movement from unclassified herds. Under the current regulations, cervids that are not known to be infected with or exposed to tuberculosis and that are from unclassified herds may be moved interstate if the cervids have tested negative to two official tuberculosis tests conducted no less than 90 days apart, provided the second test was conducted within 90 days prior to the date of movement.

Although we believe that the two tests currently required for unclassified herds are adequate to address the tuberculosis risk in certain States, that testing requirement would not adequately address the risk posed by animals moving from States or zones of relatively higher risk—*e.g.*, those States or zones that would be classified as accreditation preparatory or nonaccredited with regard to captive cervids.

Therefore, we are proposing to amend the conditions for interstate movement from unclassified herds (set forth in § 77.15 of the current regulations and § 77.38 of this proposed rule) to remove the provision that captive cervids from unclassified herds may move interstate following two negative tests 90 days apart. By removing this provision, we would make cervids from an unclassified herd subject to the movement requirements for the State or zone in which the herd is located.

Captive Cervids Moved for Exhibition

We are also proposing to amend the interstate movement requirements for captive cervids from a qualified herd in order to address the movement of cervids solely for exhibition. Under the regulations, to be eligible for qualified herd status, all captive cervids in the herd eligible for testing must have tested negative to an official tuberculosis test. Additionally, a captive cervid moved interstate from a qualified herd must be accompanied by a certificate that states that the cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement.

Certain cervids, however, are moved interstate only for a limited period of time for exhibition and do not necessarily come into contact with other livestock. If the cervids are from a qualified herd, which means that they have already been tested negative once, and are kept isolated from other livestock after they leave the premises of origin, we believe they can be moved interstate for a limited period of time for exhibition with minimal risk of transmitting tuberculosis.

Therefore, we are proposing in § 77.36(b)(4) that captive cervids from a qualified herd moved interstate for the purpose of exhibition only may be moved without testing, provided they are returned to the premises of origin no more than 90 days after leaving the premises, have no contact with other livestock during movement and exhibition, and are accompanied by a certificate that includes a statement that the captive cervid is from a qualified

herd and will meet the requirements of this paragraph.

Changes to Definitions

We are proposing to revise certain of the definitions currently used in the regulations in order to clarify our intent regarding those definitions and to make those that would be used regarding cattle, bison, and goats consistent with those that would be used regarding captive cervids.

Certificate: Throughout the current regulations for both cattle and bison and captive cervids, the term "certificate" is used a number of times. Our intent is to apply the same definition to that term wherever it is used in part 77.

Currently, there is a definition of *certificate* in § 77.1 regarding cattle and bison. Although there is currently no definition of *certificate* in § 77.8 regarding captive cervids, there is a description in § 77.9(c) of the information that must be included on a certificate. Certain of the information included under the definition in § 77.1 is not included in the description in § 77.9(c). Our intent, however, is to require that the basic information supplied on a certificate regarding captive cervids be the same as that supplied regarding cattle, bison, and goats. Therefore, we are moving the definition of *certificate* from the current cattle and bison definitions to revised § 77.2, which would include definitions applicable to all of part 77. We would define *certificate* to mean an official document issued by an APHIS representative, a State representative, or an accredited veterinarian at the point of origin of a shipment of livestock to be moved under this part, which shows the identification tag, tattoo, or registration number or similar identification of each animal to be moved; the number, breed, sex, and approximate age of the animals covered by the document; the purpose for which the animals are to be moved; the date and place of issuance; the points of origin and destination; the consignor and the consignee; and which states that the animal or animals identified on the certificate meet the requirements of part 77.

Official seal. Both the current and proposed regulations refer to means of conveyance that are "officially sealed." There is no definition of *officially sealed* in current § 77.8 regarding captive cervids. The definition in current § 77.1 regarding cattle and bison reads "a seal issued by a State or APHIS representative." In 9 CFR part 78, which contains the regulations dealing with brucellosis in domestic livestock, there is a definition of "official seal" that

more precisely clarifies our intent regarding that term. Therefore, we are proposing to use that definition in proposed § 77.2 to apply to all of part 77. "Official seal" as used in part 77 would mean a seal issued by a State or APHIS representative, consisting of a serially numbered, metal or plastic strip, with a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

We are also proposing to revise the definition of *officially identified*. That term is currently used in the regulations regarding cattle and bison and also in this proposed rule regarding cattle, bison, goats, and captive cervids. Under the current regulations, an animal that is officially identified is identified by means of an official eartag, individual tattoo, or individual hot brand. Our intent with regard to such animals is that they be identified so as to provide unique identification of each animal, to allow for traceback of an animal to its source in the event of disease detection. We are proposing to revise the definition of *officially identified* to make that intent clear.

Additionally, we are proposing to revise the definition of *captive cervid*. In summary, the current definition includes all cervids raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition. The current definition does not cover wild cervids that are not raised or maintained in captivity but that are moved interstate, such as those that are moved from one location to another in order to establish or expand a wild population in the destination location. We believe that not applying the regulations to the movement of such cervids creates an unacceptable risk of infected animals being transported interstate. Therefore, we are proposing to revise the definition of *captive cervid* to include all cervids, including wild cervids, that are moved interstate.

The current regulations with regard to captive cervids include definitions of official tuberculin tests. In these definitions, reference is made to "PPD" tuberculin. The acronym "PPD" stands for "purified protein derivative." To make clear to the reader what we mean by PPD, we are adding a definition of purified protein derivative (PPD) to mean protein extract from an *M. bovis* culture that is resuspended in solution at a standard concentration of 1 mg protein per 1 ml of solution.

Additionally, certain other terms are used currently in both the provisions

regarding cattle and bison, and those regarding captive cervids, but are defined in only one of the two current subparts in part 77. For consistency, we are adding those definitions to the new § 77.2 to apply to all of part 77. Those definitions that are applicable only to cattle, bison, and goats, or to captive cervids would be set forth in the subpart that deals specifically with the animals in question.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

Bovine tuberculosis is a communicable disease of cattle, bison, cervids and other species, including humans, and results in losses in meat and milk production and sterility among infected animals. The Cooperative State-Federal Tuberculosis Eradication program has virtually eliminated bovine tuberculosis from the Nation's livestock population. However, we believe changes to the tuberculosis regulations are needed to further the efforts toward complete eradication.

Currently, the tuberculosis regulations define State risk status levels for cattle and bison. However, the status levels provide only for three broadly drawn classifications of risk, and two of the classifications carry no restrictions on the interstate movement of cattle and bison not known to be infected with tuberculosis. The regulations do not provide status levels for captive cervids; nor do they apply to goats. This proposed rule would increase the number of risk classifications, establish risk classifications for States and zones with regard to captive cervids, and apply the regulations to goats. The classification of a State or zone with regard to cattle, bison, and goats would not necessarily be the same as its classification with regard to captive cervids. Under this proposed rule, the five possible risk classifications would be accredited free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited.

Cattle, Bison, and Goats

In 1998, the total number of cattle and bison in the United States was approximately 99.5 million, valued at approximately \$58.6 billion. That year, there were 1,115,650 U.S. operations with cattle and bison. Over 98.5 percent of these operations had a gross cash

value of less than \$500,000. There were 63,806 goat producers in the United States, who raised about 1.99 million animals valued at approximately \$74 million. These goat holdings vary in size and degree of commercialization, with many producers relying on other sources of income. Most, if not all, goat operations are relatively small and earn less than \$500,000.

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

Currently, with regard to tuberculosis State or zone classification for cattle, bison, and goats, there are 47 accredited-free States, plus Puerto Rico and the Virgin Islands of the United States. As a result of this rule change, one modified accredited State (New Mexico) would become accredited free, bringing the total to 48 States that are entirely accredited free. A currently modified accredited State (Texas) would be classified as modified accredited advanced. One State (Michigan) is accredited free except for a single zone, which is nonmodified accredited. The zone in Michigan currently classified as accredited free would retain that status, and the zone in Michigan currently classified as nonmodified accredited would be classified as modified accredited.

The primary difference among the restrictions on interstate movement from the different proposed classifications is how many, if any, tuberculin tests with negative results the animal to be moved must undergo. The same test is used for cattle, bison, goats, and cervids and the cost of tuberculin testing for an average-sized herd is \$380. The approximate per animal testing cost is \$4.30, compared to an average value of approximately \$600 for a head of cattle, \$1,500 for a bison, and \$40 for a goat.

Under this proposed rule, even though the status of a zone in Michigan would change, the testing requirements for cattle and bison moved interstate from that zone would be the same as

under the current regulations. For Texas, the only change in testing requirements for cattle and bison moved interstate would be the addition of one test for breeding animals. Additionally, goats not from an accredited herd that are to be moved interstate would have to be tested once with negative results.

The cost of the required testing would depend on the number of animals to be moved interstate. Although we do not know how many cattle, bison, and goats are currently moved interstate from Texas from herds that are not accredited, the cost of a test per animal under this proposed rule would be less than 1 percent of the value of an average head of cattle and an even smaller percentage of the value of a bison. Although the cost of a test for a goat would constitute a greater percentage of its value, the test requirement would apply only to the fraction of animals moved interstate, and of that number, only to those animals not part of an accredited herd.

Captive Cervids

We are also proposing to establish five risk classifications for States and zones with regard to captive cervids: Accredited free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited. According to the new classification system, there would be 24 accredited-free States, 13 modified accredited advanced States, 12 accreditation preparatory States (and Puerto Rico and the Virgin Islands of the United States), and one State that has a modified accredited advanced zone and an accredited-free zone. There are 4,239 known herds of captive cervids in the United States, totaling about 165,200 cervids. The average market values of deer and elk, which together constitute virtually the entire population of captive cervids, are \$600 and \$3,500 respectively.

The proposed accredited-free States would account for approximately 77 percent of the known captive cervid population, modified accredited advanced for 11 percent, and accreditation preparatory for less than .3 percent. The State with split status would account for 12 percent. Fewer than 10 percent of captive cervids are moved interstate. Those not moved interstate would not be subject to this proposed rule. Under this proposed rule, owners of captive cervids to be moved interstate could move their animals according to the less restrictive of either the animals' herd status under the current regulations or the State or zone status under this proposed rule. Therefore, this proposed rule should

have no negative economic effects on the owners of captive cervids. Owners of herds that are not accredited but that are located in accredited-free States or zones could save the cost of one or two tests per animal. The most that would be saved per animal would be less than 2 percent of the value of each deer and less than 1 percent of the value of each elk.

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 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 prohibited; (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

In accordance with section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 99-038-1. Please send a copy of your comments to: (1) Docket No. 99-038-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would establish several new levels of tuberculosis risk classifications to be applied to States and zones within States, and would classify States and zones according to

their tuberculosis risk with regard to captive cervids. Additionally, it would specify that the regulations apply to goats as well as to cattle, bison, and captive cervids and increase the amount of testing that must be done before certain cattle, bison, and goats may be moved interstate.

In order to qualify for and retain a particular risk classification, a State or zone would be required to file a report with APHIS. Additionally, for movement from any State or zone other than accredited-free, certain animals to be moved would have to be tested and, in some cases, accompanied by a certificate. If tuberculosis is diagnosed in an animal not covered by the regulations within any State or zone other than one that is classified as nonaccredited, and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must adopt a tuberculosis management plan approved jointly by the State animal health official and the APHIS Administrator.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .30608 hours per response.

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

Estimated annual number of respondents: 250.

Estimated annual number of responses per respondent: 8.416.

Estimated annual number of responses: 2,104.

Estimated total annual burden on respondents: 644 hours.

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

List of Subjects in 9 CFR Part 77

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

Accordingly, we propose to revise 9 CFR part 77 to read as follows:

PART 77—TUBERCULOSIS

Subpart A—General Provisions

Sec.

- 77.1 Material incorporated by reference.
- 77.2 Definitions.
- 77.3 Tuberculosis classifications of States and zones.
- 77.4 Application for and retention of zones.

Subpart B—Cattle, Bison, and Goats

- 77.5 Definitions.
- 77.6 Applicability of this subpart.
- 77.7 Accredited-free States or zones.
- 77.8 Interstate movement from accredited-free States and zones.
- 77.9 Modified accredited advanced States or zones.
- 77.10 Interstate movement from modified accredited advanced States and zones.
- 77.11 Modified accredited States or zones.
- 77.12 Interstate movement from modified accredited States and zones.
- 77.13 Accreditation preparatory States or zones.
- 77.14 Interstate movement from accreditation preparatory States and zones.
- 77.15 Nonaccredited States or zones.
- 77.16 Interstate movement from nonaccredited States and zones.
- 77.17 Interstate movement of cattle, bison, and goats that are exposed, reactors, or suspects, or from herds containing suspects.
- 77.18 Other movements.
- 77.19 Cleaning and disinfection of premises, conveyances, and materials.

Subpart C—Captive Cervids

- 77.20 Definitions.
- 77.21 Applicability of this subpart.
- 77.22 Accredited-free States or zones.
- 77.23 Interstate movement from accredited-free States and zones.
- 77.24 Modified accredited advanced States or zones.
- 77.25 Interstate movement from modified accredited advanced States and zones.
- 77.26 Modified accredited States or zones.
- 77.27 Interstate movement from modified accredited States and zones.
- 77.28 Accreditation preparatory States or zones.
- 77.29 Interstate movement from accreditation preparatory States and zones.
- 77.30 Nonaccredited States or zones.

- 77.31 Interstate movement from nonaccredited States and zones.
- 77.32 General restrictions.
- 77.33 Testing procedures for tuberculosis in captive cervids.
- 77.34 Official tuberculosis tests.
- 77.35 Interstate movement from accredited herds.
- 77.36 Interstate movement from qualified herds.
- 77.37 Interstate movement from monitored herds.
- 77.38 Interstate movement from herds that are not accredited, qualified, or monitored.
- 77.39 Other interstate movements.
- 77.40 Procedures for and interstate movement to necropsy and slaughter.

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).

Subpart A—General Provisions

§ 77.1 Material incorporated by reference.

Uniform Methods and Rules—Bovine Tuberculosis Eradication. The Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition has been approved for incorporation by reference into the Code of Federal Regulations by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(a) The procedures specified in the Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition must be followed for the interstate movement of certain animals regulated under this part.

(b) Copies of the Uniform Methods and Rules—Bovine Tuberculosis Eradication:

(1) Are available for inspection at the Office of the Federal Register Library, 800 North Capitol Street NW., Suite 700, Washington, DC;

(2) Are available for inspection at the APHIS reading room, room 1141, USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC; or

(3) May be obtained from the National Animal Health Programs, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231.

§ 77.2 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of subchapter J to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal. All species of animals except man, birds, or reptiles.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Certificate. An official document issued by an APHIS representative, a State representative, or an accredited veterinarian at the point of origin of a shipment of livestock to be moved under this part, which shows the identification tag, tattoo, or registration number or similar identification of each animal to be moved; the number, breed, sex, and approximate age of the animals covered by the document; the purpose for which the animals are to be moved; the date and place of issuance; the points of origin and destination; the consignor and the consignee; and which states that the animal or animals identified on the certificate meet the requirements of this part.

Cooperating State and Federal animal health officials. The State and Federal animal health officials responsible for overseeing and implementing the National Cooperative State/Federal Bovine Tuberculosis Eradication Program.

Depopulate. To destroy all livestock in a herd by slaughter or by death otherwise.

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

Epidemiologic investigation. An investigation that is conducted by a State in conjunction with APHIS representatives, in which an official test for tuberculosis is conducted on all livestock in any tuberculosis-affected herd in a State or zone, as well as on all livestock in any herd into which livestock from the affected herd have been moved.

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. (A group means one or more animals.)

Interstate. From one State into or through any other State.

Livestock. Cattle, bison, cervids, swine, 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, as well as previously free-ranging cervids that are captured, identified, and moved interstate.

Moved. Shipped, transported, or otherwise moved, or delivered or received for movement.

Moved directly. Moved without stopping or unloading at livestock assembly points of any type. Livestock being moved directly may be unloaded from the means of conveyance while en route only if the animals are isolated so that they cannot mingle with any livestock other than those with which they are being shipped.

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

Official seal. A seal issued by a State or APHIS representative, consisting of a serially numbered, metal or plastic strip, with a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

Officially identified. Identified by means of an official eartag or by means of an individual tattoo or hot brand that provides unique identification for each animal.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

State. Any State, territory, the District of Columbia, or Puerto Rico.

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

State representative. A veterinarian or other person employed in livestock sanitary work of a State or a political subdivision of a State and who is authorized by such State or political subdivision of a State to perform the function involved under a memorandum of understanding with APHIS.

Transportation document. Any document accompanying the interstate movement of livestock, such as an owner's statement, manifest, switch order, or vehicle record, on which is stated the point from which the animals are moved interstate, the destination of the animals, the number of animals covered by the document, and the name and address of the owner or shipper.

Tuberculosis. The contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. (Also referred to as bovine tuberculosis.)

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

§ 77.3 Tuberculosis classifications of States and zones.

The Administrator shall classify each State for tuberculosis in accordance with this part. A zone composed of less than an entire State will be given a particular classification upon request of the State only if the Administrator determines that:

(a) The State meets the requirements of this part for establishment of zones;

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

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

§ 77.4 Application for and retention of zones.

(a) A State animal health official may request at any time that the Administrator designate part of a State as having a different tuberculosis classification under this part than the rest of the State. The requested zones must be delineated by the State animal health authorities, subject to approval by the Administrator. The request from the State must demonstrate that the State complies with the following requirements:

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

(2) The State in which the intended zones are located must maintain, in each intended zone, clinical and epidemiological surveillance of animal species at risk of tuberculosis at a rate that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95

percent confidence. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing; and

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

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

Subpart B—Cattle, Bison, and Goats

§ 77.5 Definitions.

As used in this subpart B, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accreditation preparatory State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of cattle, bison, and goats in the State or zone.

Accredited-free State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” has zero percent prevalence of affected cattle, bison, and goat herds, and has had no findings of tuberculosis in any cattle, bison, or goats in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

Accredited herd. To establish or maintain accredited herd status, the herd owner must comply with all of the provisions of the “Uniform Methods

and Rules—Bovine Tuberculosis Eradication” regarding accredited herds. All cattle, bison, and goats in a herd must be free from tuberculosis.

Affected herd. A herd in which tuberculosis has been disclosed in any cattle, bison, or goats by an official tuberculin test or by postmortem examination.

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

Approved slaughtering establishment. A slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State-inspected slaughtering establishment that has inspection by a State inspector at the time of slaughter.

Cattle, bison, and goats not known to be affected. All cattle, bison, and goats except those originating from tuberculosis affected herds or from herds containing tuberculosis suspect cattle, bison, or goats.

Department. The U.S. Department of Agriculture (USDA).

Exposed cattle, bison, and goats. Cattle, bison, and goats, except reactor cattle, bison, and goats, that are part of an affected herd.

Modified accredited State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of cattle, bison, and goats in the State or zone for the most recent year. *Except that:* 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 in the State or zone.

Modified accredited advanced State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle, bison, and goats in the State or zone for each of the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on

the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

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

Nonaccredited State or zone. A State or zone that is or is part of a State that does not meet the standards of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of cattle, bison, and goats in the State or zone.

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

Permit. An official document issued for movement of cattle, bison, or goats under this part by an APHIS representative, State representative, or an accredited veterinarian at the point of origin of a shipment of cattle, bison, or goats to be moved directly to slaughter, that shows the tuberculosis status of each animal (reactor, suspect, or exposed), the eartag number of each animal and the name of the owner of such animal, the establishment to which the animals are to be moved, the purpose for which the animals are to be moved, and that they are eligible for such movement under the applicable provisions of §§ 77.17 and 77.18.

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

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

Uniform Methods and Rules—Bovine Tuberculosis Eradication. Uniform methods and rules for eradicating bovine tuberculosis in the United States, approved by APHIS on January 22, 1999, which is incorporated by reference at § 77.1.

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

§ 77.6 Applicability of this subpart.

All references in this subpart to the tuberculosis status of States and zones

pertain to such status for cattle, bison, and goats only.

§ 77.7 Accredited-free States or zones.

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

(b) The following are accredited-free zones: A zone in Michigan consisting of that part of the State outside the zone in Michigan described in § 77.11(b).

(c) If an affected herd is detected in a State or zone classified as accredited-free, and the herd is depopulated and an epidemiologic investigation is completed within 90 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. 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 either modified accredited advanced, modified accredited, accreditation preparatory, or nonaccredited.

(d) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition," which is incorporated by reference at § 77.1, to those other livestock in the same manner as to cattle, bison, and goats. Failure to do so will result in reclassification of the State or zone as modified accredited advanced.

(e) If tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the

Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will lose its accredited-free status and will be reclassified as modified accredited advanced.

(f) Accredited-free State or zone status must be renewed annually. To qualify for renewal of accredited-free State or zone status, a State must submit an annual report to APHIS certifying that the State or zone within the State complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

§ 77.8 Interstate movement from accredited-free States and zones.

Cattle, bison, or goats that originate in an accredited-free State or zone may be moved interstate without restriction.

§ 77.9 Modified accredited advanced States or zones.

(a) The following are modified accredited advanced States: Texas.

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

(c) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition," which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle, bison, and goats. Failure to do so will result in the removal of the State or zone from the list of modified accredited advanced States or zones and its being reclassified as modified accredited.

(d) If tuberculosis is diagnosed within a modified accredited advanced State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the

State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as modified accredited.

(e) Modified accredited advanced State or zone status must be renewed annually. To qualify for renewal of a modified accredited advanced State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for accredited-free status, a modified accredited advanced State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle, bison, or goats in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

§ 77.10 Interstate movement from modified accredited advanced States and zones.

Cattle, bison, or goats that originate in a modified accredited advanced State or

zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle, bison, or goats are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) If the cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers moved to an approved feedlot, they may be moved interstate without restriction.

(c) Cattle, bison, or goats that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(d) If the cattle, bison, or goats are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement. All cattle, bison, and goats so moved that are not individually identified by a registration name and number must be officially identified.

§ 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 delineated by starting at the juncture of State Route 55 and Interstate 75, then heading northwest and north along Interstate 75 to the Straits of Mackinac, then southeast and south along the shoreline of Michigan to the eastern terminus of State Route 55, then west along State Route 55 to Interstate 75.

(c) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition," which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of modified accredited States or zones and its being reclassified as accreditation preparatory.

(d) If tuberculosis is diagnosed within a modified accredited State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that

the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as accreditation preparatory.

(e) Modified accredited State or zone status must be renewed annually. To qualify for renewal of a modified accredited State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

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

§ 77.12 Interstate movement from modified accredited States and zones.

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

(a) The cattle, bison, or goats are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) If the cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers moved to an approved feedlot, they must be accompanied by a certificate stating that they have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

(c) Cattle, bison, or goats that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

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

§ 77.13 Accreditation preparatory States or zones.

(a) The following are accreditation preparatory States: None.

(b) The following are accreditation preparatory zones: None.

(c) If any livestock other than cattle, bison, or goats are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition," which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to cattle and bison. Failure to do so will result in the removal of the State or zone from the list of accreditation preparatory States or zones and its being reclassified as nonaccredited.

(d) If tuberculosis is diagnosed within an accreditation preparatory State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by the State animal health official and the Administrator, within 6 months of the

diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will be reclassified as nonaccredited.

(e) Accreditation preparatory State or zone status must be renewed annually. To qualify for renewal of accreditation preparatory State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited status, an accreditation preparatory State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of cattle, bison, and goats in the State or zone for the most recent year. *Except that:* 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 in the State or zone.

§ 77.14 Interstate movement from accreditation preparatory States and zones.

Cattle, bison, or goats that originate in an accreditation preparatory State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The cattle, bison, or goats are moved interstate for slaughter directly to an approved slaughtering establishment.

(b) If the cattle or bison are steers or spayed heifers, or are officially identified sexually intact heifers moved to an approved feedlot, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted

at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

(c) Cattle, bison, or goats that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement. All cattle, bison, and goats that are so moved that are not individually identified by a registration name and number must be officially identified.

(d) If the cattle, bison, or goats are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they originated in a herd that has undergone a tuberculosis herd test with negative results conducted within 1 year prior to the date of movement and that the animals to be moved have been classified negative to two additional official tuberculin tests conducted at least 60 days apart and no more than 6 months apart, with the second test conducted within 60 days prior to the date of movement. All cattle and bison so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.15 Nonaccredited States or zones.

(a) The following are nonaccredited States: None.

(b) The following are nonaccredited zones: None.

(c) To qualify for accreditation preparatory status, a nonaccredited State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis is prevalent in less than 0.5 percent of the total number of herds of cattle, bison, and goats in the State or zone.

§ 77.16 Interstate movement from nonaccredited States and zones.

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

(a) The cattle, bison, or goats are accompanied by VS Form 1-27 and are moved interstate for slaughter in an

officially sealed means of conveyance directly to an approved slaughtering establishment.

(b) The cattle, bison, or goats are from an accredited herd and are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the cattle, bison, and goats have been classified negative to an official tuberculin test conducted within 60 days prior to the date of movement.

§ 77.17 Interstate movement of cattle, bison, and goats that are exposed, reactors, or suspects, or from herds containing suspects.

(a) *Reactor cattle, bison, and goats.* Cattle, bison, or goats that have been classified as reactor cattle, bison, or goats may be moved interstate only if they are moved directly to slaughter at an approved slaughtering establishment and only in accordance with the following conditions:

(1) Reactor cattle, bison, and goats must be individually identified by attaching to the left ear an approved metal eartag bearing a serial number and the inscription "U.S. Reactor", or a similar State reactor tag, and must be:

(i) Branded with the letter "T," at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead; or

(ii) Permanently identified with the letters "TB" tattooed legibly in the left ear and sprayed with yellow paint on the left ear and either accompanied directly to slaughter by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(2) The reactor cattle, bison, or goats must be accompanied by a permit; and

(3) The reactor cattle, bison, or goats may not be moved interstate in a means of conveyance containing any animals susceptible to tuberculosis unless all of the animals are being moved directly to slaughter; and

(4) Any person who moves reactor cattle, bison, or goats interstate under this paragraph must plainly write or stamp upon the face of the transportation document the words "Tuberculin Reactor" and the following statement: "This conveyance must be cleaned and disinfected in accordance with 9 CFR 77.17(a)(5)."; and

(5) Each means of conveyance in which reactor cattle, bison, or goats

have been transported interstate under this paragraph must be cleaned and disinfected by the carrier, in accordance with the provisions of §§ 71.6, 71.7, and 71.10 of this subchapter, under the supervision of an APHIS representative or State representative or an accredited veterinarian or other person designated by the Administrator. If, at the point where the cattle, bison, or goats are unloaded, such supervision or proper cleaning and disinfecting facilities are not available, and permission is obtained from an APHIS representative or State representative, the empty means of conveyance may be moved to a location where such supervision and facilities are available for cleaning and disinfecting. Permission will be granted if such movement does not present a risk of disseminating tuberculosis.

(b) *Exposed cattle, bison, and goats.* Except for the movement of exposed cattle to a quarantined feedlot in accordance with § 50.16 of this chapter, exposed cattle, bison, or goats may be moved interstate only if they are moved directly to slaughter to an approved slaughtering establishment and only in accordance with the following conditions:

(1) Exposed cattle, bison, and goats must be individually identified by attaching to either ear an approved metal eartag bearing a serial number and must be:

(i) Branded with the letter "S," at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead; or

(ii) Accompanied directly to slaughter by an APHIS or State representative; or

(iii) Moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(2) The exposed cattle, bison, and goats must be moved in accordance with paragraphs (a)(2), (a)(3), and (a)(5) of this section.

(c) *Suspect cattle, bison, and goats.* Suspect cattle, bison, or goats from herds in which no reactor cattle, bison, or goats have been disclosed on an official tuberculin test, as well as negative cattle, bison or goats from such herds, may be moved interstate only if they are moved directly to slaughter to an approved slaughtering establishment.

(Approved by the Office of Management and Budget under control number 0579-0051)

§ 77.18 Other movements.

The Administrator may, with the concurrence of the livestock sanitary official of the State of destination, upon request in specific cases, allow the interstate movement of cattle, bison, or goats not otherwise provided for in this part that have not been classified as reactor cattle, bison, or goats and are not otherwise known to be affected with tuberculosis, under such conditions as the Administrator may prescribe in each specific case to prevent the spread of tuberculosis. The Administrator shall promptly notify the appropriate livestock sanitary official of the State of destination of any such action.

§ 77.19 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering cattle, bison, or goats in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous or reactor livestock must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

Subpart C—Captive Cervids

§ 77.20 Definitions.

As used in subpart C, the following terms shall have the meanings set forth in this section except as otherwise specified.

Accreditation preparatory State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

Accredited-free State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," has zero percent prevalence of affected captive cervid herds, and has had no findings of

tuberculosis in any captive cervids in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

Accredited herd. A herd of captive cervids that has tested negative to at least three consecutive official tuberculin tests of all eligible captive cervids in accordance with § 77.33(f) and that meets the standards set forth in § 77.35. The tests must be conducted at 9–15 month intervals.

Affected herd. A herd of captive cervids that contains or that has contained one or more captive cervids infected with *Mycobacterium bovis* (determined by bacterial isolation of *M. bovis*) and that has not tested negative to the three whole herd tests as prescribed in § 77.39(d).

Blood tuberculosis (BTB) test. A supplemental test for tuberculosis in cervids.

Captive cervid. All species of deer, elk, moose, and all other members of the family Cervidae raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition, or any cervid (either wild or raised or maintained in captivity) that is moved interstate. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag or other identification approved by the Administrator as unique and traceable with which to trace the animal back to its herd of origin.

Comparative cervical tuberculin (CCT) test. The intradermal injection of biologically balanced USDA bovine PPD tuberculin and avian PPD tuberculin at separate sites in the mid-cervical area to determine the probable presence of bovine tuberculosis (*M. bovis*) by comparing the response of the two tuberculins at 72 hours (plus or minus 6 hours) following injection.

Designated accredited veterinarian. An accredited veterinarian who is trained and approved by cooperating State and Federal animal health officials to conduct the single cervical tuberculin (SCT) test on captive cervids.

Exposed captive cervid. Any captive cervid that has been exposed to tuberculosis by reason of associating with captive cervids, cattle, bison, or other livestock from which *M. bovis* has been isolated.

Modified accredited State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year. *Except that:* 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 in the State or zone.

Modified accredited advanced State or zone. A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of captive cervids in the State or zone for the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

Monitored herd. A herd on which identification records are maintained on captive cervids inspected for tuberculosis at an approved slaughtering establishment or an approved diagnostic laboratory and on captive cervids tested for tuberculosis in accordance with interstate movement requirements, and which meets the standards set forth in § 77.37.

Negative. Showing no response to the SCT test or the CCT test, classified by the testing laboratory as "avian" or "negative" on the BTB test, or classified negative for tuberculosis by the testing veterinarian based upon history, supplemental tests, examination of the carcass, and histopathology and culture of selected tissues.

No gross lesions (NGL). Having no visible lesions indicative of bovine tuberculosis detected upon necropsy or slaughter inspection.

Nonaccredited State or zone. A State or zone that is or is part of a State or

zone that does not meet the standards of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of captive cervids in the State or zone.

Official tuberculosis test. Any of the following tests for bovine tuberculosis in captive cervids, applied and reported in accordance with this part:

- (1) The single cervical tuberculin (SCT) test;
- (2) The comparative cervical tuberculin (CCT) test; and
- (3) The blood tuberculosis (BTB) test.

Permit. An official document issued by a representative of APHIS, a State representative, or an accredited veterinarian that must accompany any reactor, suspect, or exposed captive cervid moved interstate.

Purified protein derivative (PPD). Protein extract from an *M. bovis* culture that is resuspended in solution at a standard concentration of 1 mg protein per 1 ml of solution.

Qualified herd. A herd of captive cervids that has tested negative to at least one official tuberculosis test of all eligible captive cervids (see § 77.33(f)) within the past 12 months and that is not classified as an accredited herd.

Quarantine. Prohibition from interstate movement, except for slaughter or necropsy.

Reactor. Any captive cervid that shows a response to the SCT test or the CCT test, or is classified by the testing laboratory as "*M. bovis* positive" on the BTB test, and is classified a reactor by the testing veterinarian; or any suspect captive cervid that is classified a reactor upon slaughter inspection or necropsy after histopathology and/or culture of selected tissues by the USDA or State veterinarian performing or supervising the slaughter inspection or necropsy.

Regular-kill slaughter animal. An animal that is slaughtered for food or any reason other than because of a disease regulated under 9 CFR chapter I (such as tuberculosis, brucellosis, or any other livestock disease for which movement of animals is restricted under 9 CFR chapter I).

Single cervical tuberculin (SCT) test. The intradermal injection of 0.1 ml (5,000 tuberculin units) of USDA PPD bovis tuberculin in the mid-cervical area with a reading by visual observation and palpation at 72 hours (plus or minus 6 hours) following injection.

Suspect. Any captive cervid that is not negative to the SCT test or the CCT test, or that is classified by the testing laboratory as equivocal on the BTB test, and that is not classified as a reactor by the testing veterinarian.

Tuberculin. A product that is approved by and produced under USDA license for injection into cervids and other animals for the purpose of detecting bovine tuberculosis.

Tuberculous. Having lesions indicative of tuberculosis, infected with tuberculosis based on isolation of *M. bovis*, or being from a herd in which *M. bovis* has been isolated.

USDA. The United States Department of Agriculture.

Whole herd test. An official tuberculosis test of all test eligible animals in the herd.

Zero percent prevalence. No finding of tuberculosis in any herd of captive cervids in a State or zone.

§ 77.21 Applicability of this subpart.

All references in this subpart to the tuberculosis status of States and zones pertain to such status for captive cervids.

§ 77.22 Accredited-free States or zones.

(a) The following are accredited-free States: None.

(b) The following are accredited-free zones: None.

(c) If an affected herd is detected in a State or zone classified as accredited-free, and the herd is depopulated and a complete epidemiologic investigation is completed within 120 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. 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.

(d) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999 edition," which is incorporated by reference at § 77.1, to those other livestock in the same manner as to captive cervids. Failure to do so will result in reclassification of the State or zone as modified accredited advanced.

(e) If tuberculosis is diagnosed within an accredited-free State or zone in an animal not specifically regulated by this part and a risk assessment conducted by APHIS determines that the outbreak poses a tuberculosis risk to livestock within the State or zone, the State or zone must implement a tuberculosis management plan, approved jointly by

the State animal health official and the Administrator, within 6 months of the diagnosis. The management plan must include provisions for immediate investigation of tuberculosis in livestock, wildlife and animals held for exhibition, the prevention of the spread of the disease to other livestock, wildlife and animals held for exhibition, increased surveillance of tuberculosis in wildlife and animals held for exhibition, eradication of tuberculosis from individual herds, a timeline for tuberculosis eradication, and performance standards by which to measure yearly progress toward eradication. If a State or zone does not implement such a plan within the required 6 months, the State or zone will lose its accredited-free status and will be reclassified as modified accredited advanced.

(f) Accredited-free State or zone status must be renewed annually. To qualify for renewal of accredited-free State or zone status, a State must submit an annual report to APHIS certifying that the State or zone within the State complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

§ 77.23 Interstate movement from accredited-free States and zones.

Notwithstanding any other provisions of this part, captive cervids that originate in an accredited-free State or zone may be moved interstate without restriction.

§ 77.24 Modified accredited advanced States or zones.

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

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

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999 edition," which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of modified accredited advanced States or zones and its being reclassified as modified accredited.

(d) If tuberculosis is diagnosed within a modified accredited advanced State or zone in an animal not specifically regulated by this part and a risk

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

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

(f) To qualify for accredited-free status, a modified accredited advanced State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," has zero percent prevalence of affected captive cervid herds, and has had no findings of tuberculosis in any captive cervids in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited-free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

§ 77.25 Interstate movement from modified accredited advanced States and zones.

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

(a) The captive cervids are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) Captive cervids that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(c) If the captive cervids are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to an official tuberculin test conducted within 90 days prior to the date of movement. All captive cervids so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.26 Modified accredited States or zones.

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

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

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd

test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition," which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of modified accredited States or zones and its being reclassified as accreditation preparatory.

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

(e) Modified accredited State or zone status must be renewed annually. To qualify for renewal of a modified accredited State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited advanced status, a modified accredited State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis has been prevalent in less than 0.01 percent of the total number of captive cervids in the State or zone for the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years,

depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

§ 77.27 Interstate movement from modified accredited States and zones.

Except for captive cervids from a qualified herd or monitored herd, as provided in §§ 77.36 and 77.37, respectively, captive cervids that originate in a modified accredited State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) Captive cervids that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.

(c) If the captive cervids are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they have been classified negative to two official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All captive cervids so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.28 Accreditation preparatory States or zones.

(a) The following are accreditation preparatory States: None. Alabama, Arkansas, Connecticut, Delaware, Illinois, Iowa, Maryland, Massachusetts, New Mexico, Ohio, Puerto Rico, Rhode Island, the Virgin Islands of the United States, and West Virginia.

(b) The following are accreditation preparatory zones: None.

(c) If any livestock other than captive cervids are included in a newly assembled herd on a premises where a tuberculous herd has been depopulated, the State or zone must apply the herd test requirements contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication, January 22, 1999, edition" which is incorporated by reference at § 77.1, for such newly assembled herds to those other livestock in the same manner as to captive cervids. Failure to do so will result in the removal of the State or zone from the list of accreditation preparatory

States or zones and its being reclassified as nonaccredited.

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

(e) Accreditation preparatory State or zone status must be renewed annually. To qualify for renewal of accreditation preparatory State or zone status, a State must submit an annual report to APHIS certifying that the State or zone complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication." The report must be submitted to APHIS each year between October 1 and November 30.

(f) To qualify for modified accredited status, an accreditation preparatory State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of captive cervids in the State or zone for the most recent year. *Except that:* 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 in the State or zone.

§ 77.29 Interstate movement from accreditation preparatory States and zones.

Except for captive cervids from a qualified herd or monitored herd, as provided in §§ 77.36 and 77.37, respectively, captive cervids that

originate in an accreditation preparatory State or zone, and that are not known to be infected with or exposed to tuberculosis, may be moved interstate only under one of the following conditions:

(a) The captive cervids are moved interstate directly to slaughter to an approved slaughtering establishment.

(b) Captive cervids that are from an accredited herd may be moved interstate if they are accompanied by a certificate stating that the accredited herd has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to an official tuberculin test conducted within 90 days prior to the date of movement. All captive cervids that are so moved that are not individually identified by a registration name and number must be officially identified.

(c) If the captive cervids are breeding animals that are not from an accredited herd, they must be accompanied by a certificate stating that they originated in a herd that has undergone a tuberculosis herd test with negative results conducted within 1 year prior to the date of movement, and that the animals to be moved have been classified negative to two additional official tuberculin tests conducted at least 90 days apart and no more than 6 months apart, with the second test conducted within 90 days prior to the date of movement. All captive cervids so moved that are not individually identified by a registration name and number must be officially identified.

§ 77.30 Nonaccredited States or zones.

(a) The following are nonaccredited States: None.

(b) The following are nonaccredited zones: None.

(c) To qualify for accreditation preparatory status, a nonaccredited State or zone must demonstrate to the Administrator that it complies with the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" and that tuberculosis is prevalent in less than 0.5 percent of the total number of herds of captive cervids in the State or zone.

§ 77.31 Interstate movement from nonaccredited States and zones.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, captive cervids that originate in a nonaccredited State or zone and that are not known to be infected with or exposed to tuberculosis may not be moved interstate.

(b) If the captive cervids are from an accredited herd, they may be moved interstate if they are moved in an officially sealed means of conveyance accompanied by a certificate showing that the captive cervids are from an accredited herd that has completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement, and that they have been classified negative to an official tuberculin test conducted within 90 days prior to the date of movement.

(c) If the captive cervids are from a qualified herd or a monitored herd, they may be moved interstate if they meet the conditions of § 77.36 for qualified herds or § 77.37 for monitored herds.

(d) Captive cervids may be moved interstate if they are accompanied by VS Form 1-27 and are moved interstate in an officially sealed means of conveyance directly to slaughter to an approved slaughtering establishment.

§ 77.32 General restrictions.

(a) Except for movement from accredited States and zones in accordance with § 77.23, movement from accredited herds in accordance with § 77.35, and movement to slaughter in accordance with §§ 77.25(a), 77.27(a), 77.29(a), and 77.31(d), no captive cervid may be moved interstate unless it has been tested using an official tuberculosis test, and it is moved in compliance with this part.

(b) No captive cervid with a response to any official tuberculosis test is eligible for interstate movement unless the captive cervid subsequently tests negative to a supplemental official tuberculosis test or is moved interstate directly to slaughter or necropsy in accordance with § 77.40.

(c) Except for captive cervids moving interstate under permit directly to slaughter or necropsy under § 77.40, each captive cervid or shipment of captive cervids to be moved interstate must be accompanied by a certificate issued within 30 days of the movement by a State or Federal animal health official or an accredited veterinarian.

(d) Captive cervids in zoological parks that have been accredited by the American Zoo and Aquarium Association (AZA) are exempt from the regulations in this part when the captive cervids are moved directly interstate between AZA member facilities. Any captive cervids moved interstate that are not moved directly from an AZA member facility to another AZA member facility must be moved in accordance with the regulations in this subpart.

§ 77.33 Testing procedures for tuberculosis in captive cervids.

(a) *Approved testers.* Except as explained in paragraphs (a)(1) and (a)(2) of this section, official tuberculosis tests may only be given by a veterinarian employed by the State in which the test is administered or by a veterinarian employed by USDA.

(1) A designated accredited veterinarian may conduct the SCT test, except as provided in § 77.34(a)(2) and § 77.39(e) and (f).

(2) Any accredited veterinarian may conduct the BTB test.

(b) *Approved diagnostic laboratories.*

(1) With one exception, histopathology and culture results for all tuberculosis diagnoses will be accepted only from the National Veterinary Services Laboratories (NVSL) in Ames, Iowa. The exception is that results will be accepted from a laboratory of the Food Safety and Inspection Service, USDA, for tissue examination of regular-kill slaughter animals in those cases where no submission is made to NVSL.

(2) The following laboratory is approved to perform the BTB test: Texas Veterinary Medical Center laboratory at Texas A&M University in College Station, Texas.

(c) *Identification.* Any captive cervid tested with an official tuberculosis test must bear official identification in the form of an official eartag, or another identification device or method approved by the Administrator as unique and traceable, at the time of the official tuberculosis test. Use of any identification device or method other than an official eartag must first be approved by the Administrator as unique and traceable. Written requests for approval must be sent to National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231.

(d) *Reporting of tests.*

(1) *SCT and CCT tests.* For the SCT and CCT tests, the testing veterinarian must submit a report to cooperating State and Federal animal health officials of the State in which the captive cervid is tested. The report must include the following information for all SCT and CCT tests administered: The number of the individual eartag or other identification approved by the Administrator; the age, sex, and breed of each captive cervid tested; a record of all responses; the size of each response for the CCT test; and the test interpretation.

(2) *BTB test.* Copies of the BTB test results must be submitted by the testing laboratory to the person, firm, or corporation responsible for the

management of the herd, cooperating State and Federal animal health officials of the State in which the captive cervid is tested, and the testing veterinarian. The report must include the following information for all BTB tests administered: The number of the individual eartag or other identification approved by the Administrator; the age, sex, and breed of each captive cervid tested; the test interpretation, and a summary of supporting data. Full supporting data must be submitted by the testing laboratory on a case-by-case basis at the request of cooperating State and Federal animal health officials.

(e) *Test interpretation.*

(1) Interpretation of an SCT test will be based upon the judgment of the testing veterinarian after observation and palpation of the injection site, in accordance with the classification requirements described in § 77.34(a).

(2) Interpretation of a CCT test will be in accordance with the classification requirements described in § 77.34(b).

(3) Interpretation of a BTB test will be in accordance with the patented standards for the BTB test¹ and the classification requirements described in § 77.34(c).

(f) *Captive cervids eligible for testing.* Except as provided in § 77.35(a)(1) and § 77.36(a)(1), testing of herds for individual herd classification must include all captive cervids 1 year of age or over and any captive cervids other than natural additions (captive cervids born into the herd) under 1 year of age.

§ 77.34 Official tuberculosis tests.

(a) *Single cervical tuberculin (SCT) test.*

(1) The SCT test is the primary test to be used in individual captive cervids and in herds of unknown tuberculous status. Each captive cervid that responds to the SCT test must be classified as a suspect until it is retested with either the CCT test or the BTB test and is either found negative for tuberculosis or is classified as a reactor; unless, with the exception of a designated accredited veterinarian, the testing veterinarian determines that the captive cervid should be classified as a reactor based on its response to the SCT test. A designated accredited veterinarian must classify a responding captive cervid as a suspect, unless the DTE determines, based on epidemiological evidence, that the

captive cervid should be classified as a reactor.

(2) The SCT test is the primary test to be used in affected herds and in herds that have received captive cervids from an affected herd. When used with affected herds or in herds that have received captive cervids from an affected herd, the SCT test may only be administered by a veterinarian employed by the State in which the test is administered or employed by USDA. In affected herds or herds that have received captive cervids from an affected herd, each captive cervid that responds to the SCT test must be classified as a reactor, unless the DTE determines that the captive cervid should be classified as a suspect because of possible exposure to a tuberculous animal.

(b) *Comparative cervical tuberculin (CCT) test.*

(1) The CCT test is a supplemental test that may only be used for retesting captive cervids classified as suspects. The CCT test may be used in affected herds only after the herd has tested negative to at least two whole herd SCT tests and only with the prior written consent of the DTE. The CCT test may not be used as a primary test for herds of unknown tuberculous status.

(2) A captive cervid tested with the CCT test must be classified as negative if it has a response to the bovine PPD tuberculin that is less than 1 mm.

(3) Unless the testing veterinarian determines that the captive cervid should be classified as a reactor because of possible exposure to a tuberculous animal, a captive cervid tested with the CCT test must be classified as a suspect if:

(i) It has a response to the bovine PPD tuberculin that is greater than 2 mm and that is equal to the response to the avian PPD tuberculin; or

(ii) It has a response to the bovine PPD tuberculin that is equal to or greater than 1 mm and equal to or less than 2 mm and that is equal to or greater than the response to the avian PPD tuberculin.

(4) A captive cervid tested with the CCT test must be classified as a reactor if:

(i) It has a response to the bovine PPD tuberculin that is greater than 2 mm and that is at least 0.5 mm greater than the response to the avian PPD tuberculin; or

(ii) It has been classified as a suspect on two successive CCT tests.

(iii) Any exceptions to reactor classification under the conditions in paragraphs (b)(4)(i) and (b)(4)(ii) of this section must be justified by the testing veterinarian in writing and have the concurrence of the DTE.

(c) *Blood tuberculosis (BTB) test.*

(1) The BTB test is a supplemental test that may be used in place of the CCT test for retesting captive cervids classified as suspects.

(2) Except as provided in § 77.39(e), any captive cervid classified by the testing laboratory as "equivocal" will be classified as a suspect.

(3) Any captive cervid classified by the testing laboratory as "*M. bovis* positive" will be classified as a reactor.

(4) Any captive cervid classified by the testing laboratory as "avian" or "negative" will be considered negative for tuberculosis.

(5) The owner of the captive cervid tested is responsible for the cost of the BTB test.

§ 77.35 Interstate movement from accredited herds.

(a) *Qualifications.* To be recognized as an accredited herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.33(f) must have tested negative to at least three consecutive official tuberculosis tests, conducted at 9–15 month intervals. However, captive cervids under 1 year of age that are not natural additions to the herd do not have to be tested if they were born in and originate from an accredited herd.

(2) The owner of the herd must have a document issued by cooperating State or Federal animal health officials stating that the herd has met the requirements in paragraph (a)(1) of this section and is classified as an accredited herd.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, a captive cervid from an accredited herd may be moved interstate without further tuberculosis testing only if it is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from an accredited herd. If a group of captive cervids from an accredited herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(c) *Herd additions allowed.* No captive cervid may be added to an accredited herd except in accordance with paragraphs (c)(4) and (c)(5), and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test

¹ The patented standards for the BTB test may be obtained from the Texas Veterinary Medical Center, College of Veterinary Medicine, Texas A&M University, College Station, TX, or from the Deer Research Laboratory, Department of Microbiology, University of Otago, P.O. Box 56, Dunedin, New Zealand.

conducted within 90 days prior to movement to the premises of the accredited herd. Any captive cervid moved from a qualified or monitored herd must also be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other livestock during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and have been released from isolation; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other members of the herd of origin and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the accredited herd. The captive cervid must also be isolated from all members of the accredited herd until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the accredited herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other animals during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the accredited herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and have been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of accredited herd status.* To maintain status as an accredited herd, the herd must test negative to an official tuberculosis test within 21–27 months from the anniversary date of the third consecutive test with no evidence of tuberculosis disclosed (that is, the test on which the herd was recognized as

accredited or the accrediting test). Each time the herd is tested for reaccreditation, it must be tested 21–27 months from the anniversary date of the accrediting test, not from the last date of reaccreditation (for example, if a herd is accredited on January 1 of a given year, the anniversary date will be January 1 of every second year). Accredited herd status is valid for 24 months (730 days) from the anniversary date of the accrediting test. If the herd is tested between 24 and 27 months after the anniversary date, its accredited herd status will be suspended for the interim between the anniversary date and the reaccreditation test. During the suspension period, the herd will be considered “unclassified” and captive cervids may be moved interstate from the herd only in accordance with the movement requirements for the State or zone in which the herd is located.

§ 77.36 Interstate movement from qualified herds.

(a) *Qualifications.* To be recognized as a qualified herd:

(1) All captive cervids in the herd eligible for testing in accordance with § 77.33(f) must have tested negative to one official tuberculosis test that was administered to the herd within a 7-month period. However, captive cervids under 1 year of age that are not natural additions do not have to be tested if they were born in and originate from an accredited, qualified, or monitored herd.

(2) The owner of the herd must have a document issued by cooperating State and Federal animal health officials stating that the herd has met the requirement in paragraph (a)(1) of this section and is classified as a qualified herd.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, a captive cervid from a qualified herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from a qualified herd. Except as provided in paragraphs (b)(3) and (b)(4) of this section, the certificate must also state that the captive cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of captive cervids from a qualified herd is being moved interstate together to the same destination, all captive cervids in the

group may be moved under one certificate.

(3) Captive cervids under 1 year of age that are natural additions to the qualified herd or that were born in and originate from a classified herd may move without testing, provided that the certificate accompanying them states that the captive cervids are natural additions to the qualified herd or were born in and originated from a classified herd and have not been exposed to captive cervids from an unclassified herd.

(4) Captive cervids being moved interstate for the purpose of exhibition only may be moved without testing, provided they are returned to the premises of origin no more than 90 days after leaving the premises, have no contact with other livestock during movement and exhibition, and are accompanied by a certificate that includes a statement that the captive cervid is from a qualified herd and will otherwise meet the requirements of this paragraph.

(c) *Herd additions allowed.* No captive cervid may be added to a qualified herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the accredited herd;

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must be isolated from all other animals in its herd of origin and must test negative to two official tuberculosis tests prior to movement. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the qualified herd. The captive cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date of arrival at the premises of the qualified herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other livestock during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the

qualified herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of qualified herd status.* To maintain status as a qualified herd, the herd must test negative to an official tuberculosis test within 9–15 months from the anniversary date of the first test with no evidence of tuberculosis disclosed (this is the qualifying test). Each time the herd is retested for qualified status, it must be tested 9–15 months from the anniversary date of the qualifying test, not from the last date of requalification (for example, if a herd is qualified on January 1 of a given year, the anniversary date will be January 1 of each consecutive year). Qualified herd status remains in effect for 12 months (365 days) following the anniversary date of the qualifying test. Qualified herd status will be suspended between the anniversary date and the requalifying test, if the herd is not tested within 12 months. During the suspension period, the herd will be considered “unclassified” and captive cervids may be moved interstate from the herd only in accordance with the movement requirements for the State or zone in which the herd is located.

§ 77.37 Interstate movement from monitored herds.

(a) *Qualifications.* To be recognized as a monitored herd:

(1) Identification records must be maintained by the person, firm, or corporation responsible for the management of the herd for as long as status as a monitored herd is desired. Such records must be maintained on all captive cervids in the herd that are slaughtered, inspected, and found negative for tuberculosis at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory. Identification records may also include captive cervids from the herd that tested negative for tuberculosis in accordance with requirements for interstate movement. No less than one half of the captive cervids on which records are kept must be slaughter inspected; and

(2) A sufficient number of captive cervids in the herd must be slaughter inspected or tested for interstate movement to ensure that tuberculosis infection at a prevalence level of 2

percent or more will be detected with a confidence level of 95 percent.² A maximum number of 178 captive cervids must be slaughter inspected or tested for interstate movement over a 3-year period to meet this requirement.

(b) *Movement allowed.* Except as provided in § 77.23 with regard to captive cervids that originate in an accredited-free State or zone, a captive cervid from a monitored herd may be moved interstate only if:

(1) The captive cervid is not known to be infected with or exposed to tuberculosis; and

(2) The captive cervid is accompanied by a certificate, as provided in § 77.32(c), that includes a statement that the captive cervid is from a monitored herd. Except as provided in paragraph (b)(3) of this section, the certificate must also state that the captive cervid has tested negative to an official tuberculosis test conducted within 90 days prior to the date of movement. If a group of captive cervids from a monitored herd is being moved interstate together to the same destination, all captive cervids in the group may be moved under one certificate.

(3) Captive cervids under 1 year of age that are natural additions to the monitored herd or that were born in and originate from a classified herd may move without testing, provided that the certificate accompanying them states that the captive cervids are natural additions to the monitored herd or were born in and originated from a classified herd and have not been exposed to captive cervids from an unclassified herd.

(c) *Herd additions allowed.* No captive cervid may be added to a monitored herd except in accordance with paragraph (c)(4) and either paragraph (c)(1), (c)(2), or (c)(3) of this section, as follows:

(1) The captive cervid to be added must be moved directly from an accredited herd;

(2) The captive cervid to be added must be moved directly from a qualified or monitored herd and must have tested negative to an official tuberculosis test conducted within 90 days prior to movement to the premises of the monitored herd; or

(3) If the captive cervid to be added is not being moved directly from a classified herd, the captive cervid must

² A chart showing the number of captive cervids that must be slaughter inspected or tested for interstate movement, depending on the size of a herd, to meet this requirement may be obtained from the National Animal Health Program staff, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231.

be isolated from all other animals and must test negative to two official tuberculosis tests. The isolation must begin at the time of the first official tuberculosis test. The tests must be conducted at least 90 days apart, and the second test must be conducted within 90 days prior to movement to the premises of the monitored herd. The captive cervid must then be kept in isolation from all animals until it tests negative to an official tuberculosis test conducted at least 90 days following the date it arrives at the premises of the monitored herd. If a group of captive cervids is being moved together, the entire group must be isolated from all other animals during the testing period, but captive cervids in the group need not be isolated from each other during that period. Such herd additions will not receive status as members of the monitored herd for purposes of interstate movement until they have tested negative to an official tuberculosis test and been released from isolation.

(4) A captive cervid to be added must not have been exposed during the 90 days prior to its movement to either:

(i) A captive cervid from a herd with a lower classification status than its own; or

(ii) Any tuberculous livestock.

(d) *Maintenance of monitored herd status.* The person, firm, or corporation responsible for the management of the herd must submit an annual report to cooperating State or Federal animal health officials prior to the anniversary date of classification. This report must give the number of captive cervids currently in the herd; the number of captive cervids from the herd 1 year of age and older identified, slaughtered, and inspected at an approved slaughtering establishment or necropsied at an approved diagnostic laboratory during the preceding year; and the number of captive cervids that have tested negative for tuberculosis in accordance with interstate movement requirements. The number of slaughter inspections or negative testing captive cervids reported in any given year must be at least 25 percent of the total number required over a 3-year period to qualify a herd for monitored herd status. During each consecutive 3-year period, 100 percent of the qualifying total must be reported.

§ 77.38 Interstate movement from herds that are not accredited, qualified, or monitored.

The Administrator may, with the concurrence of the cooperating State animal health officials of the State of destination, and upon request in

specific cases, permit the movement of captive cervids not otherwise provided for in this part which have not been classified as reactors and are not otherwise known to be affected with tuberculosis, under such conditions as the Administrator may prescribe in each specific case to prevent the spread of tuberculosis. The Administrator shall promptly notify the appropriate cooperating State animal health officials of the State of destination of any such action.

§ 77.39 Other interstate movements.

(a) *Herds containing a suspect*

(1) *The suspect.*

(i) A captive cervid classified as a suspect on the SCT test must be quarantined until it is slaughtered or retested by the CCT test or the BTB test and found negative for tuberculosis. Retesting must be as follows:

(A) The first CCT test must be administered within the first 10 days following the SCT test or, if not, must be administered at least 90 days after the SCT test. If the CCT test is administered within 10 days of the SCT test, the injection must be on the side of the neck opposite the injection for the SCT test.

(B) The sample for the first BTB test may not be taken until at least 12 days after the injection for the SCT test. It is recommended that the sample be taken within 30 days following the injection for the SCT test.

(ii) A captive cervid classified as a suspect on the first CCT test or the first BTB test must be quarantined until the following has occurred:

(A) A suspect on the first CCT test is tested with a second CCT test at least 90 days after the first CCT test and is found negative for tuberculosis; or

(B) A suspect on the first BTB test is tested with a second BTB test and is found negative for tuberculosis. It is recommended that the captive cervid be tested with the second BTB test within 60 days following the injection for the SCT test.

(2) *The remainder of the herd.* Any herd containing a suspect to an official tuberculosis test must be quarantined until the suspect is retested by the CCT test or the BTB test and found negative for tuberculosis, or the suspect is inspected at slaughter or necropsied and found negative for tuberculosis after histopathology and culture of selected tissues. If the suspect is found negative for tuberculosis upon testing, or after slaughter inspection or necropsy and histopathology and culture of selected tissues, the herd may be released from quarantine and will return to the herd classification status in effect before the

herd was quarantined. If the suspect is classified as a reactor upon testing, or after slaughter inspection or necropsy and histopathology and/or culture of selected tissues, the herd may be released from quarantine only in accordance with paragraph (b) of this section for herds containing a reactor.

(b) *Herds containing a reactor.* The following requirements apply to herds containing a reactor, except for herds that have received captive cervids from an affected herd. Herds that have received captive cervids from an affected herd must be quarantined and tested in accordance with paragraph (e) of this section.

(1) *The reactor.* Captive cervids classified as reactors must be quarantined.

(2) *The remainder of the herd.* Any herd containing reactors must be quarantined until the reactors are slaughtered or necropsied in accordance with § 77.40 and:

(i) If upon slaughter inspection or necropsy any reactors exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the remainder of the herd may be released from quarantine in accordance with the provisions of paragraph (c) of this section.

(ii) If *M. bovis* is isolated from any reactors, the remainder of the herd will be considered an affected herd, and will be subject to the provisions for affected herds in paragraph (d) of this section.

(iii) If upon slaughter inspection or necropsy all reactors exhibit no gross lesions (NGL) of tuberculosis and no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis* on specimens taken from the NGL animals, the remainder of the herd may be released from quarantine, and captive cervids from the herd may be moved interstate in accordance with the herd classification status in effect before the herd was quarantined if one of the following conditions is met:

(A) The remainder of the herd is given a whole herd test and is found negative for tuberculosis.

(B) The remainder of the herd is given a whole herd test, and all reactors to the whole herd test exhibit no gross lesions (NGL) of tuberculosis upon slaughter inspection or necropsy and no evidence of tuberculosis infection is found by histopathology or culture of *M. bovis* on specimens taken from the NGL animals.

(iv) If no evidence of tuberculosis is found in any reactor upon slaughter inspection or necropsy, but it is not possible to conduct a whole herd test on the remainder of the herd, the herd will be evaluated, based on criteria such as

the testing history of the herd and the State history of tuberculosis infection, by the DTE to determine whether the herd may be released from quarantine.

(c) *Herds found to have only lesions of tuberculosis.* A herd in which captive cervids with lesions compatible with or suggestive of tuberculosis are found by histopathology without the isolation of *M. bovis* may be released from quarantine and return to the herd classification status in effect before the herd was quarantined, with the concurrence of the DTE, if the herd tests negative to tuberculosis on a whole herd test conducted 90 days following the removal of the lesioned captive cervid, provided the herd has not been exposed to *M. bovis* during the 90 days. To maintain its herd classification status, the herd must test negative to two annual whole herd tests beginning 10–12 months after the herd is released from quarantine. If any captive cervids in the herd respond to one of the tests, the herd will be subject to the provisions of paragraph (a) or (b) of this section. If the herd is not given the two annual whole herd tests, it will become an unclassified herd.

(d) *Affected herds.* A herd determined to be an affected herd must be quarantined until the herd has tested negative to three whole herd tests in succession, with the first test given 90 days or more after the last test yielding a reactor and the last two tests given at intervals of not less than 180 days. If the herd tests negative to the three whole herd tests, it will be released from quarantine, but will be considered an unclassified herd, and captive cervids may only be moved interstate from the herd in accordance with the movement requirements for the State or zone in which the herd is located. In addition, the herd must be given five consecutive annual whole herd tests after release from quarantine. (These five tests will count toward qualifying the herd for herd classification.) As an alternative to testing, the herd may be depopulated.

(e) *Herds that have received captive cervids from an affected herd.* If a herd has received captive cervids from an affected herd, the captive cervids from the affected herd of origin will be considered exposed to tuberculosis. The exposed captive cervids and the receiving herd must be quarantined. The exposed captive cervids must be slaughtered, necropsied, or tested with the SCT test by a veterinarian employed by the State in which the test is administered or employed by USDA. The BTB test may be used simultaneously with the SCT test as an additional diagnostic test. Any exposed captive cervid that responds to the SCT

test or tests “*M. bovis* positive” or “equivocal” on the BTB test must be classified as a reactor and must be slaughtered inspected or necropsied. Any exposed captive cervid that tests negative to the SCT test or tests “avian” or “negative” on the BTB test will be considered as part of the affected herd of origin for purposes of testing, quarantine, and the five annual whole herd tests required for affected herds in paragraph (d) of this section.

(1) If bovine tuberculosis is confirmed in any of the exposed captive cervids by bacterial isolation of *M. bovis*, the receiving herd will be classified as an affected herd and will be subject to the provisions for affected herds in paragraph (d) of this section.

(2) If any of the exposed captive cervids are found to exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, the receiving herd will be subject to appropriate testing as determined by the DTE.

(3) If all the exposed captive cervids test negative for tuberculosis, the receiving herd will be released from quarantine if it is given a whole herd test and is found negative for tuberculosis and will return to the herd classification in effect before the herd was quarantined. In addition, the receiving herd must be retested with the SCT test 1 year after release from quarantine in order for captive cervids from the herd to continue to be moved interstate. Supplemental diagnostic tests may be used if any captive cervids in the herd show a response to the SCT test.

(f) *Source herds.* A herd suspected of being the source of tuberculous captive cervids based on a slaughter traceback investigation must be quarantined upon notification (by the person conducting the investigation) to the USDA Area Veterinarian in Charge for the State in which the herd resides, and a herd test must be scheduled. If the herd is suspected of being the source of slaughter captive cervids having lesions of tuberculosis, the herd test must be done by a veterinarian employed by the State in which the test is administered or employed by USDA.

(1) If the herd is identified as the source of captive cervids having lesions of tuberculosis and *M. bovis* has been confirmed by bacterial isolation from the slaughter animal, all captive cervids in the herd that respond to the SCT test must be classified as reactors. If none respond to the SCT test, the herd may be released from quarantine and will return to the herd classification status in effect before the herd was quarantined,

unless the DTE judges that additional testing is appropriate to ensure the herd's freedom from tuberculosis.

(2) If the herd is identified as the source of captive cervids that exhibit lesions compatible with or suggestive of tuberculosis, found by histopathology, without the isolation of *M. bovis*, all captive cervids in the herd that respond to the SCT test must be classified as suspects, and supplemental tests must be applied.

(3) If the herd is not identified as the source herd, the herd will be released from quarantine if the herd is given a whole herd test and is found negative for tuberculosis. The herd will then return to the herd classification status in effect before the herd was quarantined.

(g) *Newly assembled herds.*

(1) A newly assembled herd will be classified as having the herd status of the herd from which the captive cervids originated. If the herd is assembled from captive cervids from more than one herd, it will be classified as having the herd status of the originating herd with the lowest status. A newly assembled herd will also assume the testing schedule of the herd status it is given. Captive cervids in the herd must have no exposure to captive cervids from a herd of lesser status than the herd of origin determining the status of the newly assembled herd or to any tuberculous livestock.

(2) A herd newly assembled on premises where a tuberculous herd has been depopulated must be given two consecutive annual whole herd tests. The first test must be administered at least 6 months after the assembly of the new herd. If the whole herd tests are not conducted within the indicated time frame, the herd will be quarantined. If the herd tests negative to the two whole herd tests, there are no further requirements. If any captive cervid in the herd responds on one of the whole herd tests, the herd will be subject to the provisions of paragraph (a) or (b) of this section. If the premises has been vacant for more than 1 year preceding the assembly of the new herd on the premises, these requirements may be waived if the risk of tuberculosis transmission to the newly assembled herd is deemed negligible by cooperating State and Federal animal health officials.

§ 77.40 Procedures for and interstate movement to necropsy and slaughter.

(a) *Procedures for necropsy and slaughter.*

(1) A necropsy must be performed by or under the supervision of a veterinarian who is employed by USDA or employed by the State in which the

captive cervid was classified, and who is trained in tuberculosis necropsy procedures.

(2) If, upon necropsy, a captive cervid is found without evidence of *M. bovis* infection by histopathology and culture, the captive cervid will be considered negative for tuberculosis.

(3) Reactors, suspects, and exposed captive cervids may be slaughtered only at an approved slaughtering establishment, as defined in § 77.20.

(b) *Interstate movement to necropsy or slaughter.*

(1) *Permit.* Any reactor, suspect, or exposed captive cervid to be moved interstate to necropsy or slaughter must be accompanied by a permit issued by a representative of APHIS, a State representative, or an accredited veterinarian. The captive cervid must remain on the premises where it was identified as a reactor, suspect, or exposed captive cervid until a permit for its movement is obtained. No stopover or diversion from the destination listed on the permit is allowed. If a change in destination becomes necessary, a new permit must be obtained from a cooperating State or Federal animal health official or an accredited veterinarian before the interstate movement begins. The permit must list:

- (i) The classification of the captive cervid (reactor, suspect, or exposed);
- (ii) The reactor eartag number or, for suspects and exposed captive cervids, the official eartag or other approved identification number;
- (iii) The owner's name and address;
- (iv) The origin and destination of the captive cervids;
- (v) The number of captive cervids covered by the permit; and
- (vi) The purpose of the movement.

(2) *Identification of reactors.* Reactors must be tagged with an official eartag attached to the left ear and bearing a serial number and the inscription “U.S. Reactor,” and either:

(i) Branded with the letter “T” high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Permanently identified by the letters “TB” tattooed legibly in the left ear, sprayed on the left ear with yellow paint, and either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(3) *Identification of exposed captive cervids.* Exposed captive cervids must be identified by an official eartag or other approved identification and either:

(i) Branded with the letter "S" high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size; or

(ii) Either accompanied directly to necropsy or slaughter by an APHIS or State representative or moved directly to necropsy or slaughter in a vehicle closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

§ 77.41 Cleaning and disinfection of premises, conveyances, and materials.

All conveyances and associated equipment, premises, and structures that are used for receiving, holding, shipping, loading, unloading, and delivering captive cervids in connection with their interstate movement and that are determined by cooperating State and Federal animal health officials to be contaminated because of occupation or use by tuberculous or reactor livestock must be cleaned and disinfected under the supervision of the cooperating State or Federal animal health officials. Such cleaning and disinfecting must be done in accordance with the procedures approved by the cooperating State or Federal animal health officials. Cleaning and disinfection must be completed before the premises, conveyances, or materials may again be used to convey, hold, or in any way come in contact with any livestock.

Done in Washington, DC, this 28th day of February 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-ANE-56-AD]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Pratt & Whitney JT9D series turbofan engines. This proposal would require initial and repetitive detailed eddy current inspections for cracks in 1st stage high pressure turbine (HPT) disks, and, if necessary, replacement with serviceable parts. This proposal is prompted by the finding of a crack in the web of one cooling air hole on a 1st stage HPT disk. The actions specified by the proposed AD are intended to prevent 1st stage HPT disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by May 8, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-ANE-56-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 0610; telephone 860-565-8770, fax 860-565-4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT:

Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone 781-238-7134, fax 781-238-7199.

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 to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice 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 comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-ANE-56-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-ANE-56-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

The Federal Aviation Administration (FAA) has received a report of a cracked 1st stage high pressure turbine (HPT) disk installed on a Pratt & Whitney (PW) Model JT9D-7R4E turbofan engine. The crack was found during a routine maintenance inspection. The investigation revealed a 4-inch radial crack on the HPT 1st stage disk progressing through the web of one cooling air hole. The subject disk was returned to PW for investigation. Eddy current inspection (ECI) and fluorescent penetrant inspection (FPI) of the disk revealed axial indications on the surface of one 0.313-0.323 inch diameter cooling air hole surface that progressed completely through the web. Further examination revealed a severely worked layer extending to a maximum depth of 0.006 inch from the surface of the hole. No other cooling air hole exhibited cracks. This condition, if not corrected, could result in 1st stage HPT disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

Service Information

The FAA has reviewed and approved the technical contents of PW Alert Service Bulletin (ASB) JT9D-7R4-A72-563, and ASB JT9D A6367, both dated July 28, 1999, that describe procedures for detailed ECI of 1st stage HPT disks for cracks.