

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

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

The criteria for modified accredited advanced status are set forth in the definition of *Modified accredited advanced State or zone* in § 77.5 of the regulations. According to those criteria, the Administrator, upon his or her review may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone. State animal health officials in Michigan have demonstrated to APHIS that, except for the smaller zone, Michigan now meets these criteria.

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

Executive Order 12866 and Regulatory Flexibility Act

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

Bovine tuberculosis is a communicable disease of cattle, bison, cervids and other species, including humans, and results in losses of meat and milk production among infected animals. As part of the Cooperative State/Federal Tuberculosis Eradication Program, which has virtually eliminated bovine tuberculosis from the Nation's livestock populations, the regulations classify each State according to its tuberculosis risk and place certain restrictions on the movement of cattle and bison from States with high-risk classifications.

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

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

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

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

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

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

Executive Order 12372

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

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

Executive Order 12988

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

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

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

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

PART 77—TUBERCULOSIS

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

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

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

§ 77.9 Modified accredited advanced States or zones.

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

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

§ 77.11 Modified accredited States or zones.

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

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

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