

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

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

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

Emergency Action

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

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

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

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

list of modified accredited advanced States.

As of January 2002, there were approximately 22,000 cattle and bison operations in California, totaling 5.2 million head. According to the National Agricultural Statistics Service, the total cash value of cattle in California was over \$4.80 billion as of that year. Over 90 percent of California's cattle operations yield less than \$750,000 annually and are, therefore, considered small entities under criteria established by the Small Business Administration.

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

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

The cost of tuberculin testing and individual identification for an average-sized herd of 101 animals is about \$396. The approximate per-animal testing cost is \$3.76, and the cost of official identification (an eartag) and an applicator is about \$0.16 per head plus the cost of labor to apply the eartags. On January 1, 2002, the average value per animal in California was estimated to be \$930, which translates to an average value per 101-head herd of about \$94,000. Thus, we believe that the added cost of the required tuberculin testing and identification is small relative to the average value of cattle and bison, representing less than 1 percent of the per-head value. Further, since this rule provides for a delay in date of compliance with the identification requirements in § 77.10(b) and (d), the identification costs for sexually intact heifers, steers, and spayed heifers moving interstate from the State of California will be deferred until at least September 30, 2003.

The expenses stemming from the testing and identification requirements are not expected to be substantial for cattle and bison owners in California.

The more a particular herd owner engages in interstate movement, the greater the resulting expense. Unfortunately, the exact number of herd owners involved in interstate movement is unknown. However, we believe that this change in status will not have an economically substantial effect on cattle and bison herd owners in California.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0220 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 03-005-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 03-005-1 and send your comments within 60 days of publication of this rule.

This interim rule removes California from the list of accredited-free States for bovine tuberculosis and adds it to the list of modified accredited advanced States. Cattle or bison that originate in a modified accredited advanced State or