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FOR FURTHER INFORMATION CONTACT: Dr. Terry Beals, Senior Staff Veterinarian, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-5467.

SUPPLEMENTARY INFORMATION:

Background

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

At the beginning of the 20th century, bovine tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock.

Federal regulations implementing this program are contained in 9 CFR part 77, "Tuberculosis" (referred to below as the regulations), and in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (UMR), which is incorporated by reference into the regulations. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of bovine tuberculosis. Subpart B of the regulations contains requirements for the interstate movement of cattle and bison not known to be infected with or exposed to tuberculosis. The interstate movement requirements depend upon whether the animals are moved from an accredited-free State or zone, modified accredited advanced State or zone,

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

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

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

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

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

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

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

Delay in Compliance

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

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

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

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

Emergency Action

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

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