

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

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

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

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

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

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

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

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

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

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

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

#### **Executive Order 12372**

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

#### **Executive Order 12988**

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

#### **Paperwork Reduction Act**

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0229 to the

information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 03-044-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 03-044-1 and send your comments within 60 days of publication of this rule.

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

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

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

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

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

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.016 hours per response.

*Respondents:* Certain herd owners in New Mexico.

*Estimated annual number of respondents:* 375.