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## **Federal Order -- Bovine Tuberculosis: Requirements Applicable to Accredited-Free and Modified Accredited Advanced States or Zones**

Traditionally, APHIS has encouraged producers to voluntarily depopulate tuberculosis-affected herds to eliminate sources of infection. In accordance with the regulations in 9 CFR 77.7(c), an accredited-free State or zone in which a tuberculosis-affected herd is detected is reclassified to a lower status unless the herd is depopulated and an epidemiologic investigation is completed within 90 days of the detection and finds no evidence that the disease has spread. An accredited-free State or zone is also reclassified to a lower status if two or more affected herds are detected within the State or zone within a 48-month period. The current regulations do not provide any exceptions to these requirements for reclassification. Cattle and bison from States or zones reclassified to a lower status--usually modified accredited advanced--are subject to testing and other requirements for interstate movement. Furthermore, the regulations in 9 CFR part 50 authorize APHIS to pay indemnity to owners of animals destroyed because of tuberculosis. These payments provide a financial incentive for owners to elect depopulation instead of maintaining a herd under quarantine.

APHIS has reevaluated this approach in response to changing conditions in the United States, however, and no longer recommends whole herd depopulation as the preferred means of disease management. For example, herd size has continued to increase, and we may diagnose tuberculosis in only one or two animals in herds that exceed 1,000 animals. In such circumstances, it is difficult to justify depopulation when quarantine and testing may offer an appropriate option. In addition, the public perceives whole-herd depopulation as a less acceptable approach for disease management. Changing social values concerning the care and well-being of livestock, the recognition of the environmental consequences of animal disposal, and the value of proteins derived from livestock also drive the need to develop new approaches to disease control. Finally, the costs of depopulation have increased with herd sizes at a time when we expect future indemnity funds to be limited and emergency funding to be unavailable.

APHIS has announced its intention to take a new approach to managing bovine tuberculosis. A proposed action plan, which would include a revision of the current bovine tuberculosis regulations, was made available for public comment on October 5, 2009. In the meantime, however, the regulations in 9 CFR 77.7(c) present an obstacle to the effective conduct of the bovine tuberculosis program. When an accredited-free State is reclassified to a lower status, APHIS and the State expend scarce resources to enable the State to regain its status or to establish split-State status. These resources could be applied to other program activities that would have a greater and more positive impact on disease management. Additionally, many producers in accredited-free States that are reclassified incur additional costs to meet testing and other interstate movement requirements associated with the reclassification, regardless of the risk associated with their particular herd.

As we proceed to develop this new approach, APHIS intends to move away from highly prescriptive regulations and adopt a flexible approach to our eradication efforts. APHIS

will continue to make science-based decisions regarding the disposition of each tuberculosis-affected herd by evaluating the circumstances surrounding each herd. Based on these decisions, we will then implement a plan developed in cooperation with the affected states and producers to address each unique situation.

APHIS will continue to offer indemnity (depending on the availability of funding) to compensate producers considering depopulation when the evaluation indicates that other options will not mitigate disease spread, there is an imminent public or animal health risk, and/or it is cost-beneficial to do so. Where depopulation and indemnity are not considered appropriate, APHIS will continue to rely on State animal health agencies to maintain affected herds under quarantine and implement a program to periodically test the animals for tuberculosis and remove and destroy those that do not test negative. "Test and remove" programs can be an effective alternative to depopulation provided that the State or zone also implements a herd plan for each affected herd to prevent the spread of tuberculosis and conducts surveillance adequate to detect tuberculosis if it is present in other herds or species. When an accredited-free State or zone implements all of these measures, APHIS does not believe it is necessary to downgrade the State or zone, or to restrict the interstate movement of all cattle and bison from the State or zone, in order to prevent the interstate spread of tuberculosis.

APHIS also recognizes that the Administrator needs the flexibility to take action to address tuberculosis risks from wildlife or in response to an emerging or expanding disease outbreak or other unforeseen situation.

Therefore, effective immediately, APHIS is taking the following actions, with the exceptions provided:

1) Accredited-Free States or Zones

APHIS is suspending enforcement of 9 CFR 77.7(c). APHIS will not downgrade an accredited-free State or zone or any part of an accredited-free State or zone in which tuberculosis affected herds are confirmed, provided the Administrator determines that the State Animal Health Officials in cooperation with APHIS-VS Officials in the State or zone in which the affected herds are located:

- Are maintaining all affected herds under quarantine;
- Have implemented a herd plan for each affected herd to prevent the spread of tuberculosis;
- Have implemented a program to periodically test the animals under quarantine for tuberculosis and remove and destroy those that do not test negative; and
- Are conducting surveillance adequate to detect tuberculosis if it is present in other herds or species.

Further, except as provided in paragraph 3, cattle and bison that are not known to be infected with or exposed to tuberculosis may be moved interstate from such a State or zone without restriction for tuberculosis. Other requirements in 9 CFR 77.7 for

accredited-free States or zones, and all other applicable requirements in 9 CFR 77, would continue to apply.

## 2) Modified Accredited Advanced States or Zones

Except as provided in paragraph 3, APHIS is suspending enforcement of 9 CFR 77.10 in modified accredited advanced States or zones if the State was previously classified as accredited free and provided the Administrator determines that the State Animal Health Officials in cooperation with APHIS-VS Officials in the State or zone:

- Are maintaining all affected herds under quarantine;
- Have implemented a herd plan for each affected herd to prevent the spread of tuberculosis;
- Have implemented a program to periodically test the animals under quarantine for tuberculosis and remove and destroy those that do not test negative; and
- Are conducting surveillance adequate to detect tuberculosis if it is present in other herds or species.

Section 77.10 restricts the interstate movement from modified accredited advanced States or zones of cattle and bison not known to be infected with or exposed to tuberculosis. APHIS is taking this action because all States and zones currently classified as modified accredited advanced were previously accredited free and would not have been downgraded had this federal order been in effect at that time. Requirements for modified accredited advanced States or zones in 9 CFR 77.9, and all other applicable requirements in 9 CFR part 77, would continue to apply.

## 3) Exceptions

The Administrator may require increased surveillance within all or part of a State or zone or restrict the interstate movement of cattle and bison from all or part of a State or zone:

- When necessary to address tuberculosis risks from wildlife; or
- Under any other circumstances if the Administrator determines it is necessary to do so to prevent the spread of bovine tuberculosis.

These requirements may be equivalent to, or even more stringent than, those that would be required if the State or zone were reclassified.

This Federal Order is intended as an interim measure until revised bovine tuberculosis regulations can be proposed for review and public comment, and final rules issued. Pending the issuance of such regulations, APHIS will monitor the effectiveness of this Federal Order on an ongoing basis, and will reevaluate it within two years unless it is superseded by such revised regulations.

Authority: This Federal Order is issued in accordance with sections 10406, 10409, 10411, and 10416 of the Animal Health Protection Act (7 U.S.C. 8305, 8308, 8310, and 8315).

**Issued April 15, 2010**

## **Implementation Guidelines for the Federal Order for Existing Modified Accredited Advanced States or Zones**

California – Cattle or bison originating in the State of California may move interstate without restriction.

New Mexico – Cattle or bison originating in the modified accredited advanced zone of New Mexico may move interstate/interzone without restriction. Disease surveillance requirements for domestic livestock, as contained in the APHIS-New Mexico MOU in place for recognition of split State status will continue as described.

In order to address tuberculosis risks from wildlife, the following requirements for surveillance and interstate/interzone movements will be required for the modified accredited advanced zones of Michigan and Minnesota:

Michigan – Movement and disease surveillance requirements for domestic livestock and disease surveillance requirements for free ranging wildlife, as contained in the APHIS-Michigan MOU in place for recognition of split State status will continue as described.

Minnesota – Movement and disease surveillance requirements for domestic livestock and disease surveillance requirements for free ranging wildlife, as contained in the APHIS-Minnesota MOU in place for recognition of split State status will continue as described.

**Issued April 15, 2010**