

(b) *Credit elsewhere determinations.* The approval official must determine whether financing from commercial sources at reasonable rates and terms is available. If credit elsewhere is indicated, the approval official should inform the applicant and recommend the applicant apply to commercial sources for financing. To provide a basis for referral of only those applicants who may be able to finance projects through commercial sources, approval officials should maintain liaison with representatives of lenders in the area. The State Director should keep approval officials informed regarding lenders outside the area who might make loans in the area. Approval officials should maintain criteria for determining applications that should be referred to commercial lenders and maintain a list of lender representatives interested in receiving such referrals.

\* \* \* \* \*

■ 9. Section 1942.112 is amended by adding paragraph (a)(1)(iii) to read as follows:

**§ 1942.112 Eligible loan purposes.**

- (a) \* \* \*  
(1) \* \* \*

(iii) The construction or development of an essential community facility requisite to the beneficial and orderly development of a community operated on a nonprofit basis in accordance with § 1942.17(d) of this subpart. This subpart includes those projects meeting the definition of a small community facility project.

\* \* \* \* \*

Dated: November 14, 2003.

**Arthur A. Garcia,**

*Administrator, Rural Housing Service.*

[FR Doc. 03-29212 Filed 11-21-03; 8:45 am]

BILLING CODE 3410-XV-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 77

[Docket No. 03-044-2]

#### Tuberculosis in Cattle and Bison; State Designations; New Mexico

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the regulations regarding State and zone classifications by

removing New Mexico from the list of accredited-free States and adding it to the list of modified accredited advanced States. The interim rule was necessary to help prevent the spread of tuberculosis because New Mexico no longer meets the requirements for accredited-free State status.

**EFFECTIVE DATE:** The interim rule became effective on July 24, 2003.

**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

In an interim rule effective and published in the **Federal Register** on July 24, 2003 (68 FR 43618-43621, Docket No. 03-044-1), we amended the tuberculosis regulations in 9 CFR part 77 by removing New Mexico from the list of accredited-free States in § 77.7 and adding it to the list of modified accredited advanced States in § 77.9.

Comments on the interim rule were required to be received on or before September 22, 2003. We received one comment by that date, from a supplier of roping animals.

The commenter suggested that, given the size of the State of New Mexico and the variety of the cattle industries contained therein, a more beneficial course of action would be to split the State and designate each portion separately.

While the regulations do provide for the establishment of zones of classification within a State, such split State status must be requested by a State animal health official in accordance with § 77.4 and approved by the Administrator in accordance with § 77.3. We have not thus far received such a request from the State of New Mexico.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping

requirements, Transportation, Tuberculosis.

## PART 77—TUBERCULOSIS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 77 and that was published at 68 FR 43618-43621 on July 24, 2003.

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

Done in Washington, DC, this 18th day of November, 2003.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03-29233 Filed 11-21-03; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 77

[Docket No. 03-005-2]

#### Tuberculosis in Cattle and Bison; State Designations; California

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the regulations regarding State and zone classifications by removing California from the list of accredited-free States and adding it to the list of modified accredited advanced States. The interim rule was necessary to help prevent the spread of tuberculosis because California no longer meets the requirements for accredited-free State status.

**EFFECTIVE DATE:** The interim rule became effective on April 25, 2003.

**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

In an 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 tuberculosis regulations in 9 CFR part 77 (referred to below as the regulations) by removing California from the list of

accredited-free States in § 77.7 and adding it to the list of modified accredited advanced States in § 77.9.

Comments on the interim rule were required to be received on or before June 24, 2003. We received three comments by that date. They were from a State agricultural agency and two cattle industry groups. The comments are discussed below by topic.

### **Tuberculosis Classification**

Under the regulations in § 77.7(c), if two or more tuberculosis-affected herds are detected in an accredited-free State or zone within a 48-month period, that State or zone will be removed from the list of accredited-free States or zones and will be reclassified as modified accredited advanced. All three commenters stated that a classification system based solely on an absolute number of affected herds does not sufficiently take into consideration State tuberculosis mitigation and eradication efforts. We recognize this issue and are currently preparing a proposed rule that will address this and other aspects of the regulations.

### **Delay in Compliance**

In our interim rule, we delayed California's compliance date for certain identification requirements of the regulations for sexually intact heifers, steers, and spayed heifers moving interstate from California. We provided for this delay in recognition of the size and complexity of the cattle industry in California as well as in the interests of equitable treatment for producers in California since we had previously delayed the State of Texas's date of compliance with those requirements when we changed the classification of Texas from accredited-free to modified accredited advanced (*see* 67 FR 38841–38844, Docket No. 02–021–1, published June 6, 2002). The compliance date set in our April 2003 interim rule was September 30, 2003, the same compliance date given to the State of Texas. All three commenters stated that the time allotted for delay in compliance was too short. On August 8, 2003, we published a notice in the **Federal Register** (68 FR 47201–47202, Docket No. 03–072–1) further delaying the compliance date for both States until March 30, 2004.

Additionally, one commenter stated that, although the delay in compliance means that there are no Federally imposed identification requirements for certain animals moving interstate, many States have ignored the delay in compliance granted by the USDA. We are sensitive to this issue and have sought to avoid such situations by

holding meetings among State veterinarians and other officials in an effort to urge States to accept the Federal movement requirements.

### **Definitions**

Among the requirements that we deferred as part of the delay in compliance discussed previously are the identification and certification requirements for sexually intact heifers found in § 77.10(d). In our April 2003 interim rule, we described the certification requirements as applying to “sexually intact heifers moving to unapproved feedlots.” One commenter stated that since the term “unapproved feedlot” is utilized but not defined in the regulations, this creates ambiguity and makes it more difficult to understand and uphold the delay in compliance. We apologize for any confusion our use of the term “unapproved feedlot,” which does not appear in the regulations, may have caused. In using the term, we were simply attempting to draw a distinction between the requirements at § 77.10(b), which covers, in part, the movement of sexually intact heifers to approved feedlots, and the requirements at § 77.10(d), which covers the movement of those and other animals to other destinations, which could include feedlots that are not approved feedlots.

### **Testing Costs**

All three commenters expressed concern with the tuberculin testing cost estimates provided in the interim rule's economic analysis. One commenter stated that our determination that the identification requirements described would not have a significant impact on a substantial number of small entities was inaccurate. We are in the process of gathering data related to testing and testing costs in order to reevaluate our current information on those subjects. With regard to the determination of no significant impact on a substantial number of small entities, we consider “significant impact” to mean that the cost of a given action is equal to or greater than the small business's profit margin (5 to 10 percent of annual sales). By these standards, given the size and profitability of the cattle industry in California, this action does not represent a significant impact on a substantial number of small entities. A more detailed analysis of this issue can be found later in this document under the heading “Regulatory Flexibility Act.”

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

### **Regulatory Flexibility Act**

This rule affirms an interim rule that amended the regulations by removing California from the list of accredited-free States and adding it to the list of modified accredited advanced States.

The following analysis addresses the economic effect of this rule on small entities, as required by the Regulatory Flexibility Act.

On January 1, 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 \$4.8 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.

The interim rule changed the tuberculosis status of California from accredited-free to modified accredited advanced, resulting in interstate movement restrictions where none existed previously. Specifically, the regulations in § 77.10 require 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 is permitted.

The interim 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 economic analysis prepared for the interim rule estimated the costs of tuberculin testing to be approximately \$3.76 per animal. However, according to the California Department of Food and Agriculture (CDFA), in conjunction with the California Cattleman's Association, the estimated costs of tuberculosis testing are actually between \$7.50 and \$10 per animal. Also, it is to be noted that the cost of the official identification and applicator is borne by the USDA,

and the only costs incurred by producers are the labor costs of the veterinarian associated with applying the eartag. As official identification is customarily applied at the same time tuberculin tests are performed and read, it is safe to assume that the estimated cost between \$7.50 and \$10 would include the labor costs related to the application of official identification.

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. Using high-end cost estimates of \$10 per animal for tuberculosis testing and the cost of official identification, the cost of the additional tuberculin testing necessitated by the interim rule represents 1.1 percent of the per-head value of cattle. In general practice, we assume a regulation that has compliance costs equal to or greater than a small business' profit margin, or 5 to 10 percent of annual sales, to pose an impact that can be considered "significant."<sup>1</sup> For the purposes of illustration and analysis of the small entity impact, if we assume a cattle producer owns only 1 average sized-herd of about 101 animals, with annual sales of approximately \$94,000, compliance costs totaling between \$4,700 and \$9,400 would qualify as posing a "significant" economic impact on this entity. In this example, the cost of compliance for this producer, using high-end estimates and assuming all 101 animals are engaged in interstate movement, would total only \$1,010, which would not be considered a "significant" economic impact. Of course, in reality, the majority of cattle and bison producers in California own more than one-average sized herd. However, by presenting an extreme case of a small cattle or bison operation, we may address and illustrate that compliance costs will not cause a significant economic impact on small entities.

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. In addition, the costs of compliance associated with the interim rule will only affect those operations engaged in the interstate movement of cattle or bison. Further, since APHIS has delayed the 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 March 30, 2004.

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.

#### List of Subjects in 9 CFR Part 77

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

### PART 77—TUBERCULOSIS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 77 and that was published at 68 FR 20333–20336 on April 25, 2003.

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

Done in Washington, DC, this 18th day of November, 2003.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–29232 Filed 11–21–03; 8:45 am]

**BILLING CODE 3410–34–P**

### FEDERAL TRADE COMMISSION

#### 16 CFR Part 305

#### Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission ("Commission") amends its Appliance Labeling Rule ("Rule") by publishing new ranges of comparability to be used on required labels for compact clothes washers. The Commission also announces that the current ranges of comparability for standard-sized clothes washers will remain in effect until further notice.

**EFFECTIVE DATE:** The amendments announced in this document will become effective February 23, 2004.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202) 326–2889.

**SUPPLEMENTARY INFORMATION:** The Rule was issued by the Commission in 1979,

44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 ("EPCA").<sup>1</sup> The Rule covers several categories of major household appliances including dishwashers.

#### I. Background

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.<sup>2</sup> These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior ranges remain in effect for the next year.

#### II. 2003 Clothes Washer Ranges

The Commission has analyzed the 2003 annual data submissions for

<sup>1</sup> 42 U.S.C. 6294. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

<sup>2</sup> Reports for clothes washers are due October 1.

<sup>1</sup> Verkuil, Paul R. "A Critical Guide to the Regulatory Flexibility Act," *Duke Law Journal*, Apr. 1982: 928.