

### § 77.3

### 9 CFR Ch. I (1–1–11 Edition)

ability to control the movement of animals across the boundaries of the zone taken into account.

[65 FR 63517, Oct. 23, 2000, as amended at 66 FR 7592, Feb. 20, 2002; 69 FR 64649, Nov. 8, 2004; 70 FR 61026, Oct. 20, 2005; 72 FR 39305, July 18, 2007; 73 FR 54062, Sept. 18, 2008]

#### § 77.3 Tuberculosis classifications of States and zones.

The Administrator shall classify each State for tuberculosis in accordance with this part. A zone comprising less than an entire State will be given a particular classification upon request of the State only if the Administrator determines that:

- (a) The State meets the requirements of this part for establishment of zones;
- (b) The State has adopted and is enforcing regulations that impose restrictions on the intrastate movement of cattle, bison, and captive cervids that are substantially the same as those in place under this part for the interstate movement of cattle, bison, and captive cervids; and
- (c) The designation of part of a State as a zone will otherwise be adequate to prevent the interstate spread of tuberculosis.

#### § 77.4 Application for and retention of zones.

(a) A State animal health official may request at any time that the Administrator designate part of a State as having a different tuberculosis classification under this part than the rest of the State. The requested zones must be delineated by the State animal health authorities, subject to approval by the Administrator. The request from the State must demonstrate that the State complies with the following requirements:

- (1) The State must have the legal and financial resources to implement and enforce a tuberculosis eradication program and must have in place an infrastructure, laws, and regulations that require and ensure that State and Federal animal health authorities are notified of tuberculosis cases in domestic livestock or outbreaks in wildlife;
- (2) The State in which the intended zones are located must maintain, in each intended zone, clinical and epidemiologic surveillance of animal spe-

cies at risk of tuberculosis at a rate that allows detection of tuberculosis in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. The designated tuberculosis epidemiologist must review reports of all testing for each zone within the State within 30 days of the testing; and

(3) The State must enter into a memorandum of understanding with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request.

(b) Retention of APHIS recognition of a zone is subject to annual review by the Administrator. To retain recognition of a zone, a State must continue to comply with the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this section, as well as the requirements for maintaining or improving the tuberculosis risk classification of each zone in the State, and must retain for at least 2 years all certificates required under this part for the movement of cattle, bison, and captive cervids.

(Approved by the Office of Management and Budget under control number 0579–0146)

### Subpart B—Cattle and Bison

#### § 77.5 Definitions.

As used in subpart B, the following terms shall have the meanings set forth in this section except as otherwise specified.

*Accreditation preparatory State or zone.* A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis is prevalent in less than 0.5 percent of the total number of herds of cattle and bison in the State or zone.

*Accredited-free State or zone.* A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle or bison herds in the State or zone for the previous 5 years. *Except that:* The requirement of freedom from tuberculosis in

herds is 2 years from the depopulation of the last affected herd in States or zones that were previously accredited free and in which all herds affected with tuberculosis were depopulated, 3 years in all other States or zones that have depopulated all affected herds, and 3 years in States or zones that have conducted surveillance that demonstrates that other livestock herds and wildlife are not at risk of being infected with tuberculosis, as determined by the Administrator based on a risk assessment conducted by APHIS.

*Accredited herd.* To establish or maintain accredited herd status, the herd owner must comply with all of the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” regarding accredited herds. All cattle and bison in a herd must be free from tuberculosis.

*Approved feedlot.* A confined area approved jointly by the State animal health official and the Administrator for feeding cattle and bison for slaughter, with no provisions for pasturing or grazing.

*Approved slaughtering establishment.* A slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or a State-inspected slaughtering establishment that has inspection by a State inspector at the time of slaughter.

*Cattle and bison not known to be affected.* All cattle and bison except those originating from tuberculosis affected herds or from herds containing tuberculosis suspect cattle or bison.

*Department.* The U.S. Department of Agriculture (USDA).

*Exposed cattle and bison.* Cattle and bison, except reactor cattle and bison, that are part of an affected herd.

*Feedlot.* A facility for congregating finished fed cattle prior to their being shipped to slaughter.

*Finished fed cattle.* Cattle fattened on a ration of feed concentrates to reach a slaughter condition equivalent to that which would be attained on full feed with a high concentrate grain ration for 90 days.

*Modified accredited advanced State or zone.* A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions

of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis has been prevalent in less than 0.01 percent of the total number of herds of cattle and bison in the State or zone for each of the most recent 2 years. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

*Modified accredited State or zone.* A State or zone that is or is part of a State that has the authority to enforce and complies with the provisions of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” and in which tuberculosis has been prevalent in less than 0.1 percent of the total number of herds of cattle and bison in the State or zone for the most recent year. *Except that:* The Administrator, upon his or her review, may allow a State or zone with fewer than 10,000 herds to have up to 10 affected herds for the most recent year, depending on the veterinary infrastructure, livestock demographics, and tuberculosis control and eradication measures in the State or zone.

*Negative cattle and bison.* Cattle and bison that are classified negative for tuberculosis in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication,” based on the results of an official tuberculin test.

*Nonaccredited State or zone.* A State or zone that is or is part of a State that does not meet the standards of the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” or in which tuberculosis is prevalent in 0.5 percent or more of the total number of herds of cattle and bison in the State or zone.

*Official tuberculin test.* Any test for tuberculosis conducted on cattle or bison in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

*Permit.* An official document issued for movement of cattle or bison under this part by an APHIS representative, State representative, or an accredited veterinarian at the point of origin of a

shipment of cattle or bison to be moved directly to slaughter, that shows the tuberculosis status of each animal (reactor, suspect, or exposed), the eartag number of each animal and the name of the owner of such animal, the establishment to which the animals are to be moved, the purpose for which the animals are to be moved, and that they are eligible for such movement under the applicable provisions of §§77.17 and 77.18.

*Quarantined feedlot.* A confined area under the direct supervision and control of a State livestock official who shall establish procedures for the accounting of all livestock entering or leaving the area. The quarantined feedlot shall be maintained for finish feeding of livestock in drylot with no provision for pasturing and grazing. All livestock leaving such feedlot must only move directly to slaughter in accordance with established procedures for handling quarantined livestock.

*Reactor cattle and bison.* Cattle and bison that are classified as reactors for tuberculosis in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

*Suspect cattle and bison.* Cattle and bison that are classified as suspects for tuberculosis in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication.”

*Uniform Methods and Rules—Bovine Tuberculosis Eradication.* Uniform methods and rules for eradicating bovine tuberculosis in the United States, approved by APHIS on January 22, 1999, which is incorporated by reference at §77.1.

*Whole herd test.* An official tuberculin test of all cattle and bison in a herd that are 12 months of age or older, and of all cattle and bison in the herd that are less than 12 months of age and were not born into the herd, except those cattle and bison that are less than 12 months of age and were born in and originated from an accredited herd.

*Zero percent prevalence.* No finding of tuberculosis in any cattle, bison, or goat herd in a State or zone.

[65 FR 63517, Oct. 23, 2000, as amended at 70 FR 61026, Oct. 20, 2005]

#### §77.6 Applicability of this subpart.

All references in this subpart to the tuberculosis status of States and zones pertain to such status for cattle and bison only.

#### §77.7 Accredited-free States or zones.

(a) The following are accredited-free States: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, the Virgin Islands of the United States, Washington, West Virginia, Wisconsin, and Wyoming.

(b) The following are accredited-free zones:

(1) A zone in Michigan known as the Upper Peninsula that comprises Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties.

(2) All of the State of New Mexico except for the zone that comprises Curry and Roosevelt Counties described in §77.9(b)(3).

(3) All of the State of Minnesota except for the zones that comprise those counties or portions of counties in Minnesota described in §77.9(b)(2).

(c) If an affected herd is detected in a State or zone classified as accredited-free, and the herd is depopulated and an epidemiologic investigation is completed within 90 days of the detection of the affected herd with no evidence of the spread of tuberculosis, the State or zone may retain its accredited-free status. 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.