

payment under this subpart must share any payment with the producer of the cotton that was the basis of the cottonseed payment to the extent that the effect of low cottonseed prices was borne by the producer rather than the gin. To the extent that such funds will be shared with the producer by the gin, those funds will be considered to have been received by the applicant on behalf of such producers.

**§ 1427.1105 Payment application.**

(a) Payments in accordance with this subpart shall be made available only to eligible first handlers of cottonseed based on information provided on a Cottonseed Payment Program Application and Certification.

(b) Payment applications must be received by the program application deadline announced by CCC. Applications received after such application deadline will not be accepted for payment.

(c) Cottonseed Payment Program Application and Certifications may be obtained from the CCC as announced by press release. In order to participate in the cottonseed payment program under this subpart, first handlers of cottonseed must execute and submit to CCC according to announced instructions the Cottonseed Payment Program Application and Certification.

**§ 1427.1106 Available funds.**

The total available program funds shall be \$50 million for 2002-crop cottonseed.

**§ 1427.1107 Applicant payment quantity.**

The applicant's payment quantity of cottonseed will be determined by CCC based on the eligible number of ginned cotton bales and the cotton lint weight from those bales as submitted on the Cottonseed Payment Application and Certification and/or obtained by CCC, with the agreement of the applicant, from the Agricultural Marketing Service. The applicant's payment quantity of cottonseed shall be calculated by multiplying:

(a) The applicant's weight of eligible lint for which payment is requested, as approved by CCC, by;

(b) The national Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC for the 5 years preceding the 2002 crop year.

**§ 1427.1108 Total payment quantity.**

The total quantity of 2002-crop cottonseed produced in the United States is potentially eligible for payment under this subpart. The total payment quantity of cottonseed will be the total

of eligible quantities of cottonseed for which completed applications for payment are received within the application period announced by CCC. Eligible cottonseed for which no application is received according to announced application instructions shall not be included in the total payment quantity of cottonseed. The total payment quantity of cottonseed (ton-basis) shall be calculated by multiplying:

(a) The weight of cotton lint (ton-basis) for which payment is requested by all applicants, as approved by CCC, by

(b) The national Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC for the 5 years preceding the crop year for which the cottonseed payments are provided.

**§ 1427.1109 Payment rate.**

The payment rate (dollars per ton) for the purpose of calculating payments made available in accordance with this subpart shall be determined by CCC by dividing the total available program funds by the total eligible payment quantity of cottonseed unless the calculation would provide an excess rate of payment in which case an alternative method will be used as determined appropriate by CCC.

**§ 1427.1110 Payment calculation and form.**

(a) Payments in accordance with this subpart shall be determined for individual applicants by multiplying:

(1) The payment rate, determined in accordance with § 1427.1109, by

(2) The eligible payment quantity of the applicant, determined in accordance with § 1427.1107 and other provisions of this subpart.

(b) After receipt of the application for payment, CCC will issue payments to the applicant by electronic funds transfer to the applicant's account except that applicants may request that payment be made by mailed check.

**§ 1427.1111 Liability of first handler.**

(a) If any person makes any erroneous or fraudulent representation in obtaining a cottonseed payment under this part, or in connection with such a payment engages in a scheme or device that tends to defeat the purposes of this program, the person shall be liable to CCC for the amount of the payment and interest on such payment as determined by CCC. Such remedy will be in addition to whatever additional remedies may be allowed by law.

(b) If more than one person executes a program payment application with CCC and payments are made

thereunder, each such person shall be jointly and severally liable for any violation of the terms and conditions for any payment made to anyone under that application or for any refund due from any person signing that application. Such liability shall remain until payment in full is made of any such refund and its related charges.

(c) If a person receives a program payment in excess of the amount authorized by this subpart, that person shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

(d) From the date of the payment application until the earlier of 3 years after the date of the application or July 31, 2006, the applicant shall keep records, including records supporting the quantity of cottonseed for which payment was requested, and furnish such information and reports relating to the application to CCC as requested. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received, plus interest thereon, as determined by CCC. In the event of a controversy concerning payments or questions involving the payments, records must be kept for such longer period as may be specified by CCC until such controversy is resolved.

Signed in Washington, DC, on April 9, 2003.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 03-10222 Filed 4-24-03; 8:45 am]

BILLING CODE 3410-05-P

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Part 77**

[Docket No. 03-005-1]

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

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the bovine tuberculosis 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. This action is necessary to help prevent the spread of tuberculosis because California no longer meets the requirements for accredited-free State status.

**DATES:** This interim rule is effective April 25, 2003.

**Compliance Date:** The date for complying with certain requirements of 9 CFR 77.10 for sexually intact heifers, steers, and spayed heifers moving interstate from the State of California is September 30, 2003 (see "Delay in Compliance" under **SUPPLEMENTARY INFORMATION**). The compliance date for all other provisions in 9 CFR 77 applicable to the interstate movement of cattle and bison from the State of California is April 25, 2003.

**Comment Date:** We will consider all comments that we receive on or before June 24, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03-005-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 03-005-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 03-005-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph VanTiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7716.

**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 effective October 14, 1999, and published in the **Federal Register** on October 20, 1999 (64 FR 56399-56400, Docket No. 99-063-1), we raised the designation of California (as well as Pennsylvania and Puerto Rico) from modified accredited to accredited-free.

Recently, two tuberculosis-affected herds (two dairy herds in the spring and fall of 2002) were detected in Tulare County, CA. 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

California 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 depopulated or quarantined, and a complete epidemiological investigation into the potential sources of the disease has been 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 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. Given the size and complexity of the cattle industry in Texas, we have 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 State of Texas until September 30, 2003. In that interim rule, we also solicited comments on the current regulatory provisions of the domestic bovine tuberculosis eradication program, and we are currently considering proposing several changes to the regulations as a result of comments received regarding those provisions.

In the interests of equitable treatment for producers in California, 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 California 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). 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 California 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 California from the list of accredited-free States and adds it to the

list of modified accredited advanced States.

As of January 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 \$4.80 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.

This interim rule changes the status of California 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 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 cost of tuberculin testing and individual identification for an average-sized herd of 101 animals is about \$396. The approximate per-animal 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 California was estimated to be \$930, which translates to an average value per 101-head herd of about \$94,000. 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), the identification costs for sexually intact heifers, steers, and spayed heifers moving interstate from the State of California will 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 California.

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, we believe that this change in status will not have an economically substantial effect on cattle and bison herd owners in California.

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 0579-0220 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. 03-005-1, 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. 03-005-1 and send your comments within 60 days of publication of this rule.

This interim rule removes California 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 California.

*Estimated annual number of respondents:* 600.

*Estimated annual number of responses per respondent:* 100.

*Estimated annual number of responses:* 60,000.

*Estimated total annual burden on respondents:* 960 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in

general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

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

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

■ Accordingly, we are amending 9 CFR part 77 as follows:

#### PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

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

##### § 77.7 [Amended]

■ 2. In § 77.7, paragraph (a) is amended by removing the word "California,".

##### § 77.9 [Amended]

■ 3. In § 77.9, paragraph (a) is amended by adding the words "California and" immediately before the word "Texas".

##### § 77.10 [Amended]

■ 4. Section 77.10 is amended by revising the OMB control number citation at the end of the section to read as follows: "(Approved by the Office of Management and Budget under control numbers 0579-0146 and 0579-0220)".

Done in Washington, DC, this 22nd day of April 2003.

**Peter Fernandez,**

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

[FR Doc. 03-10242 Filed 4-24-03; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-42-AD; Amendment 39-13127; AD 2003-08-14]

RIN 2120-AA64

**Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F, DC-10-30F (KC10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, MD-10-30F, MD-11, and MD-11F Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas airplane models. This action requires revising the airplane flight manual (AFM) to include new operating limitations, installing placards to advise the flightcrew of certain minimum fuel levels to be maintained in the fuel tanks, and deactivating certain auxiliary fuel tanks. For fuel tanks that are not deactivated, this AD also requires replacement of certain existing fuel boost/transfer pumps with pumps inspected—and modified, if necessary—per certain procedures.

Accomplishment of this replacement will allow operators to remove the operating limitations from the AFM, remove the placards, and reactivate the auxiliary fuel tanks (if deactivated). This action is necessary to prevent electrical arcing in the connector for a fuel boost/transfer pump, which could result in a fire or explosion of a fuel tank. This action is intended to address the identified unsafe condition.

**DATES:** Effective May 12, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 12, 2003.

Comments for inclusion in the Rules Docket must be received on or before June 24, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-42-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: [9-anm-iarcomment@faa.gov](mailto:9-anm-iarcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2003-NM-42-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-