

~~SUPPORTING STATEMENT – OMB NO. 0579-0146  
TUBERCULOSIS~~

~~May 28, 2009~~

~~A. Justification~~

~~1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.~~

~~The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. The AHPA is contained in Title X, Subtitle E, Sections 10401-18 of P.L. 107-171, May 13, 2002, the Farm Security and Rural Investment Act of 2002.~~

~~Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), Veterinary Services' (VS) ability to allow U.S. animal producers to compete in the world market of animal and animal product trade.~~

~~In connection with this mission, VS participates in the Cooperative State-Federal Bovine Tuberculosis Eradication Program, which is a national program to eliminate bovine TB from the United States. This program is conducted under the authorities of the various States supplemented by Federal authorities regulating interstate movement of affected animals.~~

~~The APHIS TB regulations in Part 77 of title 9, *Code of Federal Regulations*, provide for the assignment of State TB risk classifications, the creation of TB risk status zones within the same State, and for the conduct of tests before regulated animals are permitted to move interstate. This system enhances the ability of States to move healthy, TB-free cattle, bison, goats, and captive cervids interstate as well as internationally. Additionally, this zoning/testing system enhances the effectiveness of APHIS' Tuberculosis Eradication Program by decreasing the likelihood that infected animals will be moved interstate or internationally.~~

~~These zoning, testing, and animal movement activities necessitate the use of several information collection activities that include (1) the submission of a Tuberculosis Management Plan for eradicating the disease within a State or zone, thus avoiding a downgrade in the State or zone TB status; (2) the submission of a formal request that a zone within a given State be given a different TB status from the rest of the State, (3) an~~

epidemiological review of reports of all testing for all zones within the State within 30 days of testing, (4) the submission of an annual report to APHIS in order to qualify for renewal of State or zone status, (5) the completion of a certificate of tuberculin test that must accompany certain regulated animals that are moved interstate, (6) the retention, for 2 years, of any certificates documenting the movement of regulated animals into and out of zones; and (7) a Memorandum of Understanding (MOU) with APHIS in which the State agrees to adhere to any conditions for zone recognition particular to that request.

APHIS is asking OMB to renew its approval of these information collection activities for an additional 3 years.

**2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

### **Tuberculosis Management Plan**

If tuberculosis is diagnosed within any State or zone, and if an APHIS risk assessment determines that the outbreak poses a TB risk to livestock within the State or zone, the State or zone must implement a Tuberculosis Management Plan within 6 months of the diagnosis. This plan must include provisions for (1) an immediate investigation of TB in livestock, wildlife, and animals held for exhibition; (2) the prevention of disease spread to other animals, (3) increased surveillance, (4) eradication in individual herds, and (5) a timeline for achieving this eradication. If the State or zone does not implement this plan within 6 months of diagnosis, APHIS will downgrade the TB status of the State or zone.

### **Request for Zone Status**

To receive APHIS recognition of an area within a State as a TB status zone, State animal health officials must formally request that APHIS designate part of their State as having a different TB status than the rest of the State. In this request, State animal health authorities must clearly delineate the boundaries of the requested zone. They must also provide evidence that the State has an effective veterinary organization and infrastructure, as well as the legal and financial resources to implement and enforce a TB eradication program.

### **Epidemiological Review of Zone Testing**

In addition to the formal request for zone status, State animal health officials that desire APHIS approval to create a TB status zone must maintain, in each intended zone, clinical and epidemiological surveillance of animal species at risk for TB at a rate that allows detection of TB in the overall population of livestock at a 2 percent prevalence rate with 95 percent confidence. APHIS requires that the State-designated TB epidemiologist review reports of all testing for each zone within the State within 30 days of the testing.

### **Annual Report to Qualify for Renewal of State or Zone Status (VS FORM 6-38)**

To qualify for renewal of TB status, State animal health authorities must submit an annual report to APHIS certifying that the State (or zone within the State) is complying with the provisions of the Bovine Tuberculosis Eradication Uniform Methods and Rules.

Each report must include information on the population and status of cattle and bison herds (e.g., numbers of accredited herds and herds under quarantine) within the State or zone, the number of cattle and bison slaughtered, the slaughter surveillance plan, monitoring of slaughter surveillance and test response rates, and the identification of any cattle or bison herds or individual bovines in which TB has been confirmed. This report must be submitted to APHIS each year between October 1 and November 30. It enables APHIS to carefully monitor State activities with regard to TB surveillance, containment, and eradication.

### **Certificate for Movement**

A certificate must accompany certain cattle, bison, or captive cervids that are moved interstate from States or zones with a status below accredited-free. An accredited veterinarian or a State or Federal official issues an official certificate for the interstate movement of livestock in accordance with 9 CFR 77.10, 9 CFR 77.12, and 9 CFR 77.14.

For example, steers or spayed heifers (or officially identified, sexually intact heifers moved to an approved feedlot) that originate from a modified accredited State or zone must be accompanied by a certificate stating that they have tested negative to an official TB test that was conducted within 60 days prior to the date of movement. In some cases the certificate must also accompany captive cervids that are being moved interstate from (1) States or zones that are not recognized as accredited-free, (2) are not from accredited, qualified, or monitored herds, and (3) are not being moved directly to slaughter. This certification ensures that TB-infected animals are not moved interstate.

### **Retention of Movement Certificate (VS 6-38)**

APHIS requires State animal health authorities to retain, for at least 2 years, all certificates used for the movement of regulated animals. To retain APHIS recognition of a TB status zone, the State must continue to comply with the requirements in 9 CFR part 77, as well as the requirements for maintaining or improving the TB risk classification of each zone within the State. To accomplish this, State animal health authorities must closely monitor the movement of regulated animals into and out of zones—an activity that requires the use of movement certificates. All States use State health certificates to track movement of regulated animals. (Most State health certificates require more information than that indicated in 9 CFR 77 and are used regardless of Federal regulations.)

### **Memorandum of Understanding (MOU)**

APHIS requires that States enter into an MOU with APHIS in which the States agree to adhere to any conditions for zone recognition particular to the request. Once the MOU is developed, it is renewed annually through a cooperative effort involving APHIS area, regional and staff personnel and State officials. It is then reviewed and signed by APHIS and State animal health authorities.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The Tuberculosis Management Plan is not a candidate for electronic submission because it is rarely used. Additionally, each TB Management Plan is unique to each State; therefore, the information developed does not readily fit a preformatted form.

A Request for State or Zone Status is also rarely used. Additionally, each Request for State or Zone Status is unique to each State; therefore, the information developed does not readily fit a preformatted form.

Epidemiological reviews of zone testing are rarely requested or used. Additionally, each State may achieve the required surveillance levels through different methods and the information developed may not readily fit a preformatted form.

The VS Form 6-38 used for both the Annual Report to Qualify for Renewal of State or Zone Status and Retention of Movement Certificate is a candidate for electronic submission. In January 2005, the VS National Center for Animal Health Programs asked Information Technology personnel with the VS Centers for Epidemiology and Animal Health to begin converting the forms associated with this collection from their current hard copy format to an electronic form accessible from the VS Web Page located at [www.aphis.usda.gov](http://www.aphis.usda.gov). This work is still in progress.

The Certificate for Movement must accompany the interstate movement of animals and therefore is not a candidate for electronic submission.

The MOU must be signed by hand by both APHIS and State officials, and therefore is not a candidate for electronic submission.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.**

The information that APHIS collects in connection with this program is not available from any other source, since APHIS is the only Federal agency responsible for preventing, detecting, controlling, and eradicating bovine TB from the United States.

**~~5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.~~**

APHIS estimates that 9 percent of the respondents for this information collection are small businesses (accredited veterinarians). The information collected is the absolute minimum needed to initiate and maintain a bovine TB zone system in the United States.

**~~6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.~~**

If the information was collected less frequently or not collected, APHIS would be unable to operate an effective bovine TB surveillance, containment, and eradication program. Consequently, bovine TB would likely spread to areas of the United States that are currently not affected by this disease.

**~~7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.~~**

The information collection is conducted in a manner consistent with the guidelines established in 5 CFR 1320.5.

**~~8. Describe efforts to consult with individuals outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB.~~**

In 2008, APHIS engaged in productive consultations with the following individuals:

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On Monday, April 6, 2009, pages 15430-15431, APHIS published in the Federal Register a 60-day notice seeking public comments on its plans to request a 3-year renewal of this collection of information. No comments from the public were received.

**~~9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.~~**

~~This information collection activity involves no payments or gifts to respondents.~~

**~~10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.~~**

~~No additional assurance of confidentiality is provided with this information collection. However, the confidentiality of information is protected under 5 U.S.C. 552a.~~

**~~11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to individuals from whom the information is requested, and any steps to be taken to obtain their consent.~~**

~~This information collection activity will ask no questions of a personal or sensitive nature.~~

~~12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.~~

~~• Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-1.~~

~~See APHIS Form 71. Burden estimates were developed from discussions with State animal health officials, and accredited veterinarians.~~

~~• Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. Respondents are State animal health officials, and (with regard to movement certificates) accredited veterinarians. APHIS estimates the total annualized cost to these respondents to be \$77,379.36. APHIS arrived at this figure by multiplying the hours of estimated response time (3,912) by the estimated average hourly wage (\$19.87) of the above respondents. The hourly rates are from the U.S. Department of Labor, Bureau of Labor Statistics May 2008 Report—National Compensation Survey: Occupational Wages in the United States, May 2007. See <http://www.bls.gov/oes/#tables>.~~

~~13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and startup cost component annualized over its expected useful life; and (b) a total operation, maintenance, and purchase of services component.~~

~~No annual cost burden is associated with capital and startup costs, operation and maintenance expenditures, and purchase of services.~~

~~14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.~~

~~The annualized cost to the Federal Government is estimated at \$92,765.93. (See APHIS Form 79.)~~

~~15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.~~

~~The number of hours required by State officials to prepare, and Federal officials to review, responses has increased greatly due to the level of detail in the TB Management Plans and Requests for Zone Status currently being submitted by the States and zones. Preparation, review and signature of the MOUs have inadvertently not been accounted for previously in this information collection. There is also a decrease in hours caused by the correction of this information collection to state that VS Forms 6-22C and 6-22D impose burdens separate from the Certificate of Movement, rather than substituting for it.~~

**~~16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.~~**

~~APHIS has no plans to publish the information it collects in connection with this program.~~

**~~17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.~~**

~~APHIS has no plans to seek approval for not displaying the OMB expiration date on this form.~~

**~~18. Explain each exception to the certification statement identified in "Certification for Paperwork Reduction Act."~~**

~~APHIS can certify compliance with all the provisions in the Act.~~

**~~B. Collections of Information Employing Statistical Methods~~**

~~Statistical methods will not be used in this information collection.~~



MEMORANDUM OF UNDERSTANDING  
BETWEEN  
MICHIGAN DEPARTMENT OF AGRICULTURE (MDA)  
AND THE  
MICHIGAN DEPARTMENT OF NATURAL RESOURCES (MDNR)  
AND THE  
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)  
VETERINARY SERVICES (VS)

ARTICLE 1 -- PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to outline and agree on the principles required for continuing three designations of State status regarding the risk of bovine tuberculosis, namely, Modified Accredited status, Modified Accredited Advanced status, and Accredited Free status pursuant to Title 9, *Code of Federal Regulations* (CFR) Part 77, and the Tuberculosis Eradication Program's Uniform Methods and Rules, Effective January 1, 2005, (UM&R).

ARTICLE 2 -- BACKGROUND

In 2005, a previous MOU was signed by the Michigan Department of Agriculture (MDA) and the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, which established criteria for maintenance of a Free, Modified Accredited and Modified Accredited Advanced zones for bovine tuberculosis (TB) in Michigan. Pursuant to the CFR, the MOU was executed by MDA in order to agree on conditions for establishing these zones to continue progression toward eradicating bovine tuberculosis from the northern portion of Lower Michigan.

In October 2004, the MDA submitted an application for split-state status using the criteria established by USDA for recognition of a zone or region with distinct bovine tuberculosis status, as delineated in 9 CFR 77.3 et seq.

Bovine tuberculosis regulations as delineated in 9 CFR 77.4(a)(3) require, in pertinent parts, that a state must enter into an MOU with APHIS in which the state agrees to adhere to any condition for zone recognition particular to that request within the Cooperative Tuberculosis Eradication Program.

ARTICLE 3—AUTHORITIES

The USDA/APHIS/VS (referred to as the "Service") authority to control and/or eradicate bovine tuberculosis (TB) exists under the Animal Health Protection Act, in section 10411 (7 USC 8310) and in 10409 (7 USC 8308) and provides, among other things, the authority for the Service to cooperate with States or political subdivisions thereof, domestic or international associations or organizations, Indian Tribes, and individuals, to improve livestock and to control or eradicate any communicable diseases of livestock.

MDA and MDNR's authorities exist under the Michigan Animal Industry Act, P.A. 466 of 1988, as amended; the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended; and the Privately Owned Cervidae Producers Marketing Act, P.A. 190 of 2000.

#### ARTICLE 4 -- MUTUAL AGREEMENT

It is mutually agreed that the cattle, bison, and cervid rules and regulations of the National Tuberculosis Eradication Program will be followed, including pertinent parts of the Code of Federal Regulations; the Uniform Methods and Rules, January 1, 2005, including any future revisions; and the Cervidae Uniform Methods and Rules, January, 1999, including any future revisions.

#### ARTICLE 5 -- COOPERATOR RESPONSIBILITIES

MDA is responsible for the following provisions:

Establish methods to regulate and monitor cattle and bison movements between zones. These methods include the following:

1. Requiring electronic identification for any cattle and bison moved from premises in the Modified Accredited Zone and the ability to retrieve information concerning animal movements within 48 hours. Electronic records of movement would be preferred over paper records.
2. Effective August 15, 2007, MDA will implement and enforce a uniform, state wide Certificate system to track all interstate or interzone cattle and bison movements from farm of origin to final destination. This certificate system shall be substantially the same as CFR (77.3) requirements for interstate movements. One hundred percent of cattle and bison moved interstate or interzone from the MA zone will be required to receive a movement certificate prior to leaving the farm of origin, which confirms that the animals to be moved meet all tuberculosis testing requirements prior to issuance of such a certificate. In addition, all cattle and bison moved interstate and interzone from MAA zone, except 1) cattle and bison moved interstate or interzone through one VS approved livestock market and then moved direct to slaughter with a certificate issued at the market and 2) cattle going direct from a feedlot to slaughter, will be required to receive a movement certificate prior to leaving the farm of origin, which confirms that the animals to be moved meet all tuberculosis testing requirements prior to issuance of such a certificate. All individual cattle and bison data as specified in 9 CFR, 77.2 Definitions, Certificate, will be included on the certificate and the certificate must accompany the cattle and bison upon movement. Certificates for movement are not required for the zone within Michigan with free status.
3. Movements of cattle and bison from the Modified Accredited Zone will be routinely and continuously monitored at all livestock auctions within the state on sale days to confirm that the cattle and bison are identified, tested, and permitted, as required, and through other methods as necessary to ensure compliance with requirements.
4. Movement of cattle and bison as defined in CFR Part 77, from the Lower Peninsula into the Upper Peninsula of Michigan will be monitored at the Mackinac Bridge whenever the bridge is open for transport of livestock. All cattle and bison transported across the bridge and livestock transportation equipment (vehicles) will be stopped and inspected for compliance with State and Federal split state status requirements and this MOU. Any 'vehicles' which do not stop for inspection will be immediately pursued by enforcement personnel and stopped to ensure they are in compliance with the inter-zonal movement requirements for cattle and bison. An activity log will be kept to record, verify, and document the inspections and compliance with this requirement.

5. Utilize State authority to randomly intercept and inspect vehicles that are transporting livestock on public roads within Michigan for compliance with State and Federal split state status requirements and this MOU. This activity will be defined in the Tuberculosis Management Plan. MDA and cooperators will monitor cattle and bison movements each way between the MAA and MA zones sufficiently to continually work to reduce and detect illegal movements of cattle between zones. This will be accomplished by establishing the amount of monitoring currently being done (which includes, on the average, at least one stop per day) and routinely evaluates the data to ensure that if the trend for illegal movements over the period of one year is increasing, that additional measures are implemented to decrease illegal movements. Total movements will be calculated by the number of permits and certificates issued.
6. Summary reports of the annual bridge activities, investigations, and vehicle inspections on public roads will be included in the required bovine tuberculosis reports (VS 6-38 Form narratives).
7. MDA will include information regarding the following in the annual bovine TB reports (VS Form 6.38 narratives)
  - Surveillance, education and other activities in custom slaughter plants,
  - Report the number of cattle sent to slaughter by zone of origin,
  - The activities completed and progress made by cattle and bison owners, with assistance by MDA, in implementing wildlife-risk reduction practices on farms in the areas with highest prevalence of bovine tuberculosis in free-ranging cervids so that on-farm risk reduction practices can be assessed and measured,
  - Other activities as specified in VS Memorandum 552.29.
8. MDA will initiate a review of normal agricultural practices (NAP) and recommend to the NAP review board, language to disallow, in the 7-county area of the MAZ where TB is found, the practice of distributing agricultural by-products, culled, and unmarketable commodities related to feeds or feedstuffs that are land applied, and that they must be incorporated into the soil to minimize, and/or must be managed in a manner to minimize access by free-ranging cervids in accordance with MDNR feeding and baiting regulations. Producer education efforts, compliance investigations and results of enforcement actions regarding this dumping or spreading will be included in the annual bovine tuberculosis report (VS 6-38 narrative). This process will be completed on or before June 1, 2008.
9. Effective January 1, 2007, MDA will implement a surveillance plan in the Upper Peninsula and Modified Accredited Advanced Zone of the Lower Peninsula to require at least 25 randomly-selected herds in the Upper Peninsula and 775 randomly-selected herds in the MAA Zone be tuberculosis tested each year. If MDA implements a targeted surveillance system in either zone, then fewer herds may need to be tested. For example, MDA may conduct targeted testing of herds that contain animals which have been imported from the MA Zone in Michigan. If MDA can demonstrate that such herds are more likely to test positive relative to herds that have not received imports from the MA Zone, then each of these targeted herds may count for more than one test towards fulfilling the 800 required tests. The exact number of points (tests) each of these targeted herd tests counts for could be estimated using the methods of Cannon (Demonstrating disease freedom - combining confidence limits. Prev Vet Med 52:227-249, 2002). The surveillance plan instituted in October 2002 in these zones required random testing of 800 herds per year. That plan will continue until implementation of the new surveillance plan.
10. All testing for quarantine release or testing of high risk herds will be performed by regulatory veterinarians only. High risk herds shall consist of:

- a) 60 day whole herd retests after the removal of a reactor animal, 90 days for captive cervids.
  - b) Herds under test & remove herd plans.
  - c) Herds with a history of lesions suggestive of TB
  - d) Newly assembled herds on premises where a herd has been depopulated because of TB.
  - e) Herds in contact with affected herds (e.g., fence line contact).
  - f) 6-4A herds (trace-ins).
  - g) 6-4B herds (trace-outs).
  - h) 6-35 herds (slaughter traces)
- Other herds of high interest as defined by the DTE.
11. MDA and USDA/APHIS will identify a strategy for herd plan development for each cattle and bison producer in the MAZ by October 2007, in the interest of mitigating the risk of TB infection from wildlife sources. MDA will document that producers have been contacted and educated regarding the possible consequences of failure to have a herd plan and resulting reduced federal indemnity. All producers will have been contacted by October 2008.
  12. MDA will establish and implement procedures to reconcile all herd inventories and account for all cattle and bison at any whole herd test performed in the MAZ by regulatory or accredited veterinarians. Implementation will occur within 30 days of the signing of this MOU. Discrepancies found in any herd will be resolved within 30 days according to the herd reconciliation protocol document.
  13. A TB management plan will be developed and approved as defined in the CFR, Part 77, by October 1, 2007. Michigan's 2002 Strategic Plan can be used as a guideline. This TB management plan will be updated annually.

MDNR is responsible for the following provisions:

- Developing and maintaining a successful Wildlife Disease Management plan. This plan must include the following minimum provisions:
  1. Active sampling of free-ranging deer at a rate of 3500 deer annually in the five county endemic area of the Modified Accredited zone: Alcona, Alpena, Montmorency, Oscoda, and Presque Isle counties. For the purposes of this MOU, active sampling is defined as testing of free-ranging cervids resulting from deliberate DNR actions to gather samples (e.g., active promotion of testing of hunter-harvested deer at check stations, mandatory testing of all elk, mandatory testing of deer taken under Disease Management Assistance permits and crop damage permits, etc.).
  2. Active sampling of at least 2100 free-ranging deer throughout the remainder of the Modified Accredited area, distributed as follows:
    - a. In the southern sampling population at a rate sufficient to detect a TB prevalence of at least 0.2% with 95% confidence ( $\geq 1500$  deer annually). For purposes of this MOU, the southern sampling population will consist of deer taken from Crawford, Iosco, Ogemaw and Roscommon Counties.
    - b. In the western sampling population at a rate sufficient to detect a TB prevalence of at least 0.5% with 95% confidence ( $\geq 600$  deer annually). For purposes of this MOU, the western sampling

population will consist of deer taken from Antrim, Charlevoix, Cheboygan, Emmet and Otsego Counties.

3. Active sampling of free-ranging deer at a rate of at least 1000 deer taken from the counties composing the combined Modified Accredited Advanced and TB Free zones (i.e., the remaining counties of the State).
4. Active sampling of free-ranging deer will continue at the agreed upon rate for a period of at least five consecutive years following the last year that a case of bovine tuberculosis was detected in free-ranging cervids or livestock in that area. For the purposes of this MOU, if no case of bovine tuberculosis has been detected in free-ranging cervids or livestock by sampling at the agreed upon rate for a period of at least five consecutive years, the prevalence of TB will be considered to have reached an undetectable level. No further active surveillance will be mandated until such time as TB is once again detected in either free-ranging cervids or livestock.
5. If bovine tuberculosis is detected in livestock in a county outside the Modified Accredited Zone, heightened active sampling of free-ranging deer will be initiated within a 10 mile radius of the TB-positive livestock facility, at a rate sufficient to detect a TB prevalence of at least 1% with 95% confidence ( $\geq 300$  deer annually). Sampling will continue at the agreed upon rate for a period of at least five consecutive years following the last year that a case of bovine tuberculosis was detected in free-ranging cervids or livestock in that area. In the event the free-ranging deer population in an area is insufficient to allow the agreed upon rate to be met (e.g., predominantly urban areas, northern Upper Peninsula, etc.), a sampling rate sufficient to meet the intent of this provision will be mutually agreed upon by USDA APHIS Veterinary Services and DNR on a case by case basis.
6. If bovine tuberculosis is detected in free-ranging cervids in a county outside the Modified Accredited Zone, heightened active sampling of free-ranging deer will be initiated within a 10 mile radius of the location of the TB-positive cervid, at a rate sufficient to detect a TB prevalence of at least 1% with 95% confidence ( $\geq 300$  deer annually). Sampling will continue at the agreed upon rate for a period of at least five consecutive years following the last year that a case of bovine tuberculosis was detected in free-ranging cervids in that 10 mile radius area. In the event the free-ranging deer population in an area is insufficient to allow the agreed upon rate to be met, a sampling rate sufficient to meet the intent of this provision will be mutually agreed upon by USDA APHIS Veterinary Services and DNR on a case by case basis.
7. Passive surveillance will be conducted through examination and testing of potentially lesioned animals submitted to the MDNR by hunters throughout Michigan. Hunters are educated to look for TB lesions through information and color pictures of TB lesions in the MDNR's Hunting and Trapping Guide and TB brochure. For the purposes of this MOU, passive surveillance is defined as testing of free-ranging cervids voluntarily submitted to DNR by hunters as a part of ongoing statewide monitoring of wildlife health. For example, DNR receives approximately 100 deer per year for examination from members of the public concerned about the health of a particular animal. Other than being promoted indirectly through DNR public education efforts, passive surveillance does not entail active effort on the part of the agency to acquire samples.

8. Feeding and baiting of free-ranging deer and elk is banned in seven counties that contain 98% of the tuberculosis infected free-ranging deer to date (Alcona, Alpena, Crawford, Montmorency, Oscoda, Otsego, and Presque Isle). Feeding and baiting regulations will be reviewed in any surveillance area surrounding the seven-county area in which future annual surveillance of free-ranging deer discovers 3 or more TB-positive free ranging deer. The DNR will make recommendations to the Natural Resources Commission to ban feeding and baiting in surveillance areas where 3 or more positive deer are found.
  9. The DNR, with collaborators, continues to conduct research concerning the epidemiology of bovine tuberculosis (e.g. spatial simulation models) and potential intervention strategies (e.g., capture/test/cull or vaccinate programs, human dimensions of deer management) on an ongoing basis. Relevant research findings will be incorporated into existing surveillance and disease reduction activities as resources allow.
- Reporting of indices that are used to monitor and evaluate the progress of the Wildlife Disease Management Plan will be included in the annual bovine tuberculosis report (VS 6-38 narrative).

#### ARTICLE 6 -- SERVICE RESPONSIBILITIES

USDA APHIS Veterinary Services (referred to as the "Service") is responsible for the following:

1. Providing expertise in epidemiology, diagnostic support, risk assessment, and testing.
2. Providing assistance with improving slaughter surveillance at Federal slaughter establishments, including assisting MDA with obtaining cattle movement data from other States.
3. Assisting with indemnity payments for whole herd depopulations, diagnostic removal of supplemental test reactors, animal and specimen transportation fees, laboratory analysis, and data storage and management support. The Service will assume responsibility for timely appraisal and payment for animals indemnified with federal funds.
4. Assisting the Cooperator with cattle and bison movement monitoring and compliance investigations involving movement of cattle between zones and interstate through the activities of Investigative and Enforcement Services (IES) officers.
5. Assist Wildlife Services (WS) with wildlife-risk management activities on farms located within the Modified Accredited Zone.
6. Provide support for acquisition and development for electronic identification, hardware and software in accordance with the National Animal Identification System (NAIS) and USDA regulations, and provide data entry assistance necessary to monitor tuberculosis testing and animal movements within the Modified Accredited zone, and between zones, and to fulfill reporting requirements of the split state status and this MOU.
7. Review the progress of the TB eradication activities covered under the split state status and this MOU on an annual basis, and to report recommendations to the Cooperators.
8. Recognize that bovine tuberculosis may exist at an undetectable level in free-ranging deer in any county that has undergone surveillance at the agreed upon rate with no

findings of bovine tuberculosis in free-ranging deer for a period of five consecutive years.

9. Upon verification of compliance with this MOU, expedite consideration of applications for change of state or zone status and publication of an interim rule upon the state or zone achieving tuberculosis prevalence levels specified within the CFR and this MOU.

#### ARTICLE 7 – MAINTENANCE OF STATUS

To maintain status, a yearly review is required by the Cooperators and Service that determines that the requirements and agreements of the MOU are in place, and the prevalence rates in cattle and bison for each zone are in compliance with requirements of the CFR. To maintain status of any zone in Michigan, wild cervid introductions of TB into the cattle and bison must be minimized; therefore, wild cervids, as a source of infection in the cattle, may account for no more than 5 newly TB affected herds found during federal fiscal year (FY) 2007. The allowable number of newly TB affected herds from a presumed free-ranging cervid source will be re-evaluated annually for future MOUs.

To be eligible for application for increased status, the following requirements apply:

1. Advancement from Modified Accredited to Modified Accredited Advanced status –

“To qualify for modified accredited advanced status, a modified accredited State or zone must demonstrate to the Administrator that it complies with the provisions of the “Uniform Methods and Rules--Bovine Tuberculosis Eradication, Effective January 1, 2005” and that 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 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.” Reference VS MEMO 552.38.

2. Advancement from Modified Accredited Advanced to Accredited Free status –

“To qualify for accredited-free status, a modified accredited advanced State or zone must demonstrate to the Administrator that it complies with the provisions of the “Uniform Methods and Rules--Bovine Tuberculosis Eradication, Effective January 1, 2005” has zero percent prevalence of affected cattle and bison herds, and has had no findings of tuberculosis in any cattle or bison in the State or zone for the previous 5 years. Except that: The requirement of freedom from tuberculosis 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.”

Progress toward both preventing the spread of tuberculosis among and eradicating the disease from wildlife through a successful Wildlife Management plan, will be monitored utilizing trends in overall and yearling prevalence over time, age specific force of infection,

other appropriate indices, and by monitoring continued spread into cattle and bison . Reporting of these indices will be included in the annual bovine tuberculosis report.

The plan must be reviewed annually and a new plan jointly developed between the Cooperators and Service when needed. If Wildlife Management plan indices concurrently demonstrate an increasing trend in prevalence or absence of a decreasing trend for three consecutive reporting years, actions must be taken immediately to correct the problem or the State status will be in jeopardy and a review by the Service will be conducted within 6 months to determine the recommended action for the Administrator to take.

#### ARTICLE 8 -- FINANCIAL OBLIGATION

Execution of this MOU does not constitute a financial obligation on the part of the Service or Cooperator. Each signatory party is to use and manage its own funds in carrying out the purpose of this MOU.

#### ARTICLE 9 -- LIMITATIONS OF COMMITMENT

This MOU, and any continuation thereof, shall be contingent upon available funds appropriated by each party's funding source. The Service receives its funds through appropriations from the Congress of the United States. It is understood and agreed that any moneys allocated for purposes covered by this MOU shall be expended in accordance with its terms and in the manner prescribed by the fiscal regulations and/or administrative policies of the party making the funds available. If fiscal resources are to transfer, a separate agreement must be developed by the parties.

Cooperator (MDA and MDNR) funds are subject to and contingent upon, available funding from the Michigan Legislature and/or Executive branches. Funds may be limited, discontinued, or eliminated if the Legislature fails to appropriate sufficient funds, or if an Executive Order, directive, or departmental decision limits, discontinues, or eliminates the ability of the Cooperator to utilize appropriated funding.

#### ARTICLE 10 -- CONGRESSIONAL RESTRICTION

Pursuant to 41 USC 22, no member of or delegate to Congress shall be permitted to share any or part of this MOU or to any benefit to arise there from.

#### ARTICLE 11 -- LIABILITIES

APHIS will hold the Cooperator harmless from any liability arising from the negligent act or omission of the APHIS officer or employee acting within the scope of his or her employment to the extent compensation is available pursuant to the Federal Tort Claims Act (FTCA), except for negligent actions or omissions of the Cooperator, its employees, agents or subcontractors, and employees or agents of the subcontractor(s). Such relief shall be provided pursuant to the procedures set forth in the FTCA and applicable regulations. The United States of America will not be held liable for any property damage or personal injury resulting from the use of federally owned real estate and personal property loaned to the Cooperator under this MOU. The Cooperator assumes responsibility for any and all property damage and personal injury resulting from the use of said real and personal property and further agrees to save and hold harmless the United States of America from any and all claims for such property damage and personal injury. The Cooperator further agrees to reimburse the United States of America by and through the Service for any property damage



to any Federally-owned real and personal property, less normal wear and tear, which may occur through the use of said property under this MOU.

ARTICLE 12 -- CONDITIONS

Upon signature of this MOU, the State of Michigan agrees to the conditions for split-state status for bovine TB as defined in the final rule published in the Federal Register by APHIS. This MOU must be updated and re-approved annually (within 10 to 14 months from the previous signature date) by both the Cooperator and the Service in order to maintain split-state status for bovine TB in Michigan.

**United States Department of Agriculture  
Animal and Plant Health Inspection Service  
Veterinary Services**

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Name (printed)  
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Title  
\_\_\_\_\_  
Signature *Job R. Clifford*  
\_\_\_\_\_  
Date *6/14/07*

**Michigan Department of Agriculture**

*Mitch Irwin*  
\_\_\_\_\_  
Name (printed)  
*Director, MDA*  
\_\_\_\_\_  
Title  
*Mitch Irwin*  
\_\_\_\_\_  
Signature  
*6/22/07*  
\_\_\_\_\_  
Date

**Michigan Department of Natural Resources**

*Rebecca A. Humphries*  
\_\_\_\_\_  
Name (printed)  
*Director*  
\_\_\_\_\_  
Title  
*Rebecca A. Humphries*  
\_\_\_\_\_  
Signature  
*6/25/07*  
\_\_\_\_\_  
Date