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Regulatory Analysis and Development
PPD, APHIS, Station 3A-03.8
4700 River Road, Unit 118
Riverdale, MD 20737-1238

To Whom It May Concern:

Comments Regarding the Proposed Framework for the Tuberculosis and Brucellosis Programs

The following comments attempt to reflect broad concerns of the North Dakota Department of Agriculture (NDDA) - Animal Health Division and the North Dakota State Board of Animal Health. They also support many of the comments that have already been submitted by other state veterinarians and their corresponding animal health boards and leaders. Without the detailed language that will be required to go from the framework to a functional rule, it is difficult to be enthusiastic about changes from the current program regulations to a new program. Combining the Tuberculosis and Brucellosis programs into one main program must not be done at the detriment of minimizing either program. If not carefully worded, implemented and enforced, the new program will be less effective than the current programs in the goal of eradication of Tuberculosis and Brucellosis from livestock populations.

Element 1 - State Program Requirements

The NDDA-Animal Health Division and the North Dakota State Board of Animal Health strongly encourage and support the concept of forming a control/advisory board to participate both nationally and at the state level, in the evaluation of state/tribal programs for compliance with program requirements. The group should include federal, state, tribal, wildlife and industry representation.

States should 'meet' national standards, but states must not be prevented from having additional interstate and intrastate requirements, through federal pre-emption clauses in the rule.

States must be allowed the flexibility to quickly take unique actions to protect their livestock industries when information indicates risk has increased from other states and countries. There are numerous examples of the exorbitant amount of time it takes to go through public meetings and comment periods before rule changes have been made at a national level.

Whether North Dakota's Board of Animal Health will support a new direction for the Tuberculosis and Brucellosis programs, depends on whether or not there will be adequate resources from USDA-APHIS-Veterinary Services to support the programs.

Many states will likely not be able to financially meet all minimal program standards, which would greatly jeopardize the success of this new proposed direction.

There must be transparent and timely reporting of ongoing disease investigations and changes in other states' statuses must be addressed immediately when there is evidence that "apparent" prevalence of a disease is higher.

Again, the concept of federal pre-emption must be avoided in regard to interstate movement requirements. States need to be able to address higher risks from other states and international movements. This is especially critical when cases have not been fully investigated in a timely manner by other states or countries.

There are still many reservations about moving from a 'status program' to a 'three-tiered program system'. Most states do not support an increased burden upon 'only the states' by expecting them to write new regulations and meet reporting requirements to USDA-APHIS-VS, and yet not have VS address the actual incidence of these two diseases in other states and countries, through effective interstate and international movement restrictions.

The success of the program will require the right mix of flexibility and yet a solid federal program that is enforceable and is enforced by USDA-APHIS-Veterinary Services. States are still concerned that policy documents, memos and guidelines may not be as legally enforceable as is the Code of Federal Regulations.

ELEMENT 2 – Zoning

This element may work and prevent having large segments of an industry have to test herds and animals needlessly. But, the zones established must effectively mitigate the risks. Zoning considerations should be drastically different in states and regions where there is a wildlife infection component versus states where the infection is only identified in domestic animals after adequate wildlife surveillance in the surrounding area. This is another element that an advisory board should play a role in when considering how small or large a zone should be. The criteria that will be used and what mechanisms will exist for other states to appeal to an advisory board's decision, also needs to be determined.

ELEMENT 3 – Surveillance

Surveillance of both domestic animals and wildlife will continue to be critical to the successful eradication of diseases such as Tuberculosis and Brucellosis which can affect both. The level of surveillance and the tests used will also determine if the surveillance will be adequate to find the disease before it amplifies and moves, increasing the risk of disease spread to additional herds and possibly wildlife within our state, within the United States and to our international trading partners. All states agree that it is imperative that USDA-APHIS-VS require collection of official identification at slaughter. All identification on disease suspect animals should be collected and recorded to help in the trace back of animals during an epidemiologic investigation.

ELEMENT 4 – Affected Herd Management and Epidemiologic Investigations

For the most part, the past and current requirements can be adopted, but enforcement of the requirements needs to be supported by Veterinary Services. The Advisory/Control Board could play a useful role in assuring accountability among the states.

ELEMENT 5 – Indemnity

Indemnity that is adequate and fair prevents appeals, but allowing for an appeal process for impacted producers will be critical to having a program that encourages producers to report disease findings and support compliance with import requirements, movement restrictions and surveillance. Disputes only delay removal of infected or exposed animals and possibly further contribute to disease spread.

Animals that are safe for marketing must not be ostracized by the requirement of seals and/or federal forms. State required health certificates for interstate and intrastate movements for direct to slaughter and possibly slaughter only restricted feedlots should be considered as a method to deal with negative animals in herds where affected animals have been identified.

ELEMENT 6 – Interstate Movement Requirements

Federal interstate movement requirements and states must remain minimum requirements only. States must retain the right to protect animal health within their states in a timely manner.

ELEMENT 7 – Import Requirements

Adequate attention to this area has been lacking for many years. If stronger actions aren't taken to mitigate risks from international imports, then the investments by producers and government into the eradication of Tuberculosis and Brucellosis in the United States have been wasted.

It would be unacceptable to force states to accept livestock from states, regions or countries that they believe (based on disease incidence and inconclusive investigations), have unacceptably high risks for TB or Brucellosis.

Transparent and thorough disease risk assessments of source nations and necessary federal importation requirements which preclude diseased or high risk animals from entry into the United States must be part of any successful federal disease eradication program.

The post import requirement section seems intent to shift the burden of mitigating the risk of disease introduction from the federal government to the states. Many states may not have the ability to accept and carry out the necessary monitoring and/or quarantine actions that will be needed to mitigate disease risks. It has been proven that prevention is a much more successful and economic approach in the long term, than enforcing quarantines and test and slaughter protocols.

ELEMENT 8 – Approved Procedures Related to Official Tests and Laboratories

The NDDA - Animal Health Division and the North Dakota State Board of Animal Health encourages the necessary investment to design new procedures and superior diagnostic testing protocols.

The focus of research support needs to be on Tuberculosis since live animal tests have proven to be woefully inadequate in many cases.

The concept of an oversight/advisory board as mechanism to assure that those most impacted by these two livestock diseases will have input into decisions made and state and federal actions taken, sounds acceptable to almost everyone. Geographic input is important while geographic biases must be balanced for the good of the entire US livestock industry. The details of the makeup of such a group will determine if the livestock industries and the state animal health officials will be supportive of and willing to be compliant with the new programs' direction.

Respectfully,



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