

U.S. DEPARTMENT OF AGRICULTURE (USDA)

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Proposed TB and Brucellosis

Regulatory Framework

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PUBLIC MEETING

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the Holiday Inn Conference Room, 5 East Baxter Lane, Bozeman, Montana, at 8:20 a.m., DENISE BARNES, Meeting Moderator, presiding.

PRESENT

MS. DENISE BARNES, Meeting Moderator

DR. MARTY ZALUSKI

DR. BILL BARTON, Idaho Department of  
Agriculture

MR. MICHAEL CARTER, Assistant Director, USDA,  
APHIS, Veterinary Services

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P-R-O-C-E-E-D-I-N-G-S

(10:08 a.m.)

1  
2  
3 MS. BARNES: Good morning. Thank  
4 you all for coming. Welcome to the Montana  
5 Public Meeting for the Proposed Tuberculosis  
6 and Brucellosis Regulatory Framework.

7 Just a couple of administrative  
8 things. There is a restroom out kind of  
9 winding around the hallway and kinda tucked  
10 into the left out there. We'll be taking a  
11 couple of breaks this morning, and we'll have  
12 lunch. Again, you can have lunch either here  
13 or go out and about the area and get lunch.  
14 We'll announce those times, but they'll be  
15 around noon.

16 Our purpose here today is to  
17 advise the general public about the proposed  
18 regulatory framework for bovine tuberculosis  
19 and brucellosis programs to obtain your  
20 comments, interested individuals' comments.

21 We have transcribers in the room,  
22 and they'll be recording and taking down the

1        comments that you make.  So we're going to ask  
2        you to speak up and speak one at a time so  
3        that they can really get the essence of what  
4        you're trying to communicate.

5                    For those who would like to  
6        comment in another forum we have the website,  
7        and there's information in the packet about  
8        where to find that to comment.  And you can  
9        also see other regulations, too, so that's  
10       good information for you in there.  If you  
11       don't have time to get your comments in today,  
12       that would be a good source for you.

13                   Our meeting today will start with  
14       two presentations.  One is about the working  
15       group, and the other one is about the  
16       regulatory framework itself.  So we'd like to  
17       kind of start out with the presentations, and  
18       we'll ask you to hold your questions until we  
19       break into smaller groups so that we can get  
20       all of the information together around some  
21       topics and kind of be able to have that kind  
22       of a small forum so everyone has a chance to

1 talk and discuss things.

2 To start things off I'll ask Marty  
3 Zaluski from the State of Montana to come up  
4 and introduce himself and his colleagues and  
5 begin the presentation on regulatory working  
6 groups.

7 DR. ZALUSKI: Thanks so much. I'm  
8 Marty Zaluski. I appreciate you allowing me  
9 to open, and I wanted to welcome everybody to  
10 this forum.

11 The folks from our shop, I guess  
12 it's Dr. Eric Liska who is sitting at that  
13 back table. So thanks for coming.

14 So again welcome. I want to thank  
15 folks that have traveled from out of State,  
16 especially Dr. Bill Barton, who has a full  
17 plate, from the State of Idaho, and for all  
18 the time he's committed to this group.

19 I want to thank the Federal  
20 Government for doing their part to reduce the  
21 deficit and not offering coffee.

22 (Laughter.)

1                   And certainly for Montanans who  
2 chose the only nice day we've had this spring  
3 since like September, last September. So  
4 hopefully we can be as efficient as possible  
5 today.

6                   Anyway, this working group, not to  
7 make too much light of it, but it is a team  
8 that does important work of getting the  
9 interim rules when brucellosis started.

10                   We're going to get a lot of  
11 feedback.

12                   Anyway, continue that good work  
13 with the interim rules when brucellosis  
14 started last December. That was a great start,  
15 and this framework hopefully will do many more  
16 good things to brucellosis rules and update  
17 them from the decades old standard, or the  
18 decades old regulations that we've been kind  
19 of saddled with that have done a great job for  
20 brucellosis.

21                   All right. I'm just about done so  
22 I can just yell. Can you guys hear that?

1                   Anyways, let's hope this work  
2                   group does a lot of good things, builds on the  
3                   good work that the interim rule on brucellosis  
4                   started in December. As an example, you know,  
5                   we're still dealing with rules for the strain  
6                   19 vaccine where a diagnostic test could not  
7                   tell the difference between a vaccinated  
8                   animal and an animal that had been affected  
9                   with a wild strain, with a wildlife strain.  
10                  I'm looking forward to the outcome of this  
11                  group. They've done a great job and done a  
12                  lot of work.

13                         So again thank you for all the  
14                         work that everybody has committed here.  
15                         Thanks for coming. I look forward to hearing  
16                         from you in the break-out sessions.

17                                 DR. BARTON: Thanks for that  
18                                 introduction, Dr. Zaluski.

19   I'm Bill Barton. I'm the State  
20   Veterinarian in the State of Idaho, and I'm  
21   pleased to be in Montana. You guys look to be  
22   in the same situation we are, lots of water.

1 Lots of water yet to come. There's still snow  
2 up there in the mountains. Green grass wants  
3 to grow. All we need is some more days like  
4 today.

5 My role in this presentation is to  
6 discuss a little bit about the function of the  
7 working group and some of the background on  
8 why we are proposing these changes to both the  
9 brucellosis and tuberculosis rule.

10 The overall goal of this framework  
11 is to have an adaptable approach that will  
12 help us control both diseases in a way that  
13 will allow the Animal and Plant Health  
14 Inspection Services (APHIS) to work closely  
15 with States and Tribes and producers to ensure  
16 that together we implement our best and most  
17 efficient disease management practices.

18 I know that many of you are  
19 familiar with both tuberculosis and  
20 brucellosis, the diseases, but particularly in  
21 our area of Idaho, Wyoming and Montana, around  
22 the Greater Yellowstone Area, we're intimately

1 aware of brucellosis. But I want to just  
2 discuss a few key points and then report more  
3 on the workings of the working group and the  
4 details that are under consideration in this  
5 framework.

6 As you know, the bovine TB and  
7 brucellosis programs are two of USDA's  
8 longstanding animal disease eradication  
9 programs. Since both programs were  
10 implemented as a State-Federal Cooperative  
11 program in the early 1900s, we've made great  
12 progress in lowering the prevalence of both  
13 diseases in the United States. As a result,  
14 many consider these efforts to be among the  
15 most significant public and animal health  
16 achievements in our country's history.

17 However, despite two intensive  
18 programs and hundreds of millions of dollars  
19 spent in program and emergency funding on both  
20 the Federal and the State level, the goal of  
21 eradicating these diseases remains elusive.  
22 That being said, I think that goal still

1 should remain our end goal, that of  
2 eradication of both diseases.

3           Although the number of newly  
4 identified tuberculosis-affected herds has  
5 remained steady at a lower level during the  
6 past several years, TB-affected herds have  
7 recently been identified in accredited free  
8 States that have not had a positive herd in 20  
9 to 25 years.

10           Brucellosis-affected livestock  
11 herds continue to be identified in the Greater  
12 Yellowstone Area - I call it the GYA  
13 (inaudible) barn, one of three States -  
14 although the disease has largely been  
15 eradicated from the remainder of the country,  
16 the exception being Texas where a positive  
17 herd was recently identified.

18           I think we can all agree that  
19 there is a need for change in both of these  
20 programs. As Marty alluded, we are working  
21 under rules that were set years and years ago  
22 and don't clearly identify the situation as it

1 exists for both TB and brucellosis today.

2 Many of the challenges that drive  
3 the need for these changes are not new issues.  
4 We have reached the point, however, where  
5 these challenges, particularly the fiscal  
6 challenges on both the Federal and State  
7 level, demand a new approach for the  
8 management of these animals and these  
9 programs.

10 Challenges common to both TB and  
11 brucellosis in varying degrees are  
12 interrelated, and they include many, many  
13 challenges. Infected wildlife reservoirs pose  
14 a risk of transmission of both TB and  
15 brucellosis to livestock herds. An endemic  
16 focus of *M. bovis*, *microbacteria in bovis*,  
17 which is a positive agent of bovine TB  
18 infection, that endemic focus in free-ranging  
19 white-tailed deer exists in the lower  
20 northeastern portion of Michigan. As you're  
21 well aware, the last known reservoir of  
22 *Brucella abortus* exists in the United States

1 in the Greater Yellowstone Area to claim  
2 wildlife, wild elk and bison in that area.

3 Changing agricultural practices,  
4 such as larger herd size and frequent movement  
5 of cattle have led to increased risk of  
6 transmission of infectious diseases.

7 The absence of a fully implemented  
8 national traceability program has hindered our  
9 ability to trace some animals that have been  
10 identified as diseased at slaughter back to  
11 their herd of origin.

12 We also have limitations on our  
13 diagnostic ability. Existing diagnostic tests  
14 and their limitations significantly impact the  
15 progress of the TB program. Available TB  
16 tests at this point often fail to detect all  
17 cases and require multiple visits by animal  
18 health professionals to complete the  
19 diagnosis.

20 The brucellosis program faces a  
21 different type of diagnostic challenge.  
22 Diseases that can cross-react with Brucella

1        abortus makes it difficult to establish a  
2        definitive diagnosis of brucellosis-affected  
3        animals.

4                Then we have the issue of  
5        importation of animals from outside of our  
6        national borders. Despite significant  
7        reductions in the prevalence of TB in all  
8        Mexican States in the last decade, TB has  
9        occurred in domestic cattle as a result of  
10       exposure to imported Mexican roping or feeder  
11       cattle.

12               With respect to brucellosis and  
13       these imported cattle, we can mitigate the  
14       risk by requiring feeder heifers to be spayed  
15       and completing extensive testing requirements  
16       for breeding animals in order to import from  
17       Mexico.

18               The last challenge is that of the  
19       State and Tribal concerns and actions. We  
20       often find it challenging to conduct our State  
21       surveillance programs and our Tribal  
22       surveillance programs in a manner that meets

1 the requirements of all of our States.

2           There's still more challenges that  
3 face both of these programs. The current  
4 regulations for both programs contain detailed  
5 requirements. This means that rule-making is  
6 required on a Federal level every time we want  
7 those requirements to change or we determine  
8 a need for change.

9           A good example is for the  
10 downgrade to our State status either for  
11 brucellosis or TB. I think you're probably  
12 aware that there's significant time periods  
13 and significant requirements that must be met  
14 in order for a State to regain its  
15 brucellosis-free status. It's oftentimes very  
16 burdensome on producers in an area of the  
17 State where brucellosis is not a problem if  
18 they're under the same requirements of those  
19 areas of the State where brucellosis is a  
20 problem.

21           Veterinary services, like other  
22 regulatory agencies, faces a complex, lengthy

1 process to implement changes or develop new  
2 regulations. If regulations are not  
3 sufficiently flexible, the result can be  
4 rigid, outdated requirements that cannot adapt  
5 to a changing agricultural landscape.

6 In addition to challenges posed by  
7 these diseases, the fiscal realities at the  
8 State and Federal level need to be considered  
9 heavily. For example, the \$15 million that is  
10 dedicated towards TB control at the Federal  
11 level is expected to remain constant and may  
12 decrease in the future.

13 \$207 million of Federal emergency  
14 funding has been spent on tuberculosis since  
15 2001. Agents have informed the States that  
16 these emergency funds will not, likely not be  
17 available in the future.

18 This whole process of undertaking  
19 a change to these rules begin with Veterinary  
20 Services listening to their stakeholders.

21 The United States Animal Health  
22 Association, its TB and brucellosis committees

1 have put forth numerous resolutions in recent  
2 years regarding improvements to both programs.  
3 VS continues to consider these resolutions and  
4 recommendations as they modernize these two  
5 programs.

6 International guidelines have also  
7 been consulted so that these programs could  
8 align with the international requirements  
9 whenever possible.

10 Veterinary Services has worked  
11 closely with its regulatory and legal experts  
12 to ensure that this new approach is consistent  
13 with standards across the U.S. Department of  
14 Agriculture.

15 Several public forums were  
16 convened over the past several years to  
17 specifically discuss the future of the TB  
18 program. VS hosted public meetings formatted  
19 as listening sessions in December of 2008 in  
20 several locations throughout the nation,  
21 followed by an internal listening session for  
22 APHIS employees. The U.S. Animal Health

1 Association convened a symposium titled "The  
2 Future of the National Tuberculosis Program"  
3 in July of 2009 in Denver, Colorado. We had  
4 excellent attendance by State Animal Health  
5 Officials, Federal Regulatory personnel and a  
6 large attendance by (inaudible) and we  
7 hammered out some good details to the TB  
8 program.

9 Another example of stakeholder  
10 outreach relates to the brucellosis program.  
11 The Deputy Administrator of APHIS, Veterinary  
12 Services and other Agency representatives held  
13 a meeting in 2009 in Idaho Falls, Idaho with  
14 representatives from the State Veterinarians  
15 Office from Idaho, Montana and Wyoming. We had  
16 legislators in attendance, and we had  
17 representatives from the Wildlife entities and  
18 the National Park Service.

19 This meeting focused specifically  
20 on the issues associated with endemic  
21 brucellosis and surveillance, disease response  
22 - or, excuse me. This meeting focused

1 specifically on issues associated with endemic  
2 brucellosis in elk and bison in the Greater  
3 Yellowstone Area and the risk posed to  
4 livestock in the area. The meeting resulted  
5 in the development of four core principles,  
6 which include prevention and surveillance,  
7 disease response, disease management, and the  
8 roles of both State and Federal agencies.

9           Based on this stakeholder outreach  
10 and input, VS developed two concept papers -  
11 one for the TB program and one for the  
12 brucellosis program. The concept papers  
13 included similar objectives for both programs.  
14 Those were to mitigate the introduction of  
15 disease into domestic livestock from wildlife  
16 and imported animals; enhance surveillance to  
17 more efficiently achieve program goals,  
18 whether to demonstrate the brucellosis-free  
19 status in the U.S. or to develop a  
20 comprehensive, integrated national  
21 surveillance plan to improve upon the existing  
22 TB surveillance system.

1                   Another objective was to increase  
2                   options for managing affected animals and  
3                   herds, including developing alternative  
4                   strategies to whole-herd depopulation for both  
5                   diseases.

6                   The next goal was to modernize the  
7                   regulatory framework to allow VS to focus  
8                   resources where the disease exists, and to  
9                   transition both programs from a State  
10                  classification system to a risk-based zoning  
11                  approach. This goes back to that downgrade in  
12                  State status and the difficulty in reachieving  
13                  free status to allow to resume the  
14                  unencumbered export of our animals across  
15                  State lines.

16                  These concept papers were  
17                  published in the Federal Register in October  
18                  2009 with a public comment period following  
19                  publication for each.

20                  So the purpose of this working  
21                  group - and I want to thank my colleagues on  
22                  the working group. It's a daunting task when

1 you try to combine two disease programs with  
2 some similarities, but many differences. It  
3 was certainly a challenge.

4 Both concept papers stated that  
5 APHIS had worked closely with the stakeholders  
6 to obtain input on the proposed strategies,  
7 program standards, surveillance plans and  
8 other policy concept before publishing any  
9 proposed regulations and throughout the  
10 regulatory process.

11 Given this commitment and  
12 similarities in the proposed directions for  
13 both TB and brucellosis programs, Veterinary  
14 Services decided to convene a single working  
15 group and discuss the overarching regulatory  
16 concepts of both diseases. They coordinated  
17 development effort addressing both programs to  
18 ensue that the new rules are compatible  
19 between the programs and make the process for  
20 developing these rules as efficient and  
21 flexible as possible.

22 The charge for the working group

1 was to develop a comprehensive regulatory  
2 framework for both the TB and brucellosis  
3 programs, and that framework is what we'll  
4 represent to you today. This work began in  
5 the fall of 2010 with face-to-face meetings,  
6 weekly conference calls with several meetings  
7 over the winter and continue those conference  
8 calls.

9 I'd just like to add that in-depth  
10 discussion was held by all of the members of  
11 the working group on all of these elements.  
12 And although there were many areas of  
13 agreement among the working group, I think  
14 it's only fair to say that there were areas  
15 where we could not reach a consensus among the  
16 members of the working group. So your input  
17 will be critical as this proposed rule is  
18 developed.

19 We are now holding this series of  
20 public meetings to request your input and  
21 comment on the proposed regulatory framework.  
22 A meeting was held a couple of weeks ago in

1 Lansing, Michigan. I believe last week or the  
2 week before in Atlanta, Georgia. This meeting  
3 today and a future meeting, I believe next  
4 week, will be held in Amarillo, Texas.

5 Based on the products of the  
6 working group, the comments VS receives during  
7 the public meetings APHIS will develop the  
8 regulatory text with the rule to be published  
9 as a proposed rule in 2011. It's critical  
10 that we as producers in the livestock  
11 industry, State Animal Health Officials remain  
12 engaged in the development of the details of  
13 this rule. After a public comment period and  
14 necessary revisions, it's APHIS's goal to  
15 publish the final rule by 2012.

16 A little bit about the working  
17 group membership. Because this working group  
18 was not chartered as a Federal advisory  
19 committee, its membership was limited to  
20 Federal employees and representatives of  
21 State, Tribal and/or local governments.

22 There were approximately 20

1 members of the working group that included  
2 representatives of - well, there were six  
3 State Animal Health Officials, myself, Dr.  
4 Susan Keller from North Dakota, Dr. Scott  
5 Marshall from Rhode Island, Dr. Ellis from  
6 Texas, Dr. Steve Halstead from Michigan and  
7 Dr. Bill Hartman from Minnesota.

8 We had two State Wildlife  
9 Officials. Ken McDonald is one here today  
10 from Montana that was a Wildlife Official on  
11 the working group.

12 We have four Tribal  
13 representatives, and Danielle Gunn from a  
14 Tribe in Idaho is here with us today, also.

15 We have seven VS Regional and Area  
16 offices, two Legislative and Public Affairs  
17 personnel, and one Representative as a  
18 regulatory -- from the Regulatory Analysis  
19 and Development.

20 Through this new framework APHIS  
21 will implement a flexible yet coordinated  
22 approach to TB and brucellosis disease control

1 and management practices that embraces the  
2 strengths and expertise of States, Tribes and  
3 producers.

4 The overarching objectives for the  
5 TB and brucellosis programs are to: detect  
6 disease rapidly; take actions to prevent  
7 further spread or importation of the disease;  
8 eradicate the disease, when possible; document  
9 disease status for domestic and international  
10 trading partners; and to minimize the impact  
11 on States, Tribes and the livestock industry.

12 With this new approach we have  
13 outlined eight specific elements that we have  
14 built our framework upon. Again, I'd  
15 reiterate that a lot of agreement among the  
16 working group on these elements, but not  
17 consensus on all elements. These elements  
18 include: program or State requirements;  
19 zoning; surveillance; affected herd management  
20 and epidemiological investigations; indemnity;  
21 interstate movement controls; importation  
22 requirements; and approval procedures related

1 to official tests and laboratories.

2 Many of the components of these  
3 elements are currently outlined in the Code of  
4 Federal Regulations, so a lot of these  
5 elements we will be able to use a lot of that  
6 information, but a lot of it will be new.  
7 From a State Animal Health official's  
8 perspective, a lot of it needs to be, and it  
9 needs to be updated.

10 So again I thank you for the  
11 opportunity to be here in Bozeman and look  
12 forward to visiting with as many of you as  
13 possible and really solicit your input on this  
14 framework as we proceed to develop new rules  
15 that affect us all.

16 I'd like to turn it over to  
17 Michael Carter now, who is the Assistant  
18 Director with USDA APHIS Veterinary Services,  
19 and he will give you the details about the  
20 regulatory framework that's being considered.

21 MR. CARTER: My presentation is  
22 going to run about an hour. Would people

1 prefer to take a break now or just wait until  
2 after? Just wait until after? Okay, that'll  
3 be fine.

4 Welcome everybody. Thanks, Dr.  
5 Barton, for the introduction. Now I'm going  
6 to go ahead and talk about the proposed  
7 framework with new regulations for the  
8 tuberculosis and brucellosis program.

9 The framework is going to describe  
10 the concepts that we are going to use for the  
11 program, but it's not going to contain the  
12 regulatory text that you would expect to see  
13 with this. We'll be developing the regulatory  
14 text after these public meetings that we've  
15 had, so as we go through the actual framework  
16 there's not going to be a lot of the detail  
17 that you would expect to see, that you would  
18 expect to see with the regulatory text. So,  
19 you know, I just want you to keep in mind that  
20 this is kind of a 30,000-foot level for the -  
21 well, what you'll be seeing today and  
22 discussing.

1                   Okay, next slide. Because the  
2 approaches to disease control and eradication  
3 for TB and brucellosis are so similar, we  
4 decided to go and move forward with the  
5 updating of the rules using a single role. We  
6 chose to do this by first creating this  
7 framework, which we are presenting today, and  
8 this is the approach of, you know, creating  
9 the greater consistency between the two  
10 programs while allowing us to create  
11 flexibility, you know, into the regulatory  
12 process. And also by billing it as a single  
13 role, it just kind of reduces some of the  
14 administrative burden in doing this process  
15 once instead of going through it two times.

16                   As far as the regulation itself,  
17 we'll have the performance standards within  
18 the regulations. That's what we'll be  
19 developing next. The details of how the  
20 actual program will run will be put into a  
21 program standards document that will  
22 supplement what's in the CFR. We've gotten -

1 you know, the USDA's Office of General Counsel  
2 is very comfortable with this approach, and  
3 they're actually filling this with the fruit  
4 fly regulations within Plant Protection and  
5 Quarantine. So we've got a precedence for  
6 doing it this way, and so that's been the  
7 route that we've chosen to go with this.

8 It looks like the scope of the  
9 program for TB and brucellosis we will be  
10 looking at cattle, bison and, of course,  
11 captive cervids with these regulations. The  
12 agents that we're specifically looking at is  
13 *Mycobacterium bovis* and *Brucellosis abortus*.  
14 That is all that we are at this point in time  
15 planning on putting into these new  
16 regulations.

17 Next slide. As far as the  
18 elements, Dr. Barton gave you a brief rundown  
19 of the different elements that will be  
20 included within the regulatory framework.

21 Element 1, the Program  
22 Requirements, really is broken down into four

1 different components of that. One is the  
2 State status system, which there will be a  
3 change from the current status system that's  
4 out there. It'll be changed to a three-tier  
5 system. There will be general program  
6 requirements, reporting requirements and, of  
7 course, compliance and accountability for the  
8 program.

9 Next slide. Continuing on,  
10 looking at the status of the States, under the  
11 framework the States or Tribes will be  
12 required to develop, submit and implement a  
13 written comprehensive animal health plan for  
14 both TB and brucellosis.

15 If Tribes choose not to create  
16 their own plan, they can go and join with the  
17 State, and so they can kind of combine their  
18 activities together.

19 The plan is meant to ensure that,  
20 you know, VS or the State can take immediate  
21 action when a TB or brucellosis situation  
22 arises. So there's not a lot of guess work

1 about who's in charge, what needs to be done.  
2 It's already laid out in the plan so that  
3 things can happen right away.

4 And based on their compliance with  
5 the national standards and the implementation  
6 of the State's animal health plan, we would  
7 want to implement a three State - a three-tier  
8 State status system; the first being a  
9 consistent status where, you know, VS approves  
10 the plan and the State actually has  
11 implemented all of the aspects of that plan.

12 Provisional consistent status,  
13 this is kind of where, yeah, you know, there's  
14 some tweaks that need to be done with the plan,  
15 or VS has approved the plan, but the State  
16 just hasn't quite gotten everything  
17 implemented. Usually that means that there  
18 are some additional regulation changes that  
19 need to be made along those lines. And, of  
20 course, the inconsistent status where, you  
21 know, VS is not going to approve the plan, or  
22 the State has failed to actually get approval

1 of their own plan through the process.

2           Within the three-tier status  
3 system there's no requirement that a State  
4 goes from, you know, works their way through  
5 the status. They can be inconsistent one day  
6 and moving directly into the, you know,  
7 consistent State status, you know, the next,  
8 which is based on them having met all the  
9 requirements. It's not like the current  
10 system where they have to work up to the  
11 individual status.

12           The intent with the provisional  
13 consistent status level is that States would  
14 only be put there for a limited time period.  
15 You know, basically they would be there given,  
16 you know, a certain amount of time to put  
17 their changes into place or whatever is needed  
18 at the time. If they don't, then whatever the  
19 agreed time frame and then the stop gaps for  
20 inconsistent status for that program.

21           Next slide. The second component  
22 of the program requirements is that the States

1 or Tribes must have laws or - law and  
2 infrastructure and regulations in place to be  
3 able to implement, you know, TB or brucellosis  
4 program. They must also have these, TB and  
5 brucellosis, listed as a reportable disease  
6 and have a process within their State that's  
7 going to work for that reportable disease  
8 process.

9 And one additional thing about the  
10 comprehensive animal health plan is the State,  
11 you know, needs to be working towards that  
12 plan that needs to be in place, and it's  
13 meeting the APHIS program standards. But this  
14 is also something that in order to increase  
15 the transparency between different States,  
16 these comprehensive animal health plans will  
17 be made publicly available to them. You know,  
18 different States can prepare how or when so if  
19 the States are planning different things, like  
20 the State of Montana will want to see what  
21 Wyoming is doing, and vice versa. It's just  
22 so that this way there's a transparency about

1 success among the program.

2 Next slide. Another requirement  
3 is the reporting requirements. Again, this  
4 builds on this idea of transparency to make  
5 sure that the States are being fined with not  
6 only furthering APHIS program standards, but  
7 also they're doing what they say they're going  
8 to do with their animal health plan.

9 And just to be able to identify if  
10 there are problem areas, to address those  
11 right away. Kind of some of the things that  
12 we expect to have addressed with these  
13 reporting requirements is implementation of  
14 their own animal health plan, any  
15 epidemiological investigation that they're  
16 conducting within their State, that is  
17 reportable. Performance standards such as the  
18 caudal fold response rates, so you know that  
19 the testing that's being done is being done  
20 properly. And, again, it's just the whole  
21 concept of being transparent to your neighbors  
22 through this program.

1                   Although failure to submit an  
2 individual report is not going to be something  
3 that, you know, is going to cause an automatic  
4 downgrade of State status. If a State or a  
5 Tribe eventually falls into the pattern of not  
6 reporting, we could, you know, impose  
7 consequences as a result of that. They may or  
8 may not be downgraded in status. I could be  
9 just, you know, stricter movement controls  
10 placed on the State. But that's something  
11 that will be discussed based upon, you know,  
12 deficiencies that are being seen in the  
13 program.

14                   Next Slide. Compliance and  
15 accountability. Accountability for the States  
16 and Tribes must be built into the system. And  
17 your document - and the States and Tribes must  
18 be able to document their compliance with the  
19 national standards, you know, to not only the  
20 national standards, but also to their  
21 comprehensive animal health plan. And those  
22 that are in compliance, you know, we don't

1 expect to put additional movement restrictions  
2 in place for them. Unless for, you know, for  
3 zoning reasons that the State developed in  
4 their plan that there's no specifics in there  
5 for additional requirements. But as long as  
6 the State stays compliant with everything,  
7 it's not something that's going to be put in  
8 place right away.

9           Some of the things for  
10 noncompliance that we've, you know, discussed  
11 are increased testing requirements, loss of  
12 funding, increased surveillance requirements  
13 for the States if there's no compliance  
14 issues.

15           Next Slide. Moving on to the  
16 second element of the zoning, we want to look  
17 at two main components of the zoning process  
18 within the States. One would be short term  
19 where it's a containment action that addresses  
20 a specific herd or, you know, presence of  
21 disease in wildlife where it's - the disease  
22 is in wildlife, but not in domestic livestock.

1       Something that can be handled relatively  
2       quickly versus a longer term containment  
3       action, which would be considered an action  
4       that's going to take greater than one year to  
5       deal with.

6                 Next Slide.  First, I'd like to go  
7       ahead and look at the short-term containment  
8       portion.  Once an affected herd has been  
9       detected, there's going to be a standard  
10      epidemiological investigation that's put into  
11      place, and that's going to follow the protocol  
12      that's been established in the program  
13      standards.

14                A short-term containment action is  
15      typically, we expect that to be outlined  
16      within the comprehensive animal health plan,  
17      so there's really not a lot of guess work with  
18      what the next step is once that herd has been  
19      infected.  The State already knows and the  
20      neighbors already know what's going to happen  
21      during that process.  But there will be the  
22      standard, you know, epidemiological

1 investigation. There's going to be a  
2 mandatory testing of adjacent herds and trace  
3 out herds, contact herds. And, of course,  
4 there would be an evaluation of wildlife risk  
5 and, of course, addressing that risk if needs  
6 are pressing. And, of course, evaluating and  
7 considering other risks that may have been  
8 potential for the situation.

9           The goal of containment is, you  
10 know, to rapidly eradicate the disease within  
11 that area. And it's - the whole idea of  
12 zoning is no one can be restricted to  
13 geopolitical boundaries. If an affected herd  
14 is, you know, up against the State line, the  
15 intent is that the zoning plan would bring  
16 both States, you know, around there. So VS is  
17 going to be involved with kind of working  
18 together with the different States and making  
19 these zones work well.

20           Next Slide. The long-term  
21 containment, if the disease can't be  
22 eradicated within one year, then the State or

1 Tribe will develop a long-term containment  
2 plan. And VS in consultation with the  
3 advisory board will make, may go ahead and,  
4 you know, approve the plan provisionally. The  
5 concept of this advisory board, this is  
6 something new for the TB program and  
7 brucellosis program. Something we're kicking  
8 out there as far as to not just, not just  
9 render services to make a decision. We will  
10 be bringing in, you know, State  
11 Representatives to kind of talk about the  
12 situation at hand and, you know, that's the  
13 way we'll go forward with that.

14 At this point we're just talking  
15 about this advisory board, the concept only.  
16 We haven't figured out a lot of the details.  
17 We've got VS levels, but we still need to do  
18 a lot more exploring of this. But this shows  
19 some of the concepts we're working on. So  
20 sitting here and looking at the regulatory  
21 framework, we would definitely like to get  
22 some feedback on that.

1                   But, of course, in moving on we  
2                   have VS and the advisory board determining if  
3                   an additional risk assessment is to be made  
4                   for that long-term containment plan. Of  
5                   course, again VS will be the one that, you  
6                   know, approves or disapproves of the  
7                   containment plan. And obviously go on to  
8                   eradicate the disease in the end, not just  
9                   control it.

10                   Next Slide. An example of this  
11                   is, you know, with the publishing of the  
12                   brucellosis interim rule in December, then  
13                   implemented the brucellosis management areas.  
14                   And, of course, once again most of you in this  
15                   room are familiar with this. And your memory,  
16                   you know, presumes what were picked out for  
17                   cancer balance because we know that there's a  
18                   concept of wildlife risk to the livestock.  
19                   There's some higher risk involved in the area  
20                   of - and so the States volume created more of  
21                   a long-term management concern. The States do  
22                   a good job of getting anything up for herds

1 right away, but it's that constant risk that  
2 we have to deal with. And so we are  
3 continuing with this new regulatory framework  
4 to be able to look at better ways of dealing  
5 with, you know, these long-term risks, but the  
6 States would have to defend that.

7 The TB program and the Federal  
8 Order is also another, you know, example of  
9 that where States are allowed to zone all the  
10 area around with any type of herds to deal  
11 with - just kind of put the quarantine,  
12 eliminating the automatic downgrade for States  
13 under certain conditions.

14 Next Slide. The next regulatory  
15 element is surveillance. And, of course, the  
16 regulatory components for this, you know,  
17 include a national surveillance plan. And  
18 this would be slaughter surveillance or  
19 routinely - routine surveillance that's  
20 conducted to look at not just specific  
21 geographical areas, but for disease process  
22 across the country.

1                   The next will be a targeted  
2                   surveillance, but this is going into either a  
3                   high-risk area or a high-risk population group  
4                   such as reporting animals, you know, increase  
5                   the surveillance on the animals, targeting,  
6                   you know, the high-risk factor. Whether it  
7                   happens to be a geographical area or just a  
8                   population group, that will be built into the  
9                   plans.

10                   The targeted surveillance will be  
11                   conducted as outlined in the animal health  
12                   plan, and at-risk populations must be  
13                   adequately addressed in the plan per program  
14                   standards. The national surveillance, that  
15                   would be the broad, overall plan at the  
16                   national level.

17                   Other surveillance options that  
18                   would be incorporated as far as specific  
19                   areas, like the GYA, you know, animals that  
20                   require enhanced surveillance for at-risk  
21                   zones or populations. Those type of things  
22                   really just will help to rapidly detect, you

1 know, the disease and its presence.

2 Now, part of this surveillance and  
3 being able to trace it back will be tied to  
4 animal identification. For the purposes of TB  
5 and brucellosis we are going to rely a lot on  
6 traceability regulations, you know, that will  
7 be coming out as far as the basis of what our  
8 regulatory text is going to require. So  
9 there's going to be some inconsistent things  
10 across our program as for that. But if  
11 there's a specific need or, you know, an  
12 additional ID requirement needed, say, for  
13 vaccination, animal identification, things  
14 like that, then the regulations will help. The  
15 traceability will create a baseline.

16 Next slide. The fourth element,  
17 Affected Herd Management and Epidemiological  
18 Investigations. A lot of the tests and  
19 processes that we have for this kind of  
20 already exist and regulations and guidance  
21 documents will be used for this element.

22 The framework itself will define

1 terms that are frequently encountered with  
2 these programs. It's also going to describe  
3 how - when a herd is determined to be affected  
4 it will develop and basically implement how  
5 the herd is to be managed with a herd plan.

6 This element will also provide for  
7 the development of investigation and reporting  
8 requirements and time frames for  
9 epidemiological investigations. It will also  
10 include medications and interstate traces in  
11 association with contact animals within the  
12 herds. And with all of these investigations  
13 we will really be able to navigate determining  
14 what the source of the infection is and trace  
15 it back to the source.

16 The regulations will also allow  
17 for consequences if epidemiological  
18 investigations are not conducted in specific  
19 time frames. And, you know, VS does recognize  
20 that there are situations where variances are  
21 going to be needed. The regulations that we  
22 develop will address those circumstances and

1 will provide conditions and requirements for  
2 these variances so that it's not just strictly  
3 a set day or days. You need to have these  
4 time frames in there, but at the same time,  
5 you know, unlike the current regulations where  
6 we have no flexibility, we will have  
7 flexibility built in there. So we'll be  
8 looking for the types of things that would  
9 actually cause the significant delays rather  
10 than just automatically zoning down, as far as  
11 downgrading for States under certain  
12 conditions.

13           Next slide. The next element is  
14 the indemnity issue. And I just want to warn  
15 you that there were some things that we were  
16 not able to come to a consensus on, and this  
17 is definitely one of those issues that the  
18 working group could not come to a consensus  
19 on.

20           And so what I'm going to present  
21 here is the VS, Veterinary Services' position.  
22 So before I get into actually how we're going

1 to propose the details, I'll give you kind of  
2 a little bit of background on it.

3 Both the TB and brucellosis  
4 budgets, you know, they are flat, and we  
5 expect them to continue to decline over the  
6 next several years. In fiscal year 2011 the  
7 TB budget decreased by \$800,000. As a result,  
8 the brucellosis budget decreased by \$500,000.

9 The TB program, you know, we've  
10 been using it and we've had about a million  
11 dollars available for indemnity funds, and for  
12 brucellosis we had about \$500,000 in funds.  
13 Now, in the past that has worked, that funding  
14 level has worked fairly well for the  
15 brucellosis program, but has not worked well  
16 for the TB program. The TB program, they had  
17 to rely heavily on the Commodity Credit  
18 Corporation funding or CCC funding to support  
19 the need for additional indemnity when they  
20 got into emergency situations.

21 Basically from 2007 to 2010 the  
22 average annual indemnity payment for the TB

1 program has been approximately \$5 million a  
2 year. Obviously the budget can't handle that,  
3 so VS is looking for ways to be able to  
4 decrease the amount of money that's spent and  
5 to just streamline the overall process. Of  
6 course, streamlining, the average time from  
7 when the herd is appraised until it's  
8 depopulated takes 60 days, and that's fairly  
9 long. So part of our proposal for indemnity  
10 is, one, we need to increase the funds that we  
11 use. We also need to streamline the process  
12 to get affected animals off the rails sooner.

13 So going into the actual element  
14 for indemnity, again we'll start off by  
15 defining the specific terms of the use for the  
16 indemnity, and the option within the programs.  
17 And also the regulations itself will describe  
18 our approach to indemnity in the regulations,  
19 but will define the actual process within our  
20 program standards. Basically the process will  
21 be a little bit more flexible than the one in  
22 the regulations so that we can constantly

1 change it as the situations arise without  
2 having to go through the regulatory process to  
3 change that.

4 So our concept is to determine the  
5 fair market value for the animals. VS is  
6 proposing that we go with the calculator as a  
7 standardized appraisal for indemnity. The  
8 appraisal calculator will be developed with a  
9 transparent animal and using input from  
10 others, you know, from the industry groups and  
11 keep their involvement on the calculator  
12 itself. It will be tied to market prices and  
13 it will be constantly updated through market  
14 sources. The plan is that the calculators  
15 will be kept updated throughout the year.

16 Parameters, we'll be looking at  
17 mostly parameters of age, weight, regional  
18 values, milk production, life cycle. There  
19 will be a balance between too many variables  
20 or not enough and to really get a true value  
21 of the animal itself. And the idea is that  
22 with the calculator, an affected herd, whoever

1 is responding they can go out and calculate  
2 the value of the animal, you know, in real  
3 time for the appraisal process.

4 Next slide. Just an example of  
5 the calculator, last year VS contracted with  
6 outside sources, Dr. Darrell Peel at the  
7 Livestock Marketing Information Center and Dr.  
8 Shannon Neibergs of Washington State  
9 University, to develop calculators for both  
10 beef and dairy.

11 The current beef calculator that  
12 we have out there is for bred heifers, bred  
13 cows, cow-calf pairs, and bulls and uses  
14 slaughter cow prices as a baseline, and  
15 includes premiums for age of the animal,  
16 weight of cows or bulls, and age of calves.  
17 It breaks the regions into five different  
18 regions.

19 The benefit of the calculators is  
20 that indemnity services would be paying 100  
21 percent of the fair market value; however, if  
22 there is salvage value that is realized it

1 would reduce the indemnity payment by that.

2 And so based on regulations the producer could  
3 only receive up to 100 percent.

4 Next slide. In addition to paying  
5 for the animals themselves, the VS is also  
6 going to be willing to pay up to 100 percent  
7 for not only the animals destroyed, but also  
8 represent transportation costs for those  
9 animals. This has been a big area in the  
10 current regulations where there's  
11 inconsistency in the programs.

12 VS would not be paying for  
13 cleaning up and disinfection. That's  
14 considered expensive, but VS may pay for  
15 disinfection on a case-by-case basis.

16 Next slide. The sixth element,  
17 Interstate Movement Controls. The proposed  
18 draft regulation will allow VS to institute  
19 movement controls when the movement of animals  
20 outside of a State or zone would pose a risk  
21 of disease spread.

22 The regulation will also provide

1 the authority to define what types and  
2 classifications of animals and herds might be  
3 subjected to movement controls. So everybody  
4 knows, an example would be breeder animals or  
5 a class of animals out of a high-risk area.  
6 We would be able to define that as a high-risk  
7 group to be able to further monitor this.

8 Next slide. Consequences, they  
9 may be applied for lack of implementation and  
10 maintenance of, risk-mitigation measures of  
11 State or for noncompliance with the program  
12 standards of the State's animal health plan.  
13 Active mitigation activities may preclude or  
14 diminish the need for movement controls. And  
15 so our goal is to write the regulation so that  
16 we have the ability to put consequences in  
17 place, but also to maintain the ability to  
18 say, yes, they weren't adequately controlled.

19 And, finally, there will be  
20 consideration for additional measures that  
21 mitigate the risk of disease spread. And  
22 basically this - we want to have the

1 flexibility. The Administrator knows how to  
2 look at it on a case-by-case basis, and being  
3 able to evaluate not just under the program  
4 standards, but the goal is to stop the spread  
5 of the disease. And a lot of times the State  
6 may come up with an additional way, although  
7 they may not be following the book. So we  
8 want to be able to allow that flexibility.

9 Next slide. Element 7 talks about  
10 importation requirements, and we're looking at  
11 importation in three different stages.

12 One is the pre-import, which  
13 actually that's what goes on in the country of  
14 origin. The actual import requirements, and  
15 that is what happens when they - when the  
16 animals first cross into the U.S. And, of  
17 course, post-import requirements, and that's  
18 what takes place when the animal reaches its  
19 destination within the U.S.

20 During the pre-import stage, VS  
21 would review a country or zone based on the 11  
22 factors that are already outlined in CFR 9,

1 Part 92. This is something we already have in  
2 place. We will go with regionalization for  
3 different countries. We will evaluate the  
4 country based on those 11 factors, and we will  
5 use that evaluation to set import requirements  
6 that basically would ensure that disease-free  
7 animals are coming into the U.S. And we will  
8 continue monitoring the country or the zone to  
9 make sure that there's no triggers that would  
10 actually raise a red flag or increase import  
11 requirements.

12 Import requirements may be  
13 increased based on whatever those triggers  
14 are. And that could be, you know, halting  
15 imports or just, you know, decreasing testing  
16 options for a State. Some of the flags that  
17 we consider would be prevalence of disease,  
18 number of slaughter cases for TB program, or  
19 if their caudal fold response rate being not  
20 what we're anticipating, but we could ask for  
21 additional requirements where we could just,  
22 you know, cut them off until they correct that

1 issue. Import restrictions may be eased if a  
2 zone shows improvements in meeting program  
3 standards. Of course, these improvements may  
4 be verified either by records or by an on-site  
5 review.

6 Next slide. When importing, as  
7 far as when they cross into the first point of  
8 concentration, after the animals are already  
9 in the U.S., that must be identified,  
10 documented in the records maintained at the  
11 facility where the animals first come into the  
12 U.S. And it's at that point where the animal  
13 is headed, so this is just to be able to trace  
14 back animals, you know.

15 Also, you know, before they leave  
16 that first point of concentration on the U.S.,  
17 you know. Also, you know, before they leave  
18 that first point of concentration on the U.S.  
19 border, if they're going to a different state,  
20 the State official from the State they're  
21 heading to needs to be notified before  
22 movement takes place.

1                   Next slide. Post-import  
2 requirements, basically the general  
3 requirements for post-import require  
4 maintenance of official identification to be  
5 able to follow those imported animals  
6 throughout the life cycle.

7                   In addition, interstate movement  
8 of animals from the first point of  
9 concentration will require an interstate  
10 certificate of veterinary inspection or brand  
11 inspection. And, of course, any additional ID  
12 requirements will be consistent with the  
13 proposed draft traceability rule.

14                  Basically the proposed regulations  
15 are intended to ensure that imported steers  
16 and spayed heifers, imported animals are, you  
17 know, the risk to our domestic population is  
18 reduced. So for like our imported steers and  
19 spayed heifers that are being imported mainly  
20 for food production, they will be maintained  
21 separately from breeding livestock,  
22 specifically our domestic breeding stock. So

1 one of the regulations to be able to, you  
2 know, make a clear divide between those  
3 animals, for breeding animals or other  
4 classes, such as rodeo or event cattle, we  
5 will have a way to track them and have follow  
6 up at a later date.

7 Next slide. The final element,  
8 Approval Procedures Related to Official Tests  
9 and Laboratories, kind of the regulatory  
10 components again defines the terms necessary  
11 for this.

12 This element kind of goes into  
13 official tests, laboratories, defines what the  
14 official test is, and what constitutes an  
15 official laboratory, and when appropriate,  
16 what would be an official tester when needed.

17 Basically until we define what  
18 these programs are without necessarily saying  
19 what the specific tests are, the intent will  
20 be a listing of specifics separate from the  
21 program standards. So we can change  
22 regulations when the test becomes outdated.

1 So this is just - the regulations will just  
2 give an overall framework for how these  
3 processes will take place. Any changes to the  
4 process, to the program, approval of a  
5 diagnostic test, testing laboratory and  
6 tester, that will be accomplished through a  
7 published notice in the Federal Register  
8 describing the proposed change and soliciting  
9 public comment.

10 And, of course, the regulations  
11 will be providing the mechanism, and you  
12 should be able to call and get an approval of  
13 whether a test or a laboratory or tester  
14 properly performed this. It will also provide  
15 quality standards for the quality assurance  
16 and quality control for testing laboratories  
17 and proficiency testing of authorized  
18 personnel in performing official testing. So,  
19 again, the key is actually providing  
20 performance standards.

21 Again, I just want to bring out  
22 that this is just an overall framework of the

1 regulations. The idea is that we want to make  
2 sure that VS is going in the right direction  
3 for these regulatory changes. So throughout  
4 the day we welcome your comments, and we'll be  
5 available to take questions and comments.

6 MS. BARNES: Okay. I think maybe  
7 we can take a break now. And just come back  
8 here in about 15 minutes. Then we'll get  
9 instructions for where we're going to go next  
10 for our small-group discussions.

11 (Break taken.)

12 MS. BARNES: Okay, we're back.  
13 I've been told that all systems are a go. So  
14 what we'd like to do is ask you to select for  
15 yourself the topic you would like to start  
16 with. And we're going to break up into small  
17 groups.

18 The Program Requirements group  
19 will start in this room, the Jefferson Room,  
20 right next door to us.

21 The Indemnity conversation will  
22 take place in this room.

1                   And the Affected Herds  
2           conversation will take place in the lounge, at  
3           the Saloon. It's not open, sorry, until 4  
4           o'clock, but at 4 o'clock you're welcome to  
5           partake. Okay?

6                   So what we'd like you to do is  
7           select for yourself which of the topics you  
8           want to start with, and then we'll rotate the  
9           groups around. We do this in small group so  
10          that we can get everybody's input around each  
11          topic and be able to capture it. Each room  
12          has a person who is recording it and taking it  
13          down for transcription. The same rules apply  
14          in there. Try to speak up and use the  
15          microphone, and one person at a time talking,  
16          okay? And I will let the leaders of those  
17          topic groups introduce themselves to each  
18          group as they come in, okay?

19                   So any questions about where we're  
20          going and how we're going to get there?

21                   (No questions.)

22                   So if you want to just kind of

1 select yourselves and go to each of the rooms.  
2 We can meet - the group in this room can meet  
3 at this table here, start at this table that's  
4 closest to the microphone.

5 UNIDENTIFIED VOICE: Okay, the  
6 Indemnity stays in here?

7 MS. BARNES: Indemnity is in here.  
8 Program Requirements is next door in the  
9 Jefferson Room.

10 UNIDENTIFIED VOICE: And the other  
11 one?

12 MS. BARNES: And the Affected  
13 Herds is in the lounge.

14 (Small groups began at 10:20 a.m.)

15 (Public Hearing reconvened at 2:30  
16 p.m.)

17 MS. BARNES: If anybody has any  
18 further questions we'll take a few minutes  
19 here at the end of the day. We'll get those  
20 out or comments, questions or comments, either  
21 one. And we have some folks here who can  
22 answer questions, if that's necessary, or

1        comments.

2                    So are there any questions before  
3 we adjourn?

4                    Comments? Anything that you've  
5 heard today that you just didn't get a chance  
6 to make your comment?

7                    None, okay.

8                    DR. BARTON: I have something.

9                    MS. BARNES: No, anybody but him.

10                    (Laughter.)

11                    DR. BARTON: And this is not so  
12 much a comment as it is a reminder that  
13 comments are due by June 20th. It was brought  
14 up in our last group, Dr. Zaluski recommended  
15 that the comment period be extended.

16                    Michael, what do you think the  
17 likelihood of that occurring is?

18                    MR. CARTER: I really don't know,  
19 but I'll definitely check on it.

20                    DR. BARTON: So if we can be more  
21 safe rather than sorry, and I'd really  
22 encourage you to get your comments in and

1 solicit comments from colleagues and other  
2 producers to study up real quick and get some  
3 comments in. I think it's a very important  
4 document for livestock producers.

5 DR. ZALUSKI: I'd like to say a  
6 couple of items. It looks like we're closing  
7 up, but this is just about 20 seconds or less.

8 Hey, I just want to say thanks to  
9 the producers in particular. Most of the  
10 folks that are here get paid for being here,  
11 but the other folks that are here on a  
12 voluntary basis are from other walks of life,  
13 I really appreciate you being here. So Glenn  
14 Hockett, you're included.

15 But anyways, thanks so much.  
16 And thanks for our APHIS partners and  
17 certainly for other folks that have made it.  
18 I really do appreciate it. I found this  
19 meeting very worthwhile. One of the reasons  
20 I made a request to extend the comment period  
21 is because of how much information was  
22 actually shared here, and I think the

1 potential impact. So thanks so much.

2 I don't want to close you out, but  
3 I just wanted to make sure and say those  
4 things.

5 MS. BARNES: Yes. Thank you.

6 Okay, anything else before we go?

7 Well, on behalf of the USDA, thank  
8 you for coming. And we'll see you again  
9 sometime probably. Thank you.

10 (Whereupon, the Public Meeting  
11 adjourned at 2:40 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework

Before: USDA

Date: 06-01-11

Place: Bozeman, Montana

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.



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Court Reporter

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

+ + + + +

Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING A-1

Indemnity and Approval Procedures

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the  
Holiday Inn Conference Room, 5 East Baxter  
Lane, Bozeman, Montana, at 10:25 a.m.

PRESENT

Dr. BILL BARTON, Department of Agriculture  
MR. MICHAEL CARTER, Assistant Director, USDA,  
APHIS, Veterinary Services

1 P-R-O-C-E-E-D-I-N-G-S

2 (10:25 a.m.)

3 MR. CARTER: I'll open this  
4 discussion. The topics for this group is  
5 Indemnity and Approval Procedures for Official  
6 Tests and Laboratories.

7 And so I guess to start off with,  
8 does anybody have any questions on either of  
9 those elements from the presentation itself?

10 MR. HOLCOMB: As I understood your  
11 presentation, there's just a certain amount of  
12 money that's available for indemnity, correct?

13 MR. CARTER: That's correct.

14 MR. HOLCOMB: When that's  
15 exhausted is there indemnity for anyone?

16 MR. CARTER: Based on how the  
17 system is set up is we have limited amounts.  
18 We have \$1 million for TB program, and  
19 \$500,000 for brucellosis program. Once that is  
20 exhausted we don't have any additional funds  
21 until the new budget session comes through.

22 So if we run into a lot of

1 problems, yes, it could be exhausted before  
2 the end of the year.

3 MR. HOLCOMB: In that event, would  
4 depopulation abandoned?

5 MR. CARTER: Basically, yes, it  
6 would be. And we're actually taking a very  
7 critical look at how often we use depopulation  
8 as a tool to start with. We favor - we're  
9 tending to favor custom remove approaches more  
10 often now just because of the financial  
11 resources that are required.

12 MR. SHEEHAN: So are they  
13 depopulating a lot of herds yet?

14 MR. CARTER: What?

15 MR. SHEEHAN: Are they  
16 depopulating a lot of herds for brucellosis  
17 and TB?

18 DR. BARTON: For brucellosis we -  
19 they primarily didn't do a move. Which  
20 because they're in an area that we've got  
21 wildlife coming in, you know, at times you  
22 have to look at whether it makes sense to go

1 ahead and depopulate and then repopulate.

2           For TB they still go on a case-by-  
3 case basis. On - well, they don't for  
4 brucellosis, but also for TB looking at  
5 whether to depopulate or remove. One of the  
6 things for TB is we've seen it in a lot of  
7 large dairy herds, and we'll get like a single  
8 case in a huge dairy. And it's like you're  
9 talking multiple millions of dollars to remove  
10 that dairy herd for a single animal. Can you  
11 really cost justify that?

12           And we had an experience this last  
13 round with our last brucellosis herd last  
14 year. That was kind of a unique circumstance,  
15 and in my mind it points to the need to have  
16 money available for depopulation under certain  
17 circumstances. There are those times when,  
18 you know, test and remove is ideal,  
19 particularly like one of your herds in Clark  
20 County. You know, a pure bred operation with  
21 long lines of genetics with a few positive  
22 animals. Should that herd really need to be

1 depopulated? And does the producer have needs  
2 of maintaining a quarantine over the period of  
3 time.

4 That was our problem we ran into  
5 with our last herd was this was a herd that  
6 had been assembled over the preceding 18  
7 months, a guy new into the cattle business,  
8 didn't own any ground. He relied totally on  
9 public lands to run his cattle.

10 So trying to find pastures that we  
11 could keep him in business and maintain a  
12 decent quarantine on through a test and remove  
13 process was nearly impossible. So what we  
14 ended up doing was we finally got some  
15 indemnity money, which was a combination of  
16 State and Federal money to at least depopulate  
17 a portion of his herd, the older cows, and  
18 found enough ground to end up running about,  
19 oh, around a hundred pair out of 500 that he  
20 started out with.

21 So my point is, there's instances  
22 when tests are removed will really work and

1 it's great. But there's times under certain  
2 circumstances, particularly out here in the  
3 west where we rely heavily on public lands,  
4 when it's going to be real hard to find  
5 quarantine with pastures you can maintain a  
6 herd under quarantine for a long period of  
7 time.

8 MR. SHEEHAN: How many were active  
9 in that group?

10 MR. CARTER: Originally, we had  
11 two. They were kept in close confinement and  
12 started calving. I had some abortions, and we  
13 ended up with seven reactors on that.

14 MR. SHEEHAN: Were you depopulated  
15 that year?

16 MR. CARTER: Not all of them. We  
17 depopulated -

18 COURT RECORDER: Mike, you need to  
19 put the mike to Ike when he speaks.

20 MR. CARTER: Okay.

21 We depopulated just about half of  
22 the herd, a combination of State and Federal

1 funds.

2 MS. RANKIN: Jeanne Rankin. I  
3 have a question then about looking at it from  
4 tuberculosis instead of brucellosis, even  
5 though this is GYA's thinking about it on TB  
6 that we actually could get it. And if it  
7 comes, it's going to stay, because looking at  
8 indemnity and looking at beef cattle, that's  
9 what this thing has, is. We're number one in  
10 exports of, you know, the primal pure red cow.

11 And so looking at test and remove  
12 for that kind of a beef herd where there isn't  
13 any market for an infected cow, I mean we  
14 can't sell it for meat. And if I - if there's  
15 no money available for an entity, how is test  
16 and removal going to work on a beef herd?  
17 When USDA is out of money, how long is that  
18 going to be? And what are some of the  
19 economic detriment to the rancher rather than  
20 to the Federal Government? What kind of  
21 considerations are being thought about for  
22 that?

1 MR. CARTER: Okay. For test and  
2 remove the approach would be that there would  
3 always be money to remove individual animals.  
4 And right now we currently have enough money  
5 to cover everything that we've seen as far as  
6 test or remove, and remove those animals.

7 It's only going to be a problem  
8 when we run into a herd where we see as being,  
9 you know, a candidate for depopulation. And  
10 that's because of the size of the herd, the  
11 quality of the herd that we're trying to  
12 remove. And that's an issue that we realize  
13 that we will occasionally run into is that  
14 there may not be funds to do the ideal thing,  
15 you know, and remove. We want to make the  
16 decision based on the risk of the disease  
17 spreading, you know, from outside that  
18 containment area. That's what our focus is  
19 on, and that's what regulations is going to  
20 focus on.

21 MS. RANKIN: Thank you. But we're  
22 looking at it like the Oklahoma beef case that

1       happened in, I don't know, was that 2009,  
2       Becky Brewer's herd, you know, that was beef,  
3       her 3,000 head, and it wiped out the budget.  
4       And so you're looking at a million dollars  
5       doesn't go very far with all of the TB in  
6       Michigan and Minnesota. So looking at it from  
7       a little bit different viewpoint, is that test  
8       and remove - you know, if I've got a beef  
9       herd, nobody is going to take it. I mean even  
10      if we're only pulling out the suspects or  
11      reactors, if you will, out of that. What else  
12      are we going to do with them?

13                 So I would encourage USDA to think  
14      about alternate sources of funding for those  
15      kind of situations where we may not have a lot  
16      of spread going on, but we're still going to  
17      have, you know, individual ranchers going  
18      belly-up like they have in some of those other  
19      states. Thinking about something more like  
20      what the FSA does with drought or hail  
21      insurance, or some sort of other funding  
22      mechanism that's not just a pile of USDA

1 money. Really we should also encourage the  
2 Interior, if there's been a wildlife  
3 involvement, to put money into that pot for  
4 indemnity as well.

5 So those are some other ideas that  
6 you may want to consider. Thank you.

7 MR. CARTER: Thank you.

8 Does anybody have any other ideas?

9 MR. SHEEHAN: Ike Sheehan. I just  
10 wonder about Indemnity for when you depopulate  
11 these cows. What is the purpose? You  
12 couldn't control the disease by test and  
13 slaughter?

14 DR. BARTON: Our difficulty, Ike,  
15 was that we didn't have a real place to keep  
16 those cattle quarantined, because he didn't  
17 own any private ground. Trying to sublease  
18 ground from other owners, but they heard it's  
19 under quarantine for brucellosis is not a real  
20 good selling point. So he was relying  
21 predominantly on public lands to try to find  
22 a pasture or multiple pastures that were

1 fenced properly so that we could maintain a  
2 quarantine of just that herd with no fence  
3 line contact with any other herds, and it was  
4 nearly impossible to do. Like I say, we found  
5 one small pasture that held, I think, less  
6 than 100 head and still - then as a State  
7 Animal Health Official you spend sleepless  
8 nights because you may turn out a hundred.  
9 That doesn't mean you're going to get a  
10 hundred back, and whatever is missing go and  
11 what other animals did they expose.

12 So it can work both ways. Test  
13 and remove can work. It's just there's got to  
14 be the acknowledgement that it won't work in  
15 all cases, and we need to have a back-up plan  
16 on how to deal with that.

17 I'm fully aware and fully empathic  
18 with the situation the Federal Government is  
19 in as far as the funding. It's part of the  
20 President's budget. And if it's not there,  
21 it's not there. So I guess I would concur  
22 with Jeanne that we all as Government

1 officials and as producers need to look to  
2 other means of financing a good indemnity  
3 program, whether it's talk to our Legislators  
4 or Congressional Representatives, whatever,  
5 but we need to have a funding source available  
6 for - to meet those unique circumstances.

7 MR. CARTER Okay, one of the  
8 things that the Working Group didn't discuss  
9 is, you know, about the potential use of a  
10 calculator to figure fair market value. What  
11 are some of your thoughts on the use of the  
12 calculator?

13 MS. RANKIN: Jeanne. I was  
14 thinking about that. You know, it would be a  
15 nice way of - well, I guess I've been on both  
16 sides of that. Well, not both sides. I kinda  
17 split. I've been on the Government side, you  
18 know, of having to depopulate a herd, going  
19 through the indemnity and all of that kind of  
20 process.

21 I'm sitting here as a rancher  
22 today, so what concerned me most about what

1 was said today was there was, number one, no  
2 appeal process. And then again, Montana is a  
3 big state for pure bred animals. And so  
4 looking at the easiest way to go - of course,  
5 when you look at my market or fair market  
6 value, what is the definition of fair market?  
7 People used to use that, or predominantly in  
8 the Government use that as a livestock auction  
9 fair market value.

10 My pure bred bulls, the average  
11 was \$6,000. For your bulls is that fair  
12 market value? Well, the Federal typically  
13 said, no, but it's not.

14 So looking at it, there should be  
15 some incentive then, and typically if the  
16 disease is in wildlife, the State probably  
17 doesn't have any money to offer an incentive  
18 for those pure bred. But to give a 20 percent  
19 or 25 percent added value into your calculator  
20 for registered cattle that are a proven five-  
21 year registered program or something like  
22 that, I would really be interested in seeing

1 if that could work into your calculator.

2 MR. CARTER: Okay. Others?

3 MS. JOHNSON: Kammy Johnson. I  
4 have to agree with Jeanne. I have not been on  
5 the end of identifying cattle, but recently  
6 ended up finding a sheep scrappy (phonetic)  
7 and really appreciated the calculator. And I  
8 think the producer did as well. So there was  
9 the provision for pure bred stock, and that is  
10 part of the calculator. And that was the  
11 value - that was a variable that I thought I  
12 saw missing as well when I saw the variables  
13 that you listed, recognizing that you want  
14 those parts on your model.

15 But I do think that that's been -  
16 it's made it more acceptable in the sheep  
17 scrappy (phonetic) world, and I think that  
18 something like that is important to consider.

19 MR. HOLCOMB: Paul Holcomb. What  
20 was behind the decision to add no appeal?

21 What was the thinking in that regard?

22 MR. CARTER: The process behind

1 that was to reduce the time frame of, you  
2 know, give the appraisal and then they would  
3 have come back and challenged the appraisal  
4 value. And things just kind of get dragged  
5 out for months. And, you know, in some cases,  
6 you know, a year will. And we want to try to  
7 avoid some of these prolonged negotiations, so  
8 to speak, on - if we have an affected herd, we  
9 want to deal with it right away.

10 The idea of, you know, using a  
11 calculator value without an appeal is you can  
12 provide a value, say, this is what we're  
13 willing to pay. And the producer can take it  
14 or leave it. And then from that decision you  
15 know where - what you're going to do. It's  
16 like, okay, we're going to go into a test and  
17 remove for this herd. Or, you know, they'll  
18 accept the funds when we move the herd out.  
19 The intent is to decrease that delay.

20 MR. HOLCOMB: Well, then would you  
21 expect a lot of lawsuits as a result of that?

22 MR. CARTER: Our thinking is no.

1 But it's going to depend upon, again, if we  
2 run into a high-dollar value herd, you know,  
3 they're going to have a little more to say  
4 than if we're just dealing with a commercial  
5 operation. It's going to depend. I think it  
6 may take awhile for producers to get adjusted  
7 to that new approach where, say, this is the  
8 dollar amount. We're going to go with it, you  
9 know, yea or nay.

10 It's like anything, it may take an  
11 adjustment. So we may see some in the  
12 beginning, but until they realize that, you  
13 know, hey, this is the way it's going to be  
14 done, you know. But that's why we're out here  
15 for comments.

16 DR. BARTON: Just so I can get my  
17 comment on the record.

18 And as Michael and I both  
19 mentioned, this was an area of the working  
20 group discussion that we just couldn't come to  
21 a consensus on.

22 Speaking for the State Animal

1 Health Officials that were on the call, the  
2 lack of an appeal process is a huge concern.  
3 In our State it's a statutory requirement in  
4 our State Code that there be an appeal process  
5 regarding indemnity. It's very clearly  
6 delineated. And I think a number of other  
7 States are going to find themselves in the  
8 same situation, but it's codified that there  
9 will be an appeal process for indemnity. And  
10 I doubt that our Legislature would support  
11 changing that to remove the right to appeal  
12 for producers.

13 So I think it's - I know it's a  
14 serious issue for all the State Animal Health  
15 Officials, and it certainly is from my point  
16 of view as the State Veterinary from Idaho.  
17 I think APHIS needs to hear all of our  
18 concerns and our comments regarding it.

19 MS. RANKIN: Thanks, Bill, because  
20 I think that, you know, as I'm sitting as a  
21 rancher thinking about the no appeal, and  
22 thinking about the flexibility of all these

1 frameworks, and I've heard that word thrown  
2 out now for about five years about changing  
3 the program and how that's well and good. But  
4 then if some policy changes, you know, then  
5 the person on the receiving end doesn't have  
6 time to be flexible as well.

7           So without designating an appeal  
8 process we do end up with things like we had  
9 in 2007 where, oh, you know, we had three or  
10 four different identification estimates about  
11 what this herd was worth. And I think  
12 probably in Idaho there must be something set,  
13 or I would anticipate then having an appeal  
14 process that's set. Here it is. Here is the  
15 Mediator. Here's who is on that group, and  
16 you will accept the outcome of that.

17           But also realizing that's very  
18 interesting here about the scrappy that Kammy  
19 was saying is that that would be critical  
20 then, also, with or without the appeal.  
21 Especially without the appeal to have that  
22 factor of, hey, my cattle, you may not be able

1 to pay me, you know, what they're worth when  
2 I can get them, but at least I have a  
3 significant difference from the commercial guy  
4 that's not spending anything - well, above and  
5 beyond to get those cattle there.

6 So I think that those are  
7 critical. Thank you.

8 DR. BARTON: Just one follow-up  
9 and I'll talk real loud.

10 If the calculator is developed  
11 appropriately and based on what we've  
12 discussed, all those factors, and particularly  
13 the regional component of it, my initial  
14 thinking is that appeals should probably be  
15 held to a minimum anyway, if the calculator is  
16 really a regional estimate of fair value, fair  
17 market value. I think the appeal should be  
18 held to a minimum, and thus, you know,  
19 diminish the delay in getting a herd  
20 depopulated.

21 But that being said, very rarely  
22 in my life have I ever seen a one size fits

1 all. So I think that regardless of how good  
2 the calculator may be, there still needs to be  
3 that ability to challenge it.

4 MR. CARTER: Okay. Well, I guess  
5 you brought up earlier about the high-dollar  
6 animals being, you know, potentially  
7 indemnified, especially with pure bred  
8 operations. And currently right now and with  
9 the - well, I guess with both programs there's  
10 a cap in place. What are your thoughts about  
11 a cap and dealing with the calculator?

12 DR. BARTON: But currently they're  
13 different for both diseases, right?

14 MR. CARTER: Correct, they are  
15 different for both diseases.

16 MS. RANKIN: I mean the cap is a  
17 real part of life, and we need to have that.  
18 I mean the budget is a budget. I think the  
19 ideas about going outside of agriculture, you  
20 know, it's not just an agriculture disease  
21 when we have wildlife involved. It is making  
22 sure that our Congressional people and our

1 Government officials are continuing to ask the  
2 Interior to step up to the plate. And for our  
3 State Departments of Wildlife Management to  
4 step up to the plate for those. Because those  
5 are other areas of funding. Another area of  
6 funding would be to explore, like I suggested,  
7 the Farm Service Agency has some sort of  
8 either livestock loss or drought or hail  
9 insurance. I don't know anything about how  
10 those programs are funded, but if you're in,  
11 let's say in the designated brucellosis area,  
12 you know, have some sort of insurance that  
13 they could buy additionally that would then  
14 support the difference between fair market  
15 value and my pure bred operation, or those  
16 kinds of things.

17 And I don't expect you to pay for  
18 my pure bred. You know, you're not going to  
19 be able to afford it, probably. But I do want  
20 more than the commercial guy. I think that  
21 should be, you know, something that's in the  
22 calculator.

1 DR. BARTON: And there are a lot  
2 of things that will vary. Going back to this  
3 last herd we had, this gentleman assembled his  
4 herd by buying everybody else's culls, so he  
5 got in it pretty inexpensively. Luckily for  
6 both he and for the Government side of things,  
7 slaughter values were record high when he sent  
8 those animals to slaughter. So the indemnity  
9 amount that we had to come up with, you know,  
10 they were appraised at fair market value. But  
11 after he deducted his slaughter value, the  
12 amount of money that the Government had to  
13 come up with was minimal to depopulate that  
14 herd.

15 So factors like that can play in,  
16 but as we all know, we can't rely on the  
17 market to cover deficits for us. But there's  
18 just a variety of things that can play into  
19 that whole equation.

20 MS. RANKIN: What about TB in a  
21 beef herd that's not able to be depopulated?  
22 Those animals can't go to slaughter, right, I

1 mean for food? So even if they're exposed, I  
2 mean if they're not the reactors of a suspect,  
3 that still is an infected herd. And so I don't  
4 know how the framework is going to change. To  
5 me that's where I'm the most concerned about  
6 the indemnity process, not what came as far as  
7 all the things that you guys have worked out  
8 very nicely. I appreciate your work on it,  
9 but that's of concern to me because we're not  
10 a dairy state. We're a beef state. And we  
11 have a lot of good cattle. I'm worried about  
12 those guys going belly-up. And, you know,  
13 we're losing people all the time in these  
14 rural states.

15 MR. CARTER: You know, I don't  
16 know how to - you know, I mean it's something  
17 to think about as far as, you know, how we -  
18 you know, I mean obviously any reactor we  
19 would indemnify 100 percent. And, no, it's  
20 not going to go to slaughter. The exposed  
21 typically they are sent to slaughter, and it's  
22 valued - they're inspected at the time of

1 slaughter to see if there's any lesions  
2 available. And if there's no lesions and they  
3 are, you know, approved for human consumption,  
4 so there is some slaughter value. But it  
5 still boils down to the decision of: Are you  
6 sending the entire herd or not, and just  
7 having to deal with the test and remove?

8           Obviously, a pure bred operator  
9 and a test and remove, inevitably once it's  
10 probably going to be defined as breeding  
11 stock. So, you know, it almost pushes him  
12 until he gets clean, declared clean, you know,  
13 that he's really a commercial herd until he's  
14 declared clean again.

15           MS. RANKIN: And the only worry I  
16 have is that if they run out of money. You  
17 know, because I think the system will work.  
18 It's that what do you do when we don't - we've  
19 had the cap. The cap has been realized. Now  
20 what? Do we have the opportunity to work case  
21 by case so that these guys aren't forced out  
22 of business?

1 MR. CARTER: Any other thoughts?

2 MR. SHEEHAN: Ike Sheehan again.

3 Is the State kicking in for this indemnity?

4 MR. CARTER: Right now it has the  
5 ability to do that. The only limitation is  
6 the funding that a producer receives cannot  
7 exceed 100 percent of the fair market value.  
8 So you take in whatever the Federal Government  
9 kicks in, whatever the State kicks in, and  
10 whatever smaller value, and it can only come  
11 up to 100 percent of what's been declared as  
12 fair market value.

13 MS. RANKIN: Jeanne again. I  
14 don't remember what it is in Montana. I went  
15 through this in 2007, but if the State kicked  
16 in, it was never as good as what the Federal  
17 Government could pay. So Montana's Code right  
18 now isn't - wouldn't be able to supply much  
19 money. I mean I think it's like \$25 extra or  
20 something, so it wasn't - it was \$100 more for  
21 a pure bred versus a commercial, so it was  
22 just really a token amount. So we'd rather

1 have the Federal Government paying for it.

2 MR. SHEEHAN: Where are you from,  
3 Bill? Your name is Bill?

4 MR. CARTER: Yes. I'm from  
5 Riverdale, Maryland.

6 MR. HOLCOMB: You're in Veterinary  
7 Services?

8 MR. CARTER: Yes, in Veterinary  
9 Services.

10 DR. BARTON: Anybody else want to  
11 get their two bits in on indemnity?

12 MR. CARTER: Okay. So were there  
13 any questions about the official, or the  
14 approval procedures for, you know, official  
15 tests and laboratories?

16 Currently, a lot of this stuff is  
17 in memo form and, you know, it's just kind of  
18 scattered throughout. The intent of this  
19 section will actually consolidate a lot of  
20 that to codify some of the overall structure  
21 of the approval process so that there's a  
22 central point to be able to go to, whether

1       it's a laboratory you get into the testing  
2       program, or if it's a new company that wants  
3       to do diagnostic tests, they've got a central  
4       location to go see what the requirements are.  
5       And, you know, also to make the process  
6       consistent between disease programs. Because  
7       right now there can be some variance when, you  
8       know, a company is asking for test approval,  
9       you know, some - yeah, some processes, you  
10      know, TB versus brucellosis can be a little  
11      bit quicker than others. And so we want to  
12      make them consistent between the two.

13                   MR. HOLCOMB: Mr. Sheehan ran our  
14      brucellosis laboratory here for about 30  
15      years, I'll give you that.

16                   MS. JOHNSON: Kammy Johnson. I'm  
17      really grateful to see that a consolidation  
18      process happened. As an epidemiologist, it  
19      gives me a lot of heartburn that I can't find  
20      the clinical epidemiology of how is a certain  
21      test performed when I get asked those type of  
22      things. Nor can I send back calculating - how

1 I expect those tests to perform in our herds  
2 given, you know, the problem. So I  
3 wholeheartedly support that. Thank you for  
4 finally doing that. It makes me crazy.

5 And given that, are you going to  
6 set standards or at least recommendations for  
7 the proficiency of epidemiologic aspects of  
8 these tests, how can they be performed? I  
9 bring this up because we constantly get a  
10 cross-reaction, and you mentioned that, the  
11 issues of a cross-reaction, the issue of  
12 what's from water. And these alternative  
13 tests that are not official tests, and how to  
14 interpret those.

15 So, again, I'd like to see some of  
16 that clarified as far as what are - right now  
17 it's very clear what official tests are, but  
18 making the clinical epi performance of those  
19 tests transparent would be fabulous.

20 MR. CARTER: Yeah. And I think  
21 the approach of that is the processes for the  
22 approval of the laboratories and the test

1 would be the regulations. The actual  
2 designating the test as an official test would  
3 be program standards, and that would be where  
4 the actual numerical value of what it has to  
5 achieve would be - that would be kind of the  
6 programmers type level of detail.

7 MS. RANKIN: That makes sense.

8 Within the standardization of what  
9 tests are used in the U.S. as far as which  
10 tests are primary - we've gone through this  
11 with our lab, you know, which tests are we  
12 going to use if we get a positive test, which  
13 ones are going to prove that it's negative,  
14 depending upon which specie.

15 Are those tests now what are  
16 meaning as they're finalized within this,  
17 standardized across the country, are we also  
18 going to be asking that those same tests from  
19 our import animals, as well as then asking our  
20 export countries to then accept those tests  
21 for export? So to try and get a little more  
22 standardization. We're on the Canadian border

1 so we see a little bit different requirements  
2 from them than what we're using here.

3 And so it would certainly be great  
4 if that was part of our program, I guess, to  
5 work towards utilizing that both within  
6 country and exporting and importing.

7 MR. CARTER Yes, and that would  
8 actually be the long-term goal of those to get  
9 not only national standardization, but also  
10 get some international standardization, too,  
11 as well.

12 MS. RANKIN: Because USAJ could  
13 help you with that once it's through. We've  
14 done that on the horse committee with CEN,  
15 Contagious Equine. The Tribe is trying to get  
16 Canada and us on board with the same type of  
17 tests, and so I think it's important that once  
18 we get this that the industry groups or State  
19 Veterinarian groups can take it forward. That  
20 would be great.

21 DR. BARTON: Any other comments?

22 (No response.)

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DR. BARTON: Well, we appreciate  
you guys attending and your input. Thank you.  
(Whereupon, Small Group concluded  
at 10:57 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group A1

Before: USDA

Date: 06-01-11

Place: Bozeman, Montana

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.



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Court Reporter

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

+ + + + +

Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING A-2

Indemnity and Approval Procedures

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the  
Holiday Inn Conference Room, 5 East Baxter  
Lane, Bozeman, Montana, at 11:05 a.m.

PRESENT

Dr. BILL BARTON, Department of Agriculture

MR. MICHAEL CARTER, Assistant Director, USDA,

APHIS, Veterinary Services

1 P-R-O-C-E-E-D-I-N-G-S

2 (11:05 a.m.)

3 MR. CARTER: Okay, in this group  
4 we're discussing the indemnity and approval  
5 procedures for official tests and  
6 laboratories. So I guess we'll just go ahead  
7 and get started with indemnity to start with.

8 Were there any questions you had  
9 from the presentation that you would like to  
10 get addressed first?

11 MS. LEONARD: Well, related to the  
12 presentation, some of the costs were brought  
13 up on the PowerPoint in terms of indemnity  
14 under the previous regulation. Are there  
15 estimates of - based on the new interim rule  
16 or sort of the direction that you're thinking  
17 for the current proposed rule, estimates for  
18 what future costs can be?

19 MR. CARTER: We really haven't  
20 worked out what those estimates would be. We  
21 do know that going forward VS would pretty  
22 much be capped at, you know, one million for

1 TB and 500,000 for brucellosis.

2 We know that if we stuck with  
3 strictly test and remove for every situation  
4 that we would easily be able to stay with one  
5 of those caps. And depending on which  
6 situation we run into, we do still want to  
7 have the ability to do a depop if that's the  
8 best approach. But I think, you know, going  
9 forward we will be looking at test and remove  
10 in most cases as the preferred option, unless  
11 for scientific reasons, you know, we say that  
12 we really need to get this for that.

13 DR. LISKA: I was under the  
14 impression that you had indemnity figured out.

15 MR. CARTER: The indemnity is just  
16 going from year to year. The brucellosis,  
17 typically we've always, you know, have stayed  
18 - at least in the recent history we've always  
19 stayed well. That cap, we've never had an  
20 issue with it. But, of course, we also pay a  
21 lot less under the brucellosis regs. And with  
22 the TB regs still - I think reactor to every

1 animal it's like \$250 under the brucellosis  
2 regs, and TB can go up to 3,000. So there's  
3 some discrepancies to what the brucellosis  
4 program can pay versus what the TB program can  
5 pay. So that's one of the - the number one  
6 issue is we've got to get consistent because  
7 the dollar - the dollar value of a cow is the  
8 dollar value of the cow. Whether it's TB or  
9 brucellosis, it shouldn't be different  
10 depending on what disease it picks up.

11 And so we definitely want to  
12 produce consistency, you know, between those  
13 things. Also, the other expenditures that we  
14 talked about, the agreement for making sure  
15 both programs are paid for the same thing.  
16 Right now they're not. You know, brucellosis  
17 doesn't allow for paying for transportation,  
18 TB does. You know, we run into those type of  
19 situations, so we want to have some  
20 consistency there.

21 But as far as the dollar value,  
22 brucellosis, we've always stayed under TB.

1 Because of the herds they're running into now,  
2 they're constantly running above what our  
3 annual allocation is for. And that's where a  
4 lot of the - we're looking for different  
5 approaches to figure out dollar values and  
6 which animals we buy. A lot of that has  
7 started from the TB program and, you know, we  
8 just want to be consistent for the programs,  
9 whatever changes we make in the future.

10 DR. LISKA: Well, I understand the  
11 consistency. I think the difficulty is in the  
12 calculator, if that makes sense. But  
13 calculating the price of the animal - and I  
14 don't necessarily have any suggestions on  
15 that, but I honestly with cattle prices  
16 skyrocketing, going through the roof, I don't  
17 know if looking at an average over the last  
18 three to five years of that particular  
19 producer's sales would be one way to calculate  
20 or - but I - then on the flipside of this  
21 coin, I guess I'm a strong believer that a  
22 producer should have a strong enough appeal

1 process for whatever the price is that's  
2 calculated for indemnity.

3 That's my personal opinion.

4 MR. CARTER: Okay. If we do that  
5 with the calculator, what kind of criteria do  
6 you think should be in it? What was presented  
7 was just some suggestions, one that's already  
8 been developed. But the intent is whatever  
9 USDA does go out with, there will be the  
10 ability to have the more open public comment  
11 on what goes into it. What are some of the  
12 criteria that you think should be in?

13 DR. LISKA: I think you had most  
14 of those listed really, age, breed, sex, class  
15 of animal, whether it's breeder or feeder.  
16 And then regional market prices for that  
17 particular class of animal.

18 But I think what you had in that  
19 calculator, what I saw on the introduction  
20 looked reasonable.

21 MR. THOMPSON: I'm an advocate of  
22 keeping things simple. I don't like to see

1 layer after layer after layer of things built  
2 in because it gets so complicated nobody  
3 understands it, in my thinking.

4 MS. LEONARD: Yeah, and I would  
5 say in addition to keeping it simple, also  
6 making it very clear to producers where that  
7 calculation is coming from. Not just like,  
8 oh, our calculator came up with this. But,  
9 you know, working with producers to make sure  
10 you're getting all the information from them  
11 about all the factors you put in your  
12 calculator. I would say both ahead of time  
13 and being very clear with the calculator  
14 before it's implemented, and then also on a  
15 case-by-case basis for any producer that ends  
16 up being in a situation where they need to use  
17 it.

18 MR. CARTER: Okay. And you  
19 mentioned, you know, the ideal, you know,  
20 meaning the appeal. What about cap for dollar  
21 value on an animal? The TB program, I think,  
22 for a dairy animal is something like 3,000 and

1 less for feed. But what about, you know, an  
2 overall dollar value?

3 MR. THOMPSON: You know, livestock  
4 prices vary so much it's a hard thing to place  
5 a cap on it. If it could be some sort of a  
6 floating number, again related to the market  
7 average regionally or nationally or however  
8 you want to look at it.

9 DR. LISKA: I guess thinking about  
10 it a little bit more, regional is difficulty,  
11 especially in the area we're in here now. To  
12 say that a regional price is the end all, be  
13 all of what you're going to get for - I mean  
14 the reimbursement or the indemnity for an  
15 animal that is sold that you find positive in  
16 Livingston, for example, but what the price is  
17 going to be for that particular animal at Hays  
18 or BLS. Is that an absolute? It's difficult  
19 to say because those animals could be shipped  
20 to Omaha.

21 And so to say that - I mean it's  
22 not really reasonable with fuel prices now,

1 but nonetheless I think that it's difficult to  
2 say that we have to go with the regional  
3 price. It seems to me that you could almost  
4 set the market somewhere in the United States  
5 and go on from that. But a cap, I guess I'm  
6 not a - and, like I say, that the Federal  
7 Government was losing money, and they are.  
8 They're bleeding really. But to put a cap on  
9 beef prices or on an animal's price right now  
10 I think it would be pretty difficult.

11 MS. LEONARD: Just in terms of a  
12 regional price, I think one concern that I've  
13 heard among producers particularly within the  
14 DSA, or I think they may call them the DSA  
15 that their sale prices may be depressed  
16 anyway. Just because they have that label on  
17 them as coming from the DSA, so I think if -  
18 a regional price index they become an option,  
19 then that has to be something taken into  
20 consideration just in terms of looking at a  
21 broad enough region that you're not just  
22 looking at an area that may be affected one

1 way or the other just by virtue of having the  
2 regulation.

3 MR. CARTER: What are your  
4 thoughts about looking for outside sources for  
5 indemnity, say State or industry? What are  
6 some of your thoughts on that?

7 MR. THOMPSON: The State of  
8 Montana does have indemnity. I don't believe  
9 there's any money in the indemnity fund. I  
10 believe not in the Code. And it's difficult.  
11 I mean every State is strapped, and ours as  
12 well, but - and the Federal Government is  
13 strapped.

14 I agree that in a lot of cases if  
15 we do have to depopulate a herd, just paying  
16 for individual animals, either way in a lot of  
17 ways is - it helps the entire States and  
18 country. So not, not to say that other  
19 producers within the State should necessarily  
20 buck up periodically and spend a little bit of  
21 that money to help - and I look at it as a  
22 help. I mean, depopulation can be a help to

1       some producers. And so, if necessary, it's  
2       just where is that money going to come from?  
3       And should the rest of the State - other  
4       producers, I think, in a lot of ways are  
5       benefiting from in particular the Montana, our  
6       surveillance area. I think that they're  
7       benefiting from it. And I guess I  
8       additionally believe that the BSA producers  
9       are benefiting from it. They look at it as a  
10      negative, but I disagree.

11                So should the producers throughout  
12      the State have to put in a little bit of  
13      money? I guess I'm not completely against  
14      that. But I think that producers across the  
15      country should have some financial input as  
16      well. I mean I think if we're looking at  
17      trying to say that the United States is  
18      brucellosis free, except for the GYA, they're  
19      benefiting. And they're here to benefit with  
20      open markets worldwide.

21                So one producer, a couple  
22      producers here and there and the GYA, should

1 the rest of the country buck up and spend some  
2 money to help them out and depopulate a herd?  
3 I think they should.

4 MR. THOMPSON: I just thought  
5 maybe check-off dollars, a certain amount of  
6 these check-off money might get pulled in that  
7 direction.

8 The other thing is now it used to  
9 be that the Feds, if the State pointed at part  
10 of the indemnity, they would reduce theirs.  
11 Is that still -

12 MR. CARTER Yes. Yeah, we're -  
13 the way the regulations are put in place that  
14 we can only - the producer can only receive  
15 100 percent of the fair market value. So if  
16 the State contributes, then we would reduce  
17 the Federal share by whatever they contribute.

18 The same way with the slaughter  
19 value. If they're getting the slaughter value  
20 it will be reduced by that amount as well.

21 DR. BARTON: You know, the funding  
22 issue is one we've just got to continue to

1 look for new alternatives because it's very  
2 evident the Federal pot is not going to be  
3 what it was. The States don't have it. And  
4 just as I told the last group, in our last  
5 affected herd the challenges that that herd  
6 presented because the owner didn't own any  
7 Federal land and relied totally on public  
8 grazing, we really wanted to depopulate that  
9 herd. It was just management of that herd  
10 literally. It was extremely simplified by  
11 percent of depopulation.

12 But the only way we could get  
13 funds to depopulate a portion of that herd was  
14 if the State kicked in. So we were able to  
15 come up with a little bit of money to assist,  
16 and the Feds kicked in, too.

17 The upside is the starter values  
18 for that herd were back at the early peak of  
19 slaughter. So the producer got a lot more  
20 than he paid for the cows. And so the amount  
21 of indemnity that the State and Feds kicked in  
22 was really minimal.

1                   But we've got to pursue other  
2 options, whether it's through Legislative  
3 action, industry groups, producer groups. We  
4 even discussed in the working group Lloyd's of  
5 London, insurance-type policies. I think  
6 we've got to really broaden our horizons and  
7 look for other sources of funding because  
8 indemnity needs to be available for those  
9 circumstances where it really is the prudent  
10 choice.

11                   Like in our last case we could not  
12 find pasture that we were comfortable  
13 quarantining for that guy to go out. So the  
14 option is to let him depopulate on his own and  
15 go out of business basically, or to find a way  
16 to assist him and keep him in business.  
17 That's certainly our charge as a State  
18 industry is to keep the business going. We've  
19 just got to turn over every rock looking for  
20 funding.

21                   MR. CARTER: Any other thoughts on  
22 funding?

1 DR. LISKA: And this goes more  
2 toward surveillance, but my feeling on  
3 surveillance and indemnity would be rather to  
4 use indemnity as a benefit to a producer or a  
5 carrot to go for. If you find a positive  
6 animal, you get money.

7 Where you get subtracted on the  
8 amount of money that you get is if you did  
9 nothing to prevent the infection. If you herd  
10 an elk herd and you did not vaccinate your  
11 cattle and you knew those elk were positive -  
12 well, either way. If you're in an area where  
13 there's positive wildlife and you're herding  
14 them into your cattle, you're not doing  
15 anything to prevent it, you get reduced in the  
16 amount of money that you get.

17 I realize that could go into a  
18 calculator and maybe in a negative way, but it  
19 - I would rather see funding go towards  
20 finding an animal. It's a benefit to find  
21 them rather than a negative to find them.  
22 Like we've been using indemnity as a negative

1       rather than a positive.  But it's a different  
2       way of looking at things, and I don't know if  
3       it would work or not.

4                 DR. BARTON:  And we did discuss  
5       some of that in the working group, basic  
6       indemnity.  And it's on producer by security  
7       measures, risk mitigation measures, all those  
8       things.  There's some difficulties associated  
9       with that, too, but that was certainly  
10      discussed.  And I do - that's a unique  
11      perspective.

12                MS. LEONARD:  I think sort of  
13      along the lines of surveillance, I know there  
14      has been some funding available, at least at  
15      the State level for testing, which is then -  
16      because obviously, you know, that takes the  
17      burden of the cost of testing off the producer  
18      and they're more likely to find those animals  
19      and be more active about managing their herd.

20                But the last I heard some of that  
21      funding was up in the air.  Is that money  
22      still available, at least in Montana?  I'm

1       sure it's different in Idaho.

2                   DR, LISKA:  The funding is still  
3       available for testing.  I think that the  
4       unfortunate part for Montana's DSA is simply  
5       that producers look at it as a negative, the  
6       testing as such a negative, versus saying  
7       funding is available, let's test every animal  
8       we have as frequently as we possibly can, and  
9       we can use that to market our cattle saying  
10      look at us, we're negative.

11                  MS. LEONARD:  Right.

12                  DR. LISKA:  We have tested  
13      everything.  We've tested over and over and  
14      over.  We've got funding to get reimbursed in  
15      some form.  We've got ranches outside of our  
16      surveillance area that are testing and paying  
17      for it and using that for marketing.

18                  I would love to see some of our  
19      producers take that money and use it for  
20      marketing as well.  And then they get  
21      reimbursed for the testing versus having to  
22      pay for it out of their pocket.

1                   Nonetheless, I'd like - it's just  
2                   a way of looking at things. And I'd rather  
3                   they looked at it as a benefit. But the main  
4                   thing here is the disease is out there, and  
5                   we've got to go after that and not necessarily  
6                   put everything on the producer as far as  
7                   preventing it. If you didn't prevent it, then  
8                   you're a bad person. The problem is the  
9                   disease is out there, and it's not their  
10                  fault.

11                  So personally I'd love to see  
12                  money taken away from the Department of  
13                  Interior and the Park Service and apply it  
14                  towards indemnity and - I'm going off on a  
15                  tangent. I could go off on a tangent, but  
16                  I'll stop it there.

17                  Anyway, I would like to see that  
18                  money - I think if we touched on or went after  
19                  their pocketbook it's possible. And I realize  
20                  two completely different agencies and it's  
21                  difficult to do, but if we threatened the  
22                  Department of the Interior or the Park

1 Service's pocketbook - and by threaten I mean  
2 that in a good way, not black helicopters  
3 coming up in the sky after them - but they may  
4 look differently on it than what the issue is.

5           And there's a lot of issues, I  
6 understand, but bison numbers, bison zero  
7 prevalence, brucellosis zero presence in the  
8 bison are all things that I think the Park  
9 Service and Department of the Interior could  
10 go after and look at - rather than sitting  
11 here and talking about calculations on how to  
12 discount the producer for a positive animal,  
13 I would rather look at how can we predict on  
14 the other side of that those animals affecting  
15 their livestock?

16           MS. LEONARD: I would just add. I  
17 sort of feel compelled to just - I understand  
18 what you're saying, but I also would say that  
19 even if we totally eradicated brucellosis in  
20 all the bison, which is what you were mostly  
21 referring to, it sounded like, so elk and -  
22 across a wider geographic area, I think that

1 to me is the tougher problem. It seems from  
2 most of the recent evidence that the recent  
3 cases of infection of cattle have come from  
4 elk. So I think, yeah, I just wanted to add  
5 that I think dealing only with the Park  
6 Service level and looking at animals in a  
7 really tight area around Yellowstone wouldn't  
8 solve the whole problem.

9 MR. CARTER: Anything else on  
10 indemnity?

11 MS. LEONARD: One small thing to  
12 add. Dr. Liska mentioned that using testing -  
13 as a producer being able to use that as a  
14 positive and a way to market their cattle, I  
15 think we've seen in Wyoming that can be  
16 successful.

17 You know, I've spoken to producers  
18 in Wyoming who said even when their State lost  
19 its class-free status, even I suppose  
20 producers who were the ones who had to  
21 depopulate, and they said that they didn't  
22 feel like it ended up damaging the State

1 because the producers were able to say then:  
2 We're from the State where we have to be  
3 testing our cattle regularly. There's no way  
4 we're selling you a cow - there's no way it  
5 could have brucellosis.

6 So just the positive example for  
7 that has worked. And I agree that helping to  
8 - helping producers understand that there  
9 could be benefits, particularly that could be  
10 facilitated with the new rules, both in terms  
11 of surveillance and indemnity, could be a way  
12 to help them look for and be able to take  
13 advantage of some of those opportunities.

14 DR. LISKA: Has there been any -  
15 as far as insurance, has anybody looked into  
16 insurance on indemnity or?

17 DR. BARTON: Not to my knowledge.  
18 It was just a topic that was brought up in the  
19 working group when we struggled with  
20 indemnity, and we truly struggled with  
21 indemnity. It was probably the one element  
22 that we spent the most time talking on and

1 could not come to a consensus. But it was one  
2 of the ideas that was brought up.

3 I think, I think the local  
4 associations in the Greater Yellowstone Area  
5 that are most at risk for wildlife to  
6 livestock transmission really could do  
7 themselves a great service by pursuing  
8 something like that on an association level.  
9 It's going to be - I don't know if it can be  
10 done on the State or Federal level. I don't  
11 know if we're insurable for the Government  
12 folk, so - but I think it's an option that  
13 ought to be pursued, as well as anything else  
14 anybody else can come up with.

15 We can't do this, turn our backs  
16 on indemnity when a depopulation is the  
17 approval course. We've got to have it  
18 available.

19 MR. CARTER: Okay. I guess we'll  
20 go ahead and move on to the approval  
21 procedures, the official tests and  
22 laboratories. Was there any questions you

1 guys had for that section?

2 Most of that is already online in  
3 the CFR. Do you have an argument with that?

4 DR. BARTON: I think the important  
5 thing is that as we develop this new  
6 regulation that the flexibility is there, so  
7 if there's a silver bullet test that comes on  
8 the horizon all of a sudden, it could be  
9 implemented as quickly as possible and  
10 utilized as an official test. I see that as  
11 one of the key features independent of the  
12 rule.

13 MR. THOMPSON: I guess consistency  
14 is working that way, consistency from the  
15 States on what they're testing as far as  
16 brucellosis now. It would help matters, too,  
17 if we're all doing the same thing and  
18 detecting at the same level. We certainly all  
19 have - I'm a DV from Montana, so we certainly  
20 all have our favorite tests, but let a few  
21 things go. And then also TB testing, what a -  
22 fix that, will you?

1 MR. CARTER: Agreed.

2 DR. BARTON: Even the  
3 standardization among - when we got this  
4 discussion before, the standardization on the  
5 wildlife side, so we can truly report zero  
6 prevalence in elk to our trading partners  
7 today because they're very concerned about  
8 that. And, you know, western law versus non-  
9 western law, all of those issues need to be  
10 standardized so - so that the GYA stage of  
11 reporting is consistent so it will probably  
12 trace to these other states.

13 DR. LISKA: So you're addressing  
14 the consistency in testing from wildlife, or  
15 are we talking about captive cervids only?

16 DR. BARTON: No. I'm talking  
17 about wildlife, because I think - I think, you  
18 know, my discussions with other State  
19 Veterinarians is: Okay, I know what you're  
20 doing on the cattle side. What are you doing  
21 in wildlife?

22 And my only standby answer that I

1 had no authority over wildlife doesn't cut it  
2 anymore with those guys. They still want to  
3 know.

4 So we've really engaged our  
5 Department of Fish and Game like you guys have  
6 your Fish, Wildlife and Parks, or whatever you  
7 call it, to do more surveillance in the wild  
8 elk populations. And they're increasing their  
9 numbers all the time.

10 What I want to be able to do is  
11 know that the numbers - the zero prevalence  
12 that we're reporting in Idaho is based on the  
13 same testing that's done in Montana and  
14 Wyoming so that our zero prevalence isn't  
15 really that much - I mean the number may be  
16 different, but the results are consistent  
17 among those States. Because that, that will  
18 really satisfy those trading partner states as  
19 to, you know, letting them know that we're  
20 doing everything on both sides of the  
21 equation, wildlife and livestock, to mitigate  
22 the risk of sending them any infected cattle.

1                   So I think the standardization in  
2                   testing and reporting is a key part of that.  
3                   Do you see what I'm saying?

4                   DR. LISKA: I know exactly what  
5                   you're saying, and you're breaching an  
6                   acquired (inaudible). But I think -

7                   DR. BARTON: That's the only choir  
8                   I've got right now.

9                   DR. LISKA: I think the big thing  
10                  for me, or my question really was, well, we  
11                  use brucellosis rules. Will they address the  
12                  wildlife testing? Whereas before I think they  
13                  simply addressed the captive cervids. And  
14                  that, I think, was a big rub, at lest with our  
15                  FWP was that, yeah, well, the MNR says that  
16                  this is the testing protocol for captive  
17                  cervid. We're not going to use it. They're  
18                  not captive, so they can't be the same.

19                  DR. BARTON: I don't know that  
20                  this rule can address the wildlife, can it?

21                  MR. CARTER: Yeah, I don't - I  
22                  don't think it can, other than within the role

1 if we say we're going to bring them to the  
2 table to discuss. But I don't think because  
3 it would be a wildlife species, I don't think  
4 we can dictate use of the best tests. I mean  
5 I think our best approach is, you know, to  
6 work with them to kind of work and standardize  
7 tests, and use - what we use on captive  
8 cervids is what they, you know, would prefer  
9 to use in the wildlife species as well. And  
10 I think that's the best approach.

11 DR. LISKA: I guess I would agree  
12 on TB, as well as brucellosis, that we've got  
13 to have some recommendation and here's our  
14 backup on our recommendation on what test we  
15 should use. And I realize they've got a fence  
16 around them, so I guess you guys decide what  
17 you want to decide, but these are - these are  
18 recommendations on testing protocols and  
19 procedures for cervids, for whitetail,  
20 whatever, but that you have a recommendation  
21 and be able to back it up.

22 I think that's just simply going

1 to have to be an agreement between State  
2 Veterinarians and between States because  
3 obviously the consistency in testing and  
4 looking at zero prevalence between States is  
5 important for all of us, at least in the GYA  
6 for brucellosis.

7 MS. LEONARD: I'd say on the  
8 wildlife side that also long-term maybe pie in  
9 the sky, but it would also be better testing.  
10 They could distinguish between zero prevalence  
11 and most animals that are actually infected,  
12 because I think that that would give a more  
13 realistic picture of what the risk actually is  
14 and would allow, I think, for management  
15 procedures to sort of take that into account  
16 in terms of the realistic risk of transmission  
17 and not just zero prevalence rates.

18 I'm just throwing that out there.  
19 I understand that obviously we're not at that  
20 point yet, so we work with the best  
21 information we have.

22 MR. CARTER: Anything else?

1                   MR. THOMPSON: Well, I guess this  
2                   is kind of an example where just because the  
3                   DSA involves three States, all three States  
4                   really need to work together. As you're  
5                   saying, be consistent on those standards and  
6                   maybe - maybe not nationwide, but certainly  
7                   the idea probably needs to happen with our  
8                   three States, that we need to be talking the  
9                   same talk on laboratory testing because there  
10                  are many options available. And some of those  
11                  options are highly subjective, I guess I would  
12                  say. So to make policy on those kinds of  
13                  things is tough.

14                 MR. CARTER: Any more questions,  
15                 comments?

16                 DR. LISKA: Have you guys looked  
17                 at western blight at all, just out of  
18                 curiosity?

19                 MR. CARTER: Not within the  
20                 working group.

21                 DR. LISKA: We need a good way to  
22                 differentiate yersinia.

1 DR. BARTON: Is yersinia real, or  
2 is Bigfoot? I mean has anybody actually -

3 MR. CARTER: Do you really want to  
4 go on the record with that?

5 DR. BARTON: That was Eric Liska  
6 asking that question.

7 DR. LISKA: I realize it's - I  
8 realize it's real, but actually finding it in  
9 these animals has been next to impossible to  
10 impossible. And then you run a zero  
11 prevalence or pursue it on elk in the northern  
12 Bitterroot and you find absolutely no zero  
13 prevalence, so therefore they must not have  
14 any yersinia either.

15 So, you know, those are a couple  
16 other questions. I know it's very complicated  
17 and not really the scope of this particular  
18 talk, but nonetheless.

19 DR. BARTON: So it would be nice  
20 to put it to rest one way or the other.

21 MS. BARNES: You can continue  
22 talking for a few more minutes if you want, or

1 break for lunch and then come back and meet in  
2 the big room and decide - and then do our  
3 third round. Okay.

4 MR. CARTER: So are there any other  
5 questions, comments?

6 DR. BARTON: Thanks for your  
7 input.

8 MR. CARTER: Yes, thanks very  
9 much, all good comments.

10 (Whereupon, Small Group A2  
11 adjourned at 11:40 a.m.)  
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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group A2

Before: USDA

Date: 06-01-11

Place: Bozeman, Montana

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.



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Court Reporter

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

+ + + + +

Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING A-3

Indemnity and Approval Procedures

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the Holiday Inn  
Conference Room, 5 East Baxter Lane, Bozeman,  
Montana, at 1:25 a.m.

PRESENT

Dr. BILL BARTON, Department of Agriculture

MR. MICHAEL CARTER, Assistant Director, USDA,

APHIS, Veterinary Services

1 P-R-O-C-E-E-D-I-N-G-S

2 (1:25 a.m.)

3 MR. CARTER: We will go ahead and  
4 get started. This group is for the discussion  
5 of the indemnity element and the approval  
6 procedures for official tests and  
7 laboratories.

8 You know, when you have a question  
9 or comment we will be passing the mike around  
10 just so we will be picked up and recorded, so  
11 bear with that.

12 But I guess to start off, you  
13 know, with indemnity, was there any - did  
14 anybody have any questions for the  
15 presentation? We kind of shot through a lot  
16 of that this morning.

17 DR. ZALUSKI: Yes. Is there - now  
18 there's a different approach. Currently, I  
19 think there's a different approach for  
20 indemnifying brucellosis versus TB herds. As  
21 far as source of funds and the amount of money  
22 that's being provided, is that going to be -

1 is there uniformity there? How is that  
2 approached? That's one.

3 And then the second question would  
4 be regarding the appeal process for indemnity.  
5 I wanted to get a little bit of background on  
6 that and why an appeal process would not be  
7 part of the indemnity calculation since, you  
8 know, once in awhile new information comes to  
9 light, and I figured you might want to have -  
10 provide that then through a second outlet.

11 MR. CARTER: Okay. First, the  
12 funding streams for TB versus brucellosis.  
13 Looking ahead there will still be two separate  
14 programs. So at this point I am under the  
15 impression that it may still be two separate  
16 funding streams, you know, one for brucellosis  
17 and one for TB.

18 Now, VS is looking at potentially  
19 going with a cattle health line as opposed to  
20 the TB line, and I know the brucellosis line.  
21 So with that there may be the possibility of,  
22 you know, pulling it into a single indemnity

1 fund.

2 I really don't - VS hasn't  
3 discussed a lot as to how that would that kind  
4 of aspect would work. But right now I'm under  
5 the impression that they would still remain  
6 separate, you know, line items at this point  
7 funding.

8 And then your second question was  
9 the appeal process. And you're looking for  
10 VS's dealing with it or?

11 DR. ZALUSKI: Yeah, what's the  
12 rationale and kinda how is that?

13 MR. CATER: And it really boils  
14 down to VS is really interested in trying to  
15 speed up the entire appeal process from, you  
16 know, we have identified the herd. You  
17 appraise it and then get it off the property  
18 if you're doing, you know, the whole herd  
19 depop.

20 They really want to shorten that  
21 time frame down as much as possible. Right  
22 now that average is about 60 days for that

1 process to go on. And the feeling is with the  
2 appraisal - well, just using the calculator  
3 without an appraisal, that would, you know,  
4 shorten that time frame down. Basically,  
5 you're going to a producer saying this is what  
6 we think we are able to offer. And then you  
7 can get a - supposedly get a yes or no answer  
8 pretty quick and then you can move on rather  
9 than, you know, going through a potentially  
10 extended, you know, appeal process.

11 Now, having said that, you know,  
12 this is VS's proposal that's out on the table.  
13 We are - you know, we want feedback as to  
14 whether people think that's going to work.  
15 It's - thing that's been presented at this  
16 meeting is set in stone at this point, so it's  
17 - this is our route here. Before we start  
18 writing regulations we kind of get a feel of  
19 how people, you know, are reacting to a lot of  
20 this.

21 DR. ZALUSKI: Let me just follow  
22 up real quickly.

1                   So as it stands, APHIS would have  
2                   an offer for the livestock that are to be  
3                   indemnified? And at that point, take it or  
4                   leave it, right? Or is it you must depopulate  
5                   and this is the money that you're going to  
6                   get?

7                   And both those circumstances then,  
8                   I think, are under - the appeal process takes  
9                   on a different significance under each of  
10                  those processes.

11                  MR. CARTER: As it's written right  
12                  now it's kind of - as far as trying to keep,  
13                  you know, the diagnostic animals separate from  
14                  the herd depops is kind of - the offer is kind  
15                  of a take it or leave it type thing.

16                  Now, if they choose not to accept  
17                  the offer, then that decides whether, you  
18                  know, if we're talking about, you know,  
19                  dealing with a herd situation, you know, if  
20                  they don't take the depop or offer, then it  
21                  means they're going to a test and remove, or  
22                  that would be the only thing that would be

1 allowed. We would still pay indemnity on  
2 individual animals under test and renew.  
3 We're just not - you know, if they just don't  
4 accept the value for the entire herd, they cut  
5 it, then that's the option that it leaves.

6           You know, for one of the  
7 individual animals, you know, if they don't  
8 accept the value on a diagnostic animal, let's  
9 say, then that animal basically, if they don't  
10 accept it, is quarantined to that herd, and  
11 they have to deal with the consequences.

12           But we hope, at least with the  
13 individual diagnostic animals, they'd just be  
14 happy to get rid of those so that they're not  
15 tied up with that, and see what's going on.

16           MS. MOSLEY: My name is Tracy  
17 Mosley. I have a question, I guess, about the  
18 calculator.

19           In your slides this morning you  
20 mentioned that the price would be based on a  
21 slaughter cow value, which these animals are  
22 obviously worth more than that. I mean,

1 unless they're dry cows that are found to be  
2 zero positive, these are reproductive animals  
3 that have a life expectancy beyond that year.

4 And so I guess I would encourage  
5 any that you get stakeholder input in coming  
6 up with this calculator, which I see in the  
7 framework, but also to not just take age,  
8 weight, milk production, et cetera, into  
9 account, but actually look at the market value  
10 for cow-calf pairs at the time, or red heifers  
11 or things like that, and not just slaughter  
12 cows.

13 MR. WAITE: Mike Waite. And along  
14 that line, I have a concern with how they  
15 redid the calculator based on the seed stock  
16 or a registered animal, and how that will be  
17 calculated into the calculator, or even if it  
18 will be. So I don't know if they answered all  
19 of what that issue is, but that piece of  
20 literature should be considered, too.

21 MR. CARTER: Yes. Thank you. And  
22 my understanding it will be. All of that

1       stuff is - you know, will be taken into  
2       consideration. And it will be, when they  
3       develop the actual calculator that will be  
4       used, it will be able to be available for a  
5       comment as far as the inputs that go into it,  
6       you know, when we get to that point.

7               And one of the things, as we've  
8       discussed it, you know, the use of a  
9       calculator is you can go ahead - you'll never  
10      get to a perfect, you know, calculator no  
11      matter how many variables you put in. And at  
12      some point you've got to say enough is enough.  
13      The more variables you add in, the more  
14      complex it can get.

15              But there are key things that, you  
16      know, I that really should be brought into it.  
17      Like the production, you know, age of the  
18      animal as far as how many, you know,  
19      production cycles will be left, you know, for  
20      that animal, those type of things. And so,  
21      you know, my understanding is those things  
22      will be taken into account. But again, I'm

1 not an economist, and this is going to be  
2 something that's going to be flung out there  
3 for public comment and, you know, to review.

4 DR. ZALUSKI: Some follow-up on  
5 that question. So will the producer's  
6 previous - would the producers' records for  
7 what they received for their animals in  
8 previous years be part of the calculator, or  
9 will it be an average seed stock production  
10 animal?

11 I mean, so obviously because there  
12 are huge differences in those kind of costs,  
13 and those are very representative and very  
14 defensible. And so if there's no appeal  
15 process, certainly that will be something that  
16 - I would request that it would be in there,  
17 but also do you have an idea of whether it  
18 would be in there or not?

19 MR. CARTER: Yeah. I don't know,  
20 but getting that on the record, you know, so  
21 it will be considered, you know, that's what  
22 we're here for. You have things like that,

1 that will bring them up.

2 MR. CLARKE: It seems like as  
3 simple again if you have enough factors going  
4 into this calculator, you're getting to an  
5 appraisal basically.

6 For instance, like if one of the  
7 factors was pure bred Angus heifers sold in  
8 the springing central Montana, you know, and  
9 you put that in as cat gut, you know, that  
10 basically is an appraisal. That's how the  
11 appraise5r does the calculations.

12 So I can see where Mike is saying  
13 that at some point, if you're going to have a  
14 national calculator, even broken out into  
15 regions, you're going to have to stop at some  
16 point, otherwise you're -- we might as well  
17 just stick with an appraisal.

18 MR. CARTER: Yes?

19 MS. CREMER: If I can, I'd like to  
20 go back to what was said first about the  
21 indemnity payments themselves, and kind of  
22 similarly to what was said. I do just have a

1 question about how those payments will be  
2 assigned, if there have been any thought to  
3 that.

4 The only reason I'm asking is  
5 because, you know, it was talked about in the  
6 presentation and then here, too, how those  
7 payments are contingent all on the  
8 availability of Federal funding.

9 So is there going to be - is it  
10 going to be just strictly a first come, first  
11 serve basis on, I would say, claims for those  
12 payments from producers, or is there going to  
13 be some other process with - or method used to  
14 decide, you know, if it's - for example, if it  
15 was a producer who is in a high-risk zone and  
16 has an infected herd or an infected animal, do  
17 they get preference on receiving payments  
18 because there's more likelihood that they will  
19 receive it versus, you know, a one-time  
20 isolated incidence? I'm just curious as to  
21 what's been discussed there.

22 MR. CARTER: Okay, yeah. And what

1 we have discussed with that is obviously  
2 anything - the individual animals that we're  
3 purchasing, those receive top priorities  
4 because those are the ones that we think are  
5 at the highest risk for having the disease,  
6 those reactor animals. So we always, you  
7 know, we look to find funding to remove the  
8 individual animals.

9           When we get to the situation where  
10 we're talking about depops, that is going to -  
11 we hate to call it a first come, first serve  
12 basis, but obviously we're not going to wait  
13 until the end of the year to see how many  
14 herds have popped up and make a decision on  
15 which herd to buy now. So as we go throughout  
16 the year, we're going to be making a decision  
17 on whether this herd - you know, the best  
18 decision is the depop or just to do a test and  
19 remove on it as we do throughout the year.

20           And so in some case that may be  
21 that it's just bad luck on the producer that  
22 pops up with an affected herd, at the end of

1 the year, we're out of funds and they're just  
2 stuck with a test and remove, you know, for  
3 that time period, or having to wait until the  
4 next year depending on how that goes.

5 In other cases, you know, doing it  
6 that way, you know, you may end up at the end  
7 of the year with just, you know, some  
8 indemnity funds left over. There's no way to  
9 predict how many herds will actually have the  
10 depop throughout the year.

11 We can come pretty good - we have  
12 pretty good numbers as far as how many  
13 individual animals that, you know, we've  
14 purchased for either diagnostics or do test  
15 and remove, so that number we have a pretty  
16 good way of predicting the funds that we need  
17 for it. But as far as the herd depops, you  
18 know, there's so many factors that impact it  
19 greatly, herd size, quality of the animals,  
20 those type of things, that we really just  
21 can't tell. It will - a lot of it will be  
22 based on making the determination whether it's

1 a herd that we really should be depopping, or  
2 whether we can mitigate the risks through just  
3 test and remove.

4 MR. BAILEY: And the herd  
5 depopping, where does it - Marty, somebody.  
6 Where does it come to the point where it is  
7 safe, enough is enough or whatever? I mean and  
8 the brucellosis side of it, which is more what  
9 I'm in. If you - a cow gets caught and she  
10 comes up positive and you come in and tell us,  
11 and you pick up another one or two or  
12 something. Then the next time you do it you  
13 pick up another one. How far down the road  
14 can you get before you're told to depop, and  
15 at that point - or asked to depop, however you  
16 want to state it. You're probably told to  
17 depop. And at that point you're indicating  
18 that there may or may not be funding, which is  
19 understandable. I understand that. I don't  
20 agree with it, but I understand it.

21 So maybe - I don't know who would  
22 like to answer that question, but when does it

1       come to that point? How far down the road do  
2       you got to get before you come to that point?

3               And then after that question is  
4       answered, then I'll probably have another one,  
5       or a comment anyway.

6               MR. CARTER: Do you want to  
7       comment?

8               DR. BARTON: Well, just my  
9       observation. And let me preface this by  
10       saying that of all the eight elements, we were  
11       able to reach agreement on a lot of them, this  
12       was the one element that the working group  
13       could not come to a consensus on. And it's  
14       the one element that we discussed more than  
15       any other element through the whole process,  
16       and still we couldn't come to a consensus on  
17       it for a variety of reasons.

18               But just my observation, and this  
19       is APHIS's proposal for indemnity, so if I'm  
20       speaking out of turn, Michael, be sure and  
21       correct me.

22               I would assume that if you

1 continue to find the reactors and that there  
2 was no money to depopulate the entire herd  
3 that nobody could force you to depopulate that  
4 herd and not be compensated for it.

5 I know under State law in Idaho  
6 that couldn't happen. And I would imagine  
7 other State laws are similar, maybe have them  
8 on the books.

9 If we require depopulation, it's  
10 in our State statute that you will be  
11 indemnified. And it specifies clearly the  
12 appraisal process, as well as the appeal  
13 process.

14 So I - what do you think, Michael?  
15 Would APHIS require them to depopulate and not  
16 provide any indemnity?

17 MR. CARTER: No. We wouldn't be  
18 able to do that because it would - at that  
19 point it would be considered a taking.

20 DR. BARTON: Right. Yeah.

21 MR. BAILEY: But the State then  
22 could be cooperative?

1 DR. BARTON: The State could,  
2 yeah. The States, as you know, Jay, are faced  
3 with the same issues, funding wise.

4 MR. BAILEY: Right. And I realize  
5 that, but that's what I'm trying, I guess, to  
6 get out - or get figured out in my mind is,  
7 you know, that there should only be so long  
8 down the road that a producer - I mean, if you  
9 start testing - Marty and I have had this  
10 conversation before - and the test keeps going  
11 on and on, and you keep popping up one or  
12 whatever, it comes to a point where, you know,  
13 that herd needs to be gone. Whether it be my  
14 herd - and I'll just use me. Domestic cows  
15 aren't any different than wildlife, as far as  
16 I'm concerned. If you've got positive ones  
17 they need to be gone. You want to have a  
18 clean herd, not a dirty herd.

19 But if there's no money, what  
20 happens? I'm gone? As a producer I'm gone?  
21 Because if there's no money to - the factor is  
22 gone, yeah. What do we need to do to address

1 that? Okay, just what do we need to do to  
2 address that part of it?

3 And you've got one question after  
4 this. It's not APHIS's deal because you're  
5 not going to say to depopulate so did the -  
6 but APHIS still rules over the top of State of  
7 Montana, so I guess now it's in Marty's hands.

8 DR. ZALUSKI: Yeah. And this is  
9 right before I started in this position, but  
10 I do believe that the rural livestock does  
11 have the authority to ask or to depopulate  
12 herds.

13 Keeping that in mind, I think that  
14 era, to a large degree, is gone. At this  
15 point almost all of, I think all of the  
16 depopulations that have taken place since this  
17 - for some time now have been at the  
18 producer's request. And so I don't foresee a  
19 situation at this point where the State of  
20 Montana would, would require that a herd be  
21 depopulated and then only offer the indemnity  
22 that's in our Montana Code, which is very,

1 very small.

2 The bottom line is typically it's  
3 the other situation that you've said, which  
4 you find reactors, you keep finding suspects,  
5 then that producer says I want to be done with  
6 this. Let's turn over a new leaf. And then  
7 at that point it's the availability of that  
8 money that comes into play.

9 So I just want to say I don't see,  
10 foresee a situation where you would be forced  
11 to depopulate and provided a \$25 or \$50  
12 indemnity, which is what I think the Montana  
13 Code has. It would be the other way around.  
14 It would be you would want to depopulate, and  
15 then their ability to have funds.

16 MR. BAILEY: So if I would ask to  
17 be depopulated, then there is funds that -

18 DR. ZALUSKI: Not necessarily,  
19 yeah.

20 MR. BAILEY: Yeah.

21 MR. CARTER: Yeah, the funding is  
22 going to be dependent year by year and what -

1 you know, what Veterinary Services has  
2 received, whether it's going to be available  
3 or not.

4 MR. BAILEY: Okay.

5 MS. MOSLEY: Are the two pots of  
6 money, the TB money and the brucellosis money,  
7 are those one pot of money, so if you ran out  
8 of brucellosis indemnity funds, would you  
9 still have money in the TB fund? Could those  
10 be used or are they two strictly separate pots  
11 that shall not cross lines?

12 MR. BAILEY: Commingle.

13 MS. MOSLEY: Right.

14 MR. BAILEY: Integration.

15 MR. CARTER Right now they are two  
16 separate pots of money. They're specifically  
17 two different line items. That's one of the  
18 things that VS is looking - working through  
19 the APHIS budget to see if we can pool all our  
20 cattle help programs together under a single-  
21 line item. So that would potentially give us  
22 the flexibility because then it's all under

1 cattle help. And as long as we're using it  
2 for the cattle help programs, we will be able  
3 to move that.

4 That's currently up for  
5 discussion, I guess, you know, for the year  
6 2012, you know, for this budget cycle. You  
7 know, whether that ends up going through that  
8 way or not, I don't know, but as of right now  
9 they are two separate line items. I think -  
10 I'm not sure what to call them. It would be  
11 a method of going back and getting it shifted,  
12 but I think it's the Secretary has to go back  
13 to Congress to request that it be shifted.  
14 And there you'd only want to do it if it's a  
15 significant amount. But we're hoping under  
16 the new budget structure that gets started,  
17 those type of shifts will be a lot easier.

18 MS. MOSLEY: Based on the slides  
19 you presented this morning, I guess the TB  
20 fund seemed to be a higher dollar amount. At  
21 least they were in the numbers you presented.  
22 So if the money does get pooled into one

1 livestock budget line, I would encourage there  
2 to be some baseline split so that all that  
3 money doesn't get eaten up by TB, and the  
4 people that have brucellosis indemnities don't  
5 just get the short end of the stick.

6 MR. CLARKE: Michael, could you  
7 explain for these folks, and actually for me,  
8 too. I've been with APHIS for a lot of years,  
9 and I've never understood how that CCC funds  
10 work. I know in emergencies we've dipped into  
11 this big pot before, but I'm not sure how it  
12 applies, or if it even does apply to indemnity  
13 in the future.

14 MR. CARTER: My understanding is  
15 that it will be applied to indemnity in the  
16 future for programs like TB and brucellosis.  
17 The CCC funds, it's funds available to the  
18 Secretary. I forget what it's normal use is,  
19 but it's a pot of money that sits there. When  
20 an emergency does arise, the Secretary has  
21 authorization to go ahead and pull the funds  
22 from it for the emergency.

1           In the past the administrator has  
2           gone to it fairly frequently, you know,  
3           declaring an emergency for TB program to get  
4           extra funds, you know, a million, five million  
5           here or there as they were dealing with  
6           problems. And there is a process that we have  
7           to go through, you know, at headquarters, you  
8           know, write up what our needs are, our  
9           justification for the use of it and, you know,  
10          justification that this is an emergency.

11           Basically, you know, under the  
12          current administration we pretty much have  
13          been told no. You know, TB has been around  
14          forever. Brucellosis has been around forever.  
15          It's not really an emergency. They're kinda  
16          saying no more of that, you know, just to use  
17          it for indemnity funds, you know, to buy out  
18          herds.

19           So that's kinda what we're looking  
20          at, you know, as far as something that we've  
21          used in the past a lot to kind of back up  
22          mainly the TB, you know, indemnity. We're no

1 longer going to have access to that unless,  
2 you know, it is some kind of - we really could  
3 declare it an emergency, but since we are  
4 dealing with diseases that are already in the  
5 U.S., you know, we doubt that we'll be able to  
6 allow them to use that again.

7 MR. WAITE: If nobody else is  
8 going, I will.

9 So on the calculator - I'm going  
10 to go back to that thing. This is going to be  
11 a completely separate, new calculator, not  
12 based on previous indemnity, livestock losses  
13 that USDA uses, right?

14 MR. CARTER: I can't answer that.  
15 Whether it would be to - I'm not able to  
16 answer that. You know, I don't know whether  
17 it will be something totally new or something  
18 that's built off a herd, calculators that they  
19 have.

20 The only thing that I do know is  
21 that whatever they do come up with, it will be  
22 available for comment. So, you know,

1 everybody can go and see how it works before  
2 we actually officially adopt it.

3 MR. WAITE: Okay. So if I  
4 understand your previous conversation about  
5 the CCC funds, under what I understand to be  
6 the emergency USDA authority, those funds  
7 would have come from a pool of money that was  
8 based on some future need for livestock  
9 indemnity program per se. So now we're  
10 separating this from what possibly could have  
11 been available in the past?

12 Do you want me to rephrase that?

13 MR. CARTER: Yeah, go ahead and  
14 rephrase.

15 MR. WAITE: Okay. In the past  
16 USDA, under other program authority, has been  
17 able to use their emergency funds for a  
18 livestock indemnity program. So in the past  
19 if there was an incidence and there wasn't  
20 available funds, that's where they got their  
21 funds from.

22 And now you're saying under this

1 new program that that will be separated  
2 completely, and this will be a stand alone  
3 with a marked available funds based on the  
4 slide that you showed us earlier today.

5 MR. CARTER: Basically, us  
6 stopping using the CCC funds actually has  
7 nothing to do with the writing of these  
8 regulations. That comes down to some,  
9 basically decisions made by the  
10 administrations. That basically they've said  
11 that, you know, these prior depops are not  
12 considered an emergency. That's the way, you  
13 know, they're looking at it. And so it  
14 doesn't qualify to use those funds, you know,  
15 as an emergency. That's basically the  
16 difference. They're taking a different look  
17 at how we use the CCC funds.

18 MS. CREMER: So still kind of  
19 along the lines of the budget and where the  
20 money comes from. Just so I can understand it  
21 correctly, there is money that is allotted for  
22 tuberculosis, as well as brucellosis.

1                   Now, when that money comes out  
2                   federally, is it going to be allotted to each  
3                   State only based on need, or does each State  
4                   with a plan get so much money? How is that  
5                   going top.

6                   MR. CARTER: They kind of, you  
7                   know, would change from year to year. The  
8                   money that, you know, I presented earlier  
9                   today, that would be VS's baseline budget. As  
10                  far as, I guess, that supporting our  
11                  activities out in the field and testing  
12                  activities at NBSL, those type of things.

13                  As far as cooperative agreement  
14                  dollars, you know, money that we in turn give  
15                  to the States, that would be based on where  
16                  the need is. And what we're trying to do is,  
17                  we're trying to rework our programs as much as  
18                  possible to shift as much resources to those,  
19                  you know, high-risk States. You know, whether  
20                  they be high risk for TB or high risk for  
21                  brucellosis, we're trying to shift that.

22                  You know, brucellosis, you know,

1 right now we're working on redoing our  
2 national surveillance plan so we can take more  
3 funds and shift it to GYA, you know, the  
4 States right now. So our goal is to shift the  
5 funds where it's needed most.

6 Now, you know, just because we're  
7 trying to support an infrastructure, it  
8 doesn't always happen, but that is our goal  
9 to, you know, put funds where the issues are.

10 Let me throw out a question and  
11 see what happens.

12 We talked a little bit about a  
13 calculator and, you know, that we hope to use  
14 the calculator to kind of establish a fair  
15 market value. What do people in the group  
16 feel about as far as a cap on the individual  
17 value of animal?

18 I think with the TB program,  
19 dairy, you know, is set at 3,000. Should  
20 there be a limit to it? Should there be  
21 different caps for different classes of  
22 animals, that kind of thing? What's some of

1 your thoughts?

2 MS. BAILEY: Shelley Bailey. My  
3 thought would be, as Marty suggested before,  
4 you'd go back to their previous records. Then  
5 if somebody had some kind of their seed stock  
6 cattle that had brought a lot of money, past  
7 history, you know, from their sales records  
8 that there should be some consideration made  
9 to go with that, those records. Which, you  
10 know, obviously could be more than the \$3,000.  
11 So I would say there might be a cap to go on  
12 an individual herd basis.

13 MR. BAILEY: I'd just like to go  
14 one step further because there just happens to  
15 be more commercial producers than there is  
16 seed stock producers. So we want to protect  
17 our seed stock producers, but we also want to  
18 protect our commercial producers.

19 And the seed stock producer, or  
20 commercial producer is different. And I hate  
21 to say this, but I'll go on record, there are  
22 some producers that have good commercial

1 cattle, and then there's some producers that  
2 just have commercial cows. And that's just  
3 the way it is.

4           So I will say this. I would hate  
5 to have it put in there that says that just a  
6 commercial producer is limited to "X" number  
7 of dollars. Basically because those that have  
8 worked hard and have a little better cattle  
9 deserve a little bit more than the ones that  
10 haven't worked very hard don't deserve top  
11 dollar either.

12           But at the same time I'll have to  
13 disagree with my wife that somewhere along the  
14 line there has to be a cap to where - I mean  
15 even seed stock producing people, their cows  
16 are only worth so many dollars. Because  
17 pretty soon, I mean can you honestly afford to  
18 pay a seed stock producer \$100,000 per cow?  
19 Because there are some cows out there that are  
20 under probably. So they're - you know,  
21 they've got records. They could come back and  
22 say, well, this cow has produced, you know, in

1 her first four years she has produced \$9,000.  
2 You know, that - so we've got to have a cap  
3 somewhere. And the commercial producers the  
4 same way.

5 And I obviously don't know what  
6 the cap is. I'm not going to jump in there.  
7 I could almost jump in there and say where the  
8 cap is, but I think a cap needs to be up to,  
9 you know, so many dollars. But who puts in -  
10 who saves the cow? I think it needs to be  
11 brought out pretty good. And it's not hard to  
12 do, it's just somebody is going to have to  
13 step up and say the cow should be cleared,  
14 here, or whatever, you know. And it's going  
15 to be disagreed, but at the same time I would  
16 rather get \$3,000 for my seed stock cow or  
17 \$1500 for my commercial cow than \$500 or  
18 \$1,000.

19 Are you going to disagree?

20 MS. MOSLEY: No, Jay. Tracey  
21 Mosley. And I guess I - if there is a cap in  
22 place, I would encourage the group to consider

1 that that cap should be in flux just like fair  
2 market value will be in flux.

3 DR. ZALUSKI: A couple of comments  
4 on that.

5 Jay was saying, certainly he made  
6 the point that if you do have a very expensive  
7 facility, operation, what you're to wind up  
8 doing is chewing up a lot of those resources  
9 that won't be available for a larger number of  
10 producers. So I think there is some merit to  
11 discuss a cap. You know, again the devils are  
12 in the details.

13 The second point regarding the  
14 real high-end seed stock producers is if their  
15 cattle are worth that much money, they  
16 actually have a greater incentive to test out  
17 anyway because to some degree those genetics  
18 are priceless. I mean, you can get that one-  
19 time payment and you're done.

20 So for both of those reasons the  
21 cap seems reasonable. Because, A, you're not  
22 going to chew up those resources and make it

1       unavailable for the greater number of people.  
2       And, B, those producers may, in fact, have a  
3       greater incentive to stay in business and try  
4       to test out. So that's probablyp.

5                   DR. BARTON: And so welcome to the  
6       working group. Everything you've talked about  
7       is stuff that we struggled with exactly.  
8       There's just so many variables in an indemnity  
9       situation.

10                   The one thing that has stayed with  
11       our hearings on the group still to this day -  
12       and my phone is busy and I'm sure it's Susan.  
13       We're adamant about there has to be an  
14       indemnity fund available. We understand the  
15       fund is only so big on the Federal level.  
16       It's the same way on the State level.

17                   So we as producers and regulators  
18       need to work together to try and uncover other  
19       sources of indemnity, to build a fund somehow,  
20       whether it's on the producer level,  
21       association level, State level, whatever.

22                   And as the working group we even

1 talked about raising money. You know, could  
2 you do an insurance policy for an indemnity-  
3 type situation? But it really is a shift from  
4 the way we've done business. And we just have  
5 to look to new ways to try and generate those  
6 funds and make them available.

7 MR. BAILEY: Just a follow-up.  
8 Jay Bailey, I guess I'll say my name once.

9 Maybe something to look at, maybe  
10 you've already heard this comment. To help  
11 fund or to help with the funds, you know,  
12 there is insurances out there that will - I  
13 mean I can insure my commercial cows. I mean  
14 anybody can. If you would - if there was  
15 money available to help me pay my insurance  
16 premium, that's all you'd have to pay. The  
17 rest of it, you know, then I would collect my  
18 money from the insurance company. Or you can  
19 turn around and use the monies to go - well,  
20 there's numbers of them out there.

21 So that's a possibility to help  
22 fund the funds, I guess you might say.

1                   MR. CLARKE: Or conceivably say,  
2                   for instance, in a DSA where you could get a  
3                   rating, a risk, and you could pay the  
4                   insurance premiums on high-risk herds. Maybe  
5                   you might come out ahead in the long run  
6                   because it's only a matter of time before one  
7                   of those gets infected. You might actually  
8                   spend less money in the long run and have, you  
9                   know, commercial insurance companies come up  
10                  with indemnity or less.

11                  DR. ZALUSKI: This is Marty.  
12                  Yeah, the same thing crossed my mind. I mean  
13                  ultimately insurance companies are in the  
14                  business because they pay out less money than  
15                  they take in. So, in fact, if the Federal  
16                  Government was going to do that, they would  
17                  actually spend more money on insurance than  
18                  they would the occasional payoffs. But it's  
19                  just based on the principle of how insurance  
20                  companies work.

21                  So I think the only way that would  
22                  work is if you had some kind of self insurance

1 where the premiums would go into a pool. They  
2 are now going to somebody that's independently  
3 making money off of you, but in fact keep  
4 recycling back into the pool like the State  
5 government does and probably the Federal  
6 Government does in some situations where they  
7 self insure themselves. They pay in premiums  
8 on a regular basis to themselves to accumulate  
9 some kind of a potential cataclysmic payoff.  
10 So anyways, just a thought.

11 Because I think on a case-by-case  
12 basis you could insure herds, but I think if  
13 you're going to do it on a regional-wide  
14 basis, ultimately for that insurance company  
15 to stay in business you're going to pay more  
16 in premiums than the payouts. Which may be  
17 advantageous based on the predictability of  
18 those expenses. But I think as far as the  
19 amount of expenses, I think it probably  
20 wouldn't be.

21 DR. BARTON: If I could, what's  
22 the thought of the group on the availability

1 of the appeal process for the calculator?

2 MR. BAILEY: You need to have an  
3 appeal process. And for two reasons. Well,  
4 this calculator deal, nobody knows what it is.  
5 Maybe two or three years down the road you  
6 won't need the appeal process if the  
7 calculator deal is working out. In the  
8 beginning, I think you really want to have an  
9 appeal process. Because whoever is on the  
10 program could rip off whoever.

11 DR. ZALUSKI: I'll get on the  
12 record. I think that an appeal process is  
13 critical. I mean it's the American way. I  
14 heard somebody say it's unconstitutional not  
15 to have some kind of a fall-back review. You  
16 know, even if it's some kind of an expedited,  
17 we will look at these criteria during an  
18 appeal process. I mean if someone - I think  
19 you can satisfy 95 percent of the concerns of  
20 the people as far as the lack of an appeal  
21 process with still a system that doesn't delay  
22 the ultimate disposition of a herd

1 significantly. And whatever delay there is,  
2 it's well justified by - or as opposed to the  
3 alternative. So that's my position.

4 MR. BAILEY: I could go on record,  
5 Marty, I agree.

6 DR. ZALUSKI: That's like the  
7 second time today, I think.

8 MR. CARTER: Okay, just one thing  
9 that one of the previous listening sessions  
10 brought up. They talked about the decision on  
11 appeal, and they kind of brought up no appeal  
12 for the individual diagnostic animals, but an  
13 appeal process for the herd buyouts.

14 What's the feeling on the  
15 individual animals?

16 MR. BAILEY: The first positives  
17 you mean?

18 MR. CARTER: Right. We have first  
19 positives that you're going in to diagnostic  
20 animals, the reactor animals, you know, those  
21 individual animals. Should there be an appeal  
22 on those individual animals? I mean, I

1 understand the concern when you're talking  
2 about the whole herd. What about, you know,  
3 when there's individual animals?

4 DR. ZALUSKI: I'm sorry, I don't  
5 mean to hog the mike.

6 I would almost suggest to turn  
7 that upside down and say the appeal process on  
8 those infected animals is even more important,  
9 because then the disposition of those animals  
10 is much less voluntary than the rest of the  
11 herd. I mean you're basically over a barrel  
12 if you have animals testing positive. And in  
13 that situation I would suggest that while  
14 everybody's interest is to get those off of  
15 the operation, that producer has got their  
16 back against the wall and the appeal process  
17 is even more important because they have much  
18 less wiggle room.

19 When it comes to the entire herd  
20 depopulation, I would say that that  
21 depopulation is more voluntary. So I guess  
22 I'd just say probably an appeal process under

1 both. That would be my initial thoughts. I  
2 mean your initial statement makes sense  
3 because everybody wants to get rid of those  
4 initial reactor animals, but when I'm looking  
5 at this as far as the options for that  
6 producer, they're pretty limited.

7 MS. MOSLEY: I will just follow up  
8 with, I mean I feel like the producer's back  
9 is against the wall either way. I mean they  
10 don't really have a choice with the reactor  
11 animals. And they may or may not have a  
12 choice with the whole population, the rest of  
13 the population. But it's the rest of the  
14 population that's going to break the bank. So  
15 I think there needs to be an appeal process  
16 for both.

17 MR. BAILEY: Jay Bailey. There  
18 needs to be an appeal process for both.

19 DR. ZALUSKI: Any other good  
20 questions?

21 DR. BARTON: If I go on the record  
22 saying we need an appeal process one more

1 time, Lee Ann will justp.

2 It's a dicey - it's a dicey deal,  
3 but it's one that, you know - I'll just  
4 reiterate this real quick because we still  
5 have another element to go over. But I see in  
6 the future us not depopulating as many herds  
7 as we used to, and the need for indemnity  
8 funds will decrease.

9 But there are those instances like  
10 we had with our last herd that the most  
11 reasonable thing for management and fiscal  
12 reasons is to depopulate that whole herd.

13 This gentleman owned no private  
14 ground. He was on BLM in the winter and  
15 Forest in the spring. And then no place to go  
16 with those cows on private land, so we were  
17 tasked with finding allotments that we were  
18 comfortable maintaining a quarantine in. And  
19 you just can't find them. We found one for  
20 about a hundred head of cattle, and from the  
21 day they went out until the day they came  
22 back, I didn't sleep at night because I knew

1 what was going to happen. A hundred would go  
2 out, and 95 would come back, and that's just  
3 what happened. Eventually we found those  
4 five, but there needs - there's got to be an  
5 indemnity for those times that it's really  
6 needed. Particularly out here in the west  
7 where we rely so heavily on public lands for  
8 grazing. So I don't know where we're going to  
9 find the money, but we need to not leave any  
10 stone unturned in my mind to try and continue  
11 with it.

12 That's about the fourth time on  
13 the record with that. We don't have too many.

14 MR. WAITE: I'm going to ask a  
15 dumb question. In the pool that was suggested  
16 of the 500,000 and a million for the  
17 separation, if those monies aren't expended,  
18 then they're gone, correct?

19 MR. CARTER: Yes.

20 MR. WAITE: They start all over  
21 anew. There's no way to carry those over into  
22 a pool per se should one of your incidences

1       happen?

2                   MR. CARTER:   Yes.   Under the  
3       current funding stream there is no way that we  
4       can pool the money saved from one year to the  
5       next.

6                   MR. BAILEY:   I've got a bank  
7       account.   You can put it in mine.

8                   UNIDENTIFIED VOICE:   Jay's  
9       indemnity fund.

10                  MS. BARNES:   Okay, five minutes  
11       and then the folks will join up in here.

12                  MR. WAITE:   Let me ask because I  
13       don't know this either.

14                  Has there ever been a case where a  
15       Federal agency has pooled leftover money for  
16       following years? I mean, is there a precedence  
17       set with another agency where that could be  
18       done?

19                  MR. CARTER:   Yeah.   I'll just  
20       speak to it right now and see what you think.

21                  Just recently the Veterinary  
22       Medical Loan Repayment Act that was put

1 forward to decrease the number of food animal  
2 veterinarians in the country because of a  
3 veterinarian shortage, NIFA, National  
4 Institute for -

5 MR. BAILEY: Food and agriculture?

6 MR. CARTER: Food and agriculture  
7 or something. Anyway, and they are - that's  
8 an old year money, so there is - they're not  
9 pooling it with other agencies, but they're  
10 keeping it and it's in trust and it carries  
11 over from one year to the next.

12 MR. BAILEY: So that's something  
13 you could do?

14 DR. BARTON: Wow, that would be  
15 huge, you know, instead of starting the year  
16 with one - instead of starting the year with  
17 one million and two million - or, excuse me,  
18 one million and 500,000, if you had no  
19 indemnities the prior year you'd be dealt with  
20 already. That's huge if that were an option,  
21 but that's going to take some legislative  
22 action probably.

1 MR. CARTER Yeah. Currently any  
2 funds that VS receives it's, you know, just an  
3 annual allocation. So how we receive our  
4 funding would need to be changed in order to  
5 be able to hold that money from year to year.

6 MR. BAILEY: Okay, thank you.  
7 When can we entrust you with that money if we  
8 let go?

9 MR. CARTER: If it's specified  
10 for, say, a year.

11 MR. BAILEY: There is nothing that  
12 could happen that would -

13 MR. WAITE: Well, they could  
14 change it the following, the following -

15 MR. CARTER: That's all right.  
16 You don't have to.

17 DR. ZALUSKI: I'll just explain it  
18 to you later.

19 MR. CARTER Okay. Was there any  
20 other comments you've got regarding the  
21 indemnity?

22 No? Okay. Just quickly with the

1 approval procedures of official tests and  
2 laboratories, did anybody have any comments or  
3 questions about that?

4 DR. ZALUSKI: We need to - I'm  
5 sorry, my soap box. We need to support  
6 efforts for wildlife management agencies to  
7 make sure that we have a standardized test for  
8 TB, I would imagine, which is just diag -  
9 which is a post-mortem test, but also for the  
10 brucellosis.

11 MR. CARTER: Thanks. Any other  
12 comments or questions?

13 DR. BARTON: Well, it's - I think  
14 it's great for you guys to be here and get  
15 your thoughts on the record. Keep in mind  
16 that comments are open till the 20th. And,  
17 you know, I just want to put a plug in to keep  
18 those cards and letters rolling in. I think  
19 it's really critical for you to comment on  
20 stuff we think about when we get home and talk  
21 about with colleagues and other producers,  
22 then the process moves forward.

1                   The working group's work is not -  
2                   after these meetings are over and it goes to  
3                   the next phase, which is the - APHIS will  
4                   start drafting the text for the regulatory  
5                   document. So we all need to stay, you know,  
6                   very close and engaged in that process.

7                   MS. MOSLEY: Is there a comment  
8                   period on that document?

9                   MR. CARTER: Yes. On the  
10                  framework, yes, there's - the comment period  
11                  ends the 20th of June, on the framework. And  
12                  then when we do the regulatory text we will  
13                  probably come in with program standards at the  
14                  same time, so you'll be able to review that  
15                  and provide comment as well at that time.

16                  MR. BAILEY: How do we get ahold  
17                  of that?

18                  MR. CARTER: That will be  
19                  published in much the same way this was, you  
20                  know, through the Federal Registry and will be  
21                  put up on the web site.

22                  DR. BARTON: Not a slam, but

1 sometimes it's hard to find for me on that  
2 Federal portal deal. So I just recommended,  
3 Marty, you know, I'm going to post it on our  
4 department web site and maybe NDOL will do the  
5 same just to link to it so all you've got to  
6 do is just point and click.

7 DR. ZALUSKI: My time on the  
8 record would actually be to extend the public  
9 comment period. I mean 20 days, I don't  
10 think, is enough to - for much of the public  
11 to get the word out that this is a  
12 comprehensive overhaul of TB and brucellosis.  
13 So I think another 15 days minimum, maybe  
14 another 30 days would be a request.

15 I mean we're dealing with rules  
16 that are, you know, in some instances probably  
17 30 years old, easily 30, maybe 60 years old.  
18 So I would suggest that we provide - that we  
19 extend it.

20 MR. CARTER: Okay, yeah, I'll  
21 definitely pass that on verbally.

22 Any other comments or questions?

1 MS. BAILEY: Thank you. I wanted  
2 to just ask - this is Shelley Bailey again.

3 When animals are tested,  
4 (inaudible) and buffalo, you usually know the  
5 test results fairly soon for if there's a  
6 positive. And why does it take so long for  
7 elk to - I mean is it a different test or why  
8 is it always that elk take forever to show if  
9 they're positive or not?

10 DR. ZALUSKI: Mike, I can take  
11 that offline. I'm not sure that's -

12 MR. CARTER: Yeah, it's not a  
13 program issue.

14 DR. ZALUSKI: Right. It's an  
15 issue that I'm somewhat passionate about, and  
16 I'm happy to visit with you later.  
17 Ultimately, I think we can get an answer very  
18 quickly, and I would suggest that that delay  
19 to get that confirmatory test is actually  
20 unnecessary.

21 MS. BAILEY: Well, I just -  
22 dealing with that way it's like their test

1 should be as fast as my test, you know.

2 MR. CARTER: It's part of the  
3 standardization.

4 DR. ZALUSKI: Yeah, it's part of  
5 the standardization, laboratory  
6 standardization. But, yeah, I'll visit with  
7 you about that. It's a rat's hole, rat's  
8 nest.

9 MR. CARTER: Okay. Anything else?

10 DR. BARTON: Thank you all.

11 (Whereupon, Small Group A3  
12 adjourned at 2:21 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group A3

Before: USDA

Date: 06-01-11

Place: Bozeman, Montana

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.

*Neal R Gross*

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Court Reporter

**NEAL R. GROSS**

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

+ + + + +

Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING B-1

Program Requirements

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the  
Holiday Inn, 5 East Baxter Lane, Bozeman,  
Montana, in the Jefferson Room at 10:22 a.m.

PRESENT

Burke Haley, Associate Regional Director,  
USDA, Veterinary Services

1 P-R-O-C-E-E-D-I-N-G-S

2 (10:22 a.m.)

3 MR. It's obvious that as I see  
4 cards being passed around that everybody  
5 doesn't know who everyone else is in the room.  
6 So for my benefit I'll introduce myself. And  
7 then, if you don't mind, just introduce who  
8 you are and what your affiliation and  
9 background is. That will put a little bit of  
10 perspective on the comments that come out of  
11 here.

12 So I'm Burke Haley. I'm from the  
13 Western Region, Veterinary Services for USDA  
14 out of Fort Collins. Associate Regional  
15 Director is my title.

16 So I'm just going to pass this  
17 around.

18 MR. LINFIELD: Tom Linfield, USDA  
19 Veterinary Services. I'm AVIC or Area  
20 Veterinarian In Charge for Veterinary  
21 Services, Montana, Helena. And was part of  
22 the TB/Brucella working group, so helping to

1 put this framework together.

2 MR. BAILEY: Jay Bailey, ag  
3 producer north of Livingston.

4 MS. BAILEY: Shelley Bailey, ag  
5 producer north of Livingston.

6 MS. MOSLEY: Tracey Mosley, Park  
7 County MSU Extension Ag Agent.

8 MS. CREMER: Chelcie Cremer, and  
9 I'm with Montana Farm Bureau.

10 MS. KINKIE: Druska Kinkie, south  
11 of Livingston ag producer.

12 MR. WAITE: Mike Waite with  
13 (inaudible) Great Falls Sister College.

14 MR. HOCKETT: I'm Glenn Hockett  
15 with Gallatin Wildlife Association.

16 MR. SKOGLUND: I'm Matt Skoglund  
17 from Bozeman, and I'm with the Natural  
18 Resources Defense Council.

19 DR. ZALUSKI: Marty Zaluski, State  
20 Veterinarian with the Department of Livestock.

21 MR. CLARKE: I'm Ryan Clarke. I  
22 also work for APHIS Veterinary Services. I'm

1 based here in Montana.

2 MR. McDONALD: Ken McDonald with  
3 Fish Life and Parks, and also one of the two  
4 wildlife reps on the working group.

5 MR. HALEY: So to kind of  
6 introduce this, I mean it's already - you got  
7 Mike Carter's comments earlier as he went  
8 through there. Two things, in your packet  
9 there's a news release in there. On the back  
10 of that news release is the comment period,  
11 which is June 20th. I think it's on the other  
12 one, too, but it's at the top of the page on  
13 that news release. Here's the contact  
14 information, so you can go on the web site and  
15 make comments there. It's also in one of  
16 those other packages as well. But that gives  
17 you the dates, the deadline to make additional  
18 comments.

19 These meetings are being  
20 transcribed, as you've seen and dealt with, so  
21 anything you say here is also considered part  
22 of the commenting period. So you can say what

1 you want here, sort of bring it up for  
2 discussion. But in the event that you either  
3 don't feel comfortable speaking or there's  
4 something that comes to your mind later and  
5 you want to make additional comments, you've  
6 got until then to do that.

7           So that's kind of the protocol.  
8 The purpose of the breakout meetings and the  
9 purpose of the meeting in general today is to  
10 get thoughts and comments from y'all,  
11 realizing that you haven't had much time or  
12 opportunity to digest what was presented to  
13 you this morning.

14           So my role here is not to tell you  
15 anything specifically as much as, you know,  
16 give you some background as far as the working  
17 group, how the working group perhaps came to  
18 some of these decisions, and the thought  
19 processes that we went through, and how it  
20 evolved to this point. So to help you with  
21 some clarification. But primarily what we  
22 want today is thoughts from you, comments from

1 you on what you see here, what you like, what  
2 you don't like. And certainly we'll try and  
3 answer questions if you've got concerns or  
4 questions about the way it's written or some  
5 of the - I think Mike kind of referred to it,  
6 but there's a lot of vagueness in here. The  
7 purpose of that vagueness is so that we could  
8 give you some kind of a framework to build  
9 from, and then based on the comments we'll  
10 fill it out, so to speak and put more details  
11 in there.

12 He referenced the CFR, the Code of  
13 Federal Regulations. He also referenced a  
14 UM&R, which is the Uniform Method and Rules.  
15 Those are two documents that Federal legal  
16 jargonize. The Code of Federal Regulations  
17 are statutes essentially. The UM&R is the  
18 method by which we operate. And there's been  
19 some issues in the past, depending on who the  
20 attorney is at the day, as to whether the UM&R  
21 is actually enforceable or not enforceable.  
22 And the old way was to put it in the Code of

1 Federal Regulations and put in all the  
2 specifics. And then, as with anything,  
3 there's more details that need to be ironed  
4 out. And so those details were put into  
5 Uniform Methods and Rules, and we modified  
6 those this time. Things change, new tests  
7 came out and things of that nature, we would  
8 add it into the UM&R rather than go back  
9 through the legal process of getting Congress  
10 to change the Code of Federal Regulations.

11 A change in the Code of Federal  
12 Regulations is a three- to five-year process,  
13 so it's very slow and way to late to effect a  
14 new issue or a new concern. So we use the  
15 UM&R. In recent years, probably what, the  
16 last three to five years we started getting  
17 comments that the UM&R is not legally binding  
18 and we can't operate under UM&Rs. And so  
19 that's one of the emphasis for us changing the  
20 program, like we are, and trying to follow  
21 some other guidance that's out there in other  
22 programs. So that's why we're looking at

1 making it more generic or vague, if you will,  
2 the Code of Federal Regulations, and then  
3 using the directives or other memos that we  
4 can publish and put out that will give us the  
5 legal and official ability, but allows us to  
6 also move quickly. So if a new test comes out  
7 - I know we were talking earlier during the  
8 break about new brucellosis test or better  
9 tests, things of that nature for TB or  
10 brucellosis. And then we can implement those  
11 and write how we're going to use them in a  
12 directed format so it allows us to move along  
13 quickly, and it still has legal backing that  
14 we can look back upon.

15 In this room we're talking  
16 specifically about State requirements, zoning,  
17 surveillance.

18 Just kind of a general overview to  
19 recap that. Essentially what it says is that  
20 the State needs to develop a plan to address  
21 those. And how that plan is developed is up  
22 to the State. There was comment about putting

1 together an advisory panel. The advisory  
2 panel was a concept that was stolen from the  
3 pseudo rabies eradication program some time  
4 back. That advisory panel involved having  
5 producers, State and Federal Regulators on the  
6 panel. And they would review the application,  
7 so to speak. Whether it be your annual  
8 reporting or your quarterly reporting or just  
9 your initial application that I need to make  
10 this a surveillance zone, or shrink my  
11 surveillance zone, or I don't need a  
12 surveillance zone. You've identified a  
13 disease in wildlife. How are you going to  
14 address that? Those type of things. That's  
15 what the old review panel or advisory panel,  
16 advisory board, whatever term it ends up with,  
17 that was kind of the concept that they used in  
18 pseudo rabies, and so we were looking at  
19 pulling that into these programs based on  
20 comments that came out of the working group.

21 So just to give you kind of an  
22 understanding of how that advisory panel is

1 made up, and how it functions. So you'd go to  
2 them with your presentation. They may come  
3 back and say I need more information. Then  
4 come to your State Vet, whoever presented it,  
5 and the Health Official and ask for additional  
6 details that they need for clarification, or  
7 maybe say, oh, it looks great, except this one  
8 portion we'd like you to readdress that. So  
9 that's how it worked in the past.

10 How it would work in the future is  
11 a bit uncertain and still yet to be developed,  
12 but that's the model that we would offer right  
13 now, at least initially.

14 As you saw in there, the  
15 surveillance aspect. I mean we can kick it to  
16 y'all, the questions or concerns you have  
17 about the way it's presented or what you saw  
18 from this morning's discussion. Yes, ma'am?

19 MS. KINKIE: Before we leave the  
20 advisory panel, I would just reiterate from my  
21 standpoint that I think that's one of your  
22 plans to actually have some producers be able

1 to be involved in reviewing the plans that are  
2 put forward.

3 Do you want names? Okay. My name  
4 is Druska Kinkie, and I think it would be  
5 really important to have the advisory panel in  
6 place, as you described, and have producers  
7 that are directly affected by the plans that  
8 are being put forward be able to take their  
9 perspective and that of their fellow producers  
10 into these - into the VS meetings and help  
11 make up some of these plans that are going to  
12 directly affect them and review them.

13 MR. HALEY: And you're referring  
14 to being directly involved at the Federal  
15 level as opposed to at a State level, or both?

16 MS. KINKIE: However you are doing  
17 these advisory panels to be used. And you  
18 said that they would -

19 MR. HALEY: Well, you're right.  
20 And the reason I ask that is what we're  
21 looking at is at the VS level, so it would be  
22 a Federal advisory that every State would

1 supply the documentation to. And then that  
2 panel would review it and forward it on with  
3 comments to VS for consideration as to whether  
4 it was the State, qualified as consistent or  
5 nonconsistent, or - I can't remember what the  
6 third terminology was now.

7 MS. KINKIE: And you indicated  
8 that producers will be involved in this?

9 MR. HALEY: Right. Correct.

10 MR. KINKIE: And I think that's a  
11 very valid stakeholder to have on a panel.

12 MR. HALEY: All right. Any other  
13 comments on the advisory panel aspect?

14 MR. HOCKETT: Who all is on it?

15 MR. HALEY: The advisory panel -  
16 the question is who all is on it. The  
17 advisory panel - and again I'm going to refer  
18 to the advisory panel that we're looking to  
19 model, and that was the pseudo rabies advisory  
20 panel. That panel was constructed of State  
21 and Health Officials. I'm sure we would have  
22 tried to have more Health Officials on there

1 today and producers. And when we refer to  
2 producers, we're referring to - I think as Ms.  
3 Kinkie said, we're looking at producers who  
4 are affected. In other words, we're not going  
5 to have swine producers. We're going to have  
6 cattle producers on there for TB/Brucellosis  
7 cattle program.

8 So there's cattle producers on  
9 there. And today I don't recall - it predates  
10 me to some degree, but they weren't  
11 necessarily - it wasn't like NCBA or an  
12 organization. It was actual producers, okay?  
13 So it wasn't the Executive Director of the  
14 Farm Bureau or something of that nature. It  
15 was a producer that was actively engaged in  
16 the production agriculture.

17 So you've got Federal folks, State  
18 folks, Tribal folks, and then engaged  
19 producers in the program.

20 MR. HOCKETT: So is there any  
21 representation from wildlife advocates or  
22 sportsmen?

1                   MR. HALEY: You know, to answer  
2 your question -

3                   MR. HOCKETT: Sorry, my name is  
4 Glenn Hockett.

5                   MR. HALEY: So, Glenn, your  
6 question is?

7                   MR. HOCKETT: Were there any  
8 wildlife folks in there.

9                   MR. HALEY: And, again, at that  
10 time, in that program, no. In this program,  
11 that would be somebody we would have to  
12 consider to put onto that panel as well,  
13 because we do have the wildlife interaction,  
14 interface issues. When we were running pseudo  
15 rabies we were just worried about commercial  
16 pigs at the time, and obviously we operate  
17 those a little differently than we do cattle.  
18 And we didn't have quite the same issues in  
19 the `70s with feral hogs that we do today.

20                   So to answer your question, no,  
21 they weren't, but there should be today.

22                   Any other thoughts or questions?

1 Yes, sir.

2 MR. WAITE: During Michael's  
3 presentation there was a slide - sorry, Mike  
4 Waite, W-a-i-t-e.

5 On the fifth slide that Mike  
6 showed it's talking about program requirements  
7 for States/Tribes. And has it been worked out  
8 or will it be that those whole guidelines for  
9 those State/Tribal agreements to do a  
10 statewide health plan?

11 MR. HALEY: The question is do we  
12 have it as a template?

13 MR. WAITE: Right.

14 MR. HALEY: No. We don't have the  
15 template laid out today is what that looks  
16 like because, as we stated, we're still in the  
17 listening session, and we're still in a  
18 building session. So that will be something  
19 that will be put forward.

20 And then to carry your question  
21 off to the next level is: Will every Tribe be  
22 expected to do it? And I think Mike referred

1 to, you know, they can develop to the State if  
2 they wish.

3 DR. ZALUSKI: Question on a  
4 related topic.

5 Marty Zaluski. This line here relates to the  
6 State consistent or not consistent status.  
7 And then there's another slide on page 8 that  
8 talks about the movement, or consequences  
9 applied through lack of implementation, et  
10 cetera. It talks about movement requirements  
11 and movement controls.

12 So I'm wondering if maybe you  
13 could just explain the relationship of this  
14 element six, movement controls, to the State,  
15 consistent and not consistent status. It  
16 seems like one is kind of borne out from the  
17 other, but yet it's a separate one.

18 MR. HALEY: State consistent  
19 status is a general overview. I mean it's not  
20 unlike being class free today. It has several  
21 components to reach that goal. So to be  
22 consistent the State's status has several

1 components. The movement control is a piece  
2 of the components that's necessary to achieve  
3 consistent status, if that makes sense.

4 So in reference to that - I guess  
5 it's the third from the last line that Mike  
6 presented there - that slide is referencing if  
7 we don't have movement controls that actions  
8 may be taken against the State. And what we're  
9 trying to point out is those actions may allow  
10 the State to still be considered consistent,  
11 but there are other additional actions that  
12 take place.

13 So just because you don't meet all  
14 of the stated criteria for consistent State  
15 doesn't mean that you automatically drop to  
16 provisional or nonconsistent. Does that make  
17 sense?

18 So you're looking at allowing us  
19 the flexibility - I mean there's an example.  
20 You referenced not having the time lines, and  
21 I think today we've got time lines of 30 days  
22 you have to get out the initial herd test.

1 Obviously, if I call you up and you've got  
2 four foot of water running across your place  
3 and it's not going to go down anytime soon,  
4 testing your animals for disease isn't a top  
5 priority, you know, as your household  
6 furniture floats down the river.

7 So we're looking at allowing  
8 ourselves the flexibility. If you don't meet  
9 those limit controls, if you don't meet the  
10 testing requirements, things of that nature,  
11 then we aren't bound to specific hard and fast  
12 guidelines.

13 From a producer's standpoint, or  
14 to share with you, today we have guidance that  
15 says if I find an affected herd, Marty finds  
16 an affected herd, he's got certain times that  
17 he has to get out there and contact the herd  
18 owner, get an initial test done, get a work  
19 plan done, get a quarantine issued and things  
20 of that nature. If he doesn't meet those,  
21 technically he's not qualified to be a class-  
22 free State.

1                   Now, as y'all know, or maybe you  
2                   don't know, we aren't following that, okay?  
3                   We allow for floods and blizzards and other  
4                   scenarios that come about. But we don't  
5                   necessarily have the legal authority to do  
6                   that, to give us that leeway to make those  
7                   exceptions.

8                   Under this protocol, under this  
9                   rule that we're proposing, it does give us the  
10                  authority to allow things to occur in a  
11                  different fashion or manner. You know, if you  
12                  happen to have a herd that's up on the top of  
13                  the mountains and you can only gather them  
14                  once a year because of snowfall, it's  
15                  difficult to do a 60-day test, you know, test  
16                  those animals every 60 days. By the current  
17                  guidance, if you don't, then as a result the  
18                  State shouldn't be class free. Under this  
19                  scenario we can say they're isolated. There's  
20                  not a concern to risk this level, and so we're  
21                  going to allow that to take place. It gives  
22                  us the flexibility to build herd plans, tests,

1 surveillance plans as needed for that given  
2 States, as opposed to having hard and fast,  
3 in-the-box kind of structure that the  
4 (inaudible) is expected to live under.

5 Does that answer your question,  
6 Mike?

7 MR. WAITE: Yes.

8 MR. HALEY: Any other comments?

9 MR. HOCKETT: Glenn Hockett again.  
10 I just have concerns about combining  
11 tuberculosis and brucellosis because if we're  
12 aware of the brucellosis situation and not  
13 really familiar with tuberculosis, then I'm a  
14 little concerned about combining these two.  
15 And I guess I'm wondering how that's all going  
16 to work? Is there going to be a framework for  
17 both, and then the rules will split off, and  
18 I don't fully understand how that's going to  
19 work.

20 MR. HALEY: To answer your  
21 question, the working group had those same  
22 discussions. You know, we were changing the

1 dynamics of programs that have been out there  
2 for 60 to 100 years, and we thought hard and  
3 fast in our thought process as to how this has  
4 worked. So to change it into new dynamics and  
5 put it where you're talking about today,  
6 basically what we're saying is we're going to  
7 go out - each of these programs have had, as  
8 I just discussed, very hard and fast guidance  
9 and rules and regulations to work on. So what  
10 we're trying to do is take both of these  
11 programs and free them up, if you will, to  
12 give us the ability to address the specific  
13 needs of a State, of a producer in each of  
14 these given programs.

15 So in that regard we've got the  
16 general framework that we're discussing that  
17 both of these programs will fall into. It  
18 allows us more flexibility. And then beyond  
19 that we'll build specific for each one,  
20 because as you pointed out, how you manage TB  
21 is not how you manage brucellosis. We use  
22 lots of different factors to make sure it's

1 the disease, test and whatnot.

2           So that's kinda how it breaks down  
3 once we get past the framework is each program  
4 will be - they're not tied together in that  
5 regard. They're only tied together in the  
6 regard that we're trying to build them under  
7 one framework that allows us the flexibility  
8 to build the program as we need it.

9           So, you know, the wildlife aspect,  
10 Michigan has got a particular problem with a  
11 large whitetail population that's heavily  
12 affected, and they've got political  
13 ramifications that go with that. So they have  
14 to deal with that in a certain fashion.

15           Recently, Minnesota got whitetail  
16 affected as well. However, they had a  
17 different political dynamics. They caught it  
18 early on, and they were able to go in and do  
19 some massive hunting, selected depopulation of  
20 the wildlife, and now it appears that the  
21 wildlife has been cleaned up and they don't  
22 have a problem there anymore. So it will

1 allow us to make a difference. You know, when  
2 they take that kind of an action because of  
3 the politics and the money, density of the  
4 farms, ranches that were there and the  
5 wildlife, they were able to take a different  
6 tact than what Michigan has. So in a matter  
7 of three to five years they went from what  
8 perceived to be a big problem to no problem  
9 versus Michigan has been up there fighting  
10 their problem for 15 years. So it gives us  
11 that leeway.

12 MS. KINKIE: Druska Kinkie. On  
13 pages 6 and 7, I mean it's the myriad that  
14 goes with the slides, but on pages 6 and 7 it  
15 talks about short-term containment actions and  
16 long-term containment actions. And it mentions  
17 the goal of disease eradication a number of  
18 times.

19 And the long-term containment -  
20 correct me if I'm wrong - it's if you're going  
21 to be in a zoned area greater than - longer  
22 than a year based on wildlife infection.

1                   And so the problem that I have  
2                   with all of this is that there - and the  
3                   problem all along is that there's no  
4                   addressing the disease in wildlife, bison or  
5                   elk.

6                   And so essentially, according to  
7                   this, we're going to be in a zone forever then  
8                   because no one is going to take care of the  
9                   disease in wildlife. And so the bottom line is  
10                  that if you had sent something down from the  
11                  top and it's going to have consequences for  
12                  livestock, which incidentally is a healthy  
13                  population at this point, there needs to be  
14                  something, some consequence, some standard for  
15                  wildlife.

16                  MR. HALEY: So your request is  
17                  that the wildlife agencies or the agency  
18                  responsible for the wildlife has a specific  
19                  role?

20                  MS. KINKIE: They already have a  
21                  role, a role I believe in - I mean they have  
22                  helped - well, I sat on a committee that did

1 this, and they've also been working with our  
2 State - excuse me, Montana State Department of  
3 Livestock.

4 My point is, though, that nobody  
5 is doing anything. They're monitoring the  
6 disease. They're doing surveillance, but  
7 nobody is doing anything to reduce the  
8 disease. And without disease reduction, we're  
9 all looking at this program lasting for  
10 eternity. And I think that's not fair.

11 So I think everybody needs to step  
12 up to the plate and start working on disease  
13 reduction.

14 MR. HALEY: Thank you.

15 MR. WAITE: In the slide on page 4  
16 that Mike showed, this goes back to the issue  
17 before - Mike Waite, by the way. There's only  
18 short-term containment in the geopolitical  
19 boundaries. I see here in the document, page  
20 6, that you're trying to work through that.  
21 How are you going to accomplish that given the  
22 Minnesota and Michigan issue if it went east,

1 and we'll say with the brucellosis issue with  
2 NL, the free State here. Is that a realistic,  
3 workable thing?

4 MR. HALEY: I'm not sure I  
5 understand your question exactly.

6 MR. WAITE: Well, what I'm getting  
7 at is - my question is you're trying to  
8 eliminate the geopolitical boundaries, the  
9 State boundaries per se. And I understand the  
10 concept behind that and the working thought  
11 behind that, but how are you - are you going  
12 to be able to accomplish that through these  
13 rules?

14 MR. HALEY: So the question is how  
15 do we eliminate geopolitical boundaries. And  
16 I think the - previously we've referred to  
17 geopolitical boundaries primarily as a State.  
18 And then we've kind of migrated from that. In  
19 the brucellosis program, if some of you  
20 remember, we had split-State status. So there  
21 were some states that had part of the State.  
22 So, you know, we got past the geopolitical

1 boundaries in that program at that time.

2 And what we're doing here is  
3 similar to the DSA's that you were looking at  
4 today is it's not bound to a State. It's not  
5 bound to a county. It can be bound to a  
6 highway line. It can be bound to a railroad.  
7 It can be bound to a mountain range, whatever  
8 is appropriate.

9 So we're trying to get away from  
10 the geopolitical and get to a disease risk and  
11 a boundary that is determined, a boundary that  
12 is available for all to recognize. You know,  
13 it's going to be difficult to say it's going  
14 to be a certain latitude. And, you know,  
15 because we can't see where that latitude is,  
16 but if it's a highway, a river, if it's a  
17 mountain range, things of that nature,  
18 utilizing those types of boundaries as opposed  
19 to county lines or straight lines or things of  
20 that nature.

21 So when we refer to removing  
22 geopolitical boundaries, that's what we're

1 referring to. No longer limiting it so that  
2 we have a State status as such, but that we  
3 can shrink or enlarge that as necessary based  
4 on the risks that are there. Okay?

5 UNIDENTIFIED SPEAKER: We've got  
6 about five minutes. Is that enough time, five  
7 minutes?

8 MR. HALEY: We'll make it work.

9 UNIDENTIFIED SPEAKER: Okay.

10 MS. MOSLEY: My name is Tracey  
11 Mosley. And I would refer to - I guess I need  
12 some clarification on regulatory objective No.  
13 1 for the State requirements. And I need a  
14 little more definition of what all U.S.  
15 livestock herds of cattle, bison and captive  
16 cervids means. For those of us in the Greater  
17 Yellowstone Area, the phrase captive cervids is  
18 kind of a million dollar phrase.

19 MR. HALEY: In reference to  
20 captive cervids, we're talking about cervidae  
21 that are owned and managed by private  
22 individuals. So it would not include wildlife

1 cervidae that are on a feeding ranch behind a  
2 fence where they could get in or out or have  
3 a potential to free range.

4 So it's privately owned, much like  
5 your livestock. Privately owned animals  
6 behind a high fence that don't commingle with  
7 the wildlife.

8 MR. HOCKETT: What are you talking  
9 about in reference to bison?

10 MR. HALEY: Bison? The question  
11 is what are we talking about in reference to  
12 bison? Bison would be the same. They're  
13 behind a fence, privately owned animals that  
14 are domestic livestock. If they're bison that  
15 are owned by Yellowstone that they're managing  
16 in a confined area, then that's not considered  
17 bison.

18 MS. KINKIE: Druska Kinkie. On  
19 page 6 again on the narrative, towards the  
20 bottom of the page, No. 3, it says: That the  
21 goal of the containment action was to protect  
22 livestock from exposure to disease. That

1       confuses me a lot. I don't understand how  
2       putting a zone around a group of livestock  
3       producers - for example, in Montana we have a  
4       designated surveillance area, so that's a  
5       zone. We have affected wildlife within that  
6       zone. And how does that protect livestock?  
7       Are you referring to all the rest of the  
8       State, or the ones in the zone? And I'll  
9       probably have a follow-up.

10               MR. HALEY: Sure. In reference to  
11       that question we're referencing the national  
12       herd. So if we have a population that's of  
13       high risk, then the Gallatin zone could  
14       contain those animals, that livestock  
15       population. So in regard to what you're  
16       referencing, if you have a DSA, those animals  
17       are not included in that sentence, if you  
18       would, in a sense that at that point we're  
19       trying to protect the balance of the  
20       countries, which would include the balance of  
21       the State, the balance of the nation's  
22       livestock population from those animals that

1 are perceived to be of higher risk.

2 MS. KINKIE: And so do you see  
3 that as being in conflict at all with -  
4 there's a State statute in Montana that  
5 requires the State Vet to protect all  
6 livestock within the State, so doesn't that  
7 conflict with his responsibility to protect  
8 us, and you're creating a zone to protect  
9 everyone else?

10 MR. HALEY: I'm not sure how to  
11 answer your question. From the perspective of  
12 this program, we're looking at a national  
13 perspective, okay? So in some regards that -  
14 I don't want to use the word supersedes, but  
15 our perspective is how we protect the national  
16 population. And how do we do that with a  
17 minimal risk or minimum impact as a function  
18 of these new rules? How do we do that with  
19 minimum impact to the livestock producers of  
20 the country and/or a particular State?

21 So that's why we have the  
22 flexibility to allow that to go down to a

1 zone. Whether you decide as a State to use a  
2 zone or not is up to you as a State, as a  
3 State Veterinarian or s a producer within the  
4 State through your political process as to how  
5 that's going to be addressed. So if you have  
6 a question of that nature, that there's a  
7 conflict or it seems to conflict with the  
8 State statute, then that would be something  
9 you'd address locally at your State level.

10 MS. KINKIE: But doesn't this  
11 program require the State to have some sort of  
12 a zone, a management zone?

13 MR. HALEY: The follow-up  
14 question: Does it require the State to have  
15 a management zone? It requires the State to,  
16 if they have - they have to have a plan to  
17 surveille the livestock population. They have  
18 to have a plan to address infection should it  
19 be found in that livestock population. How  
20 they do that is up to the State. So if the  
21 State wants to restrict, restrict that beyond  
22 the State boundaries, they certainly have that

1 ability to do though, and that's why we're  
2 down here. So if there's a negative or high  
3 risk then we can restrict it down and just  
4 address the high risk.

5 To go to - let me go to another  
6 State and use a different disease. But to go  
7 to tuberculosis, for instance, if we have  
8 tuberculosis in a dairy, one herd in the State  
9 or maybe two herds, but they're adjacent to  
10 one another, ten miles apart, and the County  
11 covers several hundred thousands of acres,  
12 they could have a zone smaller than that  
13 county that just encompasses those two dairies  
14 and the rest of the State wouldn't be impacted  
15 because we're not concerned with those animals  
16 moving in or out. So it allows them to do  
17 that.

18 Here where you're talking about  
19 bison and elk moving out of Yellowstone and  
20 having an impact, it allows them, if they  
21 wish, to go in and make a zone where the  
22 normal laboratory patterns are. That's what

1 they've done in Michigan. So where they find  
2 the tuberculosis and the whitetail up there  
3 they've built a zone. So there's a certain  
4 section of that State that's considered a high  
5 risk, so they built a zone for that. And the  
6 balance of the State is not impacted by the  
7 testing requirements.

8 MS. BARNES: After this question  
9 we're going to -

10 MR. HALEY: Right. Right.

11 MR. CLARKE: I just wanted to  
12 expand upon that, too. But this plan gives  
13 the flexibility to the State, if it wanted to  
14 make the whole zone the entire State under  
15 certain political circumstances, disease  
16 circumstances. It gives them that  
17 flexibility, too, so they can close it in the  
18 small areas as they want or expand it to the  
19 State borders, which was essentially the  
20 previous pattern.

21 MS. BARNES: So we have a group  
22 coming in from next door, coming in here, and

1 I'd like to ask you to go to the Saloon. So  
2 there will be a group down there talking about  
3 herd management.

4 MR. HALEY: So are they required  
5 to move?

6 MS. BARNES: No, you can stay in  
7 here. This room might get a large group  
8 though, but yeah. Let me put it this way. We  
9 invite you to go down to the Saloon.

10 MR. HALEY: So this session has  
11 ended and we'll take a second here to allow  
12 more folks to come in. If you want to stay  
13 and ask additional questions you can.

14 (Meeting adjourned at 11:00 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group B1

Before: USDA

Date: 06-01-11

Place: Bozeman, MT

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.



-----  
Court Reporter

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

+ + + + +

Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING B-2

Program Requirements

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the  
Holiday Inn, 5 East Baxter Lane, Bozeman,  
Montana, in the Jefferson Room at 11:09 a.m.

PRESENT

Burke Haley, Associate Regional Director,  
USDA, Veterinary Services

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P-R-O-C-E-E-D-I-N-G-S

(11:09 a.m.)

MR. HALEY: All right. We'll let you start. What's your concern?

Let's go around the room and identify ourselves, then we'll know where we're coming from.

DR. WOERNER: I'm Don Woerner.

MR. HALEY: And you're a producer or -

DR. WOERNER: I'm a Veterinarian from Laurel.

MR. BODNER: Jay Bodner with the Montana Stockgrowers Association.

MR. McDONALD: Ken McDonald, Montana Fish, Wildlife, Birds, a member of the working group.

MS. RANKIN: Jeanne Rankin, private Veterinarian and rancher.

MR. HOCKETT: Glenn Hockett with the Gallatin Wildlife Association.

MS. JOHNSON: Kammy Johnson, USDA

1 - APHIS.

2 MR. LINFIELD: And Tom Linfield,  
3 USDA - APHIS, Veterinary Services, and also a  
4 member of the working group.

5 MR. HALEY: So my role, or  
6 personal role - UNIDENTIFIED VOICE: Who  
7 are you?

8 MR. HALEY: I'm nobody. My role  
9 is to facilitate and try to get y'all to draw  
10 out questions or concerns, and try to help, if  
11 I can, address answers to some of those  
12 questions, or kind of give you some background  
13 on how we got to where we are. Discussion, you  
14 know, how the working group developed, what  
15 they developed, or try to explain what we did  
16 not develop, if that's the case.

17 So I'm Burke Haley. I'm with  
18 Veterinary Services out of Fort Collins as the  
19 Associate Regional Director, and was also part  
20 of the working group as we put all this  
21 together.

22 We're recording - obviously, to

1 give you some background, we're recording all  
2 of this. So your statements, comments,  
3 questions will all become part of the official  
4 record so that we can address those as a  
5 group, all of the listening sessions that  
6 we're having.

7 In your packets there's a news  
8 release, and on the second page, back side of  
9 it, a single page - well, the back side of  
10 that is the contact information and the  
11 deadline for making comments. So in the event  
12 you think of something additional that you  
13 want to comment on or you're too shy to say it  
14 here on the record in front of everybody else,  
15 or whatever your reasons may be, if you want  
16 to make additional comments besides what goes  
17 on today you can certainly go to that web site  
18 or that address and submit written comments.  
19 And the deadline is June 20th to get those  
20 done.

21 So with that, we'll kick it to  
22 you. You were addressing concerns with how do

1 we control, or how do we address eradication,  
2 mitigation, production of disease in wildlife.

3 MR. HOCKETT: Glenn Hockett again.

4 I think one of the major concerns I have,  
5 speaking from a wildlife perspective, is the  
6 idea of eradicating any disease in wildlife.  
7 And we share the goal of trying to keep  
8 livestock brucellosis free. And I'm going to  
9 focus on brucellosis because that's the issue  
10 here in Yellowstone. But there's concern  
11 about to what degree APHIS or anybody else  
12 wants to start eradicating brucellosis in  
13 wildlife it becomes extremely problematic.  
14 And when you talk about the Greater  
15 Yellowstone Area, how big it is, how much  
16 wildlife there are, there's elk to perpetuate  
17 this that don't ever go to the park. And so  
18 I just want to make sure it's clarified that  
19 we're working on trying to keep the disease  
20 out of the livestock and not try to eradicate  
21 it from wildlife. Because I think this is  
22 about eradication when possible, but it seems

1 like, you know, APHIS hasn't clarified that  
2 it's not possible.

3 MR. HALEY: I think that you're  
4 making a comment there. APHIS still thinks it  
5 is possible to eradicate these diseases in  
6 wildlife. And I think that situational - the  
7 last group we were referring to, the  
8 difference in tuberculosis management and  
9 Michigan versus Minnesota. In Minnesota it  
10 appears that it was possible, and it was  
11 eradicated from the wildlife when we knew we  
12 had a reservoir in the wildlife. But there  
13 are a number of circumstances from animal  
14 density, producer acceptance, State  
15 Legislature ruling as to fund. So a whole  
16 bunch of factors went in, perhaps into the  
17 prevalence level was a significant factor. As  
18 opposed to Michigan where I'm not sure that it  
19 is possible. We certainly don't have the same  
20 type of dynamics in Michigan as what we had in  
21 Minnesota.

22 So when we refer to "if possible,"

1 I think that's the reference that we're  
2 talking about. If we go to the Yellowstone  
3 area, eradication in elk is probably not  
4 possible. Eradication of bison with a limited  
5 number of bison, you know, that are somewhat  
6 contained within the Yellowstone region, it  
7 could be possible there. And there's some  
8 additional tools that we have for bison that  
9 we don't have for elk. So there's a whole  
10 number of factors.

11 I would go out on a limb to say  
12 that it might be possible in bison, but  
13 probably not possible in elk in the Greater  
14 Yellowstone Area as an example, you know, of  
15 this neighboring facility.

16 DR. WOERNER: Don Woerner here.  
17 Okay, so it's possible in elk and not in  
18 bison?

19 MR. HALEY: The reverse.

20 DR. WOERNER: Possible in bison  
21 and not in elk, vice versa?

22 MR. HALEY: Correct.

1 DR. WOERNER: Possible in bison  
2 and not in elk, but if it's not eradicated,  
3 you're just setting up parameters for this  
4 disease. And you eradicate it in bison and  
5 not in elk and pretty soon it will be back in  
6 bison again.

7 MR. HALEY: And that's a  
8 possibility, you know. So the answer is when  
9 possible. And it might determine that the  
10 termination of it is not possible to eradicate  
11 in either species.

12 So to pull us back, we're supposed  
13 to be discussing surveillance, which is what  
14 our discussion is. Also, the State  
15 Requirements, Program Requirements. And our  
16 zoning as to how we set up those States.

17 So the zoning is - we had some  
18 discussion earlier. The change in zoning is  
19 to allow us the flexibility of - previously  
20 our rules and records for this program has  
21 been set up under the Code of Federal  
22 Regulations, which is our Federal statutes.

1 And then we worked under a UM&R or Uniform  
2 Methods and Rules. And those Uniform Methods  
3 and Rules have been challenged as to whether  
4 they're legally binding or not in the fashion  
5 we use when we publish them.

6 And so that's the impetus for us  
7 to come up with a change in the program so  
8 that we can have a vague or broader statutory  
9 authority or statutory language - not  
10 necessarily changing authority - but then to  
11 work with directives that allows us to work  
12 quickly and not take three to five years that  
13 it takes to change the Federal regulation.

14 So as a new test comes up, new  
15 vaccine comes up, things of that nature, that  
16 we can actually implement that in a fast  
17 format, meaning a matter of a few months as  
18 opposed to a matter of three to five years.

19 So in the event, you know, that we  
20 came out with the vaccine some - to address  
21 your concern to how you would - you know,  
22 whether they would test a vaccine or something

1 that we could get out there in a broad manner  
2 that might allow that to happen.

3 So what we're trying to do is give  
4 ourselves a plan that allows us to move as the  
5 technology moves, to move as the science  
6 moves, so that if eradication - there could be  
7 some breakthroughs that aren't available to us  
8 today that if we were able to use those it  
9 might make eradication possible, or zero  
10 prevalence possible to a great extent, things  
11 of that nature.

12 So that's what we're looking at,  
13 and that's the reason for this discussion and  
14 the reason for the template that's out there  
15 now.

16 MR. HOCKETT: I hope this doesn't  
17 sound silly, but - this is Glenn Hockett  
18 again. I have a question about why, why APHIS  
19 wants to eradicate brucellosis in livestock,  
20 in feed cattle? I mean because the best thing  
21 in the Greater Yellowstone Area is manage,  
22 even in livestock. I mean I agree we want to

1 try to keep it out of livestock, but the  
2 reality is we will probably have hits now and  
3 then, so - and I don't understand why there's  
4 such a focus on eradication versus managing in  
5 the Greater Yellowstone Area.

6 MR. HALEY: The eradication has  
7 been a national goal since - well, when  
8 brucellosis started. So it's, you know, it's  
9 a concept change. Where we're at today is a  
10 concept change of a program that's been out  
11 there that we're trying to change the dynamics  
12 on that's been present for 100 years.

13 So how they address brucellosis in  
14 the Yellowstone Area is certainly pretty late  
15 and probably not answerable today, whether it  
16 becomes a management issue or an eradication  
17 issue in Yellowstone.

18 Certainly, if we can keep it out  
19 of livestock that's our intent. The primary  
20 intent for that is that in the rest of the  
21 country it has an impact on our international  
22 trade. It has an impact on producers within

1 this Greater Yellowstone Area, how they're  
2 able to monitor or market their animals.

3 And so we - our goal is to try to  
4 minimize the disease so that we minimize the  
5 trade impacts and trade restrictions to those  
6 people that are impacted by it. You know,  
7 whether that be the Greater Yellowstone Area  
8 or if we could get it out of the country. We  
9 are able - again to go back to a different  
10 disease, we are able to separate out domestic  
11 livestock from wildlife when we go to reports  
12 or disease status.

13 So, for instance, while we have  
14 swine brucellosis and swine pseudo rabies, the  
15 country is declared free of both those  
16 diseases when it comes to commercial livestock  
17 and when it comes to commercial swine. So n  
18 an international basis we report ourselves of  
19 free as swine brucellosis, swine pseudo rabies  
20 when, in fact, we know we have it in pigs in  
21 this country, but they're not commercial pigs.  
22 So they're technically not livestock.

1           And if we can come up with - reach  
2           that saying "Go," then we could accomplish the  
3           same thing as GYA. We can still have  
4           infection at some low prevalence taking place  
5           in the GYA region and declare that we could  
6           stop the spread or stop the spillover, if you  
7           will, into the livestock, then we could  
8           declare ourselves free of brucellosis from the  
9           livestock perspective with a chance of not  
10          having it in international trade.

11           MR. HOCKETT: I think that's a  
12          good point, this talk of reducing prevalence  
13          in my life. And I think the idea should be we  
14          could work together on keeping the livestock  
15          healthy. Wildlife health is a whole different  
16          story. First of all, pass a regulation and  
17          just start manipulating wildlife, I think  
18          you'll get into all kinds of perplexities and  
19          problems.

20                  For example, let me just throw out  
21          that bull elk have been exposed to  
22          brucellosis. So if you want to start messing

1 with bull elk, you are going to find a large  
2 constituency, and I don't think we want to go  
3 there. And I think we need to try to figure  
4 out how we can reasonably manage livestock to  
5 prevent disease from getting into livestock.

6 MS. RANKIN: I disagree with all  
7 of this. Jeanne Rankin, rancher, private  
8 practitioner.

9 The big deal about brucellosis and  
10 tuberculosis for the record is not just a  
11 livestock disease, but it's a human disease,  
12 zoonotic disease. Brucellosis is on the  
13 bioterrorism agents, select agent list, and  
14 the CDC will not remove it. So what's wrong  
15 with this picture? Let those ranchers go.  
16 Don't even make any rules for them. Allow  
17 them to understand that they're operating in  
18 an area where human disease - and they're at  
19 risk, and so were those two hunters in the  
20 Yellowstone Area that got brucellosis in the  
21 '90s, and we can prove that through public  
22 health, okay? - and let the people take their

1 own risk, and let the ranchers just ranch.  
2 And whether it's tuberculosis - I mean milk,  
3 for goodness sake, is pasteurized, no big  
4 deal. Brucellosis as well either.

5 So your only problem is going to  
6 be beef cattle exposed to tuberculosis because  
7 there's no salvage value if they have lesions.  
8 So those are the only ones that are really  
9 going to need the advantage.

10 But if you want the wildlife cross  
11 this country to be infected with diseases and  
12 live with those diseases, that's great, no  
13 problems. But let's get it off then as a  
14 select agent and talk about prevention. We've  
15 got rabies out there, and we vaccinate our  
16 pets to protect people, and to protect our  
17 animals as well. So let's just give everybody  
18 the truth instead of saying this is a cow  
19 disease, brucellosis is a cow disease. It's  
20 a human disease. That's the only reason why  
21 we had a livestock program to begin with was  
22 because ranchers and people who consumed milk

1 products would get sick.

2 So, you know, let's remember those  
3 kinds of things when we're talking about  
4 diseases and managing them. Thank you.

5 MR. HOCKETT: I'd like to address  
6 that. This is Glenn Hockett again. I agree.  
7 I mean when we started pasteurizing milk this  
8 human health risk largely went away. So I  
9 mean I don't - if we have a diseased cow, we  
10 eat it. So an idea that there's some - we're  
11 not worried about yersinia or these other  
12 diseases that we - you know, there's a lot of  
13 livestock diseases that, you know, the  
14 livestock gets into the food chain. So I  
15 think it's disingenuous to imply that we're  
16 somehow - I mean if we find brucellosis in a  
17 cow, it goes to somebody's plate. And we're  
18 willing to accept the risk as hunters with  
19 help. I mean there's some things you need to  
20 do. If you have brucellosis in elk, that's a  
21 risk.

22 But I go back to if you want us -

1 if we want to start talking about eradicating  
2 disease in wildlife, it's extremely  
3 problematic. And I've yet to see anybody  
4 really outrun it, unless you have basically a  
5 confined herd. You know, it's been done in  
6 bison when they're behind a fence. But, you  
7 know, truly wildlife - wild population like we  
8 have in the Greater Yellowstone Area, we're  
9 only talk about elk and bison right now.  
10 We're not talking about other mammals.

11 So it gets very, very hard. I  
12 mean, I guess I'd like to see that addressed.  
13 Getting to zero gets incrementally harder,  
14 right, the closer you get to zero. And so I  
15 don't think this goal of eradication is  
16 reasonable really. I think we have to  
17 recognize that we need to manage it in cattle,  
18 and I think that's a thing where we could work  
19 together to try to keep it out of the cattle  
20 in the Greater Yellowstone Area.

21 MR. McDONALD: Ken McDonald. I  
22 was just going to suggest that for the rule,

1 and maybe one thing to look at is clarifying,  
2 or having some clarification about what are we  
3 talking about in terms of wildlife versus  
4 livestock. So we talk about containment and  
5 time periods. We're talking about containment  
6 of livestock. We're talking about  
7 eradication, eradication in livestock, so that  
8 it's clear the rule is pertaining to  
9 livestock.

10 And then it was brought up  
11 earlier, for bison at least clarify we're  
12 talking domesticated bison, not any bison.

13 DR. WOERNER: Don Woerner here.  
14 It seems to me that so many of the problems  
15 that we are facing today are created by the  
16 way we have set up the program to manage this  
17 disease. And we're restricted because we  
18 don't go back far enough and maybe look at  
19 this under a whole new light. Maybe our whole  
20 system of managing program diseases needs to  
21 be readdressed from the foundation on up, and  
22 I don't know how to exactly address that. But

1 I think we don't go far enough when we go back  
2 and look at how we correct this problem.

3 We've painted us into this corner. We have a  
4 biological agent, and we have limited ability  
5 to understand it 60, 80, 100 years ago. We  
6 set up some rules, and we transport these  
7 rules to other countries, and then we get  
8 politics and commerce all involved in it, and  
9 it just gets to be such a mess.

10 There are - so there are diseases  
11 that I would rather not have besides  
12 brucellosis that hardly have any - human  
13 diseases that hardly have any way of - but I  
14 can easily get by going on an airplane or  
15 other ways. And this brucellosis thing is  
16 important, but the way we're handling it now,  
17 we've painted ourselves so much into a corner  
18 that I don't think we'll ever get out.

19 MR. BODNER: Jay Bodner. Yes, I'd  
20 like to know just on a little bit different  
21 note. We're setting up a program, I think,  
22 updating the rules. From a Montana

1 perspective, I think with the goal that as  
2 Montana sets up their rules, other States,  
3 other State Veterinarians would accept those  
4 rules.

5 And my question is: Is there  
6 generally buy-in from the other States that we  
7 would trade cattle in that would generally  
8 accept what Montana is going, or as we update  
9 these rules that we would not face, you know,  
10 additional import restrictions?

11 And I certainly know that there's  
12 autonomy within the State Vets and the other  
13 States, and it certainly should be that. But  
14 I think the ultimate goal is, I would assume  
15 from everybody, that if we can have less  
16 restriction, more consistency, that's going to  
17 benefit us all as an industry. And from an  
18 APHIS person's perspective, is that kinda what  
19 you are seeing or anticipating or can you  
20 answer that?

21 MR. HALEY: I'll try to answer it.

22 So to answer your question, if you

1 go back to the presentation Mike Carter  
2 presented this morning where he talked about  
3 putting up - putting this stuff up on a web  
4 site, and transparency was the terminology  
5 that he used. And that's where the biggest  
6 issue seems to have arisen, particularly of  
7 late, is - and the biggest concern that comes  
8 from the other States is how do I know that  
9 Montana is doing XYZ? How do I know that  
10 Florida is doing XYZ? How can I be ensured  
11 that when I get a trace of TB or brucellosis  
12 that they're actually working that animal, or  
13 they've gone out, they found the herd, they  
14 quarantined the herd, that they're doing the  
15 job that they need to be doing.

16 And so APHIS is working with the  
17 State Veterinarians to address that. And the  
18 goal of the traceability - not traceability,  
19 transparency that we were referring to earlier  
20 today is to have that available to us, to the  
21 State Veterinarians.

22 There's a number of formats or

1 possibilities as to how that will happen, but  
2 the goal from APHIS is that we try to  
3 harmonize those rules and minimize the States  
4 putting in additional requirements. Certainly  
5 as a producer, none of us like having to test.  
6 You know, 30 days to get to this State, 60  
7 days to get to that State, things of that  
8 nature. You know, that's a challenge for all  
9 of us, be it Veterinarian, be it a State  
10 regulatory person or whatnot.

11           So we're looking at a number of  
12 ways. One of them is putting stuff up on the  
13 web site. The other one is putting out what  
14 we refer to as situational reports. So we  
15 notify folks that "X" number of cases were  
16 gathered up this last month, and they went to  
17 these states, and here is what that State is  
18 doing with that information.

19           So to answer your question, yes,  
20 it is a concern. And, yes, we're always  
21 trying to come up with ways to address it.  
22 There is some challenge in doing so because

1 each - as you mentioned, a State Veterinarian  
2 has a different level of transparency that  
3 they're willing to provide. Sometimes that's  
4 based on the politics or other outside factors  
5 that they can't control. So some are more  
6 willing than others to talk about what they're  
7 doing or where they're at in a particular  
8 trace.

9           And I think a portion of that is  
10 the fear of the unknown. If I broadcast to  
11 the country that I've got six EHV horses that  
12 came out of that Utah show, then there's  
13 another State that says we don't have any, and  
14 we don't want any, so you have to do a - you  
15 know, I need a health paper within 24 hours  
16 with a temperature within 24 hours before you  
17 can enter the State. And if you stop anywhere  
18 you've got to get another certificate. You  
19 know, so there's those types of things.

20           We've got to develop both a  
21 mechanism for sharing the information so that  
22 we provide that transparency and allow

1 everybody the opportunity to see what's going  
2 on. And then develop a sense of trust that's  
3 actually functioning and working and everybody  
4 is getting the same information at the same  
5 rate.

6 Any other comments or questions  
7 you've got on zoning?

8 MS. RANKIN: I'm more interested  
9 in TB than brucellosis.

10 MR. HALEY: Bring it up.

11 MS. RANKIN: What are we going to  
12 do for surveillance for TB besides just our  
13 caudal fold tests? Are we doing anything in  
14 the wildlife or just waiting until you have an  
15 infected herd? Is that pretty much what -  
16 once there's affected herds in States with TB,  
17 then is there some USDA wildlife testing?

18 MR. HALEY: As far as testing, TB  
19 testing in wildlife, you're exactly right.  
20 The surveillance program for TB is slaughter  
21 surveillance and then the testing, the caudal  
22 fold testing are our primary surveillance

1 tools.

2 I don't anticipate any change in  
3 that regard. However, when we do find TB in  
4 an affected herd, then looking at the wildlife  
5 in the vicinity of that affected herd is the  
6 next step. Historically we've done that in  
7 cooperation with USDA Wildlife Services and in  
8 conjunction with the State, Fish and Game or  
9 Wildlife Services, Department at the State  
10 level to evaluate whether that infection is  
11 out there, or that how widespread or how  
12 determined that that evaluation is in wildlife  
13 is based upon what we perceive as the  
14 prevalence within the affected herd.

15 So it's one animal in a, you know,  
16 3,000-head dairy there doesn't seem to be many  
17 reports or information that would show that  
18 there's a wildlife component there, then we  
19 step away and follow-up to the same level that  
20 we would if we had a hunter kill an animal  
21 with a tuberculosis suspicious lesion. Or to  
22 go back and use the Minnesota scenario where

1 they - you know, the reason they got into the  
2 wildlife, obviously it's a very cold and  
3 sparse region up there, and the deer were  
4 standing with the cattle and eating. So once  
5 we had an infected animal up there, then we  
6 had a fairly high number in one particular  
7 herd. Then we started looking at the wildlife  
8 and talking. We did find an infected animal  
9 and thought that it was the only one. They  
10 thought that they had a point when that  
11 exposure took place, and so we worked off  
12 that.

13                   So this is basically case based,  
14 which is another component, particularly the  
15 TB program that we're starting to work with,  
16 and that's kind of the modeling aspect where  
17 we take a - we don't take the same zero risk,  
18 stamp it out, kill mentality as opposed to  
19 looking at the risk, looking at the  
20 prevalence, putting the model together that we  
21 refer to before you go in. Based on that we  
22 can make a decision as to what, you know,

1       what's the cost feasibility both to the  
2       Government and to the producer, and try to  
3       make the best decision on whether we can test  
4       these animals out in a short period of time,  
5       or whether it will be a test and remove  
6       program for, you know, eons.

7                   MS. BARNES:  We're going to take a  
8       break for lunch if you want to.  You can stay  
9       here for a few minutes if you want, and then  
10      we'll meet back in the big room at 1:15 and go  
11      on for our last round of discussions, okay?

12                   MR. HALEY:  Thank you.

13                   MS. BARNES:  So 1:15.

14                   DR. WOERNER:  Follow-up here.

15      What really concerns me that's going on with  
16      our programs and GYA with the elk feed  
17      grounds, State and Federal, and what's now  
18      happening at Stevens Creek with all these  
19      bison in corrals, and it looks like it's going  
20      to go on.

21                   And if we get TB in there, then we  
22      - I mean brucellosis is bad enough, but when

1 you mention the TB, that really gets scary.  
2 Why can't we, the States start making some  
3 significant changes? We know that crowding  
4 these animals is a bad deal and we're not  
5 doing anything about it.

6 MR. HALEY: Thank you for your  
7 comment.

8 (Laughter.)

9 DR. WOERNER: That was a question.

10 MR. HALEY: My answer is thank you  
11 for your comment.

12 MS. RANKIN: We need to get  
13 surveillance for tuberculosis. We have the  
14 Mexican steers coming in as feeder steers, and  
15 some of them are being pulled off for roping  
16 steers. And we know that a significant amount  
17 of the TB in our country is traced back to "M"  
18 branded cattle.

19 Most of those feeders, of course,  
20 are coming in and then they should be dead  
21 within two years or a year-and-a-half, however  
22 long it takes to feed them. But looking at

1 some sort of tracking or looking at monitoring  
2 that ID as the animals come across the border  
3 from Mexico, or Canada - all these animals  
4 from Canada have electronic ID, and then the  
5 ones from Mexico, I guess, don't have  
6 electronics. But we need then to follow those  
7 animals to say, okay, here came 1,000 head  
8 this week or this day and, you know, a year-  
9 and-a-half later or a year later then 900 of  
10 them went to slaughter. What happened to the  
11 rest of them?

12 Because we're looking then at  
13 exposures of all these cattle then coming into  
14 the roping structure, especially with the PRCA  
15 requiring that. And then these guys pick them  
16 up and some of them don't run very long  
17 because they get soured (phonetic). But then  
18 we're still looking at those animals being  
19 turned out into our pastures.

20 So is there - I would like to  
21 encourage USDA then to do some sort of  
22 tracking of imported animals of high risk.

1 And you can do that even at slaughter  
2 cooperatively with FSIS and using our  
3 traceability program.

4 MR. HALEY: We could, and a  
5 traceability program would assist us in doing  
6 that. But one of the challenges, as you're  
7 probably aware, is particularly when we're  
8 talking about ropers that stay out there for  
9 a long period of time, or of any cattle,  
10 whether we want to refer to them as rodeo  
11 stock. Oftentimes their ID doesn't stay with  
12 that animal for a variety of reasons. Some  
13 are purposely removed. Others due to the  
14 nature of the sport, they get taken out or  
15 tore out, so they lose them. Then we lose  
16 that traceability concept or ability.

17 The new program should help us to  
18 address that to some degree. The new program  
19 that we've got in traceability should also  
20 assist us with the ability to do a better job  
21 of tracking those animals. But currently we  
22 just don't have a system that will track it.

1 And the hope is that this Core 1 traceability  
2 program that's being watched will give us a  
3 step in that direction. I'm not sure that it  
4 will be an end all or savior to address all  
5 that, but it's certainly going to be a large  
6 step in that direction, to have a traceability  
7 tracking type system for those animals.

8 MS. RANKIN: Is there any thought  
9 to be using the Canadian - you know, all  
10 Canadians have electronic ear tags. And then  
11 Michigan does them, you know, Coutrain, Dr.  
12 Coutrain (phonetic) has his set to do that in  
13 Michigan. He said every animal that goes into  
14 those plants go through a panel reader.

15 I mean we have the technology. We  
16 have the arm of traceability and FSIS, all we  
17 have to do is collect it the data, put it into  
18 an Excel spreadsheet, and that's done  
19 electronically, and then look at it.

20 MR. HALEY: Yeah, so Dr. Rankin's  
21 comment is we've got the model in Michigan.  
22 We've got the electronic ID in Canada. And so

1 the next phase is trying to get a  
2 standardization so that they're all using the  
3 same frequencies, setting up all of those  
4 readers in each of those plants. And then  
5 from the Mexican side there are - there's some  
6 vital programs going on now in Mexico.  
7 Chiwauwau (phonetic) is working on some  
8 electronic transference of the data so that  
9 they get all that data that comes through the  
10 border transferred into the USDA database so  
11 we can have all of those records. And they  
12 are using electronic ID in that project. So  
13 we're racing up to that hill, but again that's  
14 traceability and a whole day or two to stop  
15 it.

16 MS. RANKIN: It will encourage  
17 then local use of electronic IDs if you track  
18 the reports.

19 MR. HALEY: And the USDA has taken  
20 the position that, you know, the traceability  
21 program has been going on for a number of  
22 years now. We've gone back and forth, and our

1 current concept is to use the least cost  
2 mechanisms possible to the producer so we can  
3 get the most participation possible in the  
4 traceability program.

5 Any other comments or questions?

6 If not we'll bust for lunch. Thank you,  
7 y'all.

8 (Meeting adjourned at 11:44 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group B2

Before: USDA

Date: 06-01-11

Place: Bozeman, MT

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.



-----  
Court Reporter

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

+ + + + +

Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING B-3

Program Requirements

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the Holiday Inn,  
5 East Baxter Lane, Bozeman, Montana, in the  
Jefferson Room at 1:25 p.m.

PRESENT

Burke Haley, Associate Regional Director,  
USDA, Veterinary Services

1 P-R-O-C-E-E-D-I-N-G-S

2 (1:25 p.m.)

3 MR. HALEY: Let's get everybody to  
4 introduce themselves.

5 MR. LINFIELD: Tom Linfield, USDA  
6 - APHIS, Veterinary Services, Dellon, Montana,  
7 and I'm on the working group.

8 DR. LISKA: Eric Liska, Montana  
9 Department of Livestock, Helena, Montana.

10 MR. McDONALD: Ken McDonald,  
11 Montana Fish, Wildlife, Birds and working  
12 group member.

13 MS. LEONARD: Whitney Leonard,  
14 Natural Resources Defense Council.

15 MR. THOMPSON: Brent Thompson,  
16 USDA - APHIS out of Billings.

17 MS. KINKIE: And I'm back, Druska  
18 Kinkie, livestock producer.

19 MR. HALEY: Good. So I'm Burke  
20 Haley, Veterinary Services out of the Western  
21 Region in Fort Collins, Colorado, Associate  
22 Regional Director there. I'm part of the

1 working group.

2           So in this session we talk about  
3 the three aspects of these first elements, the  
4 zoning, the surveillance, State Requirements.  
5 So that's what we're asked to talk about. The  
6 overall framework is to try to put together a  
7 generic frame or generic face that we put into  
8 the Code of Federal Regulations or CFR. And  
9 then do away with the UM&R, the Uniform Method  
10 and Rules, which is a portion of the  
11 regulations that we've been questioned as to  
12 the legality of it, and whether or not we can  
13 enforce them or how we enforce them.

14           So TB and brucellosis underneath  
15 this framework will allow us to have a little  
16 bit more ability to be flexible and write  
17 directives so that we can - as new tests come  
18 along, or as the program changes or new  
19 vaccines, things of that nature come about, we  
20 can work those into the program quickly.

21           So that's the impetus is to try to  
22 put together a broader framework in the CFR,

1 and so that's essentially our statutory  
2 authority. And then put together with  
3 directives the specifics that we need as we  
4 enter that in the Code.

5 So with that quick introduction  
6 and overview we can go back to the information  
7 that Mike Carter shared with you this morning,  
8 those slides, and then address any questions  
9 or concerns you have as far as how we do  
10 design, what those State Requirements look  
11 like, or any of those other questions.

12 If you've got questions I'll try  
13 and answer them. I'll try to give you a  
14 perspective on how the working group arrived  
15 at what we did arrive, or maybe explain why we  
16 didn't address that, if we didn't.

17 But again, this is your  
18 opportunity for comments, and they're recorded  
19 as such in this room. Then if you have the  
20 desire to comment after we leave today there's  
21 - in your pamphlet there, there's the news  
22 release, and on the back side, page 2 of the

1 news release has the data so that you can go  
2 to the web site or mail in comments later, if  
3 you wish.

4 So anyway, let's see what y'all  
5 have for comments or questions. Do you  
6 understand it all?

7 MS. KINKIE: I can ask a question  
8 if nobody else is.

9 MR. HALEY: Go ahead.

10 MS. KINKIE: Druska Kinkie. And  
11 on page 9 of the narrative there was a part  
12 where it talks about eliminating infection in  
13 the affected groups, and it gives the way to  
14 do that, depopulation, test and remove or  
15 other means.

16 And then the last part of that  
17 sentence says: Prevent further transmission  
18 to susceptible species. How do you do that?  
19 You're within the framework that you set up  
20 here. How do you anticipate preventing  
21 further transmission?

22 MR. HALEY: In reference to that

1 single sentence there, essentially what it's  
2 referencing is we - once we find an infection  
3 in domestic livestock, once we find infection  
4 then we go in there and do an evaluation. So  
5 we're looking at what's the prevalence within  
6 that herd. And what's the disease, you know,  
7 whether it be TB or brucellosis.

8           So what are out options as far as  
9 testing, you know, the types of tests we have,  
10 the tools that are available to us, and make  
11 a decision on whether we're better suited to  
12 depopulate that herd or - which is where the  
13 indemnity question comes from - or whether  
14 it's better off that we do test and remove on  
15 that herd, testing the cattle for whatever it  
16 is.

17           Then in the event - once we've  
18 done that then the second part of it is - the  
19 portion that you're questioning is if we're  
20 doing a test and remove, we still have exposed  
21 animals out there. And so we want to ensure  
22 that those exposed animals are minimized in

1 their contact with other animals so that it  
2 doesn't spread to that exposed group into an  
3 unknown population.

4 MS. KINKIE: So if, if the - you  
5 know, most of the transmissions that have  
6 occurred in our GYA Area, they've been from  
7 elk. And so if that's the known source, so  
8 how would you prevent further transmissions  
9 because the susceptible species in that case  
10 is the livestock, and the elks gave it to  
11 them.

12 So is there a plan for that to  
13 continue, or is this going to be just for  
14 domestic livestock?

15 MR. HALEY: The only rule that we  
16 can write is for domestic. So in regard to  
17 how that's written, that's written for how  
18 we'll handle domestic animals. And how  
19 livestock would be handled when they're being  
20 in the scenario you described where they're  
21 being exposed to an infected wildlife  
22 population is where we have to go back to our

1 wildlife partners and look at those risk  
2 mitigations and what we can do to address  
3 those from a wildlife standpoint.

4           As far as our regulations, we  
5 can't address wildlife because we don't have  
6 the authority over the wildlife to dictate how  
7 those animals will be addressed. We can have  
8 a discussion, and it depends on where the  
9 wildlife - who this - what's the appropriate  
10 word? Who is the custodian of those wildlife?

11           So if it's a State wildlife  
12 population, then APHIS's role is to sit down  
13 with the State and say - or to the Health  
14 Officials of the livestock and discuss or look  
15 at putting in the protocol. If it's another  
16 Federal agency, then we have to go out to that  
17 Federal agency and have that same discussion  
18 at the Federal level.

19           MS. KINKIE: Well, I mean the GYA,  
20 we're talking both entities, because you have  
21 the bison that's Federal and the elk that's  
22 State. But if we just limit it to this

1 conversation to be elk, then are you able to -  
2 have you had those conversations, or do you  
3 anticipate having those conversations with FWB  
4 and Department of Wildlife?

5 MR. HALEY: I would say we have  
6 had them in the past in the sense that we  
7 provided some cooperative agreement fundings  
8 to try to come up with information and data.  
9 You know, what is the scope of the disease  
10 and, you know, the prevalence ranges and  
11 things of that nature.

12 As far as going to the next step  
13 and where this is driving is those discussions  
14 are to be. So that will be something that  
15 will be discussed when the State starts to  
16 submit their plan.

17 Part of this is the State has to  
18 develop a surveillance plan, whether it be two  
19 separate zones or a single zone, or however  
20 the State is set up. The State has to go out  
21 and survey. You know, as it's currently  
22 established, it might be two separate plans.

1 We have one plan that we utilize in DSA,  
2 another plan outside of the DSA, or maybe even  
3 three plans with a buffer zone between the DSA  
4 and whatever we call the rest of the State.

5 But all of those discussions will  
6 be had as that plan comes forward and that  
7 plan gets reviewed. Whether that plan is  
8 being reviewed federally, or whether that plan  
9 is being reviewed by the advisory board that  
10 we discussed earlier this morning.

11 MS. KINKIE: So the plan that  
12 you're talking about that's required is not  
13 going to be just a replica of the DSA plan, it  
14 will be different?

15 MR. HALEY: Correct. The plan  
16 that we're talking about will be a complete  
17 state-wide surveillance plan. Each State is  
18 going to build their own plan based on their  
19 idiosyncrasies of their livestock industry,  
20 their wildlife issues, if they have those. So  
21 each State will come up with their own plan.

22 MR. McDONALD: And it's more than

1 just a surveillance plan. It's an animal  
2 health plan.

3 This is Ken McDonald. I was just  
4 saying it's more than just a surveillance  
5 plan. It's an animal health plan. So an  
6 animal health official, I think, is the one  
7 responsible. So is Dr. Liska and Dr. Zaluski  
8 and their office, but we'll work real close  
9 with them, you know, on the wildlife case.

10 MS. KINKIE: What's the difference  
11 then between what you do - it's more than a  
12 surveillance plan? It's an animal health  
13 plan? Can you tell me what the two  
14 differences are?

15 MR. McDONALD: Ken McDonald again.  
16 Animal health may include management actions,  
17 both risk mitigation for both livestock  
18 producers and from the wildlife side. So  
19 we're talking about, we've got some funding  
20 and help through Legislature for involving  
21 wildlife risk mitigation for brucellosis. So  
22 things like that hopefully will get

1 incorporated into the animal health plan that  
2 gets it then to these guys.

3 MR. HALEY: Yeah. I mean the  
4 surveillance plan is where is the infection.  
5 Obviously, that's the first - you know that's  
6 a portion of the surveillance plan. But the  
7 entire plan is going to be - to use your  
8 State, Montana, as an example. We know we  
9 have an infected population in the wildlife.  
10 So we have that wildlife reservoir, so that  
11 wildlife reservoir has to be addressed as to  
12 how do we mitigate that, and how do we  
13 mitigate the disease transmission whether it  
14 be from livestock to wildlife or vice versa.

15 So if we find an infected herd, we  
16 want to mitigate that we don't continue to  
17 have an infected herd out there of domestic  
18 livestock that are a source of infection to  
19 wildlife, and continue to expose wildlife.  
20 Conversely, when we have a livestock issue -  
21 I mean a wildlife issue, we want to look at  
22 what those mitigation plans are to try to

1 minimize the livestock transference of the  
2 disease from the wildlife into the livestock.

3 MS. KINKIE: So do you anticipate  
4 the language ever being mitigation and zero  
5 prevalence reduction, or do you think it will  
6 just stay mitigation?

7 MR. McDONALD: Ken McDonald. For  
8 now the focus would be mitigation because I  
9 don't think there is a real feasible way to  
10 get that, you know, significant, kind of  
11 significant zero prevalence reduction. But  
12 that's what we know today.

13 MR. HALEY: And maybe I should add  
14 to that. Zero prevalence being a percent  
15 infection. I mean we can reduce absolute  
16 numbers, but reducing, you know, from 10  
17 percent to 5 percent pretty available. We've  
18 seen with that Northern Yellowstone herd with  
19 that two-thirds reduction of the elk  
20 population, but the prevalence rate is still  
21 the same.

22 MS. KINKIE: Thank you.

1 MR. HALEY: And, again, the  
2 purpose of this framework and the design of it  
3 is to allow us - as new tools comes about it  
4 allows us to utilize those tools both at - it  
5 allows the State to utilize them, and it  
6 allows us to utilize them and incorporate them  
7 into those plans in a timely fashion as  
8 opposed to the three- to five-year process  
9 that we currently use as we try to rewrite the  
10 Federal Regulations.

11 MS. LEONARD: In the working group  
12 discussions has there been any talk of the -  
13 I'm sorry, Whitney Leonard. Has there been  
14 any talk of the feed grounds in Wyoming and  
15 whether particularly the conditions they  
16 create for brucellosis transmission? And I  
17 guess I'm curious whether there would be a way  
18 that that would be at least considered in  
19 Wyoming's State plan? And I know that's not  
20 under the jurisdiction of you guys, but  
21 whether that context is being considered, and  
22 if there's anything that APHIS could do in

1 reviewing the State plan to at least consider  
2 those conditions?

3 MR. HALEY: I think to answer your  
4 question, there hasn't been discussion, no.  
5 We didn't go into that level of detail in  
6 these discussions. However, if that's seen as  
7 a risk or a mode of transmission within the  
8 wildlife and has been getting back to our  
9 livestock, then, of course, to get that in a  
10 plan we'll have to address that within that  
11 plan.

12 So to answer your question, no, we  
13 didn't discuss it. Your second question, will  
14 it be on the plan? Yeah. It will have to be  
15 addressed to that plan, too, so that they can  
16 start talking about it. We got to look at our  
17 prevalence levels. There are ways that we can  
18 take some actions and some steps to reduce  
19 that. There are better tools that need to be  
20 out there before we can go to the level that  
21 we'd all like to get to.

22 Other questions?

1 MR. McDONALD: Curiosity one.  
2 Fear not the battles. You've got State versus  
3 Federal. You've got the National Health  
4 Refuge that's needing the State's help. Does  
5 that have any jurisdiction? It's a different  
6 agency, Interior, that runs the National Elk  
7 ground. So you have one Federal agency  
8 concentrating elk and perpetuating the spread  
9 of disease, and another one trying to  
10 eradicate it. Does that -

11 MR. HALEY: I think we can all  
12 agree we've got some diabolically opposed  
13 missions and actions taking place out there.  
14 One of our bills is to try to do a better job  
15 of bringing all the partners to the table so  
16 that we can all agree upon - you know, I think  
17 everybody in this room is fully aware of the  
18 diversity and the emotions that go with the  
19 different groups, depending on whom they are,  
20 and the challenges that come with trying to  
21 have a dialogue. But that's certainly got to  
22 be one of the bills, to get all the

1 appropriate people at the same table and at  
2 least begin to address the same goals.

3 So we may be able to do that  
4 through the plans as the States come up with  
5 their surveillance plans and their mitigation  
6 plan. Certainly there's other opportunities  
7 for us to address as well.

8 MR. LINFIELD: Maybe a good  
9 question back for Druska that - Tom Linfield  
10 here. We talked a little bit earlier today  
11 about the advisory group and kinda the makeup  
12 of that. So again if you or anyone had any  
13 thoughts on whether to have one versus two  
14 advisory boards, one for brucella and one for  
15 TB.

16 Then maybe your perception, you  
17 know, what the ideal makeup as far as these -  
18 who is represented on that board because it  
19 would be a national board, so it would be the  
20 same folks looking at applications at Florida  
21 versus Montana. So maybe just some thoughts  
22 on whether that type of advisory board is

1       worth pursuing.  And then maybe the  
2       composition, makeup of who would be on that  
3       board or boards.

4                   MS. KINKIE:  Druska Kinkie.  Would  
5       you anticipate that that board - I mean you're  
6       talking that it would review all the State  
7       plan?  So would there be a possibility then of  
8       narrowing that advisory board to just the GYA  
9       States?  Is that a feasible - because, you  
10      know, the brucellosis issues in this  
11      particular rural area are not the same for  
12      anybody else.  I mean that might be one way to  
13      address the advisory board.

14                   And I had talked earlier, I have  
15      comments on - about what the advisory board  
16      should look like, but that was another  
17      process.

18                   MR. HALEY:  So let me see if I  
19      understand.  Are you referencing that we have  
20      like two advisory boards for brucellosis, or  
21      the brucellosis board be primarily the GYA  
22      States since that's where the pocket is for

1 thep.

2 MS. KINKIE: Druska Kinkie. I  
3 guess I'm not quite sure how to answer that.  
4 You know, it might be more than 3 percent. If  
5 you have livestock producers on that board and  
6 you are asking them to advise on plans for all  
7 these other States, you know, that's a pretty  
8 big job.

9 Plus, that's probably a lot of  
10 information that they wouldn't have a clue  
11 about. And not that they couldn't, you know,  
12 get educated on it, but I think that maybe  
13 their role as to being on an advisory board  
14 would be more specific to this area.

15 But, you know, if the only way to  
16 get any input is to be on a national board and  
17 do all 50-some - 50 States? 51? Well, we'll  
18 create a new State - Then I think that it's  
19 really critical that there be representation.  
20 And if that's what it takes, then that's what  
21 it takes.

22 MR. HALEY: So, yes, it's 50-plus

1 because we've got territories, so you can add  
2 those.

3 All right. Thoughts? Comments?

4 I believe we're done.

5 (Meeting adjourned at 1:48 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group B3

Before: USDA

Date: 06-01-11

Place: Bozeman, MT

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
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U.S. DEPARTMENT OF AGRICULTURE (USDA)

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Proposed TB and Brucellosis

Regulatory Framework

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SMALL GROUP MEETING C-1

Affected Herd Management

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WEDNESDAY

JUNE 1, 2011

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The Meeting convened at the  
Holiday Inn, 5 East Baxter Lane, Bozeman,  
Montana, in the Saloon at 10:24 a.m.

PRESENT

Dr. Bill Hench, USDA - VS, National TB  
Eradication Program

Ms. Danielle Gunn, Shoshone-Bannock Tribes

1 P-R-O-C-E-E-D-I-N-G-S

2 (10:24 a.m.)

3 DR. HENCH: I'm Bill Hench with  
4 the TB Eradication staff. I've been on staff  
5 a little over five years now. So I will be  
6 doing a lot of the work when we finally do put  
7 pen to paper for these new rules. We haven't  
8 started at this point, so I'll just throw that  
9 out to begin with.

10 MS. GUNN: I'm Danielle Gunn. I'm  
11 the Agriculture Agent for the Shoshone-Bannock  
12 Tribes on the Fort Hall Indian Reservation,  
13 Southeast Idaho, and I've just been part of  
14 the working group.

15 DR. LISKA: I'm Eric Liska. I'm  
16 the Brucellosis Program Veterinarian for the  
17 Montana Department of Livestock.

18 MR. THOMPSON: I'm Brent Thompson.  
19 I'm the Brucellosis Epidemiologist for the  
20 State of Montana for AHIS.

21 MS. LEONARD: And I'm Whitney  
22 Leonard with the Natural Resources Defense

1 Council out of Livingston, Montana.

2 DR. HENCH: Well, thanks  
3 everybody. And I'll say it frequently,  
4 regulations.gov, look up our TB stuff and it  
5 will give you the methodology to submit your  
6 comments. Please submit comments.

7 While we're getting this  
8 transcribed, things may come to you in the  
9 interim, and then send them to us.

10 This breakout group is aimed at  
11 three different elements. The order that they  
12 were thrown in there does not imply any kind  
13 of importance, but the first one is Affected  
14 Herds Management and Epi Investigations. The  
15 second element to address is Movement  
16 Controls. And the third element is imports.  
17 That's international imports.

18 And what we're looking for is to  
19 get your ideas on how to address each of these  
20 three topics. We realize that you've only had  
21 a couple hours of introduction to this, where  
22 Danielle and I have spent multiple hours, and

1 you may still be digesting the information  
2 that you got this morning.

3 But if we start out with Affected  
4 Herds Management, certainly you've dealt with  
5 them up here in the brucellosis issues, and  
6 we're looking for what do we need to do for  
7 these affected herds? What would you like to  
8 see in the regulations or in the standards to  
9 address these herds?

10 Do you want to jump in?

11 MS. LEONARD: I guess so. I guess  
12 I can speak mostly on the brucellosis side  
13 rather than TB.

14 My group does a lot of work on  
15 wildlife, so that's sort of the angle that we  
16 come at this from. And I think we have  
17 definitely supported the movement that we've  
18 seen over the past maybe year-and-a-half at  
19 this point towards dealing with affected herds  
20 and what we would consider more of a practical  
21 manner, doing away with whole herd  
22 depopulation and some of the more damaging

1 requirements that made brucellosis, I think,  
2 a disproportionately big deal for the  
3 livestock producers who did get - did have a  
4 case of infection in their herd.

5           So I think both in terms of how a  
6 herd is treated once there is an infection,  
7 and in terms of looking at the risk, we think  
8 it's important to look at it from more of a  
9 risk management standpoint rather than, rather  
10 than sort of at all costs eliminate any -you  
11 know, eliminate the whole herd just because of  
12 the one case of infection.

13           So again, like you said, you know,  
14 we haven't had a chance to see the full - I  
15 mean what will come out of this process and  
16 what the ultimate regulations will be, but we  
17 certainly support the steps we've seen towards  
18 more practical case-by-case management of  
19 affected herds. I think it's better for  
20 livestock producers, and that ends up being  
21 better for wildlife and the eco system because  
22 it means livestock producers are able to live

1 in, I guess, less of a state of fear of what  
2 could happen if they have elk or bison  
3 transmit brucellosis to their herd.

4 DR. ZALUSKI: Well, I guess as far  
5 as affected herds are concerned, it's - a  
6 case-by-case basis is absolutely necessary.  
7 Each herd can be different, depending on even  
8 which species of animal they have, whether it  
9 be bison, or whether it's cattle. So, of  
10 course, a case-by-case basis is important.

11 But I think additionally when we  
12 look at affected herds, especially in our  
13 State, for brucellosis that is, and I think  
14 additionally for tuberculosis, they kind of go  
15 hand in hand. But one old requirement as far  
16 as adjacent herd study that I think needs to  
17 be looked at is this one-mile radius.

18 I think with consultation from  
19 Wildlife officials or with consultation from  
20 other State agencies or even Federal agencies,  
21 that in our situation elk that have been  
22 affected by or have been exposed to brucella,

1 or bison that have been affected by or  
2 infected with or exposed to brucella that we  
3 need to look at their movements and their  
4 movement patterns rather than the old way of  
5 thinking, as far as animals crossing fences  
6 and aborting in and amongst other herds. We,  
7 of course, need to look at - we need to look  
8 at contact herds, and we need to look at other  
9 associated herds, but as far as the one-mile  
10 radius is concerned, just on that alone I  
11 think that we need to look a little more  
12 closely at wildlife movements, and whether  
13 that wildlife is affected or has been exposed  
14 to brucella.

15 MR. THOMPSON: And following up on  
16 that one-mile radius, I would guess my  
17 thoughts would be to put more discretion in  
18 the hands of the local people working the  
19 incident. One mile may be appropriate. One  
20 mile may be very inappropriate. Three miles  
21 might be appropriate. Three miles might be  
22 appropriate depending on the incident, and

1 that's why we have the epidemiologists that go  
2 out and look at the situation. And then  
3 certainly, as you said, movements in and out  
4 of the herd and adjacent herd factors, all  
5 these things have to enter in. So there needs  
6 to be room for human decision and not just  
7 plain regulation.

8 DR. HENCH: From Whitney I heard  
9 that we need to evaluate each disease-affected  
10 domestic herd on a case-by-case basis. Have  
11 you - in July of 2009 the Secretary came out  
12 with a new policy memo on handling TB-affected  
13 herds where depop is no longer the automatic  
14 response.

15 So we have moved down the road  
16 towards evaluating each herd on a case-by-case  
17 basis. And it sounds to me like that's what  
18 you're advocating here, that when we find an  
19 affected herd, depop is not an automatic  
20 response, but rather let's look at the  
21 situation and proceed from what the science  
22 tells us to do.

1                   Is that a fairp.

2                   MS. LEONARD: Yes. Yeah, that's -  
3 I agree with your characterization of my  
4 comments. I think, as I was saying, the  
5 movements we've seen since 2009 towards - at  
6 least for brucellosis I can speak. I don't  
7 know as much about tuberculosis. But, you  
8 know, we've seen with the last few cases of  
9 infection, at least in the GYA, where herds  
10 have been infected with brucellosis, they  
11 haven't been depopulated, and I think that's  
12 a positive movement as far as everyone is  
13 concerned from different sides of the  
14 spectrum. So I would agree with that.

15                   And I would also echo what you  
16 said about looking at what the science tells  
17 us, and I think that's important, particularly  
18 with the new science that's coming out about  
19 the risk of transmission of brucellosis, and  
20 both the time window in terms of what that can  
21 teach us about temporal separation, in  
22 addition to geographic separation of wildlife

1 and domestic herds that might be at risk.

2           So I think, yeah, looking at the  
3 epidemiological signs and the ecological signs  
4 and how those fit together, I think will be  
5 really important in coming up with regulations  
6 that are practical and ultimately should make  
7 things easier for producers, for the  
8 livestock, for wildlife, for all concerned.

9           DR. HENCH: Thank you.

10           And from your two comments it  
11 seemed to be more directed towards the epi  
12 investigation as opposed to the affected herd  
13 itself. And that was the area testing and the  
14 contacts or adjacents or fence lines or  
15 whatever you want to call them.

16           And that in some cases, you know,  
17 a one-mile radius around an affected herd,  
18 which is the way we have traditionally done  
19 things, may not be appropriate. It may be too  
20 much if the wildlife movement patterns are  
21 linear through that area. They have an  
22 established path. A domestic herd that may be

1 a half mile off that path would not have an  
2 exposure. Whereas something two miles along  
3 that path may have an exposure.

4 So I'm trying to gather here the  
5 melding of your two ideas is that area testing  
6 should have a place in the new program for epi  
7 investigations, but the determination of that  
8 area would best be left to the folks on the  
9 ground there, the designated disease  
10 epidemiologists. Is that a fair summary of  
11 what y'all said?

12 MR. THOMPSON: Yeah, I believe  
13 that to be what we agreed on. Thumbs up from  
14 Eric, sob.

15 DR. LISKA: Giving the mike.

16 MR. THOMPSON: Oh, sorry. I  
17 thought you were giving me a thumbs up. Dang  
18 it.

19 DR. LISKA: No, not from me.

20 MR. THOMPSON: Yeah, I agree. I  
21 think local, local jurisdiction of these  
22 issues is more valuable than something run out

1 of Fort Collins or Riverdale. A lot more  
2 local discretion would be - I don't want to  
3 say convenient - would be appropriate, I  
4 guess, for managing diseases. We know what  
5 the local terrain is. We know generally local  
6 movements, and we can deal with producers in  
7 a manner that's a little more elastic to allow  
8 for their management practices, also.

9 DR. LISKA: And I would agree with  
10 that. I think that we've seen that in recent  
11 affected herds in three States, and that we've  
12 looked at their particular operation and have  
13 worked with them on that.

14 There are some portions, and I  
15 think the adjacents and fence line contact  
16 that hasn't been so elastic or that we're  
17 still held to those requirements. And I  
18 understand that for now, but I guess I would  
19 think that looking at, once again, the  
20 movement patterns of the wildlife or whatever  
21 - well, the wildlife in both cases really, I  
22 think, is important.

1                   So looking at that is great. And,  
2                   of course, the temporal separation, I think,  
3                   is an important factor in all of that as well.  
4                   And I think that's an important factor in  
5                   quarantine of an affected herd and movements  
6                   in and out of an affected - of a quarantined  
7                   affected herd, looking at the temporal and  
8                   special separation with that herd and the  
9                   wildlife that likely was the source of  
10                  infection. Not always, but likely is in many  
11                  cases.

12                  DR. HENCH: TB and brucellosis  
13                  aren't that far apart. A few disease  
14                  idiosyncrasies, but generally the practices  
15                  are extremely similar. And one of the things  
16                  that hasn't been mentioned, we seem to be  
17                  focusing on the wildlife to domestic animal  
18                  vector. If we have an affected domestic  
19                  animal herd, shouldn't we be looking at the  
20                  reverse direction? Should we develop,  
21                  implement, standardize, what have you,  
22                  something to address that reverse vector? You

1 know, if we have an affected herd, how do we  
2 prevent that herd from potentially passing the  
3 disease back to uninfected wildlife? Because  
4 there is a lot of unaffected wildlife out  
5 there, too.

6 So in these current management  
7 plans, what might we want to put into those  
8 plans? Any thoughts on that?

9 MS. LEONARD: I guess I would say,  
10 and I can just speak for the GYA, but I think  
11 it seems like within wildlife, given the rates  
12 of at least zero prevalence among both elk and  
13 bison, it seems much more likely that they  
14 would pass it to each other, you know, that  
15 wildlife, other bison would pass it to other  
16 wild bison, wild elk pass it to other wild  
17 elk, then that the wildlife would be infected  
18 by a domestic herd.

19 So I would see - and I haven't  
20 thought through this entirely, but I think it  
21 would - it seems like it would make more sense  
22 to be more careful about livestock movement so

1 that you're not taking - if you had an  
2 infected herd, so that you're not moving those  
3 infected domestic animals out of an area that  
4 already has brucellosis in the wildlife.

5 I think within an area that  
6 already has it in the wildlife, I don't see a  
7 huge risk. You know, if a domestic cow passes  
8 brucellosis to one more elk in the GYA, it's  
9 a drop in the bucket. I would see it more as  
10 an issue if an infected cow gets moved out of  
11 the GYA and then passes it to elk or other  
12 wildlife somewhere else, I would see that as  
13 being more of a problem. So I think the best  
14 way would be to carefully manage movement of  
15 herds out of an area where there's already  
16 brucellosis in the wildlife.

17 MR. THOMPSON: At this time in  
18 Montana, any animal that does - domestic  
19 animal that does respond to brucellosis or  
20 even a TB test is removed immediately, or if  
21 not slaughtered immediately, but at least  
22 quarantined in a very isolated area

1 immediately to prevent just what you're  
2 saying, as well as spread to the rest of the  
3 herd.

4 DR. LISKA: And I agree with both  
5 points. I think that one major thing to  
6 consider is that in an area with the disease  
7 that's endemic in the wildlife, the risk tends  
8 to be more to the domestic livestock than to  
9 the wildlife, in my opinion.

10 The biggest question for me is  
11 what can we do to decrease the endemicity of  
12 the disease within that wildlife. And is  
13 there something in wildlife regulation that we  
14 could do to work towards that goal? I don't  
15 know. I don't know if that's doable or  
16 possible, but it's certainly concerning.

17 DR. HENCH: Do we want to stick  
18 with affected herds? Do we want to move on to  
19 movement control?

20 MR. THOMPSON: We have a set of  
21 regulations in Montana. I would kind of like  
22 the perspective. Are you familiar with that?

1 MS. GUNN: Yes, I am, absolutely.  
2 On the Fort Hall Reservation we don't have  
3 problems with brucellosis, and we do have a  
4 bison herd, but we vaccinate all of our  
5 heifers every year. We have a very good  
6 protocol to keep those types of regulations in  
7 place. And our Tribe is very supportive of  
8 those type of regulations, and they let me go  
9 ahead and do those type of practices with our  
10 herds.

11 The one thing that concerns me is  
12 our wildlife infrastructure is pretty weak.  
13 And so we don't have surveillance and  
14 monitoring going on for the diseases with out  
15 Wildlife Departments. And sometimes we don't  
16 have a good animal health infrastructure there  
17 either.

18 So those types of things kind of  
19 concern me. But as far as producers being up  
20 on vaccinations, they are. I had a couple of  
21 herds when I first started that weren't  
22 vaccinated, and we got them bled and tested

1 and vaccinated. So I feel like we have some  
2 good practices in place to protect ourselves.

3 I can't speak for the Montana  
4 Reservations because I don't know what their  
5 situations are like.

6 MR. THOMPSON: How is the  
7 relationship with State and Federal - I was  
8 just curious of your relationship with State  
9 and Federal people as to provide resources for  
10 you for an incident.

11 MS. GUNN: Our Tribe is really  
12 happy with our State Vet, Dr. Barton. And we  
13 have very good working relationships with  
14 them. So I think we have a really good  
15 relationship established there.

16 They distrust the Federal  
17 Government more so, and so they prefer working  
18 with our State Government instead. We do have  
19 to fall under Federal regulations. The Tribe  
20 doesn't have to follow State, but they've  
21 opted to adopt the State regulations anyway.

22 What do Montana Tribes do?

1 MR. THOMPSON: Montana Tribes seem  
2 to prefer the Feds over the State. The  
3 Montana Tribes seem to prefer the Federal  
4 Government over the State Government.

5 MS. GUNN: That's interesting,  
6 because we are completely opposite.

7 DR. HENCH: What about  
8 international imports? We went through that  
9 briefly. The pre-import requirements where we  
10 would evaluate a country or a zone within a  
11 country to establish the level of risk of  
12 imports, develop requirements for animals to  
13 be offered for import to the U.S. Then when  
14 they come in we track them to where they're  
15 first assembled for dispersals. And if  
16 they're moving interstate, let the receiving  
17 State know that they're going to show up. And  
18 for other animals that are going to be long-  
19 term residents, we have a follow-up program.

20 Your imports up here are generally  
21 from Canada. What do you think about those  
22 types of elements as being broad strokes for

1 an import program?

2 MS. LEONARD: I don't have much to  
3 add. I was just saying I don't think I have  
4 any significant comments in terms of an import  
5 program. I don't want to be talking about  
6 something that I don't know too much about.

7 MR. THOMPSON: Yeah, and I deal  
8 with this a lot in my job. I think we have a  
9 very good program for importing animals and  
10 tracking and following up and making sure that  
11 follow-up testing is handled.

12 DR. LISKA: I think those are all  
13 good, good things as far as pre-import and  
14 import and post-import. But one thing that  
15 concerns me is the inconsistencies between  
16 border States and importation into those  
17 States.

18 So we've got situations where  
19 import requirements into the State of, say,  
20 North Dakota may be different than the import  
21 requirements for the State of Montana. Those  
22 animals can then in some ways - or let me

1 choose a different State. Michigan.

2           They go into Michigan. Then they  
3 go from Michigan, they can meet import  
4 regulations to go into Montana. And it's not  
5 that that's necessarily a bad thing, but it's  
6 difficult in some cases. And I worry  
7 sometimes about a backdoor type of effect when  
8 regulations are inconsistent between States,  
9 border States, I should say. And sometimes a  
10 producer can get some cattle across the border  
11 in one State, and then get them throughout the  
12 country with that backdoor effect. So that's  
13 a little bit concerning to me.

14           DR. HENCH: Help me out here. Are  
15 you saying that the import requirements at the  
16 border ports are different in different  
17 states, or that the State - the animal - I'm  
18 trying to figure out where this inconsistency  
19 occurs. Is this the border vet who is being  
20 inconsistent, or the State that they're coming  
21 into is being inconsistent?

22           DR. LISKA: The State that they're

1 coming into is inconsistent. Now, that's to  
2 say that the State of Montana has certain  
3 regulations as far as brucellosis vaccination  
4 is concerned. And that's the case - or those  
5 are the cases I'm referring to.

6 But, however, if you have a  
7 consistent - the border veterinarians and  
8 regulations to come into the United States are  
9 consistent, and they have been good about  
10 that. So I guess for that reason, the follow-  
11 up and the post-import follow-up and  
12 identification of out-of-country animals, I  
13 think, is a very good thing. Not necessarily  
14 that the import into the United States is  
15 inconsistent, but import - but States have  
16 such inconsistent regulations that they can  
17 get into different States without follow-up  
18 simply by going into another State on a  
19 border.

20 DR. HENCH: Okay, make sure I got  
21 this.

22 An import into State A may be

1 denied at the international border because the  
2 animals are not vaccinated for Disease Z. But  
3 those same animals could be imported into  
4 State B, which does not require a vaccination  
5 for Disease Z, and then those animals could  
6 then move from State B to State A. Does that  
7 get it?

8 DR. LISKA: That gets it, correct.  
9 That's the direction I was going.

10 DR. HENCH: Thank you. There's  
11 always a question of inconsistencies of where  
12 do they lie? We have encountered that  
13 previously. It's something we are looking at  
14 and trying to figure out how to address.

15 Everybody seems to be most into  
16 the affected herd managements, so Whitney, you  
17 were talking about movements from affected  
18 herds and your concern of moving animals that  
19 may or - may have disease into an area without  
20 disease. What might you offer, or do you have  
21 any ideas on how we can lessen that risk of  
22 happening, mitigating it from happening?

1 MS. LEONARD: Well, I think I  
2 would say the easiest or most proactive answer  
3 would be just in appropriate surveillance  
4 among domestic herds. And I think, at least  
5 in Montana, the direction they've moved with  
6 the designated surveillance area I think  
7 addresses some of those concerns, making sure  
8 that if there is a case of infection it's  
9 detected before those animals would have the  
10 chance to be moved into another herd and  
11 potentially infecting either domestic  
12 livestock or wildlife in another area.

13 DR. HENCH: Let me rephrase the  
14 question. This is the problem with being so  
15 familiar with what's going on I'm not always  
16 clear to those who aren't initiated.

17 If we have an affected herd, and  
18 this is a producer, a beef producer and his  
19 cow-calf operation. And he sells his feeders,  
20 backgrounders every fall. And he's been  
21 affected with disease and he's under a test  
22 and remove protocol. What can we do to help

1       that guy stay in business?  What in the  
2       regulations, what in the program standards can  
3       we do to help this fellow stay in business?  
4       Because we recognize that that calf crop each  
5       fall is his livelihood.  And if he's under a  
6       do not move quarantine, he's not going to  
7       survive.  So we're - we mentioned it in the  
8       element of restricted destinations.  Currently  
9       we have things like quarantine feed lots,  
10      quarantine pens.  Is there anything else y'all  
11      can think of that we can do to help these,  
12      help these folks?

13                   MR. BODNER:  My name is Jay Bodner  
14      with the Montana Stockgrowers Association.

15                   You did mention, I think,  
16      providing options for producers in those  
17      instances.  Certainly, when you're looking at  
18      just a quarantine restricted movement, that  
19      producer has one option to go to.  And, you  
20      know, the price he's going to receive or he's  
21      looking at receiving for his calf crop is  
22      going to be reduced from his neighbor that has

1 four, five, six, seven different bidders on  
2 them.

3 And so that's going to have a  
4 financial impact on him. How exactly we can  
5 address that or provide him with more options.  
6 I know in the one case where, you know, in  
7 Montana where the herd was depopulated and the  
8 calves and everything was depopulated.  
9 Certainly, I think there were some options for  
10 that producer. You know, I think at one point  
11 he brought up the idea of why can't we just  
12 split these cows off. They can go to a  
13 separate feed lot instead of being  
14 depopulated.

15 And at that point, you know, that  
16 was under the old rules, but I think these  
17 producers actually have some ideas, too, that,  
18 you know, maybe we can look at. But certainly  
19 I think options can at least lessen the blow  
20 to these producers.

21 DR. HENCH: And can you think of  
22 any? As I pointed out earlier, you know -

1 MR. BODNER: You want details.

2 DR. HENCH: Well, not necessarily  
3 details, but, you know, we've been working on  
4 this for hundreds of hours so we're intimately  
5 familiar with a lot of it.

6 Now, you guys have had a two-hour  
7 presentation, and we ask you in here and say,  
8 okay, be brilliant. We're just hoping to, you  
9 know, stimulate thought. And as I pointed  
10 out, regulations.gov, track down the TB/Bruc  
11 stuff that tells you how to submit comments.  
12 Please submit comments.

13 Our ideas with addressing affected  
14 herd management and options for outlets,  
15 things were thrown out, ideas were thrown out,  
16 quarantine feed lots, quarantine pens,  
17 approved feed lots. There was some discussion  
18 that sort of morphed out of the import  
19 requirements of quarantine or restricted  
20 pastures, because these cows coming off in the  
21 fall, they're not ready to go into a feed lot.  
22 You know, they're going to need another six

1 months on grass before they're ready to  
2 finish.

3 So we're looking for ideas for, if  
4 you will, restricted destinations. And that  
5 could be restricted pastures, quarantine  
6 pastures. What do you think? Are these  
7 things doable?

8 MR. BODNER: Well, I think they're  
9 doable, but I - you know, maybe the question  
10 is, you know, if these are terminal animals,  
11 I mean you have steers, or if you have heifers  
12 maybe, you know, sometime the requirement of  
13 just spaying those animals. Those animals  
14 then have virtually no risk. And so do they  
15 really need to be in a quarantine situation?  
16 I don't know that they do.

17 DR. HENCH: That's good.

18 DR. LISKA: I think that the  
19 quarantine, quarantine pastures, that has got  
20 to be an option. It's difficult, I think, in  
21 a lot of cases. In southwest Montana a  
22 quarantine pasture is different than saying a

1 quarantine pasture in central Kansas.

2 But to be able to ship those  
3 animals to a quarantine pasture is - I don't  
4 know if it's feasible, but it is difficult in  
5 the terrain that we have to say we're going to  
6 quarantine these animals to graze in southwest  
7 Montana. And there may have to be some  
8 stipulations on fencing or on monitoring of  
9 fencing or something of that matter.

10 But I do agree that if they are  
11 spade or castrated males, spayed females or  
12 castrated males then the risk is pretty  
13 minimal.

14 MR. THOMPSON: And obviously we're  
15 just talking about brucellosis here and not  
16 TB, because the spaying and neutering isn't  
17 going to help with the TB at all. And, of  
18 course, that's what we have in Montana is  
19 brucellosis.

20 My next thought is, you know, if  
21 we're having just one or two producers a year,  
22 is it worth setting up a bunch of regulations

1 and all this infrastructure for - you know,  
2 maybe we should just go ahead and buy those  
3 calves and kill them at a loss or whatever,  
4 rather than setting up all this infrastructure  
5 for quarantine pastures and this sort of  
6 thing.

7 Now, if we started having a lot of  
8 producers, that's a different story. But  
9 with, you know, what have we had, five herds  
10 affected this year, or this last year? We're  
11 setting up that infrastructure for that number  
12 of animals. And I couldn't tell you the  
13 number of animals. You know, they already  
14 told us they are cutting our USDA budget by 15  
15 percent. How are we going to pay for this?

16 MS. BARNES: Bill?

17 DR. HENCH: Are they fixing to cut  
18 us off?

19 MS. BARNES: Yes.

20 DR. HENCH: Well, thank y'all. I  
21 appreciate your thoughts, inputs. I  
22 appreciate you taking the time to come down.

1 And regulations.gov, send us your comments.

2 (Meeting adjourned at 11:00 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group C1

Before: USDA

Date: 06-01-11

Place: Bozeman, MT

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.



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Court Reporter

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

+ + + + +

Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING C-2

Affected Herd Management

+ + + + +

WEDNESDAY

JUNE 1, 2011

+ + + + +

The Meeting convened at the  
Holiday Inn, 5 East Baxter Lane, Bozeman,  
Montana, in the Saloon at 11:06 a.m.

PRESENT

Dr. Bill Hench, USDA - VS, National TB  
Eradication Program

Ms. Danielle Gunn, Shoshone-Bannock Tribes

1 P-R-O-C-E-E-D-I-N-G-S

2 (11:06 a.m.)

3 DR. HENCH: Thanks for coming out  
4 to listen to us and hopefully offer us some  
5 ideas, but you don't need to come up with them  
6 today. As I've pointed out to everybody,  
7 regulations.gov, track down TB, brucellosis.  
8 It's in your packet on submitting comments.  
9 Please submit them. Even with the  
10 transcription that we're having done here,  
11 written comments help tremendously.

12 I'm Dr. Bill Hench with the  
13 National TB Eradication Program. I started in  
14 Michigan in the barnyard, and I've moved up to  
15 national staff now for about the last five or  
16 so years working the TB program. I'm in the  
17 cube next to one of the fellas who works on  
18 the brucellosis, and we're constantly back and  
19 forth because the similarities among the  
20 disease are very striking.

21 So when you talk about bangs  
22 disease, it's not new to me. I was one of the

1 technical advisors, I guess, if you will, to  
2 the working group, so I sat in and listened to  
3 a lot of their conversations.

4 Danielle, do you want to introduce  
5 yourself?

6 MS. GUNN: Sure. My name is  
7 Danielle Gunn. I'm an Agriculture Agent on  
8 the Fort Hall Indian Reservation in Southeast  
9 Idaho with the Shoshone-Bannock Tribes. And  
10 I'm a working group member and kind of  
11 represent the producers from that area as  
12 well. I'm glad to see some producers here in  
13 this group.

14 DR. HENCH: And we're in kind of a  
15 position where we have to pass the microphone.  
16 So Marty you're probably at the end of the  
17 wire there.

18 This breakout session is directed  
19 at three of the elements. In no particular  
20 order, they were identified as Affected Herd  
21 Management, Epidemiologic Investigation,  
22 Movement Requirements, Interstate Movement

1 Requirements. And the final one was Imports.  
2 Specifically, that's addressed as  
3 international imports.

4 The first group seemed to focus  
5 very much on the Affected Herd Management Epi  
6 Investigations. So we'll start there.

7 And what we're looking for is  
8 input, thoughts, ideas, or if there's definite  
9 problems that you know associated with  
10 Affected Herd Management and Epi  
11 Investigations.

12 It's always tough to get started.  
13 Y'all have had this for about two hours, and  
14 now we're asking you to be brilliant. We've  
15 worked on this for months, and I'm still  
16 muddling through a lot of the ideas. So we'll  
17 throw it out on Affected Herds.

18 Probably a place to start was  
19 let's see if we have an affected herd. And  
20 this is a beef herd. The producer sells his  
21 calf crop at the end of each year, and that's  
22 how he makes his livelihood. But if he's been

1 determined to be disease affected, and he's  
2 under a test and remove protocol and under  
3 quarantine, what can we do to help this guy  
4 stay, stay alive, stay in business? Because  
5 if he's under quarantine and he can't move his  
6 animals, each fall on his crop, you know,  
7 that's a major - that's more than a major  
8 hardship. You know, that can be pretty final.

9           So throwing it out, you know, what  
10 might you offer us, what ideas would you have,  
11 what do we need to do with the program to help  
12 out in that situation.

13           MS. KINKIE: I'm Druska Kinkie.  
14 And actually I would first like you to go  
15 through what your protocol is. So it's an  
16 infected herd and now we're going to do some  
17 test out. Can you give the time frame for  
18 that exactly, please?

19           DR. HENCH: One of the suggestions  
20 in the previous group was that when we find an  
21 affected herd we look at each herd  
22 individually, and we use the science to

1 develop the testing protocol that it would  
2 take to determine that that herd is disease  
3 free.

4 In the TB program we have been  
5 doing this for a year or so now. I have seen  
6 scenarios. I have seen herds that have been  
7 determined to be disease free in about ten  
8 months. I have seen other herds that would  
9 not be considered disease free after four  
10 years.

11 So if we evaluate each herd on an  
12 individual basis it could be highly variable,  
13 and that's where we're seeking to go with this  
14 program rather than say you're affected with  
15 brucellosis. You're going to be under  
16 quarantine for three years and you're going to  
17 have to do seven tests.

18 Some herds may, depending upon  
19 their situations, be able to develop a high  
20 degree of certainty that they're disease free  
21 in three or four tests. Other herds, due to  
22 circumstances, may require more testing.

1                   So let's suppose that we have this  
2                   affected herd. It's going to be in a test and  
3                   remove program, as we call it, for a  
4                   sufficiently long period of time. That the  
5                   calf crop is going to have to go somewhere.  
6                   The herd will not be released, will not be  
7                   considered low risk, will not be considered  
8                   disease free in time to sell the calf crop.

9                   Does that help?

10                   MS. KINKIE: So would one of the  
11                   options be a brucellosis-approved feed lot?  
12                   Is that one of the things that you would do?

13                   DR. HENCH: Do you think that's  
14                   what we need to do?

15                   MS. KINKIE: I don't know. I'm -

16                   DR. HENCH: What would you want us  
17                   to do?

18                   What do you want us to do? Do you  
19                   want us to allow for an approved feed lot or  
20                   a quarantine?

21                   The question is: Would a  
22                   quarantine feed lot be an appropriate outlet?

1 That's what we're seeking here. Currently,  
2 quarantined feed lots are allowed. From your  
3 comments I would interpret that to say you  
4 want us to continue that option. No? Okay,  
5 tell us what you want us to do.

6 MS. KINKIE: Okay. If you talk  
7 about using best science in how to determine  
8 quarantines, your calf crop - you're talking  
9 a fall calf crop in your scenario. Almost all  
10 producers anymore, especially the ones that  
11 are already in a disease area, are turning out  
12 later than normal. They're looking to do more  
13 in mid-June to avoid that critical aborted  
14 time period for elk. So we turn out later.  
15 So the exposure for those calves on mountain  
16 pasture, summer pasture should be zero.

17 So my comment would be that the  
18 calves in that affected herd would not - would  
19 pose very little risk. And if they were  
20 identified, as we are required to do, they  
21 should be sold through normal channels because  
22 there's no exposure.

1                   It's a different matter if you  
2                   have a spring situation where, you know, a lot  
3                   of times that's when you get rid of your cull  
4                   cows. So that would be an opportunity through  
5                   the sale ring for them to - and change of  
6                   ownership testing for them to pick up a hot  
7                   cow.

8                   So here you have all of these cows  
9                   sitting, waiting to go to summer pasture, and  
10                  now you're in an affected herd, and will  
11                  quarantine allow you to go to summer pasture?  
12                  And if it doesn't, and you're expected to  
13                  control all of these cattle on your home place  
14                  and feed them hay, you're out of business.

15                  So both those scenarios need to be  
16                  taken in - you know, the seasonal timing of  
17                  affected herds need to be looked at.

18                  DR. BENCH: What can we do to  
19                  address those situations?

20                  MS. KINKIE: Okay, so I'm thinking  
21                  about our herd specifically. That's where my  
22                  experience would be. And I think then you'd

1 do an initial test and remove. And then those  
2 cattle are going to have to be allowed to go,  
3 or otherwise you're done. So they go to the  
4 mountains, and then they'll come back and  
5 you'll have to do - when you preg test in the  
6 fall then you would do another test and remove  
7 protocol.

8           Depending on what that one showed,  
9 then individually for that herd you would  
10 decide what to do through those winter months  
11 when you have them at hand and can do more  
12 testing, surveillance requirement.

13           I think that the goal needs to be  
14 to allow the producer to maintain business as  
15 usual to the greatest ability possible. And  
16 that's going to - that's going to really - it  
17 will depend on seasons, like I said, and it's  
18 going to require a great deal of flexibility  
19 on the part of the State and Federal agencies  
20 to work with that individual.

21           And I don't think you're going to  
22 be able to turn animals loose on a landscape

1       until there's, say, zero risk. But I think  
2       you can minimize that risk. And by doing  
3       that, allow that producer to stay in business.

4               DR. HENCH: Let me make sure I've  
5       captured this and my little squirrel here can  
6       hang onto it.

7               If we have an affected herd, and  
8       we have our late-summer calf crop or June calf  
9       crop, and we wish to move them through the  
10      market in the fall, their exposure would be  
11      low, the risk would be low, and they would be  
12      allowed to move. If that herd has not cleared  
13      quarantine by the following season when it's  
14      time to put the momma cows back out, you're  
15      suggesting that we do a test on the herd.  
16      Those that respond are removed for diagnostic  
17      purposes, and the nonresponders go out to  
18      pasture.

19              Have I captured this here?

20              MS. KINKIE: The spring and fall  
21      separation, I'm assuming different infections.  
22      If you found an infection, it would be a one-

1 time-only kind of thing. So you found it in  
2 the spring, and then my spring scenario was  
3 how you would handle that particular  
4 infection.

5 And then take Neighbor B and their  
6 herd, and they ended up with a fall reactor.  
7 And so then that - I wasn't thinking of it  
8 same herd staying infected for that long  
9 period of time.

10 I think if you have an infection  
11 that stays through an entire year's worth of  
12 production, you have a lot more problems than  
13 just an isolated reactor. Which is what I  
14 feel - you know, in Montana's case, in the  
15 last four or five years in all of the testing  
16 and surveillance we've done, I think there's  
17 been seven cattle, seven, eight reactors.  
18 You know, that's a very, very minute number  
19 compared to the hundreds of thousands of  
20 cattle we have tested.

21 So I would anticipate that our  
22 knowledge and our protection and all of those

1 things the producers do now, it would be a  
2 very, very small amount of cattle in one herd.

3 DR. ZALUSKI: I think specifically  
4 to the pasture, I mean if you have a test in  
5 the spring following calving - I mean at some  
6 interval after calving where you can wait for  
7 that incubation period, if there's  
8 transmission during the calving season, that  
9 herd is not only for all intents and purposes  
10 clean until the next test, but also is through  
11 the critical transmission period when the  
12 disease could be then spread within that herd,  
13 because there's no more calving going on at  
14 that point. There's only breeding.

15 And so the point, I think, that  
16 Druska and others have made is that those  
17 animals should be able to be allowed to  
18 utilize some kind of a - or should be allowed  
19 to utilize pastures that are either on BLM or  
20 whatever, and with some degree of agreement  
21 with other - even out of other cattle  
22 producers, because there's really no

1 transmission. There's infinitesimally small  
2 transition potential.

3 Certainly, I think that can be  
4 followed through on the calves, on the fall  
5 calves as well. Although with some degree of,  
6 I think, tweaking.

7 Ultimately, there are times of the  
8 year for cattle, for beef cattle management  
9 when tests mean a lot more than they do at  
10 other times. A test in January doesn't mean  
11 nearly as much as a test in April. And so  
12 just - you know, we need to be able to - I  
13 guess coming back to your point about treating  
14 herds individually, I think we need to be able  
15 to have much discretion in how we address  
16 affected herds, I guess, is probably my  
17 concern. My name is Marty Zaluski. Thank  
18 you.

19 DR. HENCH: Great, that's what  
20 we're looking for. Tell us what you want us  
21 to do, how you want to go.

22 MS. MOSLEY: My name is Tracey

1 Mosley. And I guess one thing I don't see in  
2 these eight regulatory elements is - number  
3 four is as close as I can come with affected  
4 herd management. I guess I would like to  
5 encourage Veterinary Services to think about  
6 prevention in terms of making the vaccine more  
7 effective. And I guess I'm not certain what  
8 the status of doing research to try to improve  
9 the efficacy of the vaccine to protect these  
10 herds is. So I would encourage Veterinary  
11 Services to do anything they can to try to do  
12 as much research as possible to improve that  
13 vaccine. And I guess I'm asking what the  
14 status of the possibility of that research is.

15 DR. HENCH: Our folks at ARS,  
16 Agricultural Research, in Ames are always on  
17 this stuff. Mitch, Ray and Thacker, I tend to  
18 work with them on TV mostly, but the  
19 brucellosis, they're working on that, too.

20 As you're all aware, we've had  
21 some rather significant budget cuts, and it's  
22 impacted us across the board. VS supports ARS

1 with a significant amount of funding each  
2 year. The specifics on brucellosis I am not  
3 familiar with. If you can drop me a contact  
4 point I can certainly look into that for you.  
5 That's unfortunately the best I can offer you  
6 at this time. It sounds like a stock answer.  
7 I wish I had more. I'm just not super  
8 familiar with brucellosis.

9 MS. MOSLEY: I guess I've been  
10 under the impression - this is Tracey Mosley  
11 again - that there are some restrictions due  
12 to biosecurity issues for that research.

13 DR. HENCH: The reference was to  
14 the select agent rule, and that I really can't  
15 address. I'm totally unfamiliar with that.

16 But as I say, if you -

17 MR. CLARKE: Just a comment. In  
18 some way APHIS - well, USDA and the States are  
19 a victim of their own success in that we  
20 pretty much eradicated brucellosis from  
21 domestic livestock. Colorado Serum Company  
22 makes RB51. So in a declining market it's

1 very difficult to get a company to make a new  
2 vaccine. Am I making sense there?

3 And so that kind of gives you two  
4 choices. One, you either help subsidize a  
5 vaccine company to make a new vaccine, or you  
6 take on all the costs yourself as a Government  
7 agency. And in this kind of climate - and  
8 we're talking about a lot of money considering  
9 all the trials that you have to do, all the  
10 added security measures you have to have  
11 because it is a select agent. You're talking  
12 about a significant amount of money to create  
13 a vaccine for a population that has very  
14 little disease left in it, namely the cattle  
15 industry.

16 So those are the kind of factors  
17 that make it very difficult to justify  
18 creating a new vaccine.

19 MR. BAILEY: Jay Bailey. Just to  
20 touch a little bit on what Ryan just said, and  
21 it was a question I had anyway.

22 For whatever reason, the only

1        comments being made so far are about  
2        livestock. Ryan just almost touched on it.  
3        What about the wildlife issue? The thing that  
4        the livestock are now having to do is to  
5        protect - we have to protect our cattle from  
6        the wildlife, because the wildlife is roaming  
7        free with the disease.

8                    Is there any options to vaccinate  
9        the - I know they're vaccinating the buffalo.  
10       They're so far contained to somewhat of the  
11       park. The elk are roaming free, and they're  
12       being tested, and the positives are being  
13       released back out into the wild.

14                    So what can we do for that  
15        problem, because that problem is not being  
16        addressed? There needs to be - and it needs  
17        to be addressed in this project that we're  
18        working on here today, the wildlife  
19        management, to where the wildlife are being  
20        addressed as much as the cattle. Because it's  
21        not a cattle disease anymore. It's a wildlife  
22        disease.

1 MR. CLARKE: That's a really  
2 important point. You know, I don't want to  
3 hog the conversation or anything like that,  
4 but certainly a - we know RB51 performs -  
5 doesn't perform very well in elk as far as  
6 giving them immunity and protection. So if  
7 there's any initiative for creating a new  
8 vaccine, it's my feeling at least that it  
9 should be for elk, plus a method to introduce  
10 that vaccine into the animal, whatever method  
11 that might be. To me that's probably the most  
12 important issue that we're dealing with for  
13 brucellosis in wildlife.

14 DR. HENCH: We face similar  
15 challenges in TB vaccines, efficacy, delivery.  
16 And you're right, it is, in my opinion, no  
17 longer possible to separate the domestic from  
18 the wildlife portion of the disease.

19 We have begun down that road of  
20 combining the efforts. It was why we invited  
21 several of the State Wildlife Agencies to  
22 participate in our working group. We're

1 building bridges. We're building bridges.

2 The - help me out here, make sure  
3 I'm on the -

4 MS. LEONARD: It is a little bit.  
5 I think that the wildlife component needs to  
6 be strengthened in my own personal opinion  
7 because it is such a huge risk for domestic  
8 livestock. So I would like to see it  
9 strengthened, and that may be one of your  
10 comments, too.

11 I mean we touched on it, but a lot  
12 of the wildlife people that were involved in  
13 the working group didn't come to the table  
14 very often. So I certainly think it needs to  
15 be strengthened and looked at more.

16 DR. HENCH: Certainly, send us  
17 your comments. I sound like a broken record.  
18 Thinking through the eight elements, how one  
19 of the places where the wildlife involvement  
20 might be addressed would be in the program  
21 requirements, the State's requirements.  
22 That's just my thoughts.

1 I love it. They're great  
2 questions. They make me think. I'm so used  
3 to going on auto pilot with the old program.  
4 Well, that's in Section 772.ABC. And, you  
5 know, that's auto pilot, you know.  
6 No, I love it. I love it. It makes us think,  
7 and we'll get a better product by thinking.

8 MS. KINKIE: As far as affected  
9 herds - oh, Druska Kinkie, sorry.

10 Addressing the long-term  
11 containment actions, again sort of associated  
12 with wildlife, I mean you can have the  
13 healthiest livestock there is, but because you  
14 have a wildlife population that has the  
15 disease, you are now in a containment area.  
16 And according to this plan, you will be in  
17 that containment area as long as there are  
18 infected wildlife. Is that a true statement?  
19 Because you won't be able to clean them up,  
20 and so you will be in this containment  
21 situation?

22 DR. HENCH: My interpretation of

1 the long-term of containment is that that  
2 would be applicable when there is a continuing  
3 problem with domestic herds.

4 If - and again this is my  
5 interpretation. If we can successfully  
6 implement mitigation measures that stop the  
7 infection from wildlife to domestic animals,  
8 to domestic herds, why would a containment  
9 area be necessary if we're successful in  
10 mitigating the disease?

11 MS. MOSLEY: To follow up with  
12 that, Tracey Mosley. Under the containment,  
13 long-term containment action, then for my  
14 clarification when it says: If the outbreak  
15 cannot be eradicated within a year, then, dot,  
16 dot, dot. I assume that that outbreak is -  
17 that they're referring to then is in a  
18 livestock herd.

19 DR. HENCH: That has always been  
20 my interpretation. I could surely be wrong.

21 MS. LEONARD: I don't think that  
22 that was clearly defined. We've left that

1 pretty open. And I think one of our goals  
2 with this regulation was to have it designed  
3 so that we have some flexibility there and can  
4 perhaps manage things on a case-by-case  
5 situation to make things a little bit easier  
6 for producers. And each situation we see in  
7 like the GYA area and stuff like that.

8 MR. SKOGLUND: This is Matt  
9 Skoglund, S-k-o-g-l-u-n-d. My comment, just  
10 from what Tracey and Ryan were saying, my  
11 comment would be that with tens of thousands  
12 of wild elk in the Greater Yellowstone and  
13 this area in remote rugged country that I  
14 would encourage - it seems to me that the more  
15 efficient, sensible and effective way, you  
16 know, with budget cuts and everything is to -  
17 I guess I would encourage APHIS to continue to  
18 put resources into finding a more effective  
19 vaccine to protect livestock producers,  
20 focusing on livestock. That would be my  
21 comment.

22 And a follow-up or a separate

1 comment would be also to ask USDA to continue  
2 - or to pressure or ask Wyoming or force  
3 Wyoming to shut down its feed lots, which are  
4 an incubator for the disease that affects  
5 Montana and affects the Greater Yellowstone.  
6 So those would be my two comments.

7 DR. HENCH: Thank you.

8 MS. CREMER: This is Chelcie  
9 Cremer. And this might be solely for my own  
10 benefit, but I just have a question about some  
11 of the language that's in this. It's on page  
12 number 9, and it's just talking about one of  
13 the regulatory components. And you're asking  
14 for definitions on several different terms.

15 I'm just curious what thus far has  
16 been the difference between a responder animal  
17 and a reactor animal. Are those different  
18 levels of testing, or how does that work?

19 DR. HENCH: A responder tends to  
20 be a term associated with TB. You're all  
21 familiar, of course, with the caudal fold test  
22 done in cattle. We tend to call an animal

1 that has a response to a caudal fold test a  
2 responder. Technically, it should be called  
3 a suspect, but we just call it a responder.  
4 Because in the follow on in the secondary  
5 testing either the comparative cervical or the  
6 gamma interferon, there is a specific  
7 classification of suspect and reactor. So  
8 responder is sort of a jargon term that has  
9 really never been defined. And it was  
10 suggested during the working group that we put  
11 a definition with it to help out exactly with  
12 your question.

13 So does that help you out there?

14 MS. CREMER: Yeah.

15 (Off-record discussion for lunch  
16 break.)

17 DR. HENCH: Typically what we have  
18 done in the past is we will have - rotate you  
19 around to the third topic for another 40 to  
20 45-minute discussion. Then we reconvene as an  
21 entire assembly for any last-minute thoughts,  
22 ideas, anything y'all want to put on the

1 record for us.

2 MS. KINKIE: Druska Kinkie. While  
3 you're talking about definitions, could you  
4 say the difference between susceptible species  
5 and a program species?

6 DR. HENCH: A program species that  
7 we have chosen to address with this new role  
8 making is cattle, domestic bison, captive  
9 cervids.

10 Susceptible species would be other  
11 species that are capable of being infected by  
12 the disease, i.e. free-ranging elk, feral  
13 swine are certainly susceptible to TB. And  
14 that would be the primary difference between  
15 program species and susceptible species.

16 MS. KINKIE: Thank you.

17 I'm just asking the group actually  
18 because I thought for sure I read somewhere in  
19 here where it said that if you did have a  
20 wildlife risk in your area, that was enough to  
21 put you into a containment zone. Is it - did  
22 I misread something?

1 MS. BAILEY: Right here on page 7,  
2 6(a). I think that's it. It's for the long-  
3 term containment plan where we based on, and  
4 then it has one, an evaluation of livestock  
5 and wildlife movement, geographic populations  
6 and demographic, collected on the short-term  
7 containment action. Is that what you're - no?

8 MS. MOSLEY: This is Tracey  
9 Mosley. Druska, I think what you're looking  
10 for is on page 6, the second half, bottom  
11 third of the page. It talks about wildlife  
12 infection is identified in the absence of  
13 infected herds. And this is under the short-  
14 term containment actions. And the action  
15 includes - No., 6(a). I think that's it.  
16 It's for the long-term containment plan where  
17 we based on, and then it has one, an  
18 evaluation of livestock and wildlife movement,  
19 geographic populations and demographic,  
20 collected on the short-term containment  
21 action. Is that what you're - no?

22 MS. MOSLEY: This is Tracey

1 Mosley. Druska, I think what you're looking  
2 for is on page 6, the second half, bottom  
3 third of the page. It talks about wildlife  
4 infection is identified in the absence of  
5 infected herds. And this is under the short-  
6 term containment actions. And the action  
7 includes - No. 1, I think, is what you're  
8 looking for where they will possibly contain  
9 the livestock if there's an infected wildlife  
10 herd identified in the area.

11 MS. KINKIE: Where did you find  
12 that?

13 MS. MOSLEY: Page 6, bottom half  
14 of the page, No. 1.

15 MS. KINKIE: Oh, there it is.

16 So then back to that question that  
17 I asked, where it's saying that you have no  
18 infected herds, but you have wildlife that's  
19 infected. Then we're going to end up from -  
20 and that's going to go for more than a year,  
21 which is your criteria for short-term  
22 containment versus long-term containment. So

1 that bumps us into long term. How long is  
2 long term if you're not - if we don't have a  
3 wildlife component here, and we're not  
4 addressing infected wildlife?

5 DR. HENCH: I got totally lost.  
6 I'm sorry.

7 If we find disease in wildlife in  
8 an area where there is no known disease, a  
9 hunter kills an animal. He turns it in  
10 because it looks funny. It goes through the  
11 lab and it comes up diseased.

12 The short-term issue is we need to  
13 do surveillance around that animal. This is  
14 what happened in Michigan in '94. We found a  
15 TB-infected deer. We had no known TB in  
16 domestic livestock. We found a TB-infected  
17 deer. We did surveillance around that animal,  
18 around that deer. Ultimately, we did find  
19 infection in domestic livestock. And we  
20 ultimately found out that we had a pretty  
21 significant problem in our free-ranging  
22 whitetail deer.

1 Well, what I'm interpreting from  
2 this - and certainly please offer comments on  
3 what you would like to see us do - is that if  
4 we find it in wildlife but we don't find it in  
5 domestic animals through surveillance, we may  
6 have a situation where the prevalence in the  
7 wildlife is so low that it does not present a  
8 risk to domestic animals.

9 If, on the other hand, through the  
10 surveillance around that wildlife we do find  
11 it in domestic animals, we're going to  
12 implement some containment, be it short term,  
13 be it long term, until we've got the risk  
14 under control and ultimately eliminated.

15 Does that - you know -

16 MS. BAILEY: We love to hear those  
17 words, the risk under control and ultimately  
18 eliminated, which means control the wildlife  
19 because the livestock herds are being tested  
20 and they're free, but they will not lift the  
21 surveillance area. And it's just around and  
22 around and around the circle. So where do you

1 go there with the wildlife?

2 DR. HENCH: You know, what would  
3 you have us do?

4 MS. KINKIE: I think the key word  
5 - Druska Kinkie. The key word is  
6 accountability and responsibility. And  
7 everyone needs to take care of their stock.  
8 And we're doing the best we can with our  
9 cattle. I don't think we're doing the best we  
10 can with our wildlife. And that doesn't mean  
11 that we have to go out and eliminate every  
12 single one that's positive because we're not  
13 going to find them. But I do think it's  
14 responsible that when we're in any kind of a  
15 surveillance, wildlife surveillance protocol  
16 that positive animals are removed from the  
17 population.

18 And, you know, money, all those  
19 things dictate what you can do with wildlife.  
20 And we're not saying that anything is going to  
21 be a magic bullet and it will go away. But I  
22 do think at this particular time livestock

1 producers are tired of carrying the entire  
2 responsibility. And we feel it's only fair  
3 that free-ranging bison and free-ranging elk  
4 be held to a standard of some sort.

5 DR. HENCH: Fair enough. Anybody  
6 interested in chow?

7 DR. ZALUSKI: Bill, I have just  
8 one clarification. Marty Zaluski, and I have  
9 just one clarification.

10 The State of Montana does have a  
11 domestic bison herd that remains quarantined  
12 for brucellosis. So, you know, if we consider  
13 - if we consider that as part of the disease  
14 program, as far as program species, then we do  
15 have a herd currently.

16 DR. HENCH: Didn't the interim  
17 rule address that?

18 DR. ZALUSKI: Well, yeah, it  
19 addressed it hugely in the way that we haven't  
20 lost our clause-free status. Maybe another  
21 question should be: Should some program  
22 species - should domestic bison not be

1 considered in the same manner as cattle  
2 because of the many nuances and specifics and  
3 challenges in managing disease in those herds  
4 as compared to cattle. Because currently  
5 they're - you know, domestic bison are cattle.

6 DR. HENCH: And I appreciate that.  
7 As was pointed out, we're talking, you know,  
8 the new three-status system, consistent,  
9 provisionally consistent or no consistent. I  
10 haven't assimilated those terms yet, so  
11 forgive me if I use incorrect language.

12 It was pointed out at the meeting  
13 in Lansing that we might want to consider  
14 having States being consistent for cattle and  
15 bison, and consistent or inconsistent for  
16 captive cervids. That's splitting it two  
17 ways.

18 And what I'm hearing here is  
19 you're suggesting now a further split. That  
20 we could have a State that would be consistent  
21 for cattle, provisionally consistent for  
22 bison, and no consistent for captive cervids.

1 You're saying maybe split it three ways.

2 DR. ZALUSKI: No, I don't - that's  
3 not what I'm saying. What I'm saying is that  
4 we would still - this is Marty Zaluski. We  
5 would still plan to be consistent with  
6 domestic bison, as well as cattle. That we  
7 would definitely have an interest in being  
8 consistent.

9 What I'm saying is that the  
10 disease status of the bison herd, of domestic  
11 bison may be - it may be fruitful to look at  
12 that as a separate - to kind of separate the  
13 two a little bit just because of the  
14 challenges of addressing the disease. I mean,  
15 if you're going to have a herd quarantined and  
16 you're following up with the regular testing,  
17 then you're consistent as far as I'm  
18 concerned. But the interval of testing for  
19 bison herds is going to have to be  
20 dramatically different than one can accomplish  
21 with cattle herds.

22 That's all. I don't want to make

1 too much of it at this point, but I'm just  
2 saying that there are some unique challenges  
3 with domestic bison herds that this rule may  
4 want to, either in policy or to see if RMA  
5 (phonetic) want to acknowledge.

6 But it's a double-edged sword,  
7 though, because people are going to come back  
8 and say: Okay, if you're treating domestic  
9 bison differently, should you treat wild bison  
10 differently? Sob.

11 MS. KINKIE: Druska Kinkie. And  
12 maybe part of the way that that gets handled  
13 is that we're already talking about if you  
14 have an affected herd, they're handled  
15 individually based on science, and their  
16 individual risks.

17 So maybe, you know, this captive  
18 bison herd that's affected falls in that  
19 category of it being handled individually as  
20 its own entity. This is how we're going to do  
21 test out.

22 DR. HENCH: And in it - and I

1 think that's the goal of our new program is to  
2 offer that flexibility. You know, for an  
3 example, you know, we may have an affected  
4 cattle herd that we test every 30 days for  
5 three tests, remove everything and after that  
6 we're happy.

7           The affected herd plan for the  
8 bison herd might be, well, we test them here.  
9 We hold them. We test them there.  
10 Recognizing the difference in the handling of  
11 the animals.

12           I once walked up to a place with a  
13 3/8ths inch, 28-gauge needle intent on  
14 sticking in its tail. I've done it a few times  
15 since then, but they scare the fool out of me.  
16 But we would address each herd individually.  
17 And because bison, you may only be able to  
18 gather them up once or twice a year as opposed  
19 to a domestic cattle herd that, yeah, it's a  
20 hardship but you can round them up once a  
21 month. If that's in the herd plan, and if  
22 that's in the protocols, the State would still

1 be consistent in my mind.

2 Have I finally figured - gotten on  
3 the same page with you there, or at least  
4 close?

5 Okay. But, yeah, send this stuff  
6 in to us. We're looking where to go. Where  
7 do you want - where do you want us to go? How  
8 do you want us to deal with it?

9 Did I say regulations.gov and look  
10 for comments?

11 MS. GUNN: Are there any comments  
12 on interstate movement controls or importation  
13 requirements? We've just talked about herd  
14 management and haven't touched on any of the  
15 other two elements. So I don't know if you  
16 guys have some burning comments on those. It  
17 would be a good time to say it.

18 MS. KINKIE: Druska Kinkie. I had  
19 one question about if our cattle are going to  
20 another State, with your program in place does  
21 that put any uniformity between States, or can  
22 another State still create their whole set of

1 regulations and make us jump through a lot of  
2 hoops?

3 DR. HENCH: Preemption. This has  
4 come up at every meeting, and it boils down to  
5 preemption. Meaning, are we going to say at  
6 the Federal level that these are the rules and  
7 individual States cannot implement more  
8 stringent regulations?

9 That has not been answered yet. I  
10 cannot tell you what the future will be on  
11 that particular topic. It is much in  
12 discussion. It is much in discussion.

13 MS. KINKIE: I think it would help  
14 the livestock industry in general if we were  
15 more consistent in our approach throughout the  
16 nation. It really gets confusing when you  
17 have to meet different standards for different  
18 areas.

19 DR. ZALUSKI: Marty Zaluski. I  
20 wholly agree. I think it's probably in the  
21 long term a huge burden for the industry.  
22 Just keep in mind where that - or just provide

1 some clarification of where that originated.  
2 I believe the State requirements originated  
3 from the Federal Government not keeping up  
4 with current disease threats as rapidly as the  
5 industry desired.

6 So what happened is it took the  
7 Federal Government to create rules and  
8 regulations to address some kind of an  
9 emerging threat. States could be much more  
10 rapid in that response.

11 And then what happened is one  
12 State does one thing. The second States does  
13 something similar, but not quite the same.  
14 And so that's where the origin is. And so  
15 every kind of decision like that has some  
16 consequences for where we might not be able to  
17 react this quickly.

18 But I am fully on board with  
19 trying to do a greater standardization. I  
20 think that's a huge need for us. So I don't  
21 know if I'd go so far to say we should allow  
22 Federal preemption for disease regulations,

1 but I think it's - I guess I'll waffle a  
2 little bit on that, but I think it will  
3 benefit the industry tremendously if that was  
4 put forward further.

5 DR. HENCH: Like I say, that's a  
6 topic that's much, under much discussion, and  
7 it has not been settled yet.

8 MS. GUNN: The web site?

9 DR. HENCH: Absolutely.  
10 Absolutely. Regulations.gov. Thanks,  
11 Danielle, I appreciate you bringing us back on  
12 track.

13 Thank you everyone.

14 (Meeting adjourned at 11:59 a.m.)  
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In the matter of: Proposed TB and Brucellosis  
Regulatory Framework - Group C2

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U.S. DEPARTMENT OF AGRICULTURE (USDA)

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Proposed TB and Brucellosis

Regulatory Framework

+ + + + +

SMALL GROUP MEETING C-3

Affected Herd Management

+ + + + +

WEDNESDAY

JUNE 1, 2011

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The Meeting convened at the Holiday Inn,  
5 East Baxter Lane, Bozeman, Montana, in the  
Saloon at 1:26 p.m.

PRESENT

Dr. Bill Hench, USDA - VS, National TB  
Eradication Program

Ms. Danielle Gunn, Shoshone-Bannock Tribes

1 P-R-O-C-E-E-D-I-N-G-S

2 (1:26 p.m.)

3 DR. HENCH: I'm Bill Hench. I  
4 joined TB staff a little over five years ago.  
5 I started in Michigan in the barnyard sticking  
6 cows in the butt, so I've kinda come up from  
7 as low as you can go.

8 My compatriot Danielle Gunn had to  
9 take off and teach a class. She was in here  
10 giving the working group perspective. She was  
11 a member of the group, where I guess I'm what  
12 they call technical support. So I sat in and  
13 listened on all the calls and the meetings,  
14 but didn't participate much.

15 This particular breakout group was  
16 aimed at addressing three topics, Affected  
17 Herd Management and Epi Investigations,  
18 Interstate Movements, and Imports,  
19 specifically international imports. Now,  
20 we're aiming at generic, although it's  
21 primarily focused in one direction. It's  
22 generic in how we're addressing the imports.

1                   The previous couple of group  
2                   seemed to focus on affected herd management,  
3                   which is certainly a very hot topic up here.  
4                   There was some other discussions on the  
5                   imports and some discussions on interstate  
6                   movements, but generally it was the affected  
7                   herds management.

8                   The big thing that we're trying to  
9                   accomplish with these public meetings is to  
10                  get input before we put pen to paper. We  
11                  haven't even opened the package on the paper  
12                  yet. So while you see a lot of text in these  
13                  frameworks, nothing has been committed to  
14                  paper at this time.

15                  And I suppose y'all would like to  
16                  start with affected herds, also, and how we're  
17                  going to handle them, or would you prefer to  
18                  jump in with movements or imports?

19                  MR. HOCKETT: I'm Glenn Hockett.  
20                  I guess I'm interested in hearing about  
21                  brucellosis mostly, and the idea that we can  
22                  help protect the cattle by improved

1 vaccination.

2           And what I've heard is, you know,  
3 there's a calf vaccination, and then if we  
4 adult booster it's even more effective. And  
5 I've heard up to 95 percent or even higher.  
6 So I'm wondering with APHIS is - if there's  
7 going to be any work on that, helping the  
8 livestock industry with improved vaccination  
9 techniques and improved vaccinations, because  
10 in my mind that's the animal we can handle  
11 easily. That's the animal you need to  
12 protect. And so I'd like to see that kind of  
13 things done if you have any input into that.

14           I guess what I'm - really what I'm  
15 asking for is sort of an extension type of a  
16 bullet and four livestock people to help them  
17 with improved vaccination management practice,  
18 and including in particular vaccination.  
19 Because it can go a long ways to preventing -  
20 or, you know, at least minimizing the risk of  
21 transmission.

22           DR. HENCH: Okay, I picked up two

1 things. One is that you're advocating, and  
2 that's a great idea, continued research into  
3 vaccines, not necessarily new vaccines, but  
4 maybe new vaccination protocols to increase  
5 efficacy.

6 And the other is an outreach by  
7 where those researches get reported to the  
8 producer on the ground.

9 Did I capture them both there?

10 MR. HOCKETT: Yeah. And I want to  
11 make sure you understand this is for  
12 livestock. Because I know there are some  
13 people that are for wildlife vaccine, and I'm  
14 not. So I'm opposed to that idea. I think  
15 that's going to be a large waste of time  
16 because it's so problematic to administer.  
17 Even if you have a good vaccine, it's  
18 extremely problematic to administer a vaccine  
19 in a wild environment. So I go back to the  
20 best buck, the best bang for the buck is to  
21 focus on the domestic animal. And that's  
22 hopefully something we could have in common,

1 protect the livestock and then move on, so to  
2 speak.

3 DR. HENCH: Okay.

4 UNIDENTIFIED VOICE: Is there  
5 anything? I mean just to follow up with  
6 Glenn. I mean is there -

7 DR. HENCH: As far as the current  
8 research goes on the bangs vaccines, I'm not  
9 up to speed on that. I couldn't tell you.

10 MS. RANKIN: Jeanne Rankin. I  
11 think that that's a good point, that you  
12 certainly could easily go out and do. The  
13 hard part is challenge, you know, is looking  
14 at what is efficacious. We can have titer,  
15 and a change in titer, but we know that titers  
16 aren't always protected. But we've got a lot  
17 of research facilities around the GYA. That  
18 would be something you would think would be  
19 available.

20 MS. JOHNSON: Kammy Johnson. Just  
21 to respond to that. We do know that increased  
22 dosages increases production. So for the

1 record, I think that my point would be to  
2 continue to remove the barriers to adult  
3 vaccination. And, in fact, it gets back to a  
4 comment that Jeanne made in one of the earlier  
5 sessions as well is the definition of official  
6 calf vaccinate. And, you know, again we have  
7 terminology and rules written for Strain 19  
8 vaccine, and we haven't used it for well over  
9 a decade.

10 So to get consistency between the  
11 vaccine that we have, the terminology that we  
12 use, and the way that we use it and continue  
13 to decrease those barriers to what is now  
14 being called adult vaccination. And those  
15 things are coming down, those barriers are  
16 coming down to producers. At times producers  
17 had to request special permission to adult  
18 vaccinate, to booster vaccinate adult cows.  
19 Those things are, you know, becoming more and  
20 more flexible.

21 So to continue the flexibility, to  
22 both not have to do the identification

1 requirements and the retattooing, to not have  
2 to request special permission from your State  
3 Veterinarian, or sort of get it as part of  
4 your active herd plan, rather than on a case-  
5 by-case, every year I have to get permission  
6 basis. It makes a lot of sense, because more  
7 vaccine in more domestic animals is more  
8 efficacious, and we know that.

9           So APHIS is moving in that  
10 direction, and I think we would all continue  
11 to urge them to do so.

12           MR. WOERNER: Don Woerner. To  
13 follow along with this, what you just said, it  
14 makes much sense to me to consider managing  
15 brucellosis in a different way. A lot of the  
16 animals that have got brucellosis had been  
17 vaccinated. Am I correct that sometime during  
18 their lifetime some of these animals, some of  
19 these outbreaks in Wyoming and Idaho and  
20 Montana are in animals that had been calf  
21 vaccinated.

22 So obviously the vaccine is not very

1 effective.

2 I would put out a completely  
3 different paradigm for managing brucellosis,  
4 similar to how we manage BVD or other  
5 livestock diseases privately without the  
6 program part of this. It could adequately  
7 protect the public and do a better job of  
8 reducing incidents, but I don't know how long  
9 that will take.

10 Well, BVD is pretty different.  
11 It's a viral disease. But anytime we get  
12 involved in - well, I really share your  
13 concerns about tuberculosis. That scares the  
14 heck out of me. I wish we hadn't gotten  
15 involved in trichomoniasis. We get into all  
16 these things, in situations, and the  
17 Government gets involved in it. And then all  
18 these little problems come up and then we've  
19 got to write a rule for it. And they just  
20 don't fit in our rule books really well.

21 I would like to bring up another  
22 subject, but maybe - but I think, to continue

1 on this, I really think brucellosis could  
2 adequately be managed without involving so  
3 many State and Federal employees, and without  
4 even having a brucellosis program control. We  
5 could manage it privately by vaccinating our  
6 cattle annually, and monitoring it in a little  
7 different manner.

8           And I'd like to see - and since  
9 we're talking about herd - where are we?  
10 Herd, affected herd management, I don't like  
11 to see wildlife managed like herds, but we've  
12 got some problems with managing our wildlife.  
13 Two big ones that I see are the elk feed  
14 grounds, and the way we're managing the bison  
15 when they come out of Yellowstone National  
16 Park by putting them in a feed lot and feeding  
17 them hay, concentrating them. And that is -  
18 you know, that is a poor way to manage a herd,  
19 whether it's a domestic herd or a wild herd.  
20 And it is scaring me the way we concentrate  
21 these animals. And the Government, how can  
22 the Government possibly help us with affected

1 herd management when they can't even manage  
2 their feed grounds and Yellowstone National  
3 Park?

4 DR. HENCH: What do you suggest we  
5 do?

6 MR. WOERNER: That is a tough  
7 situation, but I would like to see - I would  
8 like to see a holistic approach to managing  
9 for brucellosis. And by that I mean we're  
10 going to need to figure out how to quit  
11 concentrating animals in these feed grounds,  
12 and this is going to take a period of time.

13 We're also going to have to get  
14 the animals out of the Greater Yellowstone  
15 Area into an area where we can manage them.  
16 And if we ever do put a new nidus bison in  
17 some other location - and I'd love to see that  
18 done, like along the Missouri from Fort Benton  
19 to Fort Peck - we need to be able to manage  
20 these animals. By manage, I mean hunt,  
21 monitor and do a much better job than we're  
22 doing in Yellowstone. I'd like to see us open

1 up Yellowstone to hunting, because that's the  
2 only way I see of controlling these animals  
3 besides putting them in trailers and taking  
4 them to the slaughter establishments.

5 MR. HOCKETT: This is Glenn  
6 Hockett again. I have a comment about that,  
7 too. I think Montana's elk model is the thing  
8 to look at, because we've set aside a variety  
9 of winter ranges in Montana, wildlife  
10 management areas, and we allow elk to access  
11 habitat. And we still have conflict with elk  
12 and cattle, and we manage around that. We  
13 have some instances in Madison Valley and  
14 Paradise Valley where there's some herders  
15 hired, if need be, to manage around the window  
16 of transmission. And I think the same kind of  
17 thing could be done for bison.

18 And I share Don's concerns about  
19 concentrating wildlife in feed lots, both elk  
20 and bison, is not the way to go. So we have  
21 to find a habitat. So in Montana we have a  
22 habitat model. I'm not all that familiar with

1 Wyoming, but there are people in Wyoming that  
2 say there's additional habitat there as well,  
3 but there's other political reasons for these  
4 feed lots.

5 But I mean providing access to  
6 habitat, and part of that is just asking  
7 landowners if they're okay with it. In some  
8 cases there's plenty of landowners, private  
9 landowners that are okay with it, as well as  
10 public landowners.

11 And then where we do have a cattle  
12 conflict, we need to keep the - that's the  
13 essence of this discussion in my mind, is how  
14 are we going to manage the wildlife, livestock  
15 interfaced? And I think the way to do it,  
16 number one, is let's do the best things we can  
17 to protect the cows with vaccinations,  
18 fencing, best management practices, things  
19 like that. And then when it comes to  
20 wildlife, we don't want wildlife in a feed  
21 lot, a cattle feed lot in March, April and  
22 May.

1                   And so we may have to do - if  
2                   hunting isn't effective, if that isn't an  
3                   effective deterrent, then there has to be some  
4                   sort of herding or whatever, or again going  
5                   back to fencing.

6                   But ultimately there's a lot of  
7                   land out there where wildlife roam that have  
8                   brucellosis, elk do, and we're not applying  
9                   that model in Montana anyway to bison. I  
10                  think that would move us in the right  
11                  direction. Again, sharing the goal of making  
12                  sure cattle remain brucellosis free.

13                  DR. HENCH: A lot to think about  
14                  there. Thank you.

15                  Looking at our domestic herds, our  
16                  cattle herds, when we do confirm disease in  
17                  one of them, and we have an affected herd, as  
18                  we call it, we tend to call individual animals  
19                  infected, where herds are affected. I'm still  
20                  not sure why.

21                  When we do come up with a disease-  
22                  affected herd, typically these herds are

1       quarantined with restricted or no movement in  
2       or out. And for those producers who depend on  
3       the sale of their calves each year for their  
4       livelihood, they kinda end up in a tough  
5       situation with no movement for the calves out  
6       of their herd. They aren't going to stay in  
7       business very long.

8                   And one of the things we're  
9       looking to do in these new regulations is to  
10      develop, if you will, or to allow for, more  
11      properly, allow for outlets for these calves  
12      coming out of the herds, for instance. And  
13      one of the things we're hoping to learn at  
14      these meetings is what ideas folks may have.  
15      How can we move animals out of a herd that we  
16      know has disease and mitigate the risk of that  
17      disease going with those animals that move  
18      out?

19                   Historically there have been  
20      things like quarantine feed lots, approved  
21      feed lots, quarantine pens, and those are, you  
22      know, certainly still available. Although

1 under current regulations if a State is class-  
2 free for brucellosis, they cannot have a  
3 quarantine feed lot for brucellosis.

4 So these are things, you know,  
5 we're looking for input on. What would you  
6 suggest might be options that would help these  
7 producers who have an affected herd market  
8 their animals, and yet at the same time  
9 mitigate the risk of spreading disease through  
10 these other animals?

11 MR. HOCKETT: Well, if I  
12 understand it right, if you're a cow-calf  
13 operator and you're raising calves to be sent  
14 to slaughter, you don't have to have tests,  
15 correct? Assuming that the herd is fine.  
16 Okay, so that's one thing.

17 I mean and then there's other  
18 classes of livestock. If you're in a high-  
19 risk area steers and spayed heifers can be  
20 shipped without restriction. So those are -  
21 and some of the landowners in the Greater  
22 Yellowstone Area don't own any livestock. A

1 lot of them don't, so they lease their  
2 property. And so just talking to them about  
3 leasing - I called it brucellosis proof  
4 animals for lack of a better way to put it.  
5 But if they leased to an operator that has  
6 steers and spayed heifers - and those sources  
7 are available. That's actually being done on  
8 the Sun Ranch in the Madison Valley,  
9 significantly but not completely. And these  
10 are ways - and elk are an issue there. Elk  
11 congregate in the Madison Valley in large  
12 numbers because it's an elk winter range.

13           So I keep thinking about that.  
14 And then if you do have a brucellosis hit in  
15 a herd - I mean you call that animal, right,  
16 and it goes to market. So as I understand it,  
17 they sell it. Is that not correct? So they  
18 sell it, and I think that's what Don was  
19 getting at is if we can just manage it. If we  
20 keep a - APHIS could really help to make sure  
21 that those domestic herds stay healthy.

22           So I would like maybe an

1 understanding of if we're in a designated  
2 surveillance area, what is the burden on any  
3 individual producer, or how often do they have  
4 to test? I mean the goal is to reduce the -  
5 let's minimize the burden on the producer,  
6 while at the same time making sure the herds  
7 are healthy and anywhere they might be  
8 shipping them are assured they're safe.

9 As I understood it, Wyoming they  
10 said, well, if you test every year, you can  
11 certify that these are brucellosis-free cattle  
12 and away you go. So if that's - that's the  
13 kind of thing, I think, that would be very  
14 beneficial. And to the degree that APHIS can  
15 do that without, you know, burdening the  
16 livestock owner with unnecessary cost, that's  
17 a good idea.

18 MS. RANKIN: I'm more worried  
19 about tuberculosis, Glenn, sorry. I know this  
20 is brucellosis haven, but looking at the  
21 framework - and that's what we're here about -  
22 is trying to have one framework for two

1 diseases that are very different. I think  
2 about the only thing they have in common is  
3 that they occur in ruminants and they're  
4 zoonotic, human. You know, the way that  
5 they're transmitted, the length of time,  
6 latency, that sort of thing makes it very  
7 different.

8           And so looking at an affected  
9 herd, beef herd, which is predominantly what  
10 we have in this state, and looking at not  
11 being able to sell them for food, and what are  
12 you going to do with those. So if there is  
13 indemnity money still, then that's going to be  
14 taken care of. But if we're out of money,  
15 which USDA is always out of money, is that  
16 looking at what are those choices then. And  
17 that's what I really think needs to be written  
18 into this framework is looking more at  
19 specific production. What are those animals  
20 being used for when that disease hits, and  
21 you're out of money to indemnify? Is the  
22 rules then testing out on a TB, boy, you're

1 not going to be there. I mean you're just  
2 going to have to go out of business.

3 So those are some things that I  
4 think I'm worried about.

5 DR. HENCH: And that's one of the  
6 things we're trying to address is these, in TB  
7 specifically, it does tend to take some time.

8 One of the things we have  
9 implemented in the TB program beginning back  
10 in July of 2009 is we changed our position  
11 that we no longer automatically depopulate a  
12 herd on a diagnosis. And our National  
13 Surveillance Unit has developed a model, which  
14 takes into account the prevalence within the  
15 herd, the sensitivities and specificities of  
16 the various tests, the size of the herd,  
17 testing frequencies. And from this model we  
18 can get a very good feeling of how long it's  
19 going to take us to repetitively test a herd  
20 for TB, and then be confident that we've  
21 cleared the disease.

22 In some herds I have seen two

1 sequential tests achieve a greater than 95  
2 percent confidence of disease freedom in as  
3 little as ten months. And in other herds I  
4 have seen over four years to achieve two tests  
5 greater than 95 percent confidence.

6 So we're addressing each herd as a  
7 unique entity anymore. Not just one size.  
8 Okay, two tests, 60 days apart; two tests, one  
9 80 days a part; three tests, one year apart.  
10 We're not - we've gone away from that.

11 What we're trying to do, and as  
12 you point out, the cattleman is producing  
13 calves and selling them each fall. If he's  
14 under a multi-year - even one season. You  
15 know, if they're diagnosed in August and it  
16 takes them ten months to get off quarantine,  
17 you know, he's got to eat a calf crop, and  
18 he's probably going to go out of business.

19 So we're trying to see what ideas  
20 folks have to help this guy, you know, have a  
21 market for those calves. And, yeah, we're  
22 looking for suggestions. We've had

1 traditionally the quarantine feed lot,  
2 traditionally the approved feed lot, the  
3 quarantine pen. Some other ideas that have  
4 been offered, restricted or quarantined  
5 pastures. Because those calves that come off  
6 in the fall aren't ready for a feed lot. You  
7 know, they got to go out on grass for another  
8 four or six months to be ready to finish out.

9 So what's - you know, restricted  
10 pastures, quarantined pastures? These are  
11 ideas that -

12 MR. HOCKETT: This is Glenn  
13 Hockett again. I share Jeanne's concern about  
14 TB and brucellosis combination. I mean maybe  
15 it makes sense from a Federal regulations  
16 standpoint to work, you know, get it through,  
17 but there needs to be a distinction between  
18 the two because they're - it's already  
19 confusing enough for us dealing just with  
20 brucellosis. Throwing TB into it even makes it  
21 worse. So there needs to be a way to divide  
22 those.

1                   And then one other thought I have  
2           is - and I don't fully understand this, but I  
3           heard in another session one of the guys said  
4           with swine, swine have - feral swine have  
5           brucellosis, but domestic swine don't. And  
6           they - you have somehow set up a system that  
7           works for that scenario. And that seems to  
8           me, without knowing it, you know, just hearing  
9           it today, that seems to me that may be a model  
10          that may apply to, say, the Greater  
11          Yellowstone Area and brucellosis. That we're  
12          going to have wildlife with brucellosis, but  
13          that's separate from the cattle. So if we can  
14          keep cattle disease free, brucellosis free, we  
15          need to have a system, I mean, similar to  
16          that, without knowing exactly what it is, I  
17          guess.

18                   MR. WOERNER: This is Don Woerner.  
19          The model, the model on pigs is to house pigs,  
20          I guess. Is that not the case? What was  
21          that?

22                   MS. RANKIN: Glenn was right on

1 with the fact that it's in the feral. He said  
2 noncommercial is what he said, Burke did,  
3 right? That's what you were talking about,  
4 Glenn?

5 But it's not - it's the feral  
6 swine. We know that feral swine across this  
7 country, lots of States have pseudo rabies,  
8 both, and so that doesn't count. But, see,  
9 it's an OIE designation. So that's the big  
10 thing is all these countries have one vote.  
11 USA has one vote. So some little, dinky  
12 country in South Africa has one vote, and so  
13 it may not matter to them. So there's some  
14 politics in there about those designations.  
15 But I believe that's what USDA is trying to do  
16 is we declared ourselves free of brucellosis,  
17 except for now we have this reservoir, this  
18 pool, even though the incidence of our  
19 brucellosis is .01 or the international  
20 threshold for considering ourselves having  
21 brucellosis in the national domestic herd.

22 So again it's always - it's that

1 international designation that is so key to  
2 trade.

3 MS. JOHNSON: It is currently what  
4 it is. It is the way - Dr. Haley (phonetic)  
5 was bringing up that point. We're moving that  
6 way in tuberculosis and brucellosis. We are  
7 officially considered free by international  
8 standards. And part of that is because we can  
9 say we have a reservoir and that it is zoned.  
10 So it's like a country being declared free of  
11 foot and mouth disease with vaccination or  
12 without vaccination. Those classifications  
13 have really serious implications when it comes  
14 to imports and exports.

15 So that's the example he was using  
16 was the swine brucellosis and swine pseudo  
17 rabies. We again don't consider our  
18 commercial herds to have those two diseases,  
19 but we know that we have them in a wildlife  
20 reservoir. So, again, that zoning and the way  
21 we're thinking about conducting surveillance  
22 helps us, our credibility when we declare

1 ourselves free, although we know that we have  
2 it in a certain reservoir within a contained  
3 zone.

4 DR. HENCH: Getting back to your  
5 original point and concern of combining the  
6 two programs and the regs, in the end as  
7 Jeanne pointed out there are differences  
8 between the two diseases.

9 This was a concept that even the  
10 working group had trouble coming to grips  
11 with. How can you combine two diseases into  
12 one regulation? And probably the best example  
13 I can offer you is that in the regulation, in  
14 the CFR we might say something like the animal  
15 must have an official test. And then in our  
16 supporting documentation, our standards,  
17 whatever name ultimately evolves - and this is  
18 not in the CFR, therefore we can change it  
19 fairly rapidly as new technology comes on  
20 board. We can say an official test for  
21 brucellosis is this. An official test for TB  
22 is that. That's where we split out and we

1 address the differences.

2 MS. JOHNSON: It's the difference  
3 between putting things in Montana Code versus  
4 - it's similar in Montana as to putting - at  
5 the State level of putting things in Code  
6 versus putting things in administrative rule.  
7 So it's exactly the same thinking is keeping  
8 the Federal perspective very broad and very  
9 high level in the Code. Because we all know  
10 that's in concrete basically. But then making  
11 sure that the administrative reflects the  
12 differences in the two diseases, if that's -

13 DR. HENCH: That's generally it.  
14 You know, we're currently evaluating a lot of  
15 serological tests for TB. And if one of those  
16 reaches approval, and our official test is  
17 defined in the CFR as being a caudal fold, a  
18 comparative cervical, and a gamma interferon,  
19 and this new serograte (phonetic), for lack of  
20 - again, I'm just making up a name here -  
21 turns out to be a good test, it's going to  
22 take me 12 to 15 months to change the CFR to

1 make that test official in the program.

2           If I have the animal will be  
3 officially tested in the CFR, and my  
4 supporting documentation defines what an  
5 official test is, and that serograte comes out  
6 workable, I can make that change in 30 days.  
7 I can make that change in 30 days. I can put  
8 the change in the supporting documentation,  
9 publish in the Federal Register for public  
10 comment in 30 days and go from there.

11           MS. RANKIN: I think that's key.  
12 You know, the Government agencies keep  
13 throwing around flexibility and how great this  
14 is. And, of course, that's been the pushback,  
15 at least in Montana from the ranching public.  
16 You know, flexibility is a nice little word  
17 when it works to our own favor, but it's also  
18 having guidelines so that we all know what  
19 those outside rules are. Yeah, it's great to  
20 be able to change them in a pattern and with  
21 public comment. And I guess that's one of the  
22 things that I don't - I haven't seen here, and

1 I've asked before, is okay, when we stat  
2 talking about official calf vaccine, when we  
3 start talking about more specific things about  
4 program management. You know, is the public's  
5 voice going to be able to be heard on that, or  
6 is it just going to be, yeah, we put it out  
7 there, we heard it, but we don't care. It's  
8 going through anyway. And I guess we always  
9 run that risk.

10 But I guess I would make comment  
11 and urge for lots of ability for the public to  
12 comment on those policies or, you know,  
13 guidelines in the future.

14 DR. HENCH: And that's certainly  
15 key to the new program that's transparency.  
16 And it's not just when we institute a change,  
17 for instance, adding the latest and greatest  
18 test, but it's also going to be transparency  
19 of each State. You know, this is what we're  
20 doing. This is how we're doing it. The  
21 transparency for every other State to come in  
22 and say, oh, yeah, cool, they're doing a good

1 job. You know, that's the key to the new  
2 program. The flexibility, you know, as I  
3 point out, right now a change in the State  
4 status for TB on a good effort takes me four  
5 to five months. I mean, they can be free of  
6 TB, but their status is not free. It takes me  
7 four to five months. I mean they can be free  
8 of TB, but their status is not free. It takes  
9 me four to five months just to work that  
10 through the system. And that's because I have  
11 to change two sections in the CFR. I have to  
12 take the State out of one section and put it  
13 into another section.

14 If we say these are the  
15 requirements for a consistent State in the  
16 CFR, and then we maintain a list of consistent  
17 States in our supporting documentation, when  
18 that State is deserving of moving, we can move  
19 them fairly rapidly. Publish in the Federal  
20 Register this is what we're going to do. This  
21 is the comment period. Please respond. And  
22 then bingo.

1                   Now when I publish something like  
2 this, it gets published in the Federal  
3 Register generally as an interim rule.  
4 Because when we upgrade a State very few  
5 people are likely to object. So we put it in  
6 as an interim rule effective on publication.  
7 But there is still a 60-day comment period.  
8 And an interim rule is not permanent, it's not  
9 final. If there are objections received we  
10 can back off on it. I haven't seen that  
11 happen yet.

12                   But again it takes actually the  
13 better part of 12 weeks just to even get the  
14 stuff to the final clearance process. And  
15 then it's out of my hands, and it can be  
16 another six, eight, ten weeks in external  
17 clearances.

18                   So this is the flexibility we're  
19 trying to gain by broad strokes, if you will,  
20 in the regs, and more specific information,  
21 more disease specific information in the  
22 supporting documentation and in the standards.

1                   You know, we can say in the  
2 Federal Register: If disease is detected  
3 within a herd, an epidemiological  
4 investigation will be conducted. Then on our  
5 supporting standards we define what  
6 constitutes an epidemiologic investigation.

7                   And it's one of the questions.  
8 What would you consider an appropriate time  
9 for an epidemiologic investigation? You know,  
10 we found Herd A is affected with disease. How  
11 long should it take that State to find out all  
12 the trace-outs, all the trace-ins, conduct  
13 whatever testing is necessary, notify what  
14 other States are necessary if the animal has  
15 left and crossed State lines or if they came  
16 in across State lines. What would you  
17 consider to be an appropriate time frame to  
18 accomplish that? Thoughts? Ideas?

19                   MS. JOHNSON: I think it comes  
20 back - this is Kammy. I think it comes back  
21 to flexibility and situational. It will very  
22 much be situational given the way we've had to

1 manage the brucellosis affected herd here in  
2 Montana, given that it broke or was confirmed  
3 on November 1st.

4           So we've appreciated very much the  
5 flexibility in the new guidelines. And I'm  
6 blanking on what I want to say, but we've very  
7 much appreciated the flexibility of not having  
8 to meet those specific 30, 60, 90 and 180-day  
9 type deadlines because they aren't really  
10 appropriate to this herd's management  
11 situation, nor are they appropriate to bison.  
12 And I'm sure you've heard that given the  
13 Wyoming situation as well. So we've  
14 appreciated that flexibility and would  
15 continue to urge that type of being able to  
16 manage under solid quarantines and having the  
17 flexibility of doing some of the trace-ins,  
18 trace-outs. The trace-outs not so much, but  
19 perhaps the trace-ins and doing some of that  
20 work as the weather and conditions are  
21 appropriate.

22           So I have appreciated that and

1 would continue to encourage that.

2 DR. HENCH: So the time period for  
3 completing epi investigations you say would  
4 sort of be another item to be addressed on a  
5 herd-by-herd basis?

6 MS. JOHNSON: I think based on the  
7 epidemiology of the outbreak, because I think  
8 prevalence has a great deal to do with that.  
9 The species that you're dealing with have a  
10 great deal to do with that.

11 And while I don't - well, I  
12 understand that it should not be a copout for  
13 not doing a good job, of doing a timely  
14 investigation. I also think that having drop-  
15 dead dates as far as 30 days or 60 days,  
16 perhaps notifications, yes, gathering  
17 information, yes. But sometimes the actual  
18 testing itself is, as we know, just not  
19 possible given some of the situations.

20 So I think allowing - perhaps  
21 having guidelines, but allowing the  
22 flexibility to use the local epidemiology of

1 the disease is key. And I have appreciated  
2 that in the UMNR, as well as the new  
3 framework. So again, have it driven by  
4 evidence and local epidemiology.

5 DR. WOERNER: Don Woerner here.  
6 I've got a specific herd I'm thinking about.  
7 Can I talk about a specific herd and name  
8 names and do that in this?

9 DR. HENCH: Sure.

10 MS. RANKIN: Just before you start  
11 that, can I? Thanks.

12 Jeanne Rankin. One other thing  
13 that you might want to think about is size of  
14 the herd, too, because that makes a difference  
15 on whether we've got 5,000 animals that's got  
16 lots of movement in and out versus 40. Does  
17 that come into play? A lot -

18 UNIDENTIFIED VOICE: The  
19 definition of epidemiology.

20 MS. RANKIN: I know, but for the  
21 rest of the people it might not be, so - or  
22 for the people who are writing rules,

1 sometimes they're just English people, English  
2 grammar. Okay. So I would say size of herd  
3 and movement in and out. Movement in and out  
4 would be epi, but size of herd sometimes is  
5 not - okay.

6 People in my - yeah, don't use  
7 prevalence right.

8 DR. HENCH: Okay.

9 MR. WOERNER: Thank you. I don't  
10 need to name names on this, but I'm thinking  
11 about a herd, and it's a bison herd. It's  
12 commercial. It's livestock. But these bison  
13 are being purchased in Canada. And they're  
14 tested for brucellosis and TB, and then  
15 they're retested when they come into the  
16 United States.

17 And then how long should these  
18 animals be monitored when they're in the  
19 United States under an affected herd  
20 management plan? Or would - I don't know if  
21 this particular entity is under a herd  
22 management plan. Once they got their retest

1 done for TB/brucellosis, after they entered  
2 the country, kinda forgot they're here.

3 DR. HENCH: This was one of the  
4 issues under the imports, and that is, you  
5 know, what do we need for long-term follow-up?

6 If the animals are tested in  
7 Canada and negative and they cross, and  
8 they're tested again in the U.S. as negative,  
9 there's no disease that we know of, they would  
10 not then be under an affected herd plan  
11 because there's no disease in that herd. But  
12 for follow-up with these imports, what would  
13 you propose we do?

14 MR. WOERNER: Well, I heard this  
15 morning some of these Mexican steers - if I  
16 understand it correctly, we could pick up TB  
17 as much as five years later; is that correct?

18 DR. HENCH: The average time in  
19 country for an imported Mexican feeder is ten  
20 months. The average time in country for a  
21 Mexican roping steer, i.e. eventing - I still  
22 have this picture of cows doing steeple chase.

1 Sporting bovines.

2           What we find there from infected  
3 cases in roping steers is that they average 36  
4 months in country. And we get this data  
5 because we get the ear tag at slaughter, and  
6 we know when it died, and we can then go back  
7 and find the crossing papers and know the date  
8 it crossed. So this is - we've been  
9 assembling this for several years.

10           Will that particular animal  
11 transmit TB to a domestic herd that we then  
12 find later on down the road? That is a lot of  
13 the current thinking. The smoking gun is  
14 impossible to find because the transmission  
15 takes place years before. It is thought that  
16 a lot of these TB strains we're finding, in  
17 that they match genetically to strains that  
18 are found in imported Mexican animals, it's  
19 thought that the Mexican animals are the  
20 source of that infection, and they've passed  
21 it to domestic livestock. And it's been years  
22 down the road until we pick it up.

1                   So one of the things we have  
2 proposed in our framework is maintaining a  
3 separation between these imported animals and  
4 our domestic breeding herd.

5                   We're always looking for ideas to  
6 reduce and mitigate that risk.

7                   MR. WOERNER: One thing that would  
8 make me feel really good about the bison is  
9 knowing the source of the animals, and knowing  
10 the history, disease history at the source in  
11 another country, say Canada. If they had done  
12 testing for years and years, and we have done  
13 a test before they came in, and then repeated  
14 it afterwards, I feel pretty confident.

15                   MS. RANKIN: Jeanne Rankin. I'm  
16 glad you brought this up because I've been  
17 thinking about imports and international  
18 imports. My family ranch is near the Canadian  
19 border, and all those Canadian cattle coming  
20 in have electronic ear tags, EIDs. And so  
21 looking at them and then not having USDA read  
22 those tags and collect that data, I think is

1 just really missing the boat on information  
2 that we could have. And certainly Canada is  
3 a clean friend usually, but at least having  
4 that data. It's there, FSIS would be the  
5 Government branch of USDA that would have to  
6 collect it.

7 But we've had this failed  
8 traceability program for years, but all of the  
9 money that's been spent on panel readers and  
10 things, we've got the technology licked. All  
11 we need to do is actually run those animals  
12 through a panel reader before they go into  
13 slaughter, and they make about 90 to 95  
14 percent read on those things. And being able  
15 then to track to say, you know, they were  
16 tagged. They were actually read at the border  
17 that they were offloaded. And right now the  
18 border only has to take 10 percent of them, I  
19 believe, is the mark with the wand, take 10  
20 percent of those numbers, the CVI, the  
21 Certificate of Veterinary Inspection, can be  
22 within 10 percent. They can say there's 40

1       there and really there's only 35. So you  
2       don't know how many actually came in.

3               So if you're doing a disease  
4       traceback to a place that later shows up with  
5       TB or brucellosis or something, you don't know  
6       if you're looking for 40 or 38, you know,  
7       because of that.

8               And I guess the biggest concern I  
9       have is with the unbranded steers coming in.  
10       We could slap a little EID in them just as  
11       they cross the border. If we're doing a scab  
12       test on every single one of them, we could put  
13       our own tag in them that just said "M" branded  
14       or something on them. So that they would have  
15       then that electronic, but we've got to collect  
16       it. And it sounds like, Bill, that's the  
17       first time I've ever head anybody say that  
18       you're collecting the Mexican tags and looking  
19       at those.

20               Because I know, we get tags all  
21       the time, or used to. When I worked for the  
22       State as far as if you had a traceback, you'd

1 get the actual tag, the tag numbers, you know,  
2 what kind of a tag it was so you'd have some  
3 way to trace it back. But I was unaware that  
4 USDA was actually looking at Mexican tags. Is  
5 that what I heard you say or not?

6 DR. HENCH: VS, of course, works  
7 with FSIS, Food Safety Inspection Service, who  
8 does the inspections at the slaughter house.  
9 The program, both the MCI program for Bruce  
10 and the TB granuloma submission program  
11 require the collection of identification to go  
12 with the samples. In the MCI program they  
13 collect the ID and they hold it until the  
14 blood comes back negative, and then they dump  
15 the ID. This is retained at the slaughter  
16 facility, as I understand it.

17 If we find a lesion suggestive of  
18 TB at slaughter, FSIS collects the sample,  
19 they collect all man-made ID associated with  
20 that animal, put it all in the same box and  
21 ship it off to the lab. We tend to find more  
22 Mexican cases, primarily Mexican feeders, but

1 we have also identified domestic TB-affected  
2 herds through slaughter samples and the ID  
3 that was collected with it.

4 Is every ID of every animal  
5 slaughtered collected, read, monitored? No.  
6 Every effort is made that when a lesion is  
7 found, to collect the man-made ID associated  
8 with that particular animal.

9 One of the latest advancements  
10 we've had in our technology within the last 12  
11 to 18 months, as we now take samples from the  
12 tissue that's submitted for culture,  
13 histopath, microscopic analysis, and we  
14 compare the DNA on that sample to the DNA on  
15 the ID device. Patch a hair off the back tag,  
16 a little bit of tissue in the ear tag, and  
17 we're confirming that, yes, that ID device and  
18 that lesion came from the same animal. We're  
19 doing that routinely now.

20 So we know that when we have a  
21 diagnosis of TB that that tissue block came  
22 from the animal that wore this ear tag. So

1 this is routinely done.

2 Do we get every ear tag at  
3 slaughter? No. Does every animal with a  
4 lesion have an ear tag when it comes in to  
5 slaughter? No. But we do have a very good  
6 success rate in tracing back. Oftentimes we  
7 will know that that particular animal came  
8 from this lot of 30, and that lot was  
9 assembled at XYZ sale yard, and producers A  
10 through F contributed to that lot.

11 Now all of a sudden we've got 700  
12 herds to test. However, sometimes we can  
13 narrow it down. Producer A and B, they only  
14 sent heifers. And we know that this animal  
15 was a steer. So we don't have to test  
16 producers A and B because we know they only  
17 sent heifers.

18 The dress weight was 600 pounds.  
19 Live weight on that animal was probably 1100  
20 or 1200 pounds, something like that. Well,  
21 Producers E and F only sent 1,000-pound  
22 animals. So they sort of fall down the list.

1 Not so likely them.

2 We can high grade who would go in,  
3 and we've had success doing that. But every  
4 ID of every animal slaughtered being recorded  
5 and checked, no.

6 MS. RANKIN: No, but it is  
7 possible. So now with the electronic ear  
8 tags, and all the Canadians have them, and so  
9 that's an easy thing to do. It's a check and  
10 balance about what came in this country, where  
11 was it supposed to go, and was it diverted?

12 And I think the success rate with  
13 USDA in tracing TB lesions is very, very good.  
14 It's those roping steers that I'm concerned  
15 about that came in with that shipment of  
16 animal that's going to be here for 36 months.  
17 And so that if we had a reading there at the  
18 slaughter house of those animals then coming  
19 in, it's a database. It's electronic. Some  
20 computer programs have to write the program,  
21 but then all we have to do is - I mean they  
22 can write it to match it up. Here he came in,

1 he crossed over, here's his testate at  
2 wherever, Laredo or wherever, and here is when  
3 he slaughtered and where he was slaughtered.  
4 And, gosh, here's a list of a hundred that  
5 haven't gotten slaughtered within the six-  
6 month period of time or, you know, a year of  
7 date. Gosh, should somebody know about those?  
8 And those are the ones that I think, you know,  
9 I'm concerned about as a rancher and as an ex-  
10 Government official is trying then to come up  
11 with some sort of following of those roping,  
12 sporting bovines or whatever you want to say.

13           Because I think from what I heard  
14 you say before is that within the guidelines  
15 you would require or request that there  
16 wouldn't be any mixing in feed lots then of  
17 these "M" branded steers coming in and intact  
18 like the dairy heifers that we've got problems  
19 with now in a feed lot. Is there going to be  
20 any of those kind of restrictions that you  
21 can't bring those things in side by side to a  
22 heifer-raising operation?

1 DR. HENCH: Would you like it?

2 MS. RANKIN: Yes, of course. I'm  
3 not from Texas or New Mexico.

4 DR. HENCH: Specifics we haven't  
5 nailed down. The concept is to prevent the  
6 exposure of our native herd to these high-risk  
7 imports. That's the concept.

8 How will we implement it? That  
9 will probably be in program standards. The  
10 regs will say something like - and I'm just  
11 purely speculating here. This has absolutely  
12 nothing to do with what's real. The regs will  
13 say no exposure of domestic livestock to  
14 imported livestock. It could be that simple.  
15 And then how you achieve that would be in the  
16 program standards.

17 Maybe something in there that says  
18 concentrated animal facilities that background  
19 animals for back-to-farm purposes will not  
20 have high-risk animals on the premise. That  
21 could be a standard. It could be a standard  
22 that says facilities that raise young stock

1 for back-to-farm may have to maintain 50 feet  
2 of separation between classes of animals.

3 The specifics haven't been  
4 written. And we're certainly going to be open  
5 for suggestions. But right now we're just  
6 trying to nail those big concepts like  
7 separation of our native breeding herd from  
8 these imports, from high-risk imports.

9 I think your ideas for the ID  
10 recording at slaughter might be better  
11 directed to the traceability group when their  
12 stuff comes out for comment. I would suggest  
13 that might be the appropriate place.

14 In the program we're going to rely  
15 heavily on the traceability requirements and  
16 not institute our own type of requirements.  
17 I think program-wise the ID requirements are  
18 going to be kind of at a level that if the  
19 animal is tested it needs to be ID'd. You  
20 know, I think that's the level at the program  
21 we're going to take. The overall ID is going  
22 to be through the traceability group.

1 MS. RANKIN: And I did talk to  
2 Neil Hammerschmidt and - who is the  
3 programmer? John whatever - and they say it  
4 is possible to do all of that as far as  
5 collect the data at the plants. But FSIS is  
6 unaware that there's even electronic ID the  
7 last time I spoke to them.

8 DR. HENCH: That is a whole other  
9 world.

10 Well, anything in the last couple  
11 of minutes? I certainly appreciate y'all  
12 taking time to come by and visit with us. And  
13 as I've told the other groups ad nauseum,  
14 regulations.gov, search out TB and brucellosis  
15 and you'll find methods to send us comments.  
16 It's also contained in your handout on sending  
17 us comments. Please send us comments.

18 UNIDENTIFIED VOICE: Do you know  
19 the time period?

20 DR. HENCH: I believe it's June  
21 20.

22 MR. HOCKETT: I guess I have a

1 question. Maybe you've been working on this,  
2 but I'm curious as to how the brucellosis  
3 discovery in the bison, domestic bison herd  
4 down here, how that's been handled, and how it  
5 would be handled under the new - I assume it's  
6 being handled kind of under the new  
7 regulations is what I've heard. That there's  
8 been some flexibility even though it's maybe  
9 not quite legal, but it's - or whatever.

10 Can somebody speak to that? I  
11 mean I'm just curious if - I'm curious about  
12 if you find - because I think we will  
13 occasionally find brucellosis in the cattle -  
14 what is going to be the burden on the  
15 livestock producer, and how do they get out  
16 from underneath that burden?

17 MS. JOHNSON: So the heard was  
18 identified through their annual testing for -  
19 because they are in a designated surveillance  
20 area. So as they were doing their herd  
21 testing, the reactor was identified.

22 So that happened in mid-October,

1 was confirmed November 1. The new framework  
2 came out in November as well. So we were  
3 operating under the new guidelines for  
4 brucellosis and had permission from the  
5 Veterinary - from the Chief Veterinary Officer  
6 to proceed as though those - that framework  
7 was going to be published.

8 So, yes, it is being a bit more  
9 flexible in that obviously we did not  
10 depopulate that herd because it is a herd of  
11 bison.

12 The other difference is, as Bill  
13 has talked about in the current Code of  
14 Federal Regulations, there are very prescribed  
15 time lines for testing, if you're going to do  
16 test and removal. Which, of course, this herd  
17 has opted to do. So it was start our  
18 immediate quarantine with our understanding  
19 that an entire herd test would be completed as  
20 soon as possible. But given that bison aren't  
21 cattle, those time frames were adjusted  
22 because there were good faith efforts on the

1 part of the producer.

2 So that herd is operating under  
3 perpetual quarantine. It still does have to  
4 have three negative tests. So while the time  
5 frames do not apply, the still three entire  
6 herd negative tests still apply. So it still  
7 has to meet the same requirements, just not  
8 under those same ambitious time lines.

9 So that's what they're operating  
10 under as a perpetual quarantine. They've  
11 completed one entire herd test and will  
12 complete another one this fall. And then a  
13 third one, you know, assuming that everything  
14 continues to be negative, you know, they will  
15 continue to operate under that understanding.

16 So there weren't - there were  
17 variations in the way that we traditionally  
18 handle it compared to a cattle herd and  
19 compared to what is written in CFR, but it is  
20 consistent with the new proposed framework.

21 DR. HENCH: We can stop it here.

22 (Meeting adjourned at 2:28 p.m.)

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This is to certify that the foregoing transcript

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Regulatory Framework - Group C3

Before: USDA

Date: 06-01-11

Place: Bozeman, MT

was duly recorded and accurately transcribed under  
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