

II. Analysis of Amendments

This final rule amends two provisions in the interim rule which are located at 5 CFR 3501.101(b)(3) and 43 CFR 20.201(a), respectively, dealing with the designation of the Department's Designated Agency Ethics Official. These two provisions in the interim rule state that "Designated Agency Ethics Official" (DAEO) means the Assistant Secretary—Policy, Management and Budget.

Because future administrations and reorganizations may change the position title of the Assistant Secretary—Policy, Management and Budget, or result in the DAEO responsibilities being assigned to an employee in a different position, the Department has determined that it is not practical or cost efficient to publish in this rule the title of the officer who has been assigned the responsibilities of the DAEO. As a result, the final rule in 5 CFR 3501.101(b)(3) has been amended to delete the provision specifying the title of the employee who serves as the DAEO. As the procedure for designation of the DAEO is already referenced in the definition section of the Standards at 5 CFR 2635.102(f), no substitute for the deleted supplemental provision is necessary. In the Department's separate residual regulation at 43 CFR 20.201(a), the final rule has been amended to read that the DAEO means the official designated under 5 CFR 2638.201 to coordinate and manage the Department's ethics program. The authority citation to the Department's residual regulation is also being revised by adding a reference to 5 U.S.C. 7301 and by revising the citation to 43 U.S.C. 31 to 43 U.S.C. 31(a). Other than these amendments to the Department's residual regulation, the final rule adopts the revisions to the Department's residual regulation made in the interim rule without change.

III. Correction of Typographical Error

The Department is also correcting in this final rule a typographical error that appeared in the interim rule which was published in the **Federal Register** on October 16, 1997 (62 FR 53720). The citation mentioned in 5 CFR 3501.105(b)(4)(ii)(E) is incorrect and is being amended to read "(b)(4)(ii) (A) through (D) of this section."

IV. Matters of Regulatory Procedure

Executive Order 12886

In promulgating this final rule, the Department has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order

12866, Regulatory Planning and Review. This regulation has not been reviewed by the Office of Management and Budget under that Executive Order since it deals with agency organization, management, and personnel matters and is not, in any event, deemed "significant" thereunder.

Administrative Procedure Act

The Department has found good cause, pursuant to 5 U.S.C. 553(d)(3), for waiving the 30-day delay in effectiveness as to this final rule. The reason for this determination is that it is important that these minor technical amendments effective as soon as possible.

Regulatory Flexibility Act

The Department has determined that these regulations will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605).

Paperwork Reduction Act

The Department has determined that these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 5 CFR Part 3501 and 43 CFR Part 20

Conflict of interests, Government employees.

Dated: June 11, 1998.

John D. Lesly,

Solicitor, Department of the Interior.

Approved: June 17, 1998.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Department of the Interior, with the concurrence of the Office of Government Ethics, is adopting the interim rule adding 5 CFR chapter XXV, consisting of part 3501, and amending 43 CFR part 20 which was published at 62 FR 53713-53726 on October 16, 1997, as a final rule with the following changes:

CHAPTER XXV—DEPARTMENT OF THE INTERIOR

PART 3501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF THE INTERIOR

1. The authority citation for part 3501 continues to read as follows:

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 30

U.S.C. 1211; 43 U.S.C. 11, 31(a); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803.

§ 3501.101 [Amended]

2. Section 3501.101 is amended by removing paragraph (b)(3) and redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(3) and (b)(4), respectively.

§ 3501.105 [Amended]

3. Section 3501.105 is amended by removing the cross-reference "(c)(4)(ii) (A) through (D)" in paragraph (b)(4)(ii)(E) and adding in its place the cross-reference "(b)(4)(ii)(A) through (D)".

TITLE 43—[AMENDED]

SUBTITLE A—[AMENDED]

PART 20—EMPLOYEE RESPONSIBILITIES AND CONDUCT

4. The authority citation for part 20 is revised to read as follows:

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Reorganization Plan No. 3 of 1950); 30 U.S.C. 1211; 43 U.S.C. 11, 31(a); 5 CFR 2634.903, 2634.905.

5. Section 20.201 is amended by revising paragraph (a) to read as follows:

§ 20.201 Ethics officials.

(a) *Designated Agency Ethics Official* refers to the official designated under 5 CFR 2638.201 to coordinate and manage the Department's ethics program.

* * * * *

[FR Doc. 98-16688 Filed 6-23-98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 50

[Docket No. 98-033-1]

Tuberculosis in Cattle, Bison, and Captive Cervids; Indemnity for Suspects

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations concerning animals destroyed because of tuberculosis to provide for the payment of Federal indemnity to owners of cattle, bison, and captive cervids that have been

classified as suspects for tuberculosis and have been destroyed, when it has been determined by the Animal and Plant Health Inspection Service that the destruction of the suspect animals will contribute to the tuberculosis eradication program in U.S. livestock. We are also amending the regulations to allow the U.S. Department of Agriculture to pay herd owners some of their expenses for transporting the suspect cattle, bison, and captive cervids to slaughter or to the point of disposal, and for disposing of the animals. Prior to this interim rule, owners of cattle, bison, and captive cervids could only receive Federal indemnity for affected and exposed animals destroyed because of tuberculosis, and animals in an affected herd destroyed as part of a herd depopulation. Indemnity for suspects will provide incentive for owners to promptly destroy suspect animals, thereby hastening the diagnosis of tuberculosis in a herd. This interim rule is necessary to ensure continued progress toward eradicating tuberculosis in U.S. livestock.

DATES: Interim rule effective June 17, 1998. Consideration will be given only to comments received on or before August 24, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98-033-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 98-033-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. James P. Davis, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-5970; or e-mail: jdavis@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis (referred to below as tuberculosis) is a serious communicable disease of cattle, bison, and other species, including humans, caused by *Mycobacterium bovis*. Tuberculosis causes weight loss, general debilitation, and sometimes death. The regulations at 9 CFR part 50, "Animals

Destroyed Because of Tuberculosis" (the regulations), administered by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (the Department), provide for payment of Federal indemnity to owners of certain cattle, bison, captive cervids, and swine destroyed because of tuberculosis.

As part of the program to control and eradicate tuberculosis in cattle, bison, and captive cervids, the regulations have provided for the payment of indemnity for the destruction of cattle, bison, and captive cervids that are affected with or exposed to tuberculosis. Because the continued presence of tuberculosis in a herd seriously threatens the health of other animals in that herd and possibly other herds, the prompt destruction of tuberculosis-affected and -exposed animals is critical if tuberculosis eradication efforts in the United States are to succeed. Indemnity is intended to provide owners with an incentive for promptly destroying such cattle, bison, and captive cervids.

As set forth in § 50.4 of the regulations, cattle, bison, and captive cervids are classified as affected with tuberculosis on the basis of an intradermal tuberculin test applied by a Federal, State, or an accredited veterinarian, or by another diagnostic procedure approved in advance by the Administrator of APHIS. Cattle, bison, and captive cervids are classified as exposed to tuberculosis when such cattle, bison, and captive cervids (1) are part of a known affected herd, or (2) are found to have moved from an affected herd before the time infection was disclosed in the herd and after the time the herd had apparently become affected, or (3) are found to have been exposed by virtue of nursing from a reactor dam.

Cattle, bison, and captive cervids that respond to an intradermal tuberculin test are not always classified as affected with tuberculosis. Cattle, bison, and captive cervids are classified as affected with tuberculosis based on an intradermal test when they are classified as reactors to that test. The Uniform Methods and Rules—Bovine Tuberculosis Eradication (UMR) (incorporated into the regulations by reference in 9 CFR part 77) contains the requirements for classifying cattle and bison. In accordance with the UMR, in herds of unknown tuberculosis status, an initial response to an intradermal tuberculin test (specifically, the caudal fold test) causes an animal to be classified as a suspect. When an animal is classified as a suspect, the herd is quarantined and a second intradermal tuberculin test (the comparative cervical

test) is scheduled. The animal's response to the comparative cervical test is plotted on a scattergram. If the animal's response indicates a suspect classification, another retest is scheduled. The testing schedule for captive cervids is similar to that for cattle and bison. Consequently, cattle, bison, and captive cervids in herds of unknown tuberculosis status are classified as reactors only after at least two, and in many cases three, responses to an intradermal tuberculin test.

Under this testing schedule, an animal may remain a suspect for between 12 and 120 days until the animal tests negative for tuberculosis or a reactor classification is achieved. If a suspect is infected with tuberculosis, this period provides opportunity for the spread of the disease to healthy animals in the herd. If the suspect were destroyed immediately instead of being retested, APHIS could perform a necropsy on the suspect to determine if the animal is infected. This would allow us to diagnose tuberculosis faster and to take other appropriate actions to ensure that the disease is not spread.

Immediate slaughter and necropsy of suspects would be especially valuable in herds that we believe are at an increased risk for tuberculosis infection, such as herds in an area where tuberculosis infection is known to exist in wild animal populations or herds adjacent to an affected herd. The program to eradicate tuberculosis in U.S. cattle, bison, and captive cervids is in its final stages, and we believe total eradication is possible by the year 2002. The most critical element of the program at this point is surveillance of herds that are at an increased risk for tuberculosis infection. Rapid diagnosis of tuberculosis in such herds, made possible by the immediate slaughter of suspects, will be a critical factor in allowing us to achieve our target eradication date of 2002.

Many herd owners elect to keep suspect animals in their herd until testing reveals them to be free of tuberculosis or they are classified as reactors. This is because the regulations have not provided for the payment of indemnity for the destruction of suspect cattle, bison, and captive cervids unless they are part of a known affected herd. We believe that offering indemnity for the destruction of suspects will encourage herd owners to promptly destroy suspect animals. For this reason, we believe it is appropriate at this time to provide for the payment of Federal indemnity to owners of cattle, bison, and captive cervids that have been classified as suspects for tuberculosis and have been destroyed, when it has

been determined by APHIS that the destruction of the suspect animals will contribute to the tuberculosis eradication program in U.S. livestock. We believe that the destruction of suspects would contribute to the tuberculosis eradication program if the suspects are in a herd that we consider to be at an increased risk for tuberculosis infection, such as herds in an area where tuberculosis infection is known to exist in wild animal populations or herds adjacent to an affected herd.

We will not offer the indemnity for the destruction of suspect cattle, bison, or captive cervids in all instances where they are found because the majority of suspect animals are not infected with tuberculosis. Typically, in herds of unknown tuberculosis status, we expect that between two and three percent of cattle and bison tested with the caudal fold intradermal tuberculin test will respond to that test, and subsequently will be classified as suspects. Greater than 95 percent of these responses are false positives, and subsequent testing with more specific tests shows these suspects not to be infected with tuberculosis. The response rate for captive cervids on the single cervical test (the primary intradermal tuberculin test used in captive cervid herds) is similar to that of the caudal fold intradermal tuberculin test for cattle and bison.

In herds that we do not consider to be at an increased risk for tuberculosis, we would expect this response rate and would not usually deem it advantageous to destroy the suspect animals. However, in herds that are at an increased risk of tuberculosis infection, the likelihood of a suspect animal actually being infected with tuberculosis is higher. In such herds, rapid diagnosis would significantly improve our ability to contain the disease. When this is the case, indemnity for destruction of the suspect animals may be offered.

Therefore, we are amending the regulations to provide for the payment of Federal indemnity to owners of cattle, bison, and captive cervids that have been classified as suspects for tuberculosis and have been destroyed, when it has been determined by the Administrator of APHIS that the destruction of the suspect animals will contribute to the tuberculosis eradication program in U.S. livestock. Indemnity will not exceed \$450 per animal. Further, the joint State-Federal indemnity payments, plus salvage, may not exceed the appraised value of each animal. We are adding these provisions in a new paragraph (d) to § 50.3,

“Payment to owners for animals destroyed.” We are also adding a requirement in § 50.3(d) that payment of indemnity for suspects will be withheld until the tuberculosis status of the suspect has been determined and, if the suspect is found to be infected with tuberculosis, all cattle, bison, and captive cervids 2 years of age or over in the herd have been tested for tuberculosis under APHIS or State supervision. This requirement will help ensure that the remainder of the herd is tested for tuberculosis.

We are also adding a new paragraph (c) to § 50.4, “Determination of existence of or exposure to tuberculosis,” to describe how cattle, bison, and captive cervids will be classified as suspects for tuberculosis. The new paragraph (c) will state that cattle and bison are classified as suspects for tuberculosis based on a positive response to an official tuberculin test, in accordance with the “Uniform Methods and Rules—Bovine Tuberculosis Eradication” (incorporated into the regulations by reference in part 77); and that captive cervids are classified as suspects for tuberculosis in the same manner as cattle and bison. Because of the addition of suspect classification, we are revising the heading for § 50.4 to read “Classification of cattle, bison, and captive cervids as affected, exposed, or suspect.”

We are also revising § 50.8, concerning payment of expenses for transporting and disposing of affected and exposed animals, to allow the same payments for suspect cattle, bison, and captive cervids. Some slaughtering establishments refuse to take suspect animals because, if the animals are found to be infected with tuberculosis, restrictions on the use of the meat increase slaughtering costs and reduce the value of the meat. Consequently, some herd owners may have to transport suspect animals long distances in order to find a slaughtering establishment willing to take them. In such cases, the Department may pay some of the expenses for transporting and disposing of the suspect animals, so that owners do not opt to keep their suspect animals in the herd for further testing, rather than pay for long-distance shipping.

Under § 50.8, as amended, the Department may pay herd owners one-half the expenses of transporting suspect cattle, bison, and captive cervids to slaughter or to the point where disposal will take place, and disposing of the animals, provided that the Department may pay more than one-half of the expenses when the Administrator of APHIS determines that doing so will contribute to the

tuberculosis eradication program. The APHIS Veterinarian in Charge for the State in which the animals reside must approve the payment in advance in writing. For reimbursement to be made, the owner of the animals must present the APHIS Veterinarian in Charge with a copy of either a receipt for expenses paid or a bill for services rendered. Any bill for services rendered by the owner may not be greater than the normal fee charged by commercial haulers or renderers for similar services. These are the same provisions that currently apply to the transport and disposal of affected and exposed cattle, bison, and captive cervids. In conjunction with this change, we are revising the heading for § 50.8 to read “Payment of expenses for transporting and disposing of affected, exposed, and suspect animals.”

We are also revising § 50.14, “Claims not allowed.” Paragraph (b) of § 50.14 has provided that claims for compensation for cattle, bison, or captive cervids destroyed because of tuberculosis will not be allowed if all cattle, bison, and captive cervids 2 years of age or over in the claimant’s herd have not been tested for tuberculosis under APHIS or State supervision. Paragraph (b) has further provided that cattle, bison, and captive cervids destroyed under §§ 50.3(b) and 50.3(c) are exempt from this requirement if the cattle, bison, and captive cervids are given a post-mortem examination for tuberculosis by a Federal or State veterinarian. Section 50.3(b) concerns cattle, bison, and captive cervids destroyed as part of a herd depopulation; 50.3(c) concerns cattle, bison, and captive cervids destroyed because of exposure to tuberculosis.

We are revising § 50.14(b) to also exempt cattle, bison, and captive cervids destroyed under new § 50.3(d) from the requirement that all cattle, bison, and captive cervids 2 years of age or over in the herd must be tested before indemnity may be claimed. Section 50.3(d) is added to the regulations by this document to provide indemnity for certain suspect cattle, bison, and captive cervids. The exemption is necessary in cases where all cattle, bison, and cervids in the herd have not been tested, but it is still advantageous to destroy the suspect animal. As in new § 50.3(d), revised § 50.14(b) will require that if the suspect is found to be infected with tuberculosis, the remainder of the herd must be tested for tuberculosis if indemnity is to be paid.

Miscellaneous Change

The regulations at 9 CFR part 50 provide for the payment of Federal indemnity to owners of certain cattle,

bison, cervids, and swine destroyed because of tuberculosis. On April 4, 1996, we published a proposed rule in the **Federal Register** (61 FR 14982-14999, Docket No. 92-076-1) to add interstate movement and testing requirements for cervids to 9 CFR part 77. Comments we received on the proposal for part 77 brought to our attention that the proposed regulations for interstate movement and testing of cervids could be interpreted to apply to wild cervids. While we have not published a final rule regarding part 77, we are adding the term "captive" before "cervid" each time it appears in part 50 to clarify our intent.

In § 50.1, a captive cervid is defined to mean "All species of deer, elk, and moose raised or maintained in captivity for the production of meat and other products, for sport, or for exhibition." In the final rule for part 77, based on comments received, we are considering revising the definition for captive cervid to read: "All species of deer, elk, moose, and all other members of the family Cervidae raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition. A captive cervid that escapes will continue to be considered a captive cervid as long as it bears an official eartag or other identification approved by APHIS with which to trace the animal back to its herd of origin." If we do add this definition of captive cervid to part 77, we propose to revise the definition of captive cervid in part 50 to be consistent with part 77.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to facilitate the prompt removal and destruction of certain suspect cattle, bison, and captive cervids from U.S. livestock herds. Further, immediate action will give the agency time to utilize funds designated for tuberculosis indemnity purposes in fiscal year 1998 to pay indemnity for suspects before the end of the fiscal year. Prompt destruction of suspect animals will help ensure continued progress toward eradicating tuberculosis in the U.S. livestock population.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication

of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This interim rule amends the regulations concerning animals destroyed because of tuberculosis to provide for the payment of Federal indemnity to owners of cattle, bison, and captive cervids that have been classified as suspects for tuberculosis and have been destroyed, when it has been determined by APHIS that the destruction of the suspect animals will contribute to the tuberculosis eradication program in U.S. livestock. This rule also allows the U.S. Department of Agriculture to pay herd owners some of their expenses for transporting the suspect cattle, bison, and captive cervids to slaughter or to the point of disposal, and for disposing of the animals. Prior to this interim rule, owners of cattle, bison, and captive cervids could only receive Federal indemnity for affected and exposed animals destroyed because of tuberculosis, and for animals in an affected herd destroyed as part of a herd depopulation. Indemnity for suspects will provide incentive for owners to promptly destroy suspect animals, thereby hastening the diagnosis of tuberculosis in a herd. This interim rule is necessary to ensure continued progress toward eradicating tuberculosis in U.S. livestock.

The U.S. livestock industry relies on healthy animals for its economic well being. The well being of the overall U.S. economy depends, in turn, partly on a healthy livestock industry. The industry's role in the economy is relatively significant. For example, the total value of U.S. livestock output in 1991 was \$66.6 billion, about half of the value of all agricultural production in the United States that year. The value of live animal exports and exports of meat products totaled \$4.3 billion in 1991, equivalent to 10 percent of the value of all U.S. agricultural exports that year. In 1997, the value of live cattle, beef, and veal exports alone was approximately \$2.6 billion.

In 1997, there were 1,167,910 U.S. operations with cattle and bison, and

the inventory of cattle and bison at the end of that year stood at 101.2 million head. The value of cattle and bison in the United States in 1997 was approximately \$53 billion. Additionally, there were approximately 1600 cervid producers in the United States in 1997, raising about 125,000 deer and elk valued at about \$150 million. Over 97 percent of the 1,167,910 cattle and bison operations in 1997 had a gross income of less than \$500,000, classifying them as small businesses. For cervid operations, holdings vary in size and degree of commercialization, with many producers relying on other sources of income. Most, if not all, U.S. cervid operations earn less than \$500,000 annually and would be considered small businesses.

Recent studies on the economic impact of a tuberculosis epidemic in U.S. livestock are not available. However, an earlier study indicates that the impact would be significant. A comprehensive computer model developed by Canada in 1979 indicates that, if the tuberculosis eradication program were discontinued, annual losses in the United States would amount to over \$1 billion. Another study, conducted in 1972, concluded that the benefits of the tuberculosis eradication program exceeded costs by a 3.64 to 1 margin.

Under this interim rule, owners of cattle, bison, and captive cervids that have been classified as suspects for tuberculosis and have been destroyed will be eligible to receive up to \$450 in indemnity per animal, when it has been determined by APHIS that the destruction of the suspect animals will contribute to the tuberculosis eradication program in U.S. livestock.

Table 1 shows our expected indemnity payments under the tuberculosis eradication program for cattle, bison, and captive cervids for FY 1998 if we did not offer the indemnity for suspects provided by this interim rule.

TABLE 1.—FY 1998 PAYMENTS WITHOUT INDEMNITY FOR SUSPECTS

Indemnity paid for reactors (300 animals at \$750 each)	\$225,000
Indemnity paid for exposed animals for herd depopulation (300 animals at \$450 each)	135,000
Total estimated indemnity for FY 1998 without indemnity for suspects	360,000

We estimate that the number of suspect animals that herd owners choose to slaughter as a result of being

able to receive indemnity will reduce the number of reactor animals by one half. This will result in a savings on the amount of indemnity paid for reactors. We estimate that approximately 250 suspect cattle, bison, and captive cervids will be eligible for indemnity under this interim rule in FY 1998. However, because of the reduced number of indemnity payments for destruction of reactors, we do not expect this interim rule to increase the total indemnity paid annually under the tuberculosis eradication program. Table 2 shows our expected indemnity payments in FY 1998 if we do offer the indemnity for suspects provided by this interim rule.

TABLE 2.—FY 1998 PAYMENTS WITH INDEMNITY FOR SUSPECTS

Indemnity paid for reactors (150 animals at \$750 each)	\$112,500
Indemnity paid for suspects (200–250 animals at \$450 each)	90,000–112,500
Indemnity paid for exposed animals for herd depopulation (300 animals at \$450 each)	135,000
Total estimated indemnity for FY 1998 with indemnity for suspects ...	337,500–360,000

These estimates are for FY 1998 only. However, we believe that costs will be even lower in succeeding years as the prevalence of tuberculosis declines in the United States.

The indemnity offered for suspects under this interim rule will be less than the indemnity currently offered for reactors (reactors qualify for \$750 in indemnity; suspects will qualify for \$450 in indemnity). Even so, there are other incentives that we believe will cause many herd owners to choose to slaughter their suspect animals and accept the lower indemnity. Foremost is that reactor animals are almost always condemned for public health reasons, whether or not they are found upon examination of the carcass to be infected with tuberculosis, and cannot be sold as meat. If a suspect animal is found upon examination of the carcass to be negative for tuberculosis, it can be sold as meat, so that the owner will get some value from the animal. Generally, cattle to be sold for meat are valued at about \$750 per animal; bison and elk are valued at an average of \$3500 per animal; good quality fallow does and bucks have an average value of \$600.

Offering suspect indemnity will also reduce the amount of required testing,

resulting in savings to herd owners. Normally, suspect animals are given additional testing to determine if they are reactors. This additional testing will be eliminated if owners choose to slaughter their suspect animals. Also, herds found to contain reactor animals must undergo additional testing to be released from quarantine. If owners choose to slaughter their suspect animals, the additional testing to release the herd from quarantine will be eliminated, provided that the slaughtered suspect is found negative for tuberculosis upon examination of the carcass. Herd owners incur costs for testing due to the need for extra handling for rounding up animals, and quarantines restrict owners from marketing their animals. The reduction in subsequent testing and extended quarantines will substantially reduce costs for herd owners who choose to slaughter their suspect animals and receive indemnity.

This rule also allows the U.S. Department of Agriculture to pay herd owners one-half the expenses of transporting suspect cattle, bison, and captive cervids to slaughter or to the point where disposal will take place, and disposing of the animals, provided that the Department may pay more than one-half of the expenses when the Administrator of APHIS determines that doing so will contribute to the tuberculosis eradication program. This is necessary in cases where an owner must transport a suspect animal a long distance to a slaughtering facility. The cost of transporting an animal from the quarantine site to a slaughtering facility ranges from \$50 to \$100 per animal, depending on the distance between the two locations. As stated previously, we estimate that approximately 250 suspect cattle, bison, and captive cervids will be eligible for indemnity under this interim rule in FY 1998. If we assume that the Department will pay one half of the expenses for the transport and disposal of every suspect animal eligible for indemnity in FY 1998, we estimate that APHIS' costs under this portion of the rule will not exceed \$7,812.50 in FY 1998 (based on 75 percent of the payments at \$25 per animal and 25 percent of the payments at \$50 per animal). We expect the Department will rarely determine that it is necessary to pay more than one-half of transport and disposal costs. Further, we do not expect that it will be necessary to offer any transport expenses for the disposal of most suspect animals. We also expect that costs will be lower in succeeding years as the prevalence of tuberculosis in U.S. livestock declines.

Although the benefits of this interim rule (i.e., enhanced values for U.S. livestock, particularly in export markets) are difficult to quantify, those benefits should certainly exceed the cost of the program.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 50

Animal diseases, Bison, Cattle, Hogs, Indemnity payments, Reporting and recordkeeping requirements, Tuberculosis.

Accordingly, 9 CFR part 50 is amended as follows:

PART 50—ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS

1. The authority citation for part 50 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, and 134b; 7 CFR 2.22, 2.80, and 371.2(d).

§ 50.1 [Amended]

2. In § 50.1, the defined term *Cervid* is revised to read *Captive cervid*.

3. In § 50.1, the word “captive” is added before the word “cervids” in the following places:

- The definition of *Herd depopulation*, each time it appears.
- The definition of *Livestock*.
- The definition of *Permit*.
- The defined term *Reactor cattle, bison, and cervids*.

e. The defined term *Registered cattle, bison, or cervids*, and in the text of the definition.

4. In § 50.1, in the definition of *Reactor cattle, bison, and cervids*, the last sentence, the word "Cervids" is removed and the words "Captive cervids" are added in its place.

§ 50.2 [Amended]

5. In § 50.2, the word "captive" is added before the word "cervids".

§ 50.3 [Amended]

6. In § 50.3, the word "captive" is added before the word "cervids" in the following places:

a. Paragraph (a), in the heading and in the text.

b. Paragraph (b), in the heading and in the text each time it appears.

c. Paragraph (c), in the heading and in the text each time it appears.

7. In § 50.3, paragraph (d) is redesignated as paragraph (e), and a new paragraph (d) is added to read as follows:

§ 50.3 Payment to owners for animals destroyed.

* * * * *

(d) *Suspect cattle, bison, and captive cervids*. The Administrator may authorize the payment of Federal indemnity to owners of cattle, bison, and captive cervids destroyed because of tuberculosis not to exceed \$450 for any animal that has been classified as a suspect in accordance with § 50.4(c) when it has been determined by the Administrator that the destruction of the suspect cattle, bison, or captive cervids will contribute to the Tuberculosis Eradication Program; but the joint State-Federal indemnity payments, plus salvage, must not exceed the appraised value of each animal: *Provided, however*, that payment of indemnity for the destruction of suspect cattle, bison, and captive cervids will be withheld until the tuberculosis status of the suspect has been determined and, if the cattle, bison, or captive cervid is found to be infected with tuberculosis, all cattle, bison, and captive cervids 2 years of age or over in the claimant's herd have been tested for tuberculosis under APHIS or State supervision.

* * * * *

8. In § 50.4, the word "captive" is added before the word "cervids" in the following places:

a. Paragraph (a).

b. Paragraph (b), the introductory text, each time it appears.

c. Paragraph (b)(3).

9. In § 50.4, the heading is revised and a new paragraph (c) is added to read as follows:

§ 50.4 Classification of cattle, bison, and captive cervids as affected, exposed, or suspect.

* * * * *

(c) Cattle and bison are classified as suspects for tuberculosis based on a positive response to an official tuberculin test, in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (incorporated into the regulations by reference in part 77). Captive cervids are classified as suspects for tuberculosis in the same manner as cattle and bison.

§ 50.5 [Amended]

10. In § 50.5, the word "captive" is added before the word "cervid".

§ 50.6 [Amended]

11. In § 50.6, the word "captive" is added before the word "cervids" in the following places:

a. The introductory text.

b. Paragraph (d), in the heading and in the text each time it appears.

c. Paragraph (e), in the heading and in the text each time it appears.

§ 50.7 [Amended]

12. In § 50.7, in paragraphs (a) and (b), the word "captive" is added before the word "cervids".

§ 50.8 [Amended]

13. In § 50.8, the heading is revised to read "Payment of expenses for transporting and disposing of affected, exposed, and suspect animals."

14. In § 50.8, the phrase "affected or exposed cattle, bison, and cervids" is removed both times it appears and the phrase "affected, exposed, or suspect cattle, bison, and captive cervids" is added in its place.

§ 50.9 [Amended]

15. In § 50.9, the word "captive" is added before the word "cervids" each time it appears.

§ 50.10 [Amended]

16. In § 50.10, the word "captive" is added before the word "cervids".

§ 50.11 [Amended]

17. In § 50.11, the word "captive" is added before the word "cervids" each time it appears.

§ 50.12 [Amended]

18. In § 50.12, the word "captive" is added before the word "cervids" each time it appears.

19. In § 50.14, the word "captive" is added before the word "cervids" in the following places:

a. The introductory text.

b. Paragraph (d), each time it appears.

c. Paragraph (e), the introductory text, each time it appears.

d. Paragraph (e)(2)(i).

e. Paragraph (e)(2)(ii).

f. Paragraph (f).

20. In § 50.14, paragraph (b) is revised to read as follows:

§ 50.14 Claims not allowed.

* * * * *

(a) * * *

(b) If all cattle, bison, and captive cervids 2 years of age or over in the claimant's herd have not been tested for tuberculosis under APHIS or State supervision: *Provided, however*, that:

(1) Cattle, bison, and captive cervids destroyed because of tuberculosis under § 50.3(b) or (c) are exempt from this requirement if the cattle, bison, or captive cervids are subjected to a post-mortem examination for tuberculosis by a Federal or State veterinarian; and

(2) Cattle, bison, and captive cervids destroyed because of tuberculosis under § 50.3(d) are exempt from this requirement if the cattle, bison, or captive cervids are subjected to a post-mortem examination for tuberculosis by a Federal or State veterinarian and found not to have tuberculosis.

* * * * *

Done in Washington, DC, this 17th day of June 1998.

Charles Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98-068-1]

Brucellosis in Cattle; State and Area Classifications; Louisiana

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Louisiana from Class Free to Class A. We have determined that Louisiana no longer meets the standards for Class Free status. This action imposes certain restrictions on the interstate movement of cattle from Louisiana.

DATES: Interim rule effective June 16, 1998. Consideration will be given only to comments received on or before August 24, 1998.