

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

PART 49—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

Subpart A—General

Sec.

49.1 Scope and applicability of rules of practice.

Subpart B—Supplemental Rules of Practice

49.10 Stipulations.

AUTHORITY: Secs. 3–7, 23 Stat. 32, as amended; secs. 2 and 3, 32 Stat. 792, as amended; secs. 1, 3, 4, and 6, 33 Stat. 1264, 1265, as amended; sec. 11, 58 Stat. 734, as amended; sec. 2, 65 Stat. 693, as amended; secs. 3 and 4, 76 Stat. 130; sec. 6, 76 Stat. 131, as amended; sec. 11, 76 Stat. 132; 21 U.S.C. 111, 112, 114, 114a, 114a–1, 115, 117, 120, 122, 123, 125–127, 134b, 134c, 134e, 134f; 7 CFR 2.22, 2.80, 371.2(d).

SOURCE: 48 FR 30094, June 30, 1983, unless otherwise noted.

Subpart A—General

§ 49.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the following statutory provisions:

Act of May 29, 1884, commonly known as the Animal Industry Act, section 7, as amended (21 U.S.C. 117).

Act of February 2, 1903, commonly known as the Cattle Contagious Diseases Act of 1903, section 3, as amended (21 U.S.C. 122).

Act of March 3, 1905, Section 6, as amended (21 U.S.C. 127).

Act of July 2, 1962, section 6(a), as amended (21 U.S.C. 134e).

In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 49.10 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under any of the Acts listed in § 49.1, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator or the Administrator's delegate gives notice of an apparent violation of the applicable Act, or the regulations issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by such Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and

(3) The Administrator agrees to accept the penalty in settlement of the particular matter involved if the penalty is paid within the designated time.

(b) If the penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

PART 50—ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS

Sec.

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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).

SOURCE: 40 FR 27009, June 26, 1975, unless otherwise noted.

§ 50.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean:

Accredited veterinarian: A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator: The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service: The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

APHIS representative: A veterinarian or other person employed by APHIS in animal health activities, who is authorized to perform the function involved.

Approved herd plan. A herd management and testing plan based on the disease history and movement patterns of an individual herd, designed by the herd owner and a State representative or APHIS representative to determine the disease status of livestock in the herd and to eradicate tuberculosis within the herd. The plan must be jointly approved by the State animal health official and the Veterinarian in Charge.

Captive cervid. 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 the Admin-

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istrator as unique and traceable with which to trace the animal back to its herd of origin.

Department: The United States Department of Agriculture.

Designated epidemiologist. An epidemiologist appointed by a cooperating State animal health official and the Veterinarian in Charge to perform functions specified by the "Uniform Methods and Rules—Bovine Tuberculosis Eradication."

Destroyed: Condemned under State authority and destroyed by slaughter or by death otherwise.

Herd. Any group of livestock maintained on common ground for any purpose, or two or more groups of livestock under common ownership or supervision, geographically separated but that have an interchange or movement of livestock without regard to health status, as determined by the Administrator.

Herd depopulation. Removal by slaughter or other means of destruction of all cattle, bison, and captive cervids in a herd prior to restocking with new cattle, bison, or captive cervids.

Livestock. Cattle, bison, captive cervids, swine, dairy goats, and other hoofed animals (such as llamas, alpacas, and antelope) raised or maintained in captivity for the production of meat and other products, for sport, or for exhibition.

Mortgage: Any mortgage, lien or other security or interest that is recorded under State law or identified in the indemnity claim form filed under § 50.12 and held by any person other than the one claiming indemnity.

Owner: Any person who has a legal or rightful title to livestock whether or not they are subject to a mortgage.

Permit: A permit for movement of cattle, bison, captive cervids, or swine direct to slaughter listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements, and proof of slaughter certification; *Provided, however,* a permit for movement to a quarantined feedlot pursuant to § 50.16 is the same except that the permit is for movement to a quarantined feedlot instead of to slaughter and the proof of

slaughter certification is not applicable.

Person: Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or any organized group of any of the foregoing.

Quarantined feedlot: A confined area under the direct supervision and control of a State livestock official who shall establish procedures for the accounting of all livestock entering or leaving the area. The quarantined feedlot shall be maintained for finish feeding of livestock in drylot with no provision for pasturing and grazing. All livestock leaving such feedlot must only move directly to slaughter in accordance with established procedures for handling quarantined livestock.

Reactor cattle, bison, and captive cervids. Cattle and bison are classified as reactors for tuberculosis in accordance with the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," based on a positive response to an official tuberculin test. Captive cervids are classified as reactors for tuberculosis in the same manner as cattle and bison.

Registered cattle, bison, or captive cervids. Cattle, bison, or captive cervids for which individual records of ancestry are maintained, and for which individual registration certificates are issued and recorded by a recognized breed association whose purpose is the improvement of the breed.

State: Any State, territory, the District of Columbia, or Puerto Rico.

Tuberculosis: The contagious, infectious, and communicable disease caused by *Mycobacterium bovis*.

Veterinarian in Charge: The veterinary official of APHIS who is assigned by the Administrator to supervise and perform official animal health work of APHIS in the State concerned.

[40 FR 27009, June 26, 1975, as amended at 45 FR 32287, May 16, 1980; 51 FR 33735, Sept. 23, 1986; 52 FR 1317, Jan. 13, 1987; 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 58 FR 34698, June 29, 1993; 60 FR 37808, July 24, 1995; 63 FR 34263, June 24, 1998; 63 FR 72122, Dec. 31, 1998]

EFFECTIVE DATE NOTE: At 63 FR 72122, Dec. 31, 1998, §50.1, was amended by revising the definition for "Captive cervid", effective Feb. 1, 1999. For the convenience of the user, the superseded text is set forth as follows:

§ 50.1 Definitions.

* * * * *

Captive cervid. 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.

* * * * *

§ 50.2 Cooperation with States.

The Administrator cooperates with the proper State authorities in the eradication of tuberculosis and pays Federal indemnities for the destruction of cattle, bison, captive cervids, or swine affected with or exposed to tuberculosis.

[40 FR 27009, June 26, 1975, as amended at 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§ 50.3 Payment to owners for animals destroyed.

(a) *Affected cattle, bison, and captive cervids.* The Department may pay owners an indemnity for cattle, bison, and captive cervids affected with tuberculosis not to exceed \$750 for each animal, but any joint State-Federal indemnity payments, plus salvage, must not exceed the appraised value of each animal.

(b) *Herd depopulation—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 which is a part of a known affected herd, when it has been determined by the Administrator that the destruction of all the exposed cattle, bison, and captive cervids in the herd 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.

(c) *Exposed 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 which has been classified as exposed to tuberculosis in accordance

with § 50.4(b) when it has been determined by the Administrator that the destruction of the exposed 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.

(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.

(e) *Exposed swine.* The Administrator may authorize the payment of Federal indemnity to owners of swine destroyed because of tuberculosis not to exceed \$200 for any animal, when such animals are found by APHIS to be exposed to tuberculosis by reason of association with a herd destroyed under § 50.3(b); but, the joint State-Federal indemnity payments, plus salvage, must not exceed the appraised value of each animal.

(Secs. 3, 4, 5, 11, and 13, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 3, 76 Stat. 130; 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d))

[45 FR 32287, May 16, 1980, as amended at 49 FR 28041, July 10, 1984; 49 FR 44273, Nov. 6, 1984; 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

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

(a) 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 other diagnostic procedure approved in advance by the Administrator.

(b) Cattle, bison, and captive cervids are classified as exposed to tuberculosis when such cattle, bison, and captive cervids (1) are part of a known infected herd, or (2) are found to have moved from an infected herd before the time infection was disclosed in such herd and after the time such herd had apparently become infected, or (3) are found to have been exposed by virtue of nursing a reactor dam: *Provided,* That cattle, bison, and captive cervids classified as exposed to tuberculosis shall be removed direct to slaughter.

(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.

[40 FR 27009, June 26, 1975, as amended at 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§ 50.5 Record of tests.

When any cattle, bison, or captive cervid in a herd is classified by an APHIS or State representative or accredited veterinarian as a reactor to a test for tuberculosis, a complete test record shall be made for such herd, including the reactor tag number of each reacting animal and the registration name and number of each reacting registered animal. VS Form 6–22 or an equivalent State form shall be used for the record of any herd having any reactor to a tuberculin test. A copy of the applicable test record shall be given to the owner of any such herd, and one

copy of each such record shall be furnished to the appropriate State veterinarian's office.

[40 FR 27009, June 26, 1975, as amended at 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§ 50.6 Identification of animals to be destroyed because of tuberculosis.

Cattle, bison, captive cervids, or swine to be destroyed because of tuberculosis must be identified within 15 days after being classified as reactors or otherwise condemned because of tuberculosis, except that the appropriate Veterinarian in Charge, for reasons satisfactory to him, may extend the time limit for identification to 30 days when a request for such extension is received by him prior to the expiration date of the original 15-day period allowed, and the Administrator may extend the time limit for identification beyond 30 days, upon request in specific cases and for reasons satisfactory to him.

(a) *Reactor cattle and bison.* Reactor cattle and bison shall be identified by branding the letter "T," at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead and by attaching to the left ear an approved metal eartag bearing a serial number and the inscription "U.S. Reactor", or a similar State reactor tag. Reactor cattle and bison may be moved interstate to slaughter without branding if they are permanently identified by the letters "TB" tattooed legibly in the left ear, they are sprayed on the left ear with yellow paint, and they are either accompanied by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(b) *Exposed cattle and bison.* Exposed cattle and bison shall be identified by branding the letter "S," at least 5 by 5 centimeters (2 by 2 inches) in size, high on the left hip near the tailhead and by attaching to either ear an approved metal eartag bearing a serial number. Exposed cattle and bison may be moved

interstate to slaughter without branding if they are either accompanied by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(c) *Exposed swine.* Swine destroyed under the provisions of § 50.3(d) shall be identified by tagging with a serially numbered metal eartag attached to either ear. All such animals to be destroyed shall be transported to the place of destruction in vehicles closed with seals provided by APHIS or shall be accompanied to the place of destruction by an APHIS or State representative: *Provided, however,* That animals destroyed and disposed of under the direct supervision of an APHIS or State representative on the premises where they were exposed do not require individual identification.

(d) *Reactor captive cervids.* Reactor captive cervids shall be identified by branding the letter "T" high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size and by attaching to the left ear an approved metal eartag bearing a serial number and the inscription "U.S. Reactor", or a similar State reactor tag. Reactor captive cervids may be moved interstate to slaughter without branding if they are permanently identified by the letters "TB" tattooed legibly on the left ear, they are sprayed on the left ear with yellow paint, and they are either accompanied by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

(e) *Exposed captive cervids.* Exposed captive cervids shall be identified by branding the letter "S" high on the left hip near the tailhead and at least 5 by 5 centimeters (2 by 2 inches) in size and by attaching to either ear an approved metal eartag bearing a serial number. Exposed captive cervids may

be moved interstate to slaughter without branding if they are either accompanied by an APHIS or State representative or moved directly to slaughter in vehicles closed with official seals. Such official seals must be applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative.

[40 FR 27009, June 26, 1975, as amended at 45 FR 32287, May 16, 1980; 50 FR 40963, Oct. 8, 1985; 51 FR 2346, Jan. 16, 1986; 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 60 FR 48366, Sept. 19, 1995; 61 FR 25138, May 20, 1996; 63 FR 34264, June 24, 1998]

§ 50.7 Destruction of animals.

(a) *Slaughter or disposal.* Cattle, bison, captive cervids, or swine to be destroyed because of tuberculosis must be shipped direct to slaughter under permit to a Federal or State inspected slaughtering establishment or be disposed of by rendering, burial, or incinerating in an approved manner under supervision of an APHIS or State employee.

(b) *Time limit for destruction of animals.* Cattle, bison, captive cervids, or swine for which Federal indemnity may be paid because of tuberculosis must be destroyed and carcass disposal completed within 15 days after the date of appraisal, except that the appropriate Veterinarian in Charge, for reasons satisfactory to him, may extend the time limit for slaughter to 30 days when request for such extension is received by him prior to the expiration of the original 15-day period allowed, and the Administrator may extend the time limit for slaughter beyond 30 days, upon request in specific cases and for reasons satisfactory to him.

(Approved by the Office of Management and Budget under control number 0579-0051)

[40 FR 27009, June 26, 1975, as amended at 45 FR 32287, May 16, 1980; 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§ 50.8 Payment of expenses for transporting and disposing of affected, exposed, and suspect animals.

The Department may pay, when approved in advance in writing by the

Veterinarian in Charge, one half the expenses of transporting affected, exposed, or suspect cattle, bison, and captive cervids to slaughter or to the point where disposal will take place, and one half the expenses of destroying, burying, incinerating, rendering, or otherwise disposing of affected, exposed, or suspect cattle, bison, and captive cervids; *Provided that*, the Department may pay more than one-half of the expenses when the Administrator determines that doing so will contribute to the tuberculosis eradication program. For reimbursement to be made, the owner of the animals must present the 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 must not be greater than the normal fee for similar services provided by a commercial hauler or renderer.

[62 FR 49592, Sept. 23, 1997; as amended at 63 FR 34264, June 24, 1998]

§ 50.9 Appraisals.

Cattle, bison, captive cervids, or swine to be destroyed because of tuberculosis under § 50.3 shall be appraised within 15 days after being classified as affected or after otherwise being condemned because of tuberculosis, except that the appropriate Veterinarian in Charge, for reasons satisfactory to him, may extend the time limit for appraisal to 30 days when a request for such extension is received by him prior to the expiration date of the original 15-day period allowed, and the Administrator may extend the time limit for appraisal beyond 30 days, upon request in specific cases and for reasons satisfactory to him. The appraisal shall be by an independent professional appraiser at the expense of APHIS, except that the veterinarian in charge may waive the requirement for independent professional appraiser for reasons satisfactory to him. When cattle, bison, captive cervids, or swine are thus appraised, due consideration shall be given to their breeding value as well as to their dairy or meat value. Cattle, bison, captive cervids, or swine presented for payment as registered shall be accompanied by their registration papers. If the registration papers are temporarily not available, or if the

cattle, bison, captive cervids, or swine are less than 3 years old and unregistered, the appropriate Veterinarian in Charge may grant a reasonable time for the presentation of their registration papers. APHIS may decline to accept any appraisal that appears to be unreasonable or out of proportion to the value of cattle, bison, captive cervids, or swine of like quality.

[45 FR 32288, May 16, 1980, as amended at 50 FR 40963, Oct. 8, 1985; 51 FR 2346, Jan. 16, 1986; 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§50.10 Report of appraisals.

Appraisals of cattle, bison, captive cervids, and swine made in accordance with §50.9 shall be recorded on forms furnished by APHIS. The appraisal form shall be signed by the appraiser and by the owner certifying his acceptance of the appraisal. The "date of appraisal" shall be the date that the owner signs the appraisal form. The original of the appraisal form and as many copies thereof as may be required for APHIS, the State, and the owner of the animals shall be sent to the appropriate Veterinarian in Charge.

[40 FR 27009, June 26, 1975, as amended at 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§50.11 Report of salvage proceeds.

A report of the salvage derived from the sale of each animal on which a claim for indemnity may be made under the provisions of §50.3 shall be made on a salvage form acceptable to APHIS which shall be signed by the purchaser or his agent or by the selling agent handling the animals. If the cattle, bison, captive cervids, or swine are sold by the pound, the salvage form shall show the weight, price per pound, gross receipts, expenses if any, and net proceeds. If the cattle, bison, captive cervids, or swine are not sold on a per pound basis, the net purchase price of each animal must be stated on the salvage form and an explanation showing how the amount was arrived at must be submitted. In the event the animals are not disposed of through regular slaughterers or through selling agents, the owner shall furnish, in lieu of the

salvage form, an affidavit showing the amount of salvage obtained by him and shall certify that such amount is all that he has received or will receive as salvage for said animals. In an emergency, a certificate executed by the appropriate Veterinarian in Charge will be acceptable in lieu of the owner's affidavit. The salvage shall be considered to be the net amount received for an animal after deducting freight, truckage, yardage, commission, slaughtering charges, and similar costs. The original of the salvage form or the affidavit of the owner or certificate of the appropriate Veterinarian in Charge, furnished in lieu thereof, shall be furnished to the Veterinarian in charge if it is not already in his possession. Additional copies may be furnished to the State officials, if required. Destruction of cattle, bison, captive cervids, and swine by burial, incineration or other disposal of carcasses shall be supervised by an APHIS or State representative who shall prepare and transmit to the Veterinarian in Charge a report identifying the animals and showing the disposition thereof.

(Approved by the Office of Management and Budget under control number 0579-0001)

[40 FR 27009, June 26, 1975, as amended at 48 FR 57471, Dec. 30, 1983; 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§50.12 Claims for indemnity.

Claims for Federal indemnity for cattle, bison, captive cervids, or swine destroyed because of tuberculosis shall be presented on indemnity claim forms furnished by APHIS on which the owner of the animals covered thereby shall certify that the animals are or are not, subject to any mortgage as defined in this Part. If the owner states there is a mortgage, the APHIS indemnity claim form shall be signed by the owner and by each person holding a mortgage on the animals consenting to the payment of any indemnity allowed to the person specified thereon. Payment will be made only if the APHIS indemnity claim form has been approved by a proper State official and if

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payment of the claim has been recommended by the appropriate Veterinarian in Charge or an official designated by him. On claims for indemnity made under the provisions of § 50.3, the Veterinarian in Charge or official designated by him shall record on the APHIS indemnity claim form the amount of Federal and State indemnity payments that appear to be due to the owner of the animals. The owner of the animals shall be furnished a copy of the APHIS indemnity claim form. The Veterinarian in Charge or official designated by him shall then forward the APHIS indemnity claim form to the appropriate official for further action on the claim. No charges for holding the cattle, bison, captive cervids, or swine on the farm pending slaughter or for trucking by the owner shall be so deducted or otherwise paid by the Department.

[40 FR 27009, June 26, 1975, as amended at 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§ 50.13 Disinfection of premises, conveyances, and materials.

All premises, including all structures, holding facilities, conveyances, or materials which are determined by the appropriate Veterinarian in Charge to constitute a health hazard to humans or animals because of tuberculosis shall be properly cleaned and disinfected, in accordance with procedures approved by the Department, within 15 days after the removal of tuberculosis affected or exposed livestock except that the Veterinarian in Charge, for reasons satisfactory to him, may extend the time limit for disinfection to 30 days when request for such extension is received by him prior to the expiration date of the original 15-day period allowed.

[40 FR 27009, June 26, 1975, as amended at 52 FR 39614, Oct. 23, 1987; 60 FR 37809, July 24, 1995]

§ 50.14 Claims not allowed.

Claims for compensation for cattle, bison, or captive cervids destroyed because of tuberculosis shall not be allowed if any of the following circumstances exist:

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(a) If the claimant has failed to comply with any of the requirements of this part.

(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.

(c) If there is substantial evidence that the owner or his agent has in any way been responsible for any attempt unlawfully or improperly to obtain indemnity funds for such animals.

(d) If at the time of test or condemnation, the cattle, bison, or captive cervids belonged to or were upon the premises of any person to whom they had been sold, shipped, or delivered for slaughter unless or until all of the cattle, bison, and captive cervids remaining on the premises or in the herd from which the tested or condemned cattle, bison, or captive cervids originated are tested or otherwise examined for tuberculosis in a manner satisfactory to the Administrator or his designated representative.

(e) If the cattle, bison, or captive cervids were added to the herd while the herd was quarantined for tuberculosis, unless an approved herd plan was in effect for the herd at the time the claim was filed. As part of the approved herd plan, cattle, bison, or captive cervids added to a herd quarantined for tuberculosis must:

(1) Be from an accredited herd, as defined in § 77.1 of this chapter; or

(2)(i) Be from a herd that tested negative to an official tuberculin test (complete herd test), as defined in § 77.1 of this chapter, no more than 12 months before the cattle, bison, or captive

cervids were added to the claimant's herd; and

(ii) Have been found negative to an official tuberculin test, as defined in § 77.1 of this chapter, during the 60 days before the cattle, bison, or captive cervids were added to the claimant's herd.

(f) For exposed cattle, bison, or captive cervids destroyed during herd depopulation, if a designated epidemiologist has determined that exotic bovidae (such as antelope) or other species of livestock in the herd have been exposed to tuberculosis by reason of association with tuberculous livestock, and those exotic bovidae or other species determined to have been exposed to tuberculosis have not been destroyed.

[40 FR 27009, June 26, 1975, as amended at 45 FR 32288, May 16, 1980; 52 FR 39614, Oct. 23, 1987; 56 FR 36998, Aug. 2, 1991; 58 FR 34699, June 29, 1993; 60 FR 37809, July 24, 1995; 63 FR 34264, June 24, 1998]

§ 50.15 Part 53 of this chapter not applicable.

No claim for Federal indemnity for cattle or bison destroyed because of tuberculosis shall hereafter be paid under the regulations contained in part 53 of this chapter, but all such claims shall be presented and paid pursuant to and in compliance with the regulations contained in this part.

[40 FR 27009, June 26, 1975, as amended at 52 FR 39614, Oct. 23, 1987]

§ 50.16 Certain cattle on the Island of Molokai in Hawaii.

(a) The provisions of this part relating to indemnity for exposed cattle shall apply with respect to exposed cattle on the island of Molokai in Hawaii, *except that*: The Administrator may authorize the payment of Federal indemnity to owners of exposed cattle under two years of age, not to exceed \$450 for any animal which has been found by APHIS to have been exposed by reason of association with tuberculous cattle, (the joint State-Federal indemnity payments, plus salvage, must not exceed the appraised value of each animal), if the exposed cattle instead of being immediately destroyed are to be moved from the premises of origin on the island of Molokai (intrastate or

interstate) to a quarantined feedlot and if the following conditions are met:

(1) The exposed cattle are sold for movement to the quarantined feedlot prior to their movement from the premises of origin;

(2) The exposed cattle, prior to movement from the premises of origin, are identified by tagging with an approval metal eartag bearing a serial number attached to either ear of each animal and by branding the letter "S" (or other brand approved by the Administrator based on a determination that the brand would adequately identify the animal as destined for slaughter) on the left jaw not less than 2 nor more than 3 inches high, *Provided, however*, such branding may be done upon arrival at the quarantined feedlot if the cattle are accompanied to the feedlot by an APHIS or State representative, or shipped in vehicles closed with official seals;

(3) The owner of the exposed cattle on the island of Molokai prior to sale for movement to the quarantined feedlot has entered into a compliance agreement¹ with APHIS whereby it is agreed that the salvage for cattle moved to a quarantined feedlot shall be the amount received from the sale of the animals and that such owner shall be eligible for indemnity only if all cattle on the island of Molokai under his or her control are destroyed or moved under permit directly from the premises of origin to a quarantined feedlot under paragraph (a) of this section and if he or she otherwise agrees to comply with any other provisions of this part applicable to him or her; and;

(4) The purchaser of the exposed cattle has entered into a compliance agreement¹ with APHIS whereby it is agreed that the cattle will be moved under permit directly from the premises of origin to the quarantined feedlot; whereby it is agreed that at the time such cattle are moved from the quarantined feedlot the cattle will be

¹Compliance Agreement forms are available without charge from the Animal and Plant Health Inspection Service, Veterinary Services, Cattle Diseases and Surveillance, 4700 River Road, Unit 36, Riverdale, Maryland 20737-1231, and from local offices of Veterinary Services. (Local offices are listed in telephone directories.)

shipped under permit directly to a Federal or State inspected slaughtering establishment for slaughter or be disposed of by rendering, burial, or incinerating in an approved manner under supervision of an APHIS or State employee; whereby it is agreed that the exposed cattle shall not be sold prior to destruction unless the purchaser enters into a compliance agreement agreeing to the provisions contained in this paragraph.

(b) After indemnity has been paid for exposed cattle under paragraph (a) of this section, no additional indemnity shall be paid for such exposed cattle.

[51 FR 33735, Sept. 23, 1986, as amended at 52 FR 1317, Jan. 13, 1987; 56 FR 36998, Aug. 2, 1991; 59 FR 67612, Dec. 30, 1994]

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

Sec.

- 51.1 Definitions.
- 51.2 Cooperation with States.
- 51.3 Payment to owners for animals destroyed.
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- 51.5 Identification of animals to be destroyed because of brucellosis.
- 51.6 Destruction of animals; time limit for destruction of animals.
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- 51.10 Part 53 of this chapter not applicable.

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

§51.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean:

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative state-federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

Animals. Cattle, bison, and breeding swine.

APHIS representative. An individual employed by APHIS who is authorized to perform the function involved.

Appraisal. An estimate of the fair market value of an animal to be destroyed because of brucellosis. The estimate shall be based upon the meat, dairy, or breeding value of the animal.

Brucellosis exposed animal. Except for a brucellosis reactor animal, any animal that: (1) Is part of or has been in contact with a herd known to be affected; or (2) has been in contact with a brucellosis reactor animal for a period of 24 hours or longer; or (3) has been in contact with a brucellosis reactor animal which has aborted, calved or farrowed within the past 30 days, or has a vaginal or uterine discharge.

Brucellosis reactor animal. Any animal classified as a brucellosis reactor as provided in the definition of official test in §78.1 of this chapter.

Claimant. A person who files a claim for indemnity under §51.7 for animals destroyed under this part.

Complete herd test. An official test for brucellosis (as defined in 9 CFR 78.1) performed under APHIS supervision in a cattle or bison herd on all cattle or bison that are (1) 6 months of age or more and not official vaccinates, except steers and spayed heifers; or (2) Official calfhood vaccinates of any age that are parturient or postparturient; or (3) Official calfhood vaccinates of beef breeds or bison with the first pair of permanent incisors fully erupted (2 years of age or more); or (4) Official calfhood vaccinates of dairy breeds with partial eruption of the first pair of permanent incisors (20 months of age or more).

Condemn. The determination made by an APHIS representative, State representative, or accredited veterinarian that animals for which indemnity is sought under this Part shall be destroyed.

Dairy cattle. A female bovine of a recognized dairy breed over 20 months of age, which has calved or is within 90