

intervals. The first payment will be made no earlier than 30 days after all owners eligible for payment have signed their agreements required under § 50.17(b). The Department will determine the amount to be paid to each owner in each payment by multiplying the total agreement amount for that owner by a fraction that is arrived at by dividing the initial census number of dairy cattle for the respective owner into the number of dairy cattle that have been removed from the owner's herd during that payment period. From this amount, 10 percent will be withheld until all animals in the herd have been disposed of and the requirements of this subpart have been met. The payments to other property owners will be determined by multiplying the total agreement amount for that other property times the same ratio as for the herd related to that other property, minus 10 percent. The Department will make payment for reimbursement of relocation expenses of the reverse osmosis plant within 30 days after the relocation of the plant is completed and the owner of the plant has submitted to APHIS all documentation of the costs of the relocation.

(b) The Department will not make final payments until the premises used for dairy operations have been without sexually intact cattle for at least 30 days and until APHIS has inspected the premises and has found them to be free of manure, except for non-solid areas such as lagoons, and free of all feedstuffs that are not in barns, containers or feeders.

§ 50.22 Claims not allowed.

The Department will not allow claims for payment if the claimant has failed to comply with any of the requirements of this subpart, or there is substantial evidence, as determined by the Administrator, that the claimant has been responsible for any attempt to obtain payment funds for such cattle or other dairy property unlawfully or improperly.

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

Sec.

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AUTHORITY: 21 U.S.C. 111–114, 114a, 114a–1, 120, 121, 125, and 134b; 7 CFR 2.22, 2.80, and 371.4.

§ 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.

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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 days of parturition and which is a member of a dairy herd used to produce milk for commercial use.

Destroyed. Condemned under State authority and slaughtered or otherwise dies.

Herd. Any group of animals of the same species maintained on common ground for any purpose, or two or more groups of animals (of the same species) under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

Herd Depopulation. Removal by slaughter or other means of destruction of all cattle, bison, or swine in a herd or from a specific premises or under common ownership prior to restocking such premises with new animals, except that steers and spayed heifers or barrows and gilts maintained for feeding purposes may be retained on the premises if the Veterinarian in Charge finds such retention to be com-

patible with eradication efforts. The Veterinarian in Charge may also permit removal of nonpregnant heifers, without payment of indemnity, to Quarantined Feedlots in lieu of immediate slaughter.

Herd known to be affected. Any herd in which any animal has been classified as a brucellosis reactor and which has not been released from quarantine.

Inbred or hybrid swine. Any breeding swine which are the progeny of two or more breeds of registered swine and which are maintained to produce inbred or hybrid swine, and for which records of ancestry exist through which such swine can be individually identified as progeny of said registered swine.

Mortgage. Any mortgage, lien, or other security or interest that is recorded under State law or identified in the indemnity claim form filed under §51.7 and held by any person other than the one claiming indemnity.

Official seal. A serially numbered metal strip consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged, which cannot be reused if opened, and is applied by a representative of the Veterinarian in Charge or the State animal health official.

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

Permit. An official document for movement of animals under this Part issued by an APHIS representative, state representative, or accredited veterinarian listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements, and proof of slaughter certification.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity.

Recognized slaughtering establishment. Any slaughtering establishment operating under the Meat Inspection Act (21 U.S.C. 601–695) or a State meat inspection act.¹

¹A list of recognized slaughtering establishments is available upon request from the Animal and Plant Health Inspection Service,

Registered breed association. An association formed and perpetuated for the maintenance of records of purebreeding of animal species for a specific breed whose characteristics are set forth in Constitutions, By-Laws, and other rules of the association. The records maintained by such an association shall include an Official Herd Book or other recordkeeping format and Certificates of Registration or Recordation which identify an animal as a registered animal of that registered breed association. Known registered breed associations are: American Angus Association, American Beefalo Association, Inc., The American Black Maine-Anjou Association, American Blonde d'Aquitaine Association, American Brahman Breeders Association, American Brahmental Association, American Breed Association, Inc., American Chianina Association, American Dexter Cattle Association, American Galloway Breeders Association, American Gelbvieh Association, American Guernsey Cattle Club, American Hereford Association, American International Charolais Association, American International Marchigiana Society, American Jersey Cattle Club, American Maine-Anjou Association, American Milking Shorthorn Society, American Murray Grey Association, American Normande Association, American Pinzgauer Association, American Polled Hereford Association, American Red Brangus Association, American Red Poll Association, American Salers Association, American Scotch Highland Breeders Association, American Shorthorn Association, American Simmental Association, Inc., American Tarentaise Association, Ankina Breeders, Inc., Ayrshire Breeders Association, Barzona Breed Association of America, Beefmaster Breeders Universal, Belted Galloway Society, Brahmanstein Breeders Association, Brown Swiss Beef International, Inc., Brown Swiss Cattle Breeders Association of U.S.A., Char-Swiss Breeders Association, Devon Cattle Association, Inc., Dutch Belted Cattle Association of America, Inc., Foundation Beefmaster Association, Galloway Cat-

tle Society of America, Inc., Galloway Performance International, Holstein-Friesian Association of America, International Braford Association, International Brangus Breeders Association, Inc., International Maine-Anjou Association, Markey Cattle Association, Mid America RX³ Cattle Company, National Beefmaster Association, North American Limousin Foundation, Pan American Zebu Association, Red and White Dairy Cattle Association, Red Angus Association of America, Red Poll Beef Breeders International, Red Poll Cattle Club of America, Santa Gertrudis Breeders International, Simbrah Association, South Devon Breed Society, Sussex Cattle Association of America, Texas Longhorn Breeders Association of America, and White Park Cattle Association of America.

Registered cattle. Cattle for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the bovine species, and for which individual registration certificates are issued and recorded by such breed association.

Registered swine. Any breeding swine for which a certificate of pure breeding has been issued by a purebred swine association.

Sexually intact exposed female calf. A female bovine less than 6 months of age that is nursed by a brucellosis reactor at the time such reactor is condemned, and that has not been altered to make it incapable of reproduction.

Specifically approved stockyard. Premises approved by the Administrator, in accordance with § 71.20 of this chapter, for assembling cattle or bison for sale.²

State. Any State, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other territory or possession of the United States.

²Notices containing lists of specifically approved stockyards are published in the FEDERAL REGISTER. Lists of specifically approved stockyards also may be obtained from the State animal health official, State representatives, or APHIS representatives.

State animal health official. The individual employed by a State who is responsible for livestock and poultry disease control and eradication programs in that State.

State representative. An individual employed in animal health activities by a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

Unofficial vaccinate. Any cattle or bison which have been vaccinated for brucellosis other than in accordance with the provisions for official vaccines set forth in §78.1 of this chapter.

Veterinarian in Charge. The veterinary official of the Animal and Plant Health Inspection Service, United States Department of Agriculture, who is assigned by the Administrator to supervise and perform official animal health work of the Animal and Plant Health Inspection Service, in the State concerned.

[42 FR 64336, Dec. 23, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §51.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§51.2 Cooperation with States.

The Administrator has been delegated the authority to cooperate with the proper State authorities in the eradication of brucellosis and to pay indemnities for the destruction of brucellosis-reactor animals or brucellosis-exposed animals.

[42 FR 64336, Dec. 23, 1977, as amended at 54 FR 32435, Aug. 8, 1989]

§51.3 Payment to owners for animals destroyed.

(a) *Cattle and bison.* The Administrator may authorize the payment of Federal indemnity by the U.S. Department of Agriculture to any owner whose cattle or bison are destroyed after having been approved for destruction by APHIS under the brucellosis

eradication program.³ In all cases, the amount of Federal indemnity will be determined in accordance with the regulations in this part that were in effect on the date that reactors were found or the date that whole-herd depopulation or destruction of individual animals was approved. Prior to payment of indemnity, proof of destruction⁴ must be furnished to the Veterinarian in Charge.

(1) *Eligibility for indemnity.* Owners of the following types of animals destroyed because of brucellosis are eligible to receive Federal indemnity for their animals:

(i) Cattle and bison identified as reactors as a result of a complete herd test and any sexually intact exposed female calves;

(ii) Cattle and bison in a herd that has been approved for depopulation; and

(iii) Brucellosis-exposed cattle and brucellosis-exposed bison that were previously sold or traded from any herd that was, subsequent to the sale or trade, found to be affected with brucellosis. Epidemiological information such as test results, herd history, and related evidence will be used to establish a probable date when the herd was first affected with brucellosis. Animals

³The Administrator shall authorize payment of Federal indemnity by the U.S. Department of Agriculture at the maximum per-head rates in §51.3: (a) As long as sufficient funds appropriated by Congress appear to be available for this purpose for the remainder of the fiscal year; (b) in States or areas not under Federal quarantine; (c) in States requesting payment of Federal indemnity; and (d) in States not requesting a lower rate.

⁴The Veterinarian in Charge shall accept any of the following documents as proof of destruction: (a) A postmortem report; (b) a meat inspection certification of slaughter; (c) a written statement by a State representative, APHIS representative, or accredited veterinarian attesting to the destruction of the animal; (d) a written, sworn statement by the owner or caretaker of the animal attesting to the destruction of the animal; (e) a permit (VS Form 1-27) consigning the animal from a farm or livestock market directly to a recognized slaughtering establishment; or (f) in unique situations where the documents listed above are not available, other similarly reliable forms of proof of destruction.