

Dated: February 28, 2003.

Joan L. Larsen,

Deputy Assistant Attorney General.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 50

[Docket No. 00-105-2]

RIN 0579-AB36

Payments for Cattle and Other Property Because of Tuberculosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended the regulations regarding payments made in connection with animals and other property disposed of because of bovine tuberculosis. The interim rule provided that the Animal and Plant Health Inspection Service will make payments to owners of dairy cattle and other property used in connection with a dairy business and a dairy processing plant in the area of El Paso, TX, provided the owners agreed to dispose of their herds within 2 years, close their existing dairy operations, and refrain from establishing new cattle breeding operations in the area. As amended by this document, we will allow owners 3 years to dispose of their herds. The interim rule was necessary to further tuberculosis eradication efforts in the United States and protect livestock not affected with bovine tuberculosis from the disease.

EFFECTIVE DATE: April 4, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Van Tiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231; (301) 734-7716.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis (tuberculosis) is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other warm-blooded species, including humans. Tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts, causes weight loss and general debilitation, and

can be fatal. At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock. Through this program, the Animal and Plant Health Inspection Service (APHIS) works cooperatively with the national livestock industry and State animal health agencies to eradicate tuberculosis from domestic livestock in the United States and prevent its recurrence.

Federal regulations implementing this program are contained in 9 CFR part 77, "Tuberculosis" and in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," January 22, 1999, edition, which is incorporated by reference into the regulations in part 77. Additionally, the regulations in 9 CFR part 50 (referred to below as the regulations) provide for the payment of indemnity to owners of certain animals destroyed because of tuberculosis, in order to encourage destruction of animals that are infected with, or at significant risk of being infected with, the disease.

In an interim rule effective and published in the **Federal Register** on July 26, 2002 (57 FR 48745-48752, Docket No. 00-105-1), we amended the regulations in part 50 by providing that APHIS will make payments to owners of dairy cattle and other property used in connection with a dairy business and a dairy processing plant in the area of El Paso, TX, provided the owners agreed to dispose of their herds, close their existing dairy operations, and refrain from establishing new cattle breeding operations in the area. The interim rule was necessary to further tuberculosis eradication efforts in the United States and protect livestock not affected with bovine tuberculosis from the disease.

Comments on the interim rule were required to be received on or before September 24, 2002. We did not receive any comments by that date. However, we are making one change to the interim rule. One condition of eligibility for payment for dairy cattle was that each owner agree to cease operations within the described area and dispose of all sexually intact cattle on the dairy operation premises no later than 2 years after eligible owners signed their respective agreements. We have learned from representatives of dairy cattle owners affected by the interim rule that 2 years is an insufficient amount of time to dispose of all of their cattle through market channels. Therefore, we are amending the regulations to provide that owners of dairy cattle and other

property in the described area must cease all dairy cattle operations and dispose of all sexually intact cattle on the dairy operation premises no later than 3 years after all eligible owners sign their respective agreements.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the change discussed in this document.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, this 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.

List of Subjects in 9 CFR Part 50

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

Accordingly, the interim rule amending 9 CFR part 50 that was published at 67 FR 48745-48752 on July 26, 2002, is adopted as a final rule with the following changes:

PART 50—ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS

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

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

2. In § 50.17, paragraphs (b)(1) and (d) are revised to read as follows:

§ 50.17 Payment.

* * * * *

(b) * * *

(1) Cease all dairy cattle operations within the described area and dispose of all sexually intact cattle on the dairy operation premises no later than 3 years after all eligible owners have signed their respective agreements;

* * * * *

(d) Any dairy cattle added to a premises after the date an owner has signed the agreement required under paragraph (b) of this section will not be included in the rate calculation in paragraph (c) of this section and must be disposed of within 3 years after all eligible owners have signed their respective agreements.

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