

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

PART 49—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

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

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).

The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*)

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

[48 FR 30094, June 30, 1983, as amended at 68 FR 6342, Feb. 7, 2003]

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

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AUTHORITY: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

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

§ 50.1 Definitions.

For the purposes of this part, the following terms 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, including time such animals are moved interstate; or any wild cervid that is moved interstate, during the period of time from capture until release into the wild. 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 Administrator as unique and traceable with which to trace the animal back to its herd of origin.

Department. The United States Department of Agriculture.

Designated tuberculosis epidemiologist (DTE). A State or Federal epidemiologist designated by the Administrator to make decisions concerning the use and interpretation of diagnostic tests for tuberculosis and the management of tuberculosis affected herds. A DTE has the responsibility to determine the scope of epidemiologic investigations, determine the status of animals and herds, assist in the development of individual herd plans, and coordinate disease surveillance and eradication programs within the geographic area of the DTE's responsibility.

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

Heifer. A female dairy cow that has not given birth.

Herd. Except for livestock assembled at feedlots, any group of livestock maintained for at least 4 months 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, as well as any other exposed livestock in the herd, prior to restocking with new livestock.

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.

Milking cow. A female dairy cow that has given birth and is being used for milk production.

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.

Net salvage. The amount received for animals destroyed because of tuberculosis, after deducting freight, trucking, yardage, commission, slaughtering charges, and similar costs to the owner.

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 livestock directly to slaughter, listing the disease status and identification of the animal, where consigned, cleaning and disinfection requirements, and proof of slaughter certification.

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, bison, and captive cervids 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.

Registered livestock. Livestock 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.

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. A veterinarian or other person who is employed in livestock sanitary work of a State or a political subdivision of a State and who is authorized by the State or political subdivision to perform the function involved under a memorandum of understanding with the Department.

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; 67 FR 7590, Feb. 20, 2002; 67 FR 48750, July 26, 2002]

Subpart A—General Indemnity

§ 50.2 Applicability of this subpart; cooperation with States.

(a) The provisions of this subpart apply to all payments made by the Department for the destruction of animals because of tuberculosis, except as specifically provided in subpart B of this part.

(b) 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.

[67 FR 48751, July 26, 2002]

§ 50.3 Payment to owners for animals destroyed.

(a) The Administrator is authorized to agree on the part of the Department to pay indemnity to owners of the following animals: