

(a) The claimant has failed to comply with any of the requirements of this part:

(b) All cattle, bison, and captive cervids 12 months of age or over in the claimant's herd have not been tested for tuberculosis under APHIS or State supervision: *Provided, however*, that cattle, bison, and captive cervids destroyed because of tuberculosis are exempt from this testing requirement if the cattle, bison, and captive cervids are subjected to a postmortem examination for tuberculosis by a Federal or State veterinarian.

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

(d) At the time the cattle, bison, or captive cervids in the claimant's herd were tested for tuberculosis, the cattle, bison, captive cervids, or other livestock in the herd belonged to or were on the premises of any person to whom they had been sold, shipped, or delivered for slaughter unless or until all of the cattle, bison, captive cervids, and other livestock remaining on the premises or in the herd from which the tested cattle, bison, or captive cervids originated are tested or otherwise examined for tuberculosis in a manner satisfactory to the Administrator or his or her designated representative.

(e) If the cattle, bison, or captive cervids were added to a herd while the herd was quarantined for tuberculosis, unless an approved herd plan was in effect 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, 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; 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 tuberculosis epidemiologist has determined that other livestock in the herd have been exposed to tuberculosis by reason of association with tuberculous livestock, and those other livestock determined to have been exposed to tuberculosis have not been destroyed.

(g) For livestock other than cattle, bison, and captive cervids that are destroyed because of association with herds of affected cattle, bison, or captive cervids:

(1) If the livestock did not reside among the herd for a period of 4 months or more;

(2) If the livestock have not received a postmortem examination for tuberculosis; or

(3) If the livestock were added to a herd that was under quarantine for tuberculosis at the time the livestock were added to the herd, unless an approved herd plan was in effect at that time.

[67 FR 7592, Feb. 20, 2002]

§§ 50.15–50.16 [Reserved]

Subpart B—Dairy Cattle and Facilities in the El Paso, Texas, Region

SOURCE: 67 FR 48751, July 26, 2002, unless otherwise noted.

§ 50.17 Payment.

(a) *Eligibility for payment.* Owners of dairy operations, including owners of dairy cattle and other property used in connection with a dairy business or fluid milk processing plant, are eligible to receive payment from the Department under this subpart in connection with a buffer zone depopulation program due to tuberculosis, provided the owners meet all applicable requirements of this subpart and the dairy cattle herd is within the area circumscribed by the following boundaries: Beginning at the point where the Hudspeth-El Paso County line intersects U.S. Highway 62; then west along U.S. Highway 62 to the El Paso Toll

§ 50.18

9 CFR Ch. I (1-1-05 Edition)

Bridge; then southeast along the Rio Grande River to the Fort Hancock-El Porvenir Bridge; then northeast along spur 148 to Interstate 10; then northwest along Interstate 10 to the Hudspeth-El Paso County line; then north along the Hudspeth-El Paso County line to the point of beginning.

(b) To be eligible for payment, each of the owners of dairy cattle and other property within the area described in paragraph (a) of this section must sign and adhere to an agreement with APHIS to do the following:

(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;

(2) Conduct no dairy farming or other dairy activity, including the rearing of breeding cattle, but not including the grazing or feeding of steers and spayed heifers intended for terminal market, within the area described in paragraph (a) of this section until the described area and the adjoining area of Mexico have been declared free of bovine tuberculosis, as determined epidemiologically by APHIS, but in any event for a period of not less than 20 years after all eligible owners have signed their respective agreements.

(3) Allow a covenant to be placed on their properties where dairy operations have been conducted that will prevent the establishment of any breeding cattle operations (not including the grazing or feeding of steers and spayed heifers intended for terminal market) on the premises until the described area and the adjoining area of Mexico have been declared free of bovine tuberculosis, as determined epidemiologically by APHIS, but in any event for a period of not less than 20 years after all eligible owners have signed their respective agreements.

(4) Maintain responsibility for all cattle on the premises used in the dairy operation until those animals are removed from the premises;

(5) Make all arrangements for the removal of sexually intact cattle from the premises;

(6) Notify APHIS officials of the intended removal of all sexually intact cattle from the premises and provide

APHIS officials with the opportunity to monitor and evaluate the removal operations; and

(7) Such other terms, provisions, and conditions as agreed by each owner and APHIS.

(c) *Amount of payment for cattle and other property.* Upon approval of a claim submitted in accordance with § 50.20 of this subpart, owners eligible for payments under paragraph (a) of this section will receive payments for cattle and other property, the amount of which is determined by the following rates:

(1) For milking cows, an amount not to exceed \$2,922 per animal; and

(2) For heifers, an amount not to exceed \$834 per animal.

(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.

(e) *Amount of payment for certain other property.* In addition to the amounts paid under paragraph (c) of this section, amounts will be paid as follows:

(1) For expenses in relocating equipment of a reverse osmosis plant in El Paso County, TX, an amount equal to the costs of relocating the plant's equipment, not to exceed \$675,000.

(2) In conjunction with the permanent closure of a fluid milk processing plant in El Paso County, TX, an amount not to exceed \$950,000, with payment to be made in the same manner and at the same times, on a pro rata basis, as payments are made to such owners for their dairy cattle and other property.

(Approved by the Office of Management and Budget under control number 0579-0193)

[67 FR 48751, July 26, 2002, as amended at 68 FR 10361, Apr. 4, 2003]

§ 50.18 Identification and disposal of cattle.

(a) All dairy cattle disposed of under this subpart must travel from the premises of origin to their final destination with an approved metal eartag, supplied by APHIS or the State