

except those for which the Office of the General Counsel or the Office of Policy and Evaluation is responsible.

(5) *Office of the General Counsel.* The General Counsel provides legal advice to the Board and its headquarters and regional offices; represents the Board in court proceedings; prepares proposed decisions for the Board in cases that the Board assigns; coordinates legislative policy and performs legislative liaison; responds to requests for non-case related information from the White House, Congress, and the media; and plans and directs audits and investigations.

(6) *Office of Policy and Evaluation.* The Director, Policy and Evaluation, carries out the Board's statutory responsibility to conduct special reviews and studies of the civil service and other merit systems in the Executive Branch, as well as oversight reviews of the significant actions of the Office of Personnel Management. The office prepares the Board's reports of these reviews and studies, submits them to the President and the Congress, and makes them available to other interested individuals and organizations. The office is responsible for distributing the Board's reports and for responding to requests for information or briefings concerning them.

(7) *Office of Equal Employment Opportunity.* The Director, Office of Equal Employment Opportunity, manages the Board's equal employment programs.

(8) *Financial and Administrative Management Division.* The Financial and Administrative Management Division administers the budget, accounting, procurement, property management, physical security, and general services functions of the Board. It also develops and coordinates internal management programs and projects, including review of internal controls agencywide.

(9) *Human Resources Management Division.* The Human Resources Management Division develops policies and manages the Board's human resources programs, including staffing, classification, employee relations, performance management, payroll, personnel security, and training and development functions.

(10) *Information Resources Management Division.* The Information Resources Management Division develops, implements, and maintains the Board's automated information systems.

(c) *Regional and Field Offices.* The Board has regional and field offices located throughout the country (See Appendix II to 5 CFR part 1201 for a list

of the regional and field offices). Judges in the regional and field offices hear and decide initial appeals and other assigned cases as provided for in the Board's regulations.

Dated: September 18, 1997.

**Robert E. Taylor,**

*Clerk of the Board.*

[FR Doc. 97-25301 Filed 9-22-97; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 50

[Docket No. 97-061-1]

#### Expenses Associated With Transporting and Disposing of Tuberculosis-Exposed Animals

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations concerning animals destroyed because of tuberculosis to allow the U.S. Department of Agriculture to pay herd owners some of their expenses for transporting tuberculosis-exposed cattle, bison, and cervids to slaughter or to the point of disposal, and for disposing of the animals. Prior to this interim rule, herd owners could only receive help with these costs for affected animals. Consequently, herd owners in some cases elected to keep exposed animals in a herd until testing revealed them to be either free of tuberculosis or affected with tuberculosis, or elected not to depopulate an affected herd, providing opportunity for further spread of the disease. This interim rule also makes minor changes to the provisions for paying some of the expenses for transporting tuberculosis-affected animals to the point of disposal and disposing of them. This interim rule is necessary to ensure continued progress toward eradicating tuberculosis in the U.S. livestock population.

**DATES:** Interim rule effective September 17, 1997. Consideration will be given only to comments received on or before November 24, 1997.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 97-061-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to

Docket No. 97-061-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mitchell A. Essey, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7727.

#### SUPPLEMENTARY INFORMATION:

##### Background

Bovine tuberculosis (referred to below as tuberculosis) is a serious communicable disease of cattle, bison, and other species, including humans, caused by *Mycobacterium bovis*. Tuberculosis causes weight loss, general debilitation, and sometimes death. The regulations at 9 CFR part 50, "Animals Destroyed Because of Tuberculosis" (the regulations), administered by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (the Department), provide for payment of Federal indemnity to owners of certain cattle, bison, cervids, and swine destroyed because of tuberculosis.

As part of the program to control and eradicate tuberculosis in livestock, the payment of indemnity is intended to provide owners with an incentive for promptly destroying cattle, bison, and cervids that are affected with or exposed to tuberculosis and, in limited cases, swine that are exposed to tuberculosis. Because the continued presence of tuberculosis in a herd seriously threatens the health of other animals in that herd and possibly other herds, the prompt destruction of tuberculosis-affected and -exposed animals is critical if tuberculosis eradication efforts in the United States are to succeed.

As set forth in § 50.4 of the regulations, cattle, bison, and 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 of APHIS. Cattle, bison, and cervids are classified as exposed to tuberculosis when such cattle, bison, and cervids (1) are part of a known affected herd, or (2) are found to have moved from an affected herd before the time infection was disclosed in the herd and after the time the herd had

apparently become affected, or (3) are found to have been exposed by virtue of nursing an affected dam.

For affected cattle, bison, and cervids eligible for indemnity, the regulations provide for Federal help in paying a portion of the expenses incurred by owners in transporting the animals to the point of disposal, and disposing of the animals (see § 50.8). However, there are no similar provisions for paying a portion of the expenses of transporting tuberculosis-exposed cattle, bison, and cervids to slaughter or to the point where disposal will take place, or disposing of these animals.

When the provisions concerning payment of expenses for transporting and disposing of affected animals were added to the regulations in 1980, it was done because many slaughtering establishments were refusing to accept affected animals, and the animals often had to be shipped long distances to slaughtering plants that would accept them, or had to be disposed of by other means, such as by burial, incineration, or rendering. The refusal to take affected animals was due, at least in part, to the requirement that meat taken from affected animals and intended for consumption be cooked, for public health reasons, thereby increasing slaughtering costs and reducing the value of the meat. Most slaughtering establishments continued to accept tuberculosis-exposed animals, however, because meat from a tuberculosis-exposed animal may be used without restriction if the animal is found free of tuberculosis upon inspection at slaughter.

Today, however, the incidence of tuberculosis in the United States has declined markedly. As we approach eradication, far fewer animals, either affected with or exposed to tuberculosis, are moving to slaughter. Many slaughtering establishments are not willing to take even tuberculosis-exposed animals. Consequently, tuberculosis-exposed animals must sometimes be shipped long distances to slaughtering plants that will accept them. In such cases, rather than pay for such long-distance shipping, some owners opt to keep the exposed animals in their herd until testing reveals them to be either free of tuberculosis or affected with tuberculosis, or elect not to depopulate an affected herd. This "wait and see" approach provides opportunity for the disease to progress and spread, particularly in herds that have received an animal subsequently identified as tuberculosis-exposed.

It is possible that, if the number of slaughtering establishments willing to take exposed animals declines further,

some owners of exposed animals may need to find other means of disposal. And whereas slaughtering establishments generally pay some salvage value for the meat from exposed animals, owners having to dispose of their animals by other means would have to pay all costs for that disposal and could expect no salvage value from their animals. Under these circumstances, owners might choose to keep exposed animals in the herd, thereby impeding tuberculosis eradication efforts in the United States.

Therefore, we are amending § 50.8 to allow the Department to pay herd owners some of their expenses associated with transporting tuberculosis-exposed cattle, bison, and cervids to slaughter or to the point where disposal will take place, and disposing of the animals. We believe this action is necessary to ensure continued progress toward eradicating tuberculosis in the United States. Specifically, the regulations, as amended, will allow the Department to pay herd owners one-half the expenses of transporting tuberculosis-exposed cattle, bison, and cervids to slaughter or to the point where disposal will take place, and disposing of the animals, provided that the Department may pay more than one-half of the expenses when the Administrator of APHIS determines that doing so will contribute to the tuberculosis eradication program. The APHIS Veterinarian in Charge for the State in which the animals reside must approve the payment in advance in writing. For reimbursement to be made, the owner of the animals must present the APHIS 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 may not be greater than the normal fee charged by commercial haulers or renderers for similar services.

Section 50.8 has contained provisions, applicable to owners of tuberculosis-affected animals, requiring (1) that claims for payment of transportation or disposal expenses be made on forms furnished by APHIS, (2) that the forms be signed by an APHIS or State representative, or jointly by them, and (3) that the owner of the animals also sign the forms certifying acceptance of the amount claimed. APHIS will no longer require use of special claims forms for payment of expenses for disposal or transportation of tuberculosis-affected animals. Rather, the owner will be asked simply to document those expenses by submitting to the Veterinarian in Charge a copy of either a receipt for expenses paid or a bill for services rendered. Therefore, we

are amending § 50.8 to remove the provisions concerning forms for payment of expenses for disposal or transportation of tuberculosis-affected animals. Instead, § 50.8 will require owners of affected animals to present the APHIS Veterinarian in Charge with a copy of either a receipt for expenses paid or a bill for services rendered.

We are also amending § 50.8 to allow the Department to pay herd owners more than one-half of the expenses for transporting tuberculosis-affected cattle, bison, and cervids to slaughter or to the point where disposal will take place, and disposing of the animals, when the Administrator of APHIS determines that doing so will contribute to the tuberculosis eradication program.

Finally, we are amending § 50.8 to remove the provision that the Department will not pay any portion of expenses of transporting or disposing of affected animals when the transportation or disposal is provided by the owner of the affected animals. This no longer appears to be a necessary prohibition because owners can often provide transportation and carry out disposal for less money than they would have to pay someone else to do it.

#### **Immediate Action**

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to facilitate the prompt removal and destruction of tuberculosis-exposed animals from U.S. livestock herds. Of particular concern at this time is the prompt removal and destruction of tuberculosis-exposed cattle on the Island of Molokai, in Hawaii, where tuberculosis was recently confirmed in one herd of cattle. Because wildlife on this small island intermingles with the cattle, the cattle must be removed as quickly as possible to minimize the risk that tuberculosis will be spread both to wildlife and to cattle in neighboring herds. Outlets for tuberculosis-exposed animals in Hawaii are very limited and, for animals that have not yet reached market weight, nonexistent. About 160 animals in the affected herd on Molokai have not reached market weight and must be transported to the U.S. mainland for slaughter at considerable expense to the owner. This interim rule is necessary to assist the owner with transportation costs so that the cattle can be promptly removed from the island to minimize the potential spread of tuberculosis.

Because prior notice and other public procedures with respect to this action

are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. The 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.

This interim rule amends the regulations concerning animals destroyed because of tuberculosis to allow the Department to pay herd owners one half of their expenses for transporting tuberculosis-exposed animals to slaughter or to the point of disposal, and for disposing of the animals. It also allows the Department to pay more than one half of the expenses for transporting and disposing of tuberculosis-affected or tuberculosis-exposed animals, when the Administrator of APHIS determines that doing so will contribute to the tuberculosis eradication program in the United States, and allows herd owners to be reimbursed for one half of their expenses for transporting or disposing of exposed or affected animals when the transportation or disposal is provided by the owner of the animals.

The U.S. livestock industry relies on healthy animals for its economic well being. The well being of the overall U.S. economy depends, in turn, on a healthy livestock industry. The industry's role in the economy is significant. For example, the total value of U.S. livestock output in 1991 was \$66.6 billion, about half of the value of all agricultural production in the United States that year. The value of live animal exports and exports of meat products totalled \$4.3 billion in 1991, equivalent to 10 percent of the value of all U.S. agricultural exports that year. In 1996, there were 1,194,390 U.S. operations with cattle and calves, and the inventory of cattle and calves at the end of that year stood at 101.2 million head. The value of cattle and calves in the United States in 1996 was more than \$52 billion.

Recent studies on the economic impact of a tuberculosis epidemic in

U.S. livestock are not available. However, an earlier study indicates that the impact would be significant. A comprehensive computer model developed by Canada in 1979 indicates that, if the tuberculosis eradication program were discontinued, annual losses in the United States would amount to over \$1 billion. Another study, conducted in 1972, concluded that the benefits of the tuberculosis eradication program exceeded costs by a 3.64 to 1 margin.

APHIS's costs for administering this interim rule are not expected to exceed \$67,500 annually, based on the following: We estimate that the average cost of transporting a tuberculosis-exposed animal to slaughter would be \$50. In most cases, APHIS would pay one half of that cost, or \$25. We estimate that approximately 2,000 tuberculosis-exposed cattle, bison, and cervids may be moved to slaughter or other point of disposal during the first year after this rule is effective, and that we would pay approximately \$25 each toward transportation for three quarters of them, and an average of \$50 each for one quarter of them. Costs would be lower in succeeding years as the prevalence of tuberculosis declines in the United States.

Although the benefits of this interim rule (i.e., enhanced values for U.S. livestock, particularly in export markets) are difficult to quantify, those benefits should certainly exceed the cost of the program.

The 2,000 tuberculosis-exposed animals that we estimate might be moved to slaughter or other disposal during the first year of this program represent about 20 different herds. About 4 of these herds, with 200–400 animals each, may be depopulated. The remainder of the herds are expected to send only a few animals each to slaughter. We estimate that no more than 15 of the herds are owned by entities that would be considered "small" under criteria (fewer than 200 cattle each) established by the Small Business Administration.

Under these circumstances, the Administrator of APHIS has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act**

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 9 CFR Part 50**

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

Accordingly, 9 CFR part 50 is amended as follows:

#### **PART 50—ANIMALS DESTROYED BECAUSE OF TUBERCULOSIS**

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

**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).

2. Section 50.8 is revised to read as follows:

#### **§ 50.8 Payment of expenses for transporting and disposing of affected and exposed animals.**

The Department may pay, when approved in advance in writing by the Veterinarian in Charge, one half the expenses of transporting affected or exposed cattle, bison, and 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 or exposed cattle, bison, and 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.

Done in Washington, DC, this 17th day of September 1997.

**Craig A. Reed,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97-25214 Filed 9-22-97; 8:45 am]

BILLING CODE 3410-34-P

## FARM CREDIT SYSTEM INSURANCE CORPORATION

### 12 CFR Part 1402

RIN 3055-AA06

#### Releasing Information

**AGENCY:** Farm Credit System Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Farm Credit System Insurance Corporation (Corporation), through the Corporation Board (Board), issues a final rule amending its regulations governing the release of information. The objective of this action is to conform applicable Corporation regulations to the requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended by the Electronic Freedom of Information Act Amendments of 1996 (1996 Amendments), Pub. L. 104-231, and to clarify the address of the official who receives FOIA requests for records.

**EFFECTIVE DATE:** October 2, 1997.

**FOR FURTHER INFORMATION CONTACT:** Dorothy L. Nichols, General Counsel, Farm Credit System Insurance Corporation, McLean, VA 22102, (703) 883-4211, TDD (703) 883-4444.

**SUPPLEMENTARY INFORMATION:** Through the Electronic Freedom of Information Act Amendments of 1996, Congress amended the FOIA to address, among other things, the timing of agency responses to FOIA requests. The FOIA was amended to increase the time limit for agency responses from 10 to 20 working days. Another time-related amendment requires agencies to promulgate regulations under which requests for expedited processing will be considered and to grant such requests upon a showing of a compelling need. These amendments are effective October 2, 1997.

In response to the amendment of the FOIA, the Corporation is amending its regulations at part 1402, subpart B, as a final rule. The amendments to part 1402, subpart B, reflect the requirements of the FOIA, as amended, and are not interpretative. The 1996 Amendments provide Federal agencies with no discretion and require the time-related amendments to be effective on October

2, 1997. Moreover, the regulations that the Corporation adopts to implement the 1996 Amendments and to clarify the address of the Freedom of Information Officer are ministerial, minor, technical, and noncontroversial. For these reasons, the Corporation finds good cause to determine that public notice and comment for this regulation are unnecessary, impractical, and contrary to the public interest, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(a)(3)(B).

Sections 1402.13 and 1402.14 (a) and (d) are amended to reflect that, effective October 2, 1997, the Corporation will have 20 days within which to respond to FOIA requests for records.

Section 1402.13 is also amended to provide that FOIA requests for records should be addressed to the Freedom of Information Officer, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, VA 22102.

Finally, the Corporation has added new § 1402.14(e) to address the new requirement that the Corporation promulgate regulations concerning the granting of a request for expedited processing of a FOIA request upon a requester's showing of a compelling need for the information. The new regulation requires the Freedom of Information Officer to notify a requester within 10 calendar days after receipt of such a request whether the Corporation granted expedited processing and, if so, to process the request as soon as practicable. The regulation defines "compelling need" to mean that a failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or, with respect to a request made by a person primarily engaged in disseminating information, that there is an urgency to inform the public concerning actual or alleged Federal Government activity. The regulation further provides that a requester demonstrate a compelling need by a statement certified by the requester to be true and correct to the best of such person's knowledge and belief. The procedures for expedited processing apply to both requests for information and to administrative appeals.

The remaining provisions of the 1996 Amendments to the FOIA do not require amendment of the Corporation's regulations governing the release of information at part 1402.

#### List of Subjects in 12 CFR Part 1402

Courts, Freedom of information, Government employees.

For the reasons stated in the preamble, part 1402 of chapter XIV, title

12 of the Code of Federal Regulations is amended to read as follows:

#### PART 1402—RELEASING INFORMATION

1. The authority citation for part 1402 is revised to read as follows:

**Authority:** Secs. 5.58, 5.59 of the Farm Credit Act (12 U.S.C. 2277a-7, 2277a-8); 5 U.S.C. 552; 52 FR 10012; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

#### Subpart B—Availability of Records of the Farm Credit System Insurance Corporation

2. Section 1402.13 is revised to read as follows:

##### § 1402.13 Request for records.

Requests for records shall be in writing and addressed to the attention of the Freedom of Information Officer, Farm Credit System Insurance Corporation, McLean, Virginia 22102. A request improperly addressed will be deemed not to have been received for purposes of the 20-day time period set forth in § 1402.14(a) of this part until it is received, or would have been received, by the Freedom of Information Officer with the exercise of due diligence by Corporation personnel. Records requested in conformance with this subpart and which are not exempt records may be received in person or by mail as specified in the request. Records to be received in person will be available for inspection or copying during business hours on a regular business day in the offices of the Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102.

3. Section 1402.14 is amended by revising paragraphs (a) and (d) and adding paragraph (e) to read as follows:

##### § 1402.14 Response to requests for records.

(a) Within 20 days (excluding Saturdays, Sundays, and legal public holidays), or any extensions thereof as provided in paragraph (d) of this section, of the receipt of a request by the Freedom of Information Officer, the Freedom of Information Officer shall determine whether to comply with or deny such a request and transmit a written notice thereof to the requester.

\* \* \* \* \*

(d) In "unusual circumstances," the 20-day time limit prescribed in paragraphs (a) and (c) of this section, or both, may be extended by the Freedom of Information Officer or, in the case of an appeal, by the General Counsel, provided that the total of all extensions does not exceed 10 days (excluding