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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 50

[Docket No. 88-170]

#### Animals Destroyed Because of Tuberculosis

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations in 9 CFR part 50 by removing all references to "Deputy Administrator" and replacing them with references to "Administrator." We are also removing certain references to "Veterinary Services" and replacing them with references to "Animal and Plant Health Inspection Service." Additionally, we are removing the definition of veterinarian representative; revising the definitions of accredited veterinarian and veterinarian in charge, and, adding definitions of Administrator, Animal and Plant Health Inspection Service (APHIS), and APHIS representative. These changes are warranted so the regulations will accurately reflect that the Administrator of the agency holds the primary authority and responsibility for various decisions under the regulations.

**EFFECTIVE DATE:** August 2, 1991.

#### FOR FURTHER INFORMATION CONTACT:

Dr. Mitchell A. Essey, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 733, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8715.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 50 (referred to below as the regulations)

concern the destruction of animals because of tuberculosis and the compensation of their owners. Prior to the effective date of this document, these regulations indicated that the Deputy Administrator of the Animal and Plant Health Inspection Service (APHIS) for Veterinary Services was the official responsible for various decisions under these regulations. We are revising 9 CFR part 50 to indicate that the primary authority and responsibility for various decisions under these regulations belongs to the Administrator of the agency. We are making similar revisions in all other APHIS regulations. These revisions will be published in separate Federal Register documents.

We are removing all references to "Deputy Administrator" and replacing them with references to "Administrator," and are removing all references to "Veterinary Services" and replacing them with references to "Animal and Plant Health Inspection Service." With these changes, the terms "Deputy Administrator" and "Veterinary Services representative" no longer appear in the regulations, and the term, "Veterinary Services" no longer appears in the regulations, except in a mailing address. Therefore, we are deleting the definitions of those terms. We are also adding definitions of "Administrator," "Animal and Plant Health Inspection Service," and "APHIS representative." In addition we are revising the definition of "Accredited veterinarian" to make it consistent with the definition in other parts of 9 CFR, and are making nonsubstantive wording changes for clarity.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Public Law 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork

Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

#### 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.)

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

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

Accordingly, we are amending 9 CFR part 50 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, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

#### § 50.1 [Amended]

2. In § 50.1 the definitions of "Deputy Administrator," "Veterinary Services," and "Veterinary Services representative" are removed, the definitions of "Accredited veterinarian" and "Veterinarian in Charge" are revised, and definitions of "Administrator," "Animal and Plant Health Inspection Service," and "APHIS representative" are added, in alphabetical order, to read as follows:

#### § 50.1 Definitions.

**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.

*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.

#### § 50.2 [Amended]

3. In § 50.2, remove the words "has been delegated the authority to cooperate" and add, in their place, the word "cooperates", and remove the words "to pay" and add, in their place, the word "pays".

#### § 50.9 [Amended]

4. In § 50.9, second sentence, remove the words "at Veterinary Services expense" and add, in their place, the words "at the expense of APHIS".

#### §§ 50.2, 50.3, 50.4, 50.6, 50.7, 50.9, 50.14, and 50.16 [Amended]

5. In addition to the amendments set forth above, in 9 CFR Part 50 remove the word "Deputy" in the following places:

- (a) Section 50.2;
- (b) Section 50.3(b), both places it appears; (c), both places it appears; and (d);
- (c) Section 50.4(a);
- (d) Section 50.6, introductory text;
- (e) Section 50.7(b);
- (f) Section 50.9;
- (g) Section 50.14(d); and
- (h) Section 50.16(a) and (a)(2).

#### §§ 50.5, 50.6, 50.7, 50.8, 50.11, and 50.16 [Amended]

6. In addition to the amendments set forth above, in 9 CFR Part 50 remove the words "a Veterinary Services" and add, in their place, the words "an APHIS" in the following places:

- (a) Section 50.5;
- (b) Section 50.6(b);
- (c) Section 50.6(c), both places they appear;
- (d) Section 50.7(a);
- (e) Section 50.8;
- (f) Section 50.11; and
- (g) Section 50.16(a)(2) and (a)(4).

#### §§ 50.3, 50.5, 50.6, 50.8, 50.9, 50.10, 50.11, 50.12, 50.14, and 50.16 [Amended]

7. In addition to the amendments set forth above, in 9 CFR Part 50 remove the words "Veterinary Services" and add, in their place, the word "APHIS" in the following places:

- (a) Section 50.3 (c) and (d);
- (b) Section 50.5;
- (c) Section 50.6(c);
- (d) Section 50.8;
- (e) Section 50.9;
- (f) Section 50.10, first and fourth sentences;
- (g) Section 50.11;
- (h) Section 50.12, first, second, third, fourth, fifth, and sixth sentences;
- (i) Section 50.14(b), and
- (j) Section 50.16(a), (a)(3), and (a)(4).

#### § 50.16 [Amended]

8. In § 50.16, footnote 1 of paragraph (a)(3) is revised to read as follows:

<sup>1</sup> Compliance Agreement forms are available without charge from the Administrator, c/o Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and from local offices of Veterinary Services. (Local offices are listed in telephone directories.)

Done in Washington, DC, this 29 day of July 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-18366 Filed 8-1-91; 8:45 am]

BILLING CODE 3410-34-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 2

#### Policy and Procedure for Enforcement Actions; Policy Statement

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy Statement: Modification.

**SUMMARY:** The NRC is publishing a modification to its Enforcement Policy to add an additional example to the Reactor Operations Supplement involving maintenance related violations and to delete the civil penalty adjustment factor for violations involving maintenance deficiencies. This policy is codified as appendix C to 10 CFR part 2.

**DATES:** Since this action concerns a general statement of policy, no prior notice is required and, hence, this modification of the Enforcement Policy is effective August 2, 1991. Comments submitted by September 3, 1991 will be considered.

**ADDRESSES:** Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Deliver comments to One White Flint

North, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm, weekdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-0741.

**SUPPLEMENTARY INFORMATION:** On March 23, 1988, the Commission issued a Policy Statement on Maintenance of Nuclear Power Plants (53 FR 9430) which stated the Commission's expectations in the area of maintenance and the intention to proceed with a rulemaking on maintenance. Subsequently, on November 28, 1988, the Commission published a Notice of Proposed Rulemaking (53 FR 47822) directed toward improving the effectiveness of maintenance programs. Based on additional information received after publication of the Policy Statement and the Notice of Proposed Rulemaking, the Commission decided to hold rulemaking in abeyance for a period of 18 months from the effective date of the Revised Policy Statement on Maintenance of Nuclear Power Plants which was published December 8, 1989 (54 FR 50611).

In the Revised Policy Statement on the Maintenance of Nuclear Power Plants, the Commission stated its intent in enforcing requirements for power reactors to emphasize maintenance. Consistent with that position, the Enforcement Policy was revised to provide such emphasis by adding maintenance failures as an escalating factor in assessing civil penalties where it has been concluded that the violation involves a significant regulatory concern. 54 FR 50611 (December 8, 1989).

The Commission promulgated the final maintenance rule, Monitoring the Effectiveness of Maintenance at Nuclear Power Plants on July 10, 1991 (56 FR 31306) and is now deleting the maintenance escalation factor and replacing it with a specific example of a Severity Level III violation involving maintenance activities in Supplement I of the Enforcement Policy. This change will continue to emphasize the Commission's intent to enforce existing requirements while at the same time normalize treatment of maintenance in the enforcement process. Previously, maintenance as a root cause was the only functional area with a separate escalation factor. The Commission has concluded that placing an example

concerning maintenance in Supplement I fits more appropriately in the overall structure of the Enforcement Policy and will provide the appropriate flexibility to deal with the various maintenance issues. Significant deficiencies in the performance of maintenance activities that impact plant equipment where a violation is involved may be considered a significant regulatory concern. The added example provides notice consistent with the final rule that appropriate maintenance is expected to be conducted for both safety-related and applicable balance of plant systems.

#### List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Civil penalty, Enforcement, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Violations, and Waste treatment and disposal.

#### PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. Appendix C section V.B is amended by removing subsection section V.B.7.

Appendix C supplement I is amended by adding example C.9 after example C.8.

#### Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

##### Supplement I—Severity Categories

##### Reactor Operations

C. Severity Level III—Violations involving for example:

9. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient.

Dated at Rockville, Maryland this 29th day of July 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-18369 Filed 8-1-91; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

##### 17 CFR Parts 211, 231 and 241

[Release Nos. FR-37; 33-6906; 34-29495; File No. S7-5-91]

#### The Acceptability in Financial Statements of an Accounting Standard Permitting the Return of a Nonaccrual Loan to Accrual Status After a Partial Charge-Off

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

**SUMMARY:** The Securities and Exchange Commission (the "SEC" or "Commission") today announced the publication of an interpretive release setting forth the Commission's view that an accounting standard proposed by the Federal Financial Institutions Examination Council (the "FFIEC" or "Council") for use in bank and thrift regulatory reports would not be acceptable in filings with the Commission. The proposed standard, if adopted, would establish criteria under which a depository institution may selectively return certain nonaccrual loans to accrual status even though full recovery of its contractual principal may not be expected. The Commission's staff has been informed, however, that the FFIEC intends to withdraw the proposal.

**EFFECTIVE DATE:** July 29, 1991.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Bayless, Office of the Chief Accountant, Division of Corporation Finance at (202) 272-2553; Douglas N. Barton or Michael D. Foley, Office of the Chief Accountant at (202) 272-2130; Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On March 14, 1991, the FFIEC issued a request for public comment (the "FFIEC release") on a proposed accounting rule for use in regulatory reporting to banking and thrift regulators.<sup>1</sup> The proposal was in response to requests for clarification of these regulator's guidelines regarding nonaccrual status of loans. The FFIEC release notes that some had questioned whether the book balance remaining after any partial loan charge-off should be returned to accrual status.<sup>2</sup> Accordingly, the FFIEC

published for public comment a proposed standard that would permit a nonaccrual loan meeting certain criteria to be returned to accrual status if its recorded amount is reduced by a charge-off to an amount which the lender expects to fully collect based on prudent underwriting standards, including interest at a market rate and a prudent loan-to-value ratio. According to the initial FFIEC release, loans intended to qualify for this accounting method are primarily those which are collateral-dependent, although other loans where the primary source of repayment is a dedicated and readily determinable stream of cash flows may also be eligible. As proposed by the FFIEC, banks and thrifts could elect to use this accounting method, but would not be required to do so. The comment period expired May 2, 1991, and final action on the FFIEC proposal is pending. The Commission's staff has been informed, however, that the FFIEC intends to withdraw the proposal.

On March 13, 1991, the Commission issued a request for public comment concerning whether financial statements of depository institutions applying the accounting method proposed by the FFIEC would be acceptable in filings with the Commission.<sup>3</sup> In that release, the Commission noted that conformance of the proposed method with Generally Accepted Accounting Principles (GAAP) was not clear under existing authoritative literature, and that application of the method selectively to some but not all loans meeting the qualifying criteria may depart from acceptable accounting practice.<sup>4</sup> The Commission received thirty-two letters of comment in response to its request. Commentators included the staff of the Financial Accounting Standards Board (FASB), sixteen financial institutions, five public accounting firms, the American Institute of Certified Public Accountants, the General Accounting Office and various industry, professional and government regulatory organizations.

##### II. Discussion of Comments

A majority of respondents, including the FASB staff, commented that the proposed method does not conform with

<sup>1</sup> Securities Act Release No. 6886 (March 13, 1991) (56 FR 11465).

<sup>2</sup> Because of the Commission's conclusion concerning the proposal, this release does not discuss certain issues contained in the March 13, 1991 SEC release, such as the appropriate scope of the FFIEC proposal, disclosure requirements, and the preferability of the proposed method. The responses of commentators to these issues, however, are available in File No. S7-5-91 in the Commission's Public Reference Room.

<sup>1</sup> FFIEC, Reporting Standard Concerning the Return of a Loan With a Partial Charge-Off to Accrual Status: Notice of Request for Comment (March 18, 1991) (56 FR 11441).

<sup>2</sup> *Id.*, 56 FR at 11442.