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the time the participant enrolls in the ISA program and within 15 days of any change in the management plan.

(6) Submit to the ISA Program Veterinarian at the time the participant enrolls in the ISA program a complete and current fish inventory information for each participant-leased finfish site with site and cage identifiers. Fish inventory information must include the numbers, age, date of saltwater transfer, vaccination status, and previous therapeutant history for all fish in each participant-leased finfish site.

(7) Maintain, and make available to the ISA Program Veterinarian upon request, mortality data for each participant-leased finfish site and pen in production.

(8) Cooperate with and assist APHIS in the completion of biosecurity audits at all participant-leased finfish sites and participant-operated vessels involved in salmonid aquaculture.

(f) The Department will not allow claims arising out of the destruction of fish due to spring viremia of carp (SVC) unless the claimants have done the following:

(1) Depopulated all SVC-infected and SVC-exposed fish on their property under the supervision of USDA or State officials;

(2) Thoroughly cleaned and disinfected all affected sites and all affected equipment under the supervision of USDA or State officials;

(3) If an affected site is to be restocked after cleaning and disinfection, the claimant must have done the following:

(i) Restocked with fish certified free of SVC by an APHIS-approved laboratory or in accordance with the diagnostic procedures described in the Office of International des Epizooties Manual of Diagnostic Tests For Aquatic Animals;

(ii) Demonstrated that their water sources are from first-use spring water, spring water without fish, well water, ozone or ultraviolet treated surface water, or bore-hole water and are free of wild carp and any other SVC-susceptible species; and

(iii) Prevented the migration of wild carp and any other wild SVC-susceptible species into their farming establishment.

(Approved by the Office of Management and Budget under control number 0579–0192)

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PART 54—CONTROL OF SCRAPIE

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

SOURCE: 66 FR 43982, Aug. 21, 2001, unless otherwise noted.

§ 54.1 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any employee of the United States Department of Agriculture authorized to act for the Administrator.

Animal. A sheep or goat.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant

Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS in animal health activities who is authorized by the Administrator to perform the function involved.

Approved laboratory. A laboratory approved by the Administrator in accordance with §54.11 to conduct one or more scrapie tests, or genotype tests, on one or more tissues.

Approved test. A test for the diagnosis of scrapie approved by the Administrator for use in the scrapie eradication or certification program in accordance with §54.10.

Area veterinarian in charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

Breed association and registries. Organizations listed in §151.9 of this chapter that maintain the permanent records of ancestry or pedigrees of animals (including the animal's sire and dam), individual identification of animals, and ownership of animals.

Certificate. An official document issued in accordance with §79.5 of this chapter by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals.

Commingle, *commingled*, *commingling*. Animals grouped together and having physical contact with each other, including contact through a fence, but not limited contacts. Commingling also includes sharing the same section in a transportation unit where there is physical contact.

Designated scrapie epidemiologist. An epidemiologist who has demonstrated the knowledge and ability to perform the functions required and who has been selected by the State animal health official and the area veterinarian in charge. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must concur in the selection and appointment of the designated scrapie epidemiologist. The designated scrapie epidemiologist must satisfactorily complete training designated by APHIS.

Destroyed. (1) Euthanized by means other than slaughter, and the carcass disposed of, by means authorized by the Administrator; or

(2) In the case of exposed or high-risk animals that are not known to be infected, either euthanized or disposed of by slaughter; or

(3) Moved to a quarantined research facility if the movement has been approved by the Administrator.

Electronic implant. Any radio frequency identification implant device approved for use in the scrapie program by the Administrator. The Administrator will approve an electronic implant after determining that it is tamper resistant, not harmful to the animal, and readable by equipment available to APHIS and State representatives.

Exposed animal. (1) Any animal that has been in the same flock at the same time as a scrapie-positive female animal, excluding limited contacts; or

(2) Any animal born in a flock after a scrapie-positive animal was born into that flock or lambed in that flock, if born before that flock completes the requirements of a flock plan; or

(3) Any animal that was commingled with a scrapie-positive female animal during or up to 30 days after she lambed, kidded, or aborted, or while a visible vaginal discharge was present, or that was commingled with any other scrapie-positive female animal for 24 hours or more, including during activities such as shows and sales or while in marketing channels; or

(4) Any animal in a noncompliant flock.

Exposed flock. Any flock in which a scrapie-positive animal was born or lambed. Any flock that currently contains a female high-risk, exposed, or suspect animal, or that once contained a female high-risk, exposed, or suspect animal that lambed in the flock and from which tissues were not submitted for official testing and found negative. A flock that has completed a post-exposure management and monitoring plan following the exposure will no longer be an exposed flock.

Flock. All animals that are maintained on a single premises and all animals under common ownership or supervision on two or more premises with

animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. Animals maintained temporarily on a premises for activities such as shows and sales or while in marketing channels are not a flock. More than one flock may be maintained on a single premises if:

(1) The flocks are enrolled as separate flocks in the SFCP; or

(2) A State or APHIS representative determines, based upon examination of flock records, that:

(i) There is no interchange of animals between the flocks;

(ii) The flocks never commingle and are kept at least 30 feet apart at all times or are separated by a solid wall through, over, or under which fluids cannot pass and through which contact cannot occur;

(iii) The flocks have separate flock records and identification;

(iv) The flocks have separate lambing facilities, including buildings and pastures, and a pasture or building used for lambing by one flock is not used by the other flock at any time; and

(v) The flocks do not share equipment without cleaning and disinfection in accordance with § 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules.

Flock of origin. The flock in which an animal most recently resided in which it either was born, gave birth, or was used for breeding purposes. The determination of an animal's flock of origin may be based either on the physical presence of the animal in the flock, the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records.

Flock plan. A written flock management agreement signed by the owner of a flock, the accredited veterinarian, if one is employed by the owner, and a State or APHIS representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in § 54.8(a) through (f).

Flock sire. A sexually intact male animal that has ever been used for breeding in a flock.

High-risk animal. A sexually intact animal, excluding male sheep that have tested RR at codon 171 and AA at codon 136 using an official genotype test, that is:

(1) The progeny of a scrapie-positive dam; or

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups; or

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born, or during any subsequent lambing season, if born before that flock completes the requirements of a flock plan; or

(4) An exposed female sheep that has not tested QR, HR, or RR at codon 171 using an official genotype test.

Infected flock. The flock of origin of a female animal that a State or APHIS representative has determined to be a scrapie-positive animal; or any flock in which a State or APHIS representative has determined that a scrapie-positive female animal has resided unless an epidemiologic investigation conducted by a State or APHIS representative shows that the animal did not lamb or abort in the flock. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.

Limited contacts. Incidental contacts between animals from different flocks off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment

and surgical tools must be sterilized between animals for these contacts to be considered limited contacts. Limited contacts do not include any contact, incidental or otherwise, with animals in the same flock or with a female animal during or up to 30 days after she lambed, kidded or aborted or when there is any visible vaginal discharge. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes. Examples of limited contacts may be found in the Scrapie Flock Certification Program standards.

Live-animal screening test. Any test for the diagnosis of scrapie in a live animal that is approved by the Administrator as usually reliable but not definitive for diagnosing scrapie, and that is conducted in a laboratory approved by the Administrator.[1]

Mortgage. Any mortgage, lien, or other security or interest held by any person other than the one claiming indemnity.

National Scrapie Database. A database designated by the Administrator in which APHIS and State animal health agencies cooperatively enter data concerning scrapie outbreaks, flocks and premises affected by scrapie, individual animal identification and premises identification data, and other data to support the Scrapie Eradication Program and the Scrapie Flock Certification Program.

National Veterinary Services Laboratories (NVSL). The National Veterinary Services Laboratories, APHIS, U.S. Department of Agriculture, or an NVSL cooperating or contract laboratory.

Noncompliant flock. (1) Any source or infected flock whose owner declines to enter into a flock plan or post-exposure management and monitoring plan agreement within 30 days of being so designated, or whose owner is not in compliance with either agreement;

(2) Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed, or whose owner fails to submit required postmortem samples;

(3) Any flock whose owner has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or any other information on a certificate, permit, owner statement, or other official document within the last 5 years; or

(4) Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last 5 years.

Official genotype test. Any test to determine the genotype of a live or dead animal that is conducted at either an approved laboratory or at the National Veterinary Services Laboratories, when the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a State or APHIS representative

Official test. Any test for the diagnosis of scrapie in a live or dead animal that is approved by the Administrator for that use and conducted either at an approved laboratory or at the National Veterinary Services Laboratories.

Owner. A person, partnership, company, corporation, or any other legal entity who has legal or rightful title to animals, whether or not they are subject to a mortgage.

Post-exposure management and monitoring plan. A written agreement signed

[1] The names and addresses of laboratories approved by the Administrator to conduct live-animal screening tests will be published in the Notices Section of the FEDERAL REGISTER. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflicts.

by the owner of a flock, any accredited veterinarian employed by the owner, and a State or APHIS representative in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least 5 years after the last high-risk or scrapie-positive animal is removed from the flock or after the last exposure of the flock to a scrapie-positive animal, unless otherwise specified by a State or APHIS representative. As part of a post-exposure management and monitoring plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the plan. The plan must include the requirements in § 54.8.

Scrapie control pilot project. A pilot project authorized by the Administrator in writing, designed to test or improve program procedures or to facilitate research, in order to control and eradicate scrapie. In addition to APHIS, participants may include State animal health agencies, flock owners, and other parties as necessary.

Scrapie Eradication Program. The cooperative State-Federal program administered by APHIS and Consistent States to control and eradicate scrapie.

Scrapie Eradication Uniform Methods and Rules (UM&R). Cooperative procedures and standards adopted by APHIS and Consistent States for controlling and eradicating scrapie. The UM&R will be reviewed at least annually by representatives of the livestock industry and appropriate State and Federal agencies and the public and will be revised, and published as needed by APHIS.

Scrapie Flock Certification Program (SFCP). The cooperative Federal-State-industry voluntary program for the control of scrapie conducted in accordance with this subpart.

Scrapie Flock Certification Program standards. Cooperative procedures and standards adopted by APHIS and State scrapie certification boards for reducing the incidence and controlling the spread of scrapie through flock certification.[2]

Scrapie-positive animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories or another laboratory authorized by the Administrator to conduct scrapie tests in accordance with this part, through:

(1) Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;

(2) The use of proteinase-resistant protein analysis methods including but not limited to immunohistochemistry and/or western blotting on CNS and/or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the Administrator for use on that tissue;

(3) Bioassay;

(4) Scrapie associated fibrils (SAF) detected by electron microscopy; or

(5) Any other test method approved by the Administrator in accordance with § 54.10.[3]

Separate contemporary lambing groups. To be a separate contemporary lambing group, the group must be maintained separately such that the animals cannot come into physical contact with other lambs, kids, ewes or

[2] Individual copies of the Scrapie Flock Certification Program standards may be obtained on the World Wide Web at URL *http://www.aphis.usda.gov/vs/scrapie,* or from the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

[3] The names and addresses of laboratories approved by the Administrator to conduct tests are published in the Notices Section of the FEDERAL REGISTER. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administratr must give written notice of the proposed withdrawal to the director of the laboratory and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

does or birth fluids or placenta from other ewes or does. This separate maintenance must preclude contact through a fence, during lambing and for 60 days following the date the last lamb or kid is born in a lambing season, and must preclude using the same lambing facility as other ewes or does, unless the lambing facility is cleaned and disinfected under supervision by an APHIS representative, State representative, or an accredited veterinarian between lambings in accordance with §54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. The flock owner must maintain adequate records to document which animals were maintained in each contemporary lambing group and to document when cleaning and disinfection was performed and who supervised it.

Slaughter channels. Animals in slaughter channels include any animal that is sold, transferred, or moved either directly to a slaughter facility, to an individual for custom slaughter, or for feeding for the express purpose of improving the animals' condition for movement to slaughter. Any sexually intact animal that is commingled with breeding animals or that has been bred is not in slaughter channels. When selling animals for slaughter, owners should note on the bill of sale that the animals are sold only for slaughter.

Source flock. A flock in which a State or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less. The determination that an animal was born in a flock will be based on such information as the presence of official identification on the animal traceable to the flock, the presence of other identification on the animal that is listed on the bill of sale, or other evidence, such as registry records, to show that a scrapie-positive animal was born in the flock, combined with the absence of records indicating that the animal was purchased from outside and added to the flock. If DNA from the animal was previously collected by an accredited veterinarian and stored at an approved genotyping laboratory, or if DNA collection and storage are required for breed registration and the breed registration has appropriate safeguards in place to ensure the integrity of the banking process, the owner may request verification of the animal's identity based on DNA comparison if adequate records and identification have been maintained by the owner and the repository to show that the archived DNA is that of the animal that has been traced to the flock. The owner will be responsible for all costs for the DNA comparison. A flock will no longer be a source flock after it has completed the requirements of a flock plan.

State. Each of the 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all territories or possessions of the United States.

State representative. An individual employed in animal health activities by a State or a political subdivision of a State and who is authorized by the State or political subdivision to perform the function involved.

Suspect animal. An animal will be designated a suspect animal in accordance with §79.4 of this chapter if it is:

(1) A sheep or goat that exhibits any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian or a State or APHIS representative: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, "star gazing," head pressing, recumbency, or other signs of neurological disease or chronic wasting.

(2) A sheep or goat that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test, unless the animal is designated a scrapie-positive animal.

(3) A sheep or goat that has tested inconclusive or suggestive on an official test for scrapie.

Unofficial test. Any test for the diagnosis of scrapie or for the detection of the proteinase resistant protein associated with scrapie in a live or dead animal that either has not been approved by the Administrator or that was not conducted at an approved laboratory or at the National Veterinary Services Laboratories.

§ 54.2 Cooperative agreements and memoranda of understanding with States.

APHIS will execute cooperative agreements and/or memoranda of understanding with the animal health agency of any State in order to cooperatively administer the Scrapie Eradication Program and the Scrapie Flock Certification Program within that State. These agreements will describe the respective roles of APHIS and State personnel in implementing the Scrapie Eradication Program and the Scrapie Flock Certification Program. Each agreement may specify the financial, material, and personnel resources to be committed to these programs and other scrapie control measures by APHIS and the State; assign specific activities related to the control of scrapie within a State to APHIS or State personnel; establish schedules for APHIS representatives or State representatives to visit flocks; establish procedures for maintaining and sharing program records specified in this part, and specify other responsibilities of State representatives and APHIS representatives in support of the Scrapie Eradication Program and the Scrapie Flock Certification Program.

(Approved by the Office of Management and Budget under control number 0579–0101)

Subpart A—Scrapie Indemnification Program

§ 54.3 Animals eligible for indemnity payments.

(a) Indemnity may be paid for an animal only after the owner of the animal has applied for indemnification and been approved in accordance with § 54.4. Indemnity may be paid only for the following:

(1) Destruction of high-risk animals;

(2) Destruction of animals based on an epidemiologic investigation, when the Administrator determines that the destruction of these animals will contribute to the eradication of scrapie;

(3) Destruction of live scrapie-positive animals;

(4) Destruction of animals that test positive on a live-animal screening test; and

(5) Destruction of suspect animals that are destroyed at the request of an APHIS representative.

(b) No indemnity will be paid for an animal if the owner of the animal fails to provide APHIS, within 30 days of request, animal registration certificates, sale and movement records, or other records requested in accordance with § 54.5. No indemnity will be paid until the premises, including all structures, holding facilities, conveyances, and materials contaminated because of occupation or use by the depopulated animals, have been properly cleaned and disinfected in accordance with § 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. Premises or portions of premises may be exempted from the cleaning and disinfecting requirements if a designated scrapie epidemiologist determines, based on epidemiologic investigation, that cleaning and disinfection of such buildings, holding facilities, conveyances, or other materials on the premises will not significantly reduce the risk of the spread of scrapie, either because effective disinfection is not possible or because the normal operations on the premises prevent transmission of scrapie. No indemnity will be paid to an owner if the owner assembled or increased his flock for the purpose of collecting or increasing indemnity.

§ 54.4 Application by owners for indemnity payments.

(a) Normally, an application for indemnification will be initiated by a State or APHIS representative who is working with the owner of a flock that has already been determined to be an infected flock or source flock, or that is already under a State movement restriction. In such cases, the flock owner will confirm information about

the flock's eligibility for indemnity that is contained in the application submitted by the State or APHIS representative. However, the owner of any flock may apply directly to receive indemnification by submitting to the Administrator a written request containing the following information:

(1) Name, address, and social security number of the flock owner;

(2) Number and breed(s) of animals in the flock, including a current inventory;

(3) Location of flock premises;

(4) Reasons the owner believes animals in his or her flock may be eligible for indemnification, including any diagnosis of scrapie made for animals in the flock; any signs of scrapie observed in the flock by the owner; and any movement of animals into the flock from flocks infected with or exposed to scrapie;

(5) A copy of the registration papers issued in the name of the owner for any registered animals in the flock (registration papers are not required for the payment of indemnity for animals that are not registered). If the registration papers are unavailable, the owner may choose to accept a lesser indemnity in accordance with §54.6(b)(2) or the area veterinarian in charge may grant a 60-day extension or the Administrator may grant an extension longer than 60 days for the presentation of registration papers; and

(6) Signed release letters addressed to any sheep or goat registry associations that maintain records of the owner's sheep or goats requesting the associations to release to APHIS all records maintained by the association on sheep or goats currently or formerly owned by the applicant.

(b) APHIS will evaluate each application to determine whether the owner's flock contains animals eligible for indemnity in accordance with §54.3.

§54.5 Certification by owners.

Before any indemnity is paid to an owner, the owner must sign a written agreement with APHIS, certifying the following:

(a) The owner will make available for review upon request by a State or APHIS representative all bills of sale, pedigree registration certificates, and other records regarding movement of animals into and from the flock;

(b) If the owner maintains any flock after the payment of indemnity or acquires a new flock that is housed on the same premises within 5 years after the last high-risk or scrapie-positive animal is removed, the owner will maintain the flock in accordance with a post-exposure management and monitoring plan for 5 years;

(c) If the animal for which indemnity is paid is subject to any mortgage, the owner consents to the payment of the indemnity, up to the value of the mortgage, to the person(s) holding the mortgage;

(d) That the animal may be removed to a U.S. Department of Agriculture facility or a quarantined research facility, slaughtered, or euthanized and necropsied and tissues removed for diagnostic or other purposes.

§54.6 Amount of indemnity payments.

(a) Indemnity paid for sheep in accordance with §54.3 will be set based on the following price reports published by the Agricultural Marketing Service (AMS). If pricing information is unavailable from these markets during a given week or month or if the numbers of animals sold are too low to give an accurate market value, the preceding week or month's value will be used. The AMS reports from the most recent week or month prior to the date APHIS offers to pay an owner indemnity shall be used to calculate the indemnity for that owner's sheep:

(1) The weekly weighted average Choice/Prime slaughter lamb price per pound at Greeley, CO;

(2) The weekly weighted average Utility slaughter ewe price per pound at San Angelo, TX;

(3) The monthly weighted average commercial western ewe lamb replacement price per head;

(4) The monthly weighted average commercial western yearling ewe replacement price per head;

(5) The monthly weighted average commercial western running age ewe price per head.

(6) The monthly weighted average commercial western aged ewe price per head.

(b) For animals under 1 year of age, the basic indemnity shall equal the price per pound from paragraph (a)(1) of this section times the greater of 50 lbs or the actual weight of the animal; except that, for ewe lambs under 1 year of age, the indemnity shall equal the per-head price from paragraph (a)(3) of this section if that price is higher. For sexually intact sheep 8 years of age or older and castrated animals 1 year of age or older, the basic indemnity shall equal the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. For sexually intact sheep at least 1 year of age and under 2 years of age, the indemnity shall equal the greater of the price per head from paragraph (a)(4) of this section, or the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. For sexually intact sheep at least 2 years of age and under 6 years of age, the basic indemnity shall equal the greater of the price per head from paragraph (a)(5) of this section or the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. For sexually intact sheep at least 6 years of age and under 8 years of age, the basic indemnity will equal the greater of the price per head from paragraph (a)(6) of this section or the price per pound from paragraph (a)(2) of this section times 150, based on an average weight of 150 lbs. A premium shall be added to the basic indemnity for each registered animal, equal to $100 for each registered animal under 1 year of age, $200 for each registered animal at least 1 year of age and under 4 years of age, and $100 for each registered animal at least 4 years of age and under 8 years of age. An additional premium of $50 will be added to the basic indemnity for each flock sire. The owner must provide adequate records to qualify for these premiums. When the animals to be indemnified are goats, or are sheep that fall outside the classes covered previously in this paragraph, the Administrator may take into consideration the producer's purchase records and sales records for the preceding 12 to 24 months in determining the indemnity amount, but the indemnity shall not exceed the maximum indemnity calculated for registered sheep in accordance with this section.

(1) If records and identification are inadequate to determine the actual age of animals, an APHIS or State representative will count all sexually intact animals that are apparently under 1 year of age, and those that are apparently at least 1 and under 2 years of age, based on examination of their teeth, and the indemnity for these animals will be calculated. The total number of these animals will be subtracted from the total number of sexually intact animals in the group to be indemnified, and indemnity for the remainder will be calculated based on the assumption that the remainder of the flock is 80 percent aged 2 to 6 years and 20 percent aged 6 to 8 years.

(2) Any animal that is not registered at the time indemnity is first offered, but is eligible to be registered, will receive the registered animal premium reduced by $50.

(c) For animals destroyed by slaughter, the owner will retain the salvage value (the amount paid by a slaughter plant for the animal) of the animals in lieu of receiving the base indemnity. If the salvage value, less transport costs, is less than the base indemnity, APHIS will pay the owner the difference. APHIS will also indemnify the owner in the amount of any registered animal or flock sire premiums for which the animal qualifies.

(d) If the owner disagrees with the average weight estimate, he may have the sheep weighed at a public scale at his own expense, provided that the sheep may not come in contact with other sheep or goats during movement to the public scales, and will be paid based on the actual weight times the AMS weekly average price.

(e) Indemnity will be paid to an owner only for animals actually in a flock at the time indemnity is first offered. Animals removed from the flock as part of a post-exposure management and monitoring plan will be paid indemnity based on the AMS average prices at the time an APHIS representative designates the animals for removal.

§54.7 Procedures for destruction of animals.

(a) Scrapie-positive and suspect animals for which indemnification is sought must be destroyed on the premises where they are held, pastured, or penned at the time indemnity is approved or moved to an approved research facility, unless the APHIS representative involved approves in advance of destruction moving the animals to another location for destruction. Animals that are not scrapie-positive or suspect animals for which indemnification is sought may be:

(1) Slaughtered when moved in accordance with part 79 of this chapter and with the prior written approval of the APHIS representative involved;

(2) Destroyed on the premises where they are held, pastured, or penned at the time indemnity is approved;

(3) Moved to an approved research facility; or

(4) Moved to another location for destruction if an APHIS representative approves the movement in advance.

(b) The carcasses of animals destroyed in accordance with this section are authorized by the Administrator to be buried, incinerated, or disposed of by other methods in accordance with local, State, and Federal laws. The carcasses of scrapie-positive and suspect animals may not be processed for human or animal food.

(c) The destruction of animals and disposition of their carcasses in accordance with this part must be monitored by an APHIS representative who will prepare and transmit to the Administrator a report identifying the animals and showing their disposition.

(d) APHIS may pay the reasonable costs of disposal for scrapie-positive and suspect animals that are indemnified. To obtain reimbursement for disposal costs, animal owners must obtain written approval of the disposal costs from APHIS, prior to disposal. The Administrator may also authorize payment of up to half the reasonable disposal costs for animals that are eligible to be destroyed by slaughter under this section but for which slaughter is not a practical or cost efficient means of disposal; *Provided that,* APHIS may pay more than one-half of the expenses when the Administrator determines that doing so will contribute to scrapie eradication. For reimbursement to be made, the owner of the animals must present the area 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 disposal facility.

(e) *Cleaning and disinfection of premises and equipment.* When required, cleaning and disinfection shall be conducted under the supervision of a State or APHIS representative as follows. Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules:

(1) *Drylot areas.* When required, remove the manure and top 1–2 inches of soil to reduce contamination. Bury, till under, or compost the removed material in areas not accessed by domestic animals or wildlife.

(2) *Cement, wood, metal, and other non-earth surfaces, tools, equipment, instruments, feed, hay, bedding, and other materials.* Remove all organic material and compost or incinerate. Clean and wash all surfaces, tools, equipment, and instruments using hot water and detergent. Allow all surfaces, tools, equipment, and instruments to dry completely before disinfecting and sanitizing using the following methods:

(i) Incinerate items by high-temperature incineration methods;

(ii) Autoclave instruments, small tools, and other items at 136 °C for 1 hour;

(iii) To clean dry surfaces, apply a 2-percent chlorine bleach solution at room temperature (at least 18.3 °C for 1 hour, or apply a 1-molar solution of sodium hydroxide (approximately 5 oz. of sodium hydroxide dissolved in 1 gallon water) at room temperature for at least 1 hour. Note: A 2-molar solution is more effective than a 1-molar solution and should be used when circumstances permit.

§ 54.8 Requirements for flock plans and post-exposure management and monitoring plans.

(a) The owner of the flock or his or her agent must identify all animals 1 year of age or over within the flock. All animals less than 1 year of age must be identified when a change of ownership occurs, with the exception of those animals under 1 year of age moving within slaughter channels that must be identified in accordance with §§ 79.2 and 79.3 of this chapter. The form of identification must be an electronic implant, flank tattoo, ear tattoo, or tamper-resistant ear tag approved for this use by APHIS. In the case of goats, the form of identification may alternatively be a tail fold tattoo. The official identification must provide a unique identification number that is applied by the owner of the flock or his or her agent and must be linked to that flock in the National Scrapie Database.

(b) Upon request by a State or APHIS representative, the owner of the flock or his or her agent must have an accredited veterinarian collect tissues from animals for scrapie diagnostic purposes and submit them to a laboratory designated by a State or APHIS representative.

(c) Upon request by a State or APHIS representative, the owner of the flock or his or her agent must make animals in the flock and the records required to be kept as a part of these plans available for inspection.

(d) The owner of the flock or his or her agent must meet requirements found necessary by a State or APHIS representative to monitor for scrapie and to prevent the recurrence of scrapie in the flock and to prevent the spread of scrapie from the flock. These other requirements may include, but are not limited to: Utilization of a live-animal screening test; restrictions on the animals that may be moved from the flock; segregated lambing; cleaning and disinfection of lambing facilities; and/or education of the owner of the flock and personnel working with the flock in techniques to recognize clinical signs of scrapie and to control the spread of scrapie.

(e) The owner of the flock or his or her agent must immediately report the following animals to a State representative, APHIS representative, or an accredited veterinarian, and not remove them from a flock without written permission of a State or APHIS representative:

(1) Any sheep or goat exhibiting weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, swaying of back end; increased sensitivity to noise and sudden movement; tremor, "star gazing," head pressing, recumbency, or other signs of neurological disease or chronic wasting illness; and

(2) Any sheep or goat in the flock that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test.

(f) *Requirements for flock plans only.* (1) An epidemiologic investigation must be conducted to identify high-risk and exposed animals that currently reside in the flock or that previously resided in the flock, and all high-risk animals, scrapie-positive animals, and suspect animals must be removed from the flock. The animals must be removed either by movement to an approved research facility or by euthanization and disposal of the carcasses by burial, incineration, or other methods in accordance with local, State, and Federal laws, or, in the case of high-risk animals, by movement to slaughter in accordance with the provisions of part 79 of this chapter, or upon request in individual cases by another means determined by the Administrator to be sufficient to prevent the spread of scrapie;

(2) The premises of a flock under a flock plan must be cleaned and disinfected in accordance with § 54.7(e). Additional guidance on acceptable means of cleaning and disinfection is also available in the Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules. Premises or portions of premises may be exempted from the cleaning and disinfecting requirements if a designated scrapie epidemiologist

determines, based on epidemiologic investigation, that cleaning and disinfection of such buildings, holding facilities, conveyances, or other materials on the premises will not significantly reduce the risk of the spread of scrapie, either because effective disinfection is not possible or because the normal operations on the premises prevent transmission of scrapie. No area where a scrapie-positive animal lambed or aborted may be exempted;

(3) The owner of the flock, or his or her agent, must request breed associations and registries, livestock markets, and packers to disclose records to APHIS representatives or State representatives, to be used to identify source flocks and trace exposed animals, including high-risk animals; and

(4) The flock owner must agree to conduct post-exposure management and monitoring.

(g) *Requirements for post-exposure management and monitoring plans only:* The plan must require that a State or APHIS representative inspect the flock and flock records at least once every 12 months. The owner of the flock or his or her agent must maintain, and keep for a minimum of 5 years after an animal dies or is otherwise removed from a flock, the following records for each animal in the flock:

(1) Any identifying marks or tags present on the animal, including the animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo, tamper resistant ear tag, or, in the case of goats, tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain;

(2) Sex, year of birth, breed, and when possible to determine, the following: sire, dam, and offspring of the animal;

(3) Date of acquisition and previous flock, if the animal was not born in the flock; and

(4) Disposition of the animal, including the date and cause of death, if known, or date of removal from the flock and name and address of the person to whom the animal was transferred.

(h) *Modification of flock plans and post-exposure management and monitoring plans.* A designated scrapie epidemiologist may modify the requirements of a flock plan or post-exposure management and monitoring plan to accommodate the situation of a particular flock if the modified plan requires:

(1) That a State or APHIS representative inspect the flock and flock records at least once every 12 months;

(2) The testing of animals at a level that will result in 99 percent confidence of detecting a 1 percent prevalence in the flock (for flock plans only);

(3) The official identification of all animals upon leaving the premises of the flock for purposes other than slaughter and of all animals over 18 months of age (as evidenced by the eruption of the second incisor) in slaughter channels; and

(4) Recordkeeping including:

(i) For acquired animals, the date of acquisition, name and address of the person from whom the animal was acquired, any identifying marks or tags present on the animal including the animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo, tamper resistant ear tag, or, in the case of goats, tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain.

(ii) For animals leaving the premises of the flock, the disposition of the animal, including, for those animals that are required to be identified, any identifying marks or tags present on the animal, including the animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo, tamper resistant ear tag, or, in the case of goats, a tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain, the date and cause of death, if known, or date of removal from the flock and name and address of the person to whom the animal was transferred.

(iii) Maintenance of these records for 5 years.

(5) Requirements equivalent to those contained in paragraphs (b), (c), (d), and (e) of this section.

(i) *Post-exposure management and monitoring plans for exposed flocks that were not source flocks and in which a scrapie infected animal did not lamb.* A designated scrapie epidemiologist shall determine the testing and monitoring requirements for these flocks based on the exposure risk of the individual flock.

§ 54.9 Waiver of requirements for scrapie control pilot projects.

The Administrator may waive the following requirements of this part for participants in a scrapie control pilot project by recording the requirements waived in the scrapie control pilot project plan:

(a) The determination that an animal is a high-risk animal, if the scrapie control pilot project plan contains testing or other procedures that indicate that an animal, despite meeting the definition of high-risk animal, is unlikely to spread scrapie; and

(b) The requirement that high-risk animals must be removed from a flock if the scrapie control pilot project plan contains alternative procedures to prevent the further spread of scrapie without removing high-risk animals from the flock.

§ 54.10 Tests for scrapie.

(a) The Administrator may approve new tests for the diagnosis of scrapie conducted on live or dead animals for use in the Scrapie Eradication Program. The Administrator will base the approval or disapproval of a test on the evaluation by APHIS and, when appropriate, outside scientists, of:

(1) A standardized test protocol that must include a description of the test, a description of the reagents, materials, and equipment used for the test, the test methodology, and any control or quality assurance procedures;

(2) Data to support reproducibility, that is, the ability to reproduce the same result repeatedly on a given sample;

(3) Data to support suitability, that is, data to show that similar results can be produced when the test is run at other laboratories;

(4) Data to support the sensitivity and specificity of the test; and

(5) Any other data requested by the Administrator to determine the suitability of the test for program use.

(b) To be approved, a scrapie test must be able to be replicated at the National Veterinary Services Laboratories, or another reliable, timely, and cost effective method of check testing must be available to APHIS.

(c) A test or combination of tests may be approved for the identification of suspect animals, for the identification of scrapie-positive animals, or for other purposes such as flock certification. For a test to be approved for the identification of scrapie-positive animals, the test must have a specificity comparable to the specificity of the currently approved tests. For a test to be approved as a live animal screening test for the identification of suspect animals, the test must be usually reliable but need not be definitive for diagnosing scrapie.

(d) Specific guidelines for use of approved scrapie tests within the Scrapie Eradication Program or Scrapie Flock Certification Program will be added to this part as tests are approved and will also be contained in the Scrapie Eradication UM&R and the Scrapie Flock Certification Program standards based on the characteristics of the test, including specificity, sensitivity, and predictive value.

(e) If an owner elects to have an unofficial test conducted on an animal for scrapie, or for the proteinase resistant protein associated with scrapie, and that animal tests positive to such a test, the animal will be designated a suspect animal, unless:

(1) The test was run as part of a bona fide research protocol designed to evaluate an unapproved test in which the owner is not informed of the test result; or

(2) The test protocol includes appropriate measures to prevent the spread of scrapie.

§ 54.11 Approval of laboratories to run official scrapie tests and official genotype tests.

(a) State, Federal, and university laboratories, or in the case of genotype tests, private laboratories will be approved by the Administrator when he or she determines that the laboratory:

(1) Employs personnel assigned to supervise the testing who are qualified to conduct the test based on education, training, and experience and who have been trained by the National Veterinary Services Laboratories (NVSL) or who have completed equivalent training approved by NVSL;

(2) Has adequate facilities and equipment to conduct the test;

(3) Follows standard test protocols;

(4) Meets check test proficiency requirements;

(5) Meets recordkeeping requirements;

(6) Will retain records, slides, blocks, and other specimens from all cases for at least 1 year and from positive cases for 5 years;

(7) Will allow APHIS to inspect the laboratory without notice during normal business hours; and

(8) Will report all test results to State and Federal animal health officials within agreed timeframes. An inspection may include, but is not limited to, review and copying of records, examination of slides, observation of the test being conducted, and interviewing of personnel.

(b) A laboratory may request approval to conduct one or more types of scrapie test or genotype test on one or more types of tissue. To be approved, a laboratory must meet the requirements in paragraph (a) of this section for each type of test and for each type of tissue for which they request approval.

(c) The Administrator may withdraw approval of any laboratory for failure to meet any of the conditions required by paragraph (a) of this section. The Administrator shall give written notice of the proposed withdrawal to the director of the laboratory and shall give the director an opportunity to respond. If there are conflicts as to any material fact concerning the reason for withdrawal, a hearing will be held to resolve the conflicts.

Subpart B—Scrapie Flock Certification Program

§ 54.20 Administration.

The Scrapie Flock Certification Program is a cooperative effort between APHIS; members of the sheep and goat industry, including owners of flocks, slaughtering and rendering establishments, and breed associations and registries; accredited veterinarians; and State governments. APHIS coordinates with State scrapie certification boards and State animal health agencies to encourage flock owners to certify their flocks as free of scrapie by being in continuous compliance with the Scrapie Flock Certification Program standards.

§ 54.21 Participation.

Any owner of a sheep or goat flock may apply to enter the Scrapie Flock Certification Program by sending a written request to a State scrapie certification board or to the area veterinarian in charge. A notice containing a current list of flocks participating in the Scrapie Flock Certification Program, and the certification status of each flock, may be obtained from the APHIS web site at URL *http://www.aphis.usda.gov/vs/scrapie*. A list of noncompliant flocks may also be obtained from this site, and either list may be obtained by writing to the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

(Approved by the Office of Management and Budget under control number 0579–0101)

§ 54.22 State scrapie certification boards.

An area veterinarian in charge, after consulting with a State representative and industry representatives, may appoint a State scrapie certification board for the purpose of coordinating activities for the Scrapie Flock Certification Program, including making decisions to admit flocks to the Scrapie Flock Certification Program and to change flock status in accordance with the Scrapie Flock Certification Program standards. These boards are not appointed for the purpose of providing APHIS with consensus advice or policy recommendations. No more than one State scrapie certification board may be formed in each State. Each State scrapie certification board shall include as members the area veterinarian

in charge, one or more State representatives, one or more accredited veterinarians, when possible, and one or more owners of flocks, and, at the discretion of the area veterinarian in charge, may include other members.

PART 55—CONTROL OF CHRONIC WASTING DISEASE

Sec.
55.1 Definitions.

Subpart A—Chronic Wasting Disease Indemnification Program

55.2 Payment of indemnity.
55.3 Appraisal and destruction of captive cervids.
55.4 Disinfection of premises, conveyances, and materials.
55.5 Presentation of claims for indemnity.
55.6 Mortgage against animals.
55.7 Claims not allowed.
55.8 Official CWD tests and approval of laboratories to conduct official CWD tests.

Subpart B—Chronic Wasting Disease Herd Certification Program

55.21 Administration.
55.22 Participation and enrollment.
55.23 Responsibilities of States and enrolled herd owners.
55.24 Herd status.
55.25 Animal identification.

AUTHORITY: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, and 134b; 7 CFR 2.22, 2.80, and 371.4.

EFFECTIVE DATE NOTE: At 71 FR 41701, July 21, 2006, the authority citation for part 55 was revised, effective Oct. 19, 2006. At 71 FR 52983, Sept. 8, 2006, the effective date was delayed until further notice. For the convenience of the user, the revised text is set forth as follows:

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

SOURCE: 67 FR 5931, Feb. 8, 2002, unless otherwise noted.

§ 55.1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any other employee of the Animal and Plant Health Inspection Service, United States Department of Agriculture, delegated to act in the Administrator's stead.

Animal. Any captive cervid.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS employee. Any individual employed by the Animal and Plant Health Inspection Service who is authorized by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

Captive. Animals that are privately or publicly maintained or held for economic or other purposes within a perimeter fence or confined space. Animals that are held for research purposes are not included.

Cervid. All members of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer, and related species.

Chronic wasting disease, CWD. A transmissible spongiform encephalopathy of cervids.

CWD exposed animal. An animal that is part of a CWD positive herd, or that was part of a herd within 5 years prior to that herd's designation as CWD positive, or an animal that has been housed with or been in direct contact with a positive animal, or an animal that has been on a contaminated premises.

CWD positive animal. An animal that has had a diagnosis of CWD confirmed by means of an official CWD test.

CWD positive herd. A herd in which a CWD positive animal resided at the time it was diagnosed and which has not been released from quarantine.

CWD suspect animal. An animal for which an APHIS employee has determined that laboratory evidence or clinical signs suggest a diagnosis of CWD.

Department. The United States Department of Agriculture.

Herd. A group of animals that are:

(1) Under common ownership or supervision and are grouped on one or more parts of any single premises (lot, farm, or ranch) or

(2) All animals under common ownership or supervision on two or more premises which are geographically separated but on which animals have been interchanged or had direct or indirect contact with one another.

Herd plan. A written herd management agreement developed by APHIS with input from the herd owner, State representatives, and other affected parties. A herd plan sets out the steps to be taken to eradicate CWD from a CWD