

and disinfection, except for cleaning and disinfection of the conveyances used to transport the swine to the location of disposal.

[64 FR 13065, Mar. 17, 1999. Redesignated at 65 FR 20711, Apr. 18, 2000]

### PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

Sec.

- 53.1 Definitions.
- 53.2 Determination of existence of disease; agreements with States.
- 53.3 Appraisal of animals or materials.
- 53.4 Destruction of animals.
- 53.5 Disinfection or destruction of materials.
- 53.6 Disinfection of animals.
- 53.7 Disinfection of premises, conveyances, and materials.
- 53.8 Presentation of claims.
- 53.9 Mortgage against animals or materials.
- 53.10 Claims not allowed.

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

CROSS REFERENCE: For non-applicability of part 53 with respect to certain claims for indemnity, see §51.10 of this chapter.

#### § 53.1 Definitions.

*Accredited veterinarian.* A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in parts 1, 2, 3, and 11 of subchapter A of this chapter 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).

*Animals.* Livestock, poultry, and all other members of the animal kingdom, including birds whether domesticated or wild, but not including man.

*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.

*Bird.* Any member of the class *aves* other than poultry.

*Department.* The United States Department of Agriculture.

*Disease.* Foot-and-mouth disease, rinderpest, contagious pleuropneumonia, Newcastle disease, highly pathogenic avian influenza, infectious salmon anemia, spring viremia of carp, or any other communicable disease of livestock or poultry that in the opinion of the Secretary constitutes an emergency and threatens the livestock or poultry of the United States.

*Highly pathogenic avian influenza.* (1) Any influenza virus that kills at least 75 percent of eight 4- to 6-week-old susceptible chickens within 10 days following intravenous inoculation with 0.2 ml of a 1:10 dilution of a bacteria-free, infectious allantoic fluid;

(2) Any H5 or H7 virus that does not meet the criteria in paragraph (1) of this definition, but has an amino acid sequence at the hemagglutinin cleavage site that is compatible with highly pathogenic avian influenza viruses; or

(3) Any influenza virus that is not an H5 or H7 subtype and that kills one to five chickens and grows in cell culture in the absence of trypsin.

*Inspector in charge.* An APHIS employee who is designated by the Administrator to take charge of work in connection with the control and eradication of disease.

*ISA Program veterinarian.* The APHIS veterinarian assigned to manage the infectious salmon anemia program for APHIS in the State of Maine and who reports to the Area Veterinarian in Charge.

*Materials.* Parts of barns or other structures, straw, hay, and other feed for animals, farm products or equipment, clothing, and articles stored in or adjacent to barns or other structures.

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

*Newcastle disease.* Newcastle disease is an acute, rapidly spreading, and usually fatal viral infection of poultry caused by an avian paramyxovirus

serotype 1 that meets one of the following criteria for virulence: The virus has an intracerebral pathogenicity index (ICPI) in day-old chicks (*Gallus gallus*) of 0.7 or greater; or multiple basic amino acids have been demonstrated in the virus (either directly or by deduction) at the C-terminus of the F2 protein and phenylalanine at residue 117, which is the N-terminus of the F1 protein. The term “multiple basic amino acids” refers to at least three arginine or lysine residues between residues 113 and 116. In this definition, amino acid residues are numbered from the N-terminus of the amino acid sequence deduced from the nucleotide sequence of the F0 gene; 113–116 corresponds to residues -4 to -1 from the cleavage site. Failure to demonstrate the characteristic pattern of amino acid residues as described above may require characterization of the isolated virus by an ICPI test. A failure to detect a cleavage site that is consistent with virulent strains does not confirm the absence of a virulent virus.

*Person.* Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

*Pet bird.* Any bird that is kept for personal pleasure and is not for sale.

*Poultry.* Chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl.

*Secretary.* The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has been or may be delegated to act in the Secretary’s stead.

*State.* Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

[61 FR 56882, Nov. 5, 1996, as amended at 67 FR 17610, Apr. 11, 2002; 69 FR 27827, May 17, 2004; 74 FR 18287, Apr. 22, 2009; 78 FR 19082, Mar. 29, 2013]

### § 53.2 Determination of existence of disease; agreements with States.

(a) The Administrator is hereby authorized to invite the proper State authorities to cooperate with the Depart-

ment in the control and eradication of any disease within the meaning of § 53.1.

(b) Upon agreement of the authorities of the State to enforce quarantine restrictions and orders and directives properly issued in the control and eradication of such a disease, the Administrator is hereby authorized to agree, on the part of the Department, to cooperate with the State in the control and eradication of the disease, and, except as provided in § 53.11, to pay 50 percent (and in the case of Newcastle disease or highly pathogenic avian influenza, up to 100 percent, and in the case of infectious salmon anemia, up to 60 percent) of the expenses of purchase, destruction and disposition of animals and materials required to be destroyed because of being contaminated by or exposed to such disease: *Provided, however,* That if the animals were exposed to such disease prior to or during interstate movement and are not eligible to receive indemnity from any State, the Department may pay up to 100 percent of the purchase, destruction, and disposition of animals and materials required to be destroyed: *Provided, further,* That the cooperative program for the purchase, destruction, and disposition of birds shall be limited to birds which are identified in documentation pursuant to Cooperative Agreements,<sup>1</sup> as constituting a threat to the poultry industry of the United States: *And provided further,* That the Secretary may authorize other arrangements for the payment of such expenses upon finding that an extraordinary emergency exists.

[37 FR 5689, Mar. 18, 1972, as amended at 49 FR 3448, Jan. 27, 1984; 49 FR 26712, June 29, 1984; 61 FR 56883, Nov. 5, 1996; 67 FR 17610, Apr. 11, 2002; 67 FR 67095, Nov. 4, 2002; 78 FR 19082, Mar. 29, 2013]

### § 53.3 Appraisal of animals or materials.

(a) Animals affected by or exposed to disease, and materials required to be destroyed because of being contaminated by or exposed to disease shall be

<sup>1</sup> Agreements between the Departments and the particular State involved relating to cooperative animal (including poultry) disease prevention, control, and eradication.

appraised by an APHIS employee and a representative of the State jointly, or, if the State authorities approve, by an APHIS employee alone.

(b) The appraisal of animals shall be based on the fair market value and shall be determined by the meat, egg production, dairy or breeding value of such animals. Animals may be appraised in groups providing they are the same species and type and providing that where appraisal is by the head each animal in the group is the same value per head or where appraisal is by the pound each animal in the group is the same value per pound.

(c) Appraisals of animals shall be reported on forms furnished by APHIS. Reports of appraisals shall show the number of animals of each species and the value per head or the weight and value by pound.

(d) Appraisals of materials shall be reported on forms furnished by APHIS. Reports of appraisals of materials shall, when practicable, show the number, size or quantity, unit price, and total value of each kind of material appraised.

[28 FR 5935, June 13, 1963, as amended at 35 FR 13981, Sept. 3, 1970; 36 FR 25217, Dec. 30, 1971; 56 FR 51974, Oct. 17, 1991; 68 FR 6343, Feb. 7, 2003]

#### § 53.4 Destruction of animals.

(a) Except as provided in paragraph (b) of this section, animals infected with or exposed to disease shall be killed promptly after appraisal and disposed of by burial or burning, unless otherwise specifically provided by the Administrator, at his or her discretion. In the case of animals depopulated due to spring viremia of carp or infectious salmon anemia, salvageable fish may be sold for rendering, processing, or any other purpose approved by the Administrator. The proceeds gained from the sale of the fish will be subtracted from any payment from APHIS for which the producer or owner is eligible under § 53.2(b) or § 53.11.

(b) [Reserved]

(c) The killing of animals and the burial, burning, or other disposal of carcasses of animals pursuant to the regulations in this part shall be supervised by an APHIS employee who shall prepare and transmit to the Adminis-

trator a report identifying the animals and showing the disposition thereof.

[28 FR 5935, June 13, 1963, as amended at 56 FR 51974, Oct. 17, 1991; 67 FR 67095, Nov. 4, 2002; 68 FR 42569, July 18, 2003; 69 FR 27827, May 17, 2004; 71 FR 56323, Sept. 26, 2006]

#### § 53.5 Disinfection or destruction of materials.

(a) In order to prevent the spread of disease, materials contaminated by or exposed to disease shall be disinfected: *Provided, however,* That in all cases in which the cost of disinfection would exceed the value of the materials or disinfection would be impracticable for any reason, the materials shall be destroyed, after appraisal as provided in § 53.3.

(b) The disinfection or destruction of materials under this section shall be under the supervision of an APHIS employee who shall prepare and transmit to the Administrator a certificate identifying all materials which are destroyed, showing the disposition thereof.

[28 FR 5935, June 13, 1963, as amended at 56 FR 51974, Oct. 17, 1991]

#### § 53.6 Disinfection of animals.

Animals of species not susceptible to the disease for which a quarantine has been established, but which have been exposed to the disease, shall be disinfected when necessary by such methods as the Administrator shall prescribe from time to time.

[28 FR 5935, June 13, 1963, as amended at 56 FR 51974, Oct. 17, 1991]

#### § 53.7 Disinfection of premises, conveyances, and materials.

All premises, including barns, corrals, stockyards and pens, and all cars, vessels, aircraft, and other conveyances, and the materials thereon, shall be cleaned and disinfected under supervision of an APHIS employee whenever necessary for the control and eradication of disease. Expenses incurred in connection with such cleaning and disinfection shall be shared according to the agreement reached under § 53.2 with the State in which the work is done. In the case of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated

## § 53.8

with the H5 or H7 virus, premises may not be restocked with poultry until at least 7 days following such cleaning and disinfection, unless the Administrator determines that a shorter or longer period of time is adequate or necessary to protect new poultry against infection.

[68 FR 42569, July 18, 2003]

### § 53.8 Presentation of claims.

(a) Claims for the following must be presented to APHIS, through the inspector in charge, on a form approved by the Administrator:

- (1) Compensation for the value of animals;
  - (2) The cost of burial, burning, or other disposition of animals;
  - (3) The value of material destroyed; and
  - (4) The expenses of destruction.
- (b) [Reserved]

(Approved by the Office of Management and Budget under control number 0579-0208)

[67 FR 67095, Nov. 4, 2002, as amended at 68 FR 42570, July 18, 2003; 71 FR 56323, Sept. 26, 2006]

### § 53.9 Mortgage against animals or materials.

When animals or materials have been destroyed pursuant to the requirements contained in this part, any claim for indemnity shall be presented on forms furnished by APHIS on which the owner of the animals or materials shall certify that the animals or materials covered thereby, are, or are not, subject to any mortgage as defined in this part. If the owner states there is a mortgage, forms furnished by APHIS shall be signed by the owner and by each person holding a mortgage on the animals or materials, consenting to the payment of any indemnity allowed to the person specified thereon.

[28 FR 5935, June 13, 1963, as amended at 56 FR 51974, Oct. 17, 1991]

### § 53.10 Claims not allowed.

(a) The Department will not allow claims arising under the terms of this part if the payee has not complied with all quarantine requirements.

(b) Expenses for the care and feeding of animals held for destruction will not be paid by the Department, unless the

## 9 CFR Ch. I (1-1-15 Edition)

payment of such expense is specifically authorized or approved by the Administrator.

(c) The Department will not allow claims arising out of the destruction of animals or materials unless they shall have been appraised as prescribed in this part and the owners thereof shall have executed a written agreement to the appraisals.

(d) The Department will not allow claims arising out of the destruction of animals or materials which have been moved or handled by the owner thereof or its officer, employee, or agent, acting within the scope of his or its office, employment or agency, in violation of a law or regulation administered by the Secretary for the prevention of the introduction into or the dissemination within the United States of any communicable disease of livestock or poultry for which the animal or material was destroyed, or in violation of a law or regulation for the enforcement of which the Secretary enters or has entered into a cooperative agreement for the control and eradication of such disease.

(e) The Department will not allow claims arising out of the destruction of fish due to infectious salmon anemia (ISA) unless the claimants have agreed in writing to participate fully in the cooperative ISA control program administered by APHIS and the State of Maine. Participants in the ISA control program must:

(1) Establish and maintain a veterinary client-patient relationship with an APHIS accredited veterinarian and inform the ISA Program Veterinarian in writing of the name of their accredited veterinarian at the time the participant enrolls in the ISA program and within 15 days of any change in accredited veterinarians.

(2) Cooperate with and assist in periodic on-site disease surveillance, testing, and reporting activities for ISA, which will be conducted by their APHIS accredited veterinarian or a State or Federal official as directed by the ISA Program Veterinarian.

(3) Develop and implement biosecurity protocols for use at all participant-leased finfish sites and participant-operated vessels engaged in aquaculture operations throughout Maine.

A copy of these protocols shall be submitted to the ISA Program Veterinarian at the time the participant enrolls in the ISA program and within 15 days of any change in the protocols.

(4) Develop, with the involvement of the participant's accredited veterinarian and the fish site health manager, a site-specific ISA action plan for the control and management of ISA. A copy of the action plan shall be submitted to APHIS for review at the time the participant enrolls in the ISA program and within 15 days of any change in the action plan.

(5) Participate in the State of Maine's integrated pest management (IPM) program for the control of sea lice on salmonids. A copy of the management plan developed by the participant for the State IPM program shall be submitted to APHIS for review at 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 therapeutic 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)

[28 FR 5935, June 13, 1963, as amended at 45 FR 86411, Dec. 31, 1980; 56 FR 51974; 67 FR 17611, Apr. 11, 2002; 69 FR 27827, May 17, 2004]

**PART 54—CONTROL OF SCRAPIE**

Sec.

54.1 Definitions.

54.2 Cooperative agreements and memoranda of understanding with States.

**Subpart A—Scrapie Indemnification Program**

54.3 Animals eligible for indemnity payments.

54.4 Application by owners for indemnity payments.

54.5 Certification by owners.

54.6 Amount of indemnity payments.

54.7 Procedures for destruction of animals.

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

54.9 Waiver of requirements for scrapie control pilot projects.

54.10 Tests for scrapie.

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

**Subpart B—Scrapie Flock Certification Program**

54.20 Administration.

54.21 Participation.

54.22 State scrapie certification boards.

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