

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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2005 JUN 24 P 3:28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative CITE AUTHORITY: West Virginia Code 19-9-2

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Animal Disease Control


IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 25, 2005 AT 4:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Department of
Agriculture
Dr. L. Joe Starcher, State Veterinarian
1900 Kanawha Boulevard, East
Charleston, WV 25305-0172

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

#13.40

Review of Proposed Changes
West Virginia Department of Agriculture
Title 61-Series 1
Animal Disease Control

§61-1- General

§61-1-2. Inserted an incorporation by Reference

61-1-2.-15.3.b. Numbering changes.

61-1-3.14. Additions to definition.

61-1-3.26. Change of wording.

61-1-15.2.a. One testing cost added:

- added exotic newcaslte disease PCR \$15.00

Statement of Circumstances
West Virginia Department of Agriculture
Title 61-Series 1
Animal Disease Control

The revisions that are included in Title 61, Series 1 are made necessary by the changing conditions in the agriculture community, both within and without the State of West Virginia.

The addition of laboratory charges are to recover cost of newly implemented testing. The recognition of the Code of Federal Regulations ensures the State of West Virginia's compliance with federal statute dealing with the identification and movement of animals. This adoption of CFR also allows for the state of West Virginia to uphold the standards as a Consistent state under USDA/APHIS regulations.

All of the recommended revisions will allow our state to continue to be at the forefront of agriculture programs.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 61, Series 1

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Boulevard, East
Charleston, WV 25305-0170

Phone Number: 304-558-2214 Email: jstarcher@ag.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The addition of the \$15.00 fee for exotic newcastle disease PCR testing will only cover the cost of the testing there will be no revenue generated from this fee.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Equipment	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title:

61, Series 1

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

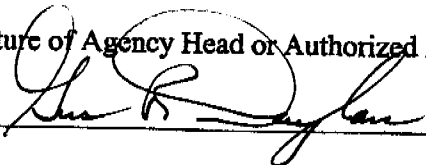
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The addition of the \$15.00 fee for exotic newcastle disease PCR testing will only cover the cost of the testing there will be no revenue generated from this fee.

Date: _____

Signature of Agency Head or Authorized Representative



TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

SERIES 1
ANIMAL DISEASE CONTROL

FILED
2005 JUN 24 P 3: 28
OFFICE WEST VIRGINIA
SECRETARY OF STATE

61-1-1. General.

1.1. Scope. -- This legislative rule establishes general operating rules and procedures in the Animal Health Division which are established to prevent, suppress, control and eradicate communicable diseases of livestock and poultry.

1.2. Authority. -- W. Va. Code 19-9-2.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Amendment of Former Rules. -- This legislative rule amends Department of Agriculture rule "Animal Disease Control" 61CSR1, filed ~~June 21, 2002~~ May 16, 2005, effective ~~June 21, 2002~~ July 1, 2005.

61-1-2. Incorporation by Reference Requirements of Scrapie in Sheep and Goats

The Code of Federal Regulations (9 CFR, Part 79) Scrapie in Sheep and Goats, identification of sheep and goats in interstate commerce and qualifying the State of West Virginia as a Consistent State by definition of USDA/VS are hereby adopted.

61-1-2. 3. Definitions.

2.3.1. Accredited Veterinarian means any veterinarian accredited by APHIS and approved by the Animal Health Official of the state where the veterinarian is doing business.

2.3.2. Animal means a bird, fish, reptile, or mammal other than man.

2.3.3. APHIS means the Animal and Plant Health Inspection Service or its successor agency of the United States Department of Agriculture.

2.3.4. Approved E.I.A. and/or Pseudorabies Laboratory means any United States Department of Agriculture laboratory approved for conducting an official E.I.A. (Coggins') test and/or an official pseudorabies test.

2.3.5. Biologicals mean products intended for diagnostic or therapeutic purposes in animals other than man.

2.3.6. Boar means any male swine used for or intended to be used for breeding purposes.

2.3.7. Brucellosis or Bang's Disease is an infectious disease in bovine animals caused by any member of the Genus Brucella. Any animal is considered infected with brucellosis if it has a positive reaction to

any APHIS approved test for brucellosis, or if any member of the Genus Brucella has been found in the body or its secretions or discharges, or if it has been treated with a live culture of Brucella.

2-3.8. Calves mean bovine animals which have not reached the usual age of maturity for the particular breed.

2-3.9. Cattle means bison or bovine animals of any age.

2-3.10. Certified Brucellosis Free Herd means a herd which is certified as free from brucellosis by the Commissioner and APHIS.

2-3.11. Cervidae means a deer or elk of any age.

2-3.12. Camelids means llama, alpaca or camel of any age.

2-3.13. Commissioner means the Commissioner of the West Virginia Department of Agriculture or his or her agent. Employees of the Veterinary Services of APHIS have the authority to act as agents of the commissioner.

2-3.14. Communicable disease means all the diseases listed in W. Va. Code 19-9-1(e) and the diseases avian influenza, ~~and~~ Exotic Newcastle Disease, Scrapie and any disease defined by USDA/APHIS.

2-3.15. Equine means an animal that is a member of the Equine genus including horses, ponies, mules, asses, donkeys, and zebras.

2-3.16. E.I.A. Reactor means an equine one year of age or older who has had two consecutive positive tests for E.I.A. performed in an approved E.I.A. laboratory and one additional positive test performed in a United States Department of Agriculture. The animal may not show clinical signs of the disease.

2-3.17. Exposed E.I.A. Animal means any equine that is or has been stabled or commingling within 200 yards of any other equine that has had a positive E.I.A. (Coggins') test and may include an animal which has had the same handler as the equine that has had the positive E.I.A. (Coggins') test.

2-3.18. Farm means one contiguous parcel of land operated as a unit. Parcels of land owned by a farmer, but separated by other farms are considered separate farms.

2-3.19. Feeder pig means any immature swine used for or intended to be used exclusively for feeding for slaughter.

2-3.20. Fur-Bearing animal means a mink, weasel, muskrat, beaver, opossum, skunk, civet cat (commonly called polecat), otter, red fox, gray fox, wildcat, bobcat, bay lynx, raccoon or fisher.

2-3.21. Histopathology service is the preparation and staining tissue for microscopic viewing for the detection of abnormalities which may be indicative of a disease or condition.

2-3.22. Indemnity means money paid by the commissioner to the owner of an animal found to be a reactor for a communicable disease which cannot be cured or controlled by isolation and adequate or proper veterinary treatment. The amount of the indemnity will be the difference between the sale price of the animal and the value of the animal in the certificate of appraisal.

2-3.23. Laboratory services are those procedures done in the laboratory.

2-3.24. National Poultry Improvement Plan is a cooperative federal-state-industry mechanism for controlling certain poultry diseases as set forth in the National Poultry Improvement Plan and Auxiliary

Provisions set forth in Title 44 of the Code of Federal Regulations Parts 145 through 147 (published October 26, 1979).

2.3.25. Non-reactor means an animal showing a negative reaction noted by a specific titer to a test.

2.3.26. ~~Official Health Certificate~~ Certificate Veterinary of Inspection (CVI) means an official form issued by an accredited veterinarian in the state of origin and approved by the Animal Health Official of the state of origin listing all animals (with an accurate description or other identification) covered by the certificate that have been examined by the person issuing the form, stating the nature of the examination and the findings of the health of the animals covered by the certificate. In addition, the ~~official health certificate~~ CVI shall contain the names and address of the consignor and the consignee of the animals, the vaccinations that the animals may have received and the dates that the vaccinations occurred. The ~~official health certificate~~ CVI is void thirty (30) days after issuance.

2.3.27. Official Pseudorabies Serologic Test is an official pseudorabies test conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

2.3.28. Official Pseudorabies Test is any test for the diagnosis of pseudorabies approved by the United States Department of Agriculture and conducted in an approved laboratory.

2.3.29. Person means any individual, partnership, association, fiduciary, firm, company, corporation or any organized group of persons whether incorporated or not. The term extends to the agents, servants, officers and employees of the person.

2.3.30. Pseudorabies or Aujeszky's disease (mad itch) is an infectious and contagious disease of swine and certain other warm-blooded animals.

2.3.31. Ratite means any group of flightless birds having a flat breastbone without the keel-like prominence characteristic of most flying birds. This includes, but is not limited to the emu, ostrich, and rhea.

2.3.32. Reactor means any animal that responds to a test for a particular disease showing a positive titer above that which is considered a negative or suspect reaction for a particular disease.

2.3.33. Restricted vaccines are vaccines containing live, modified-live or infectious agents for any disease known to be a public health hazard, or that is for diseases not yet known to occur in this State or are capable of causing harm to man or animals when misused.

2.3.34. Sow means any female swine used for or intended to be used for breeding purposes.

2.3.35. Stocker Cattle means sexually intact cattle not consigned to slaughter.

2.3.36. Suspect means an animal that shows a titer to a particular test that makes it uncertain whether the animal has been exposed or has the particular disease.

2.3.37. Test means an examination made to determine the presence or absence of antibodies to a disease or an incriminating reaction to an antigen or other activities to determine whether or not an animal has a particular disease.

2.3.38. Tuberculosis means an infectious disease caused by *Mycobacterium bovis*, commonly known as the tubercle bacillus.

2.3.39. User fees are those fees collected from users of the laboratory's services.

2-3.40. Vaccine means any biological that is a preparation of live, modified-live or killed infectious agents or a preparation of tissue that is administered to produce or artificially increase immunity to a particular disease.

2-3.41. Vaccination means the inoculation of an animal with a vaccine.

2-3.42. Veterinarian means any veterinarian employed by a state or federal agency, any veterinarian in this state that is recognized by the West Virginia Veterinary Medical Association, any licensed veterinarian, or any livestock technician employed by the commissioner.

2-3.43. Wild Animal means any mammal native to the State of West Virginia, occurring either in a natural state or in captivity. The term does not include mice and rats.

2-3.44. Wild Bird means any bird native to the state, or migrating through this state and includes any imported foreign game bird, such as a pheasant, partridge, quail, grouse or waterfowl regardless of whether the birds are held in captivity or not. The term does not include a chicken, duck, goose, guinea fowl, peafowl, turkeys, common canary, exotic finches, ring doves or psittacidae.

2-3.45. Wildlife means any wild bird, wild animal, game animal, fur-bearing animal, fish (including minnows), amphibians, aquatic turtles or any aquatic animal used as fish bait, whether dead or alive.

61-1-3.4. Biologicals.

3-4.1. The Commissioner shall publish a list of the restricted vaccines on January 1 of each year. This list shall be provided to any person upon request.

3-4.2. No person may manufacture, offer for sale, or sell any biological in this state without a valid permit for the sale of biologicals issued by the commissioner.

61-1-4.5. Quarantines.

4-5.1. The commissioner may place a special or a general quarantine on any animal or animals as provided by W. Va. Code 19-9-13,14 and 15 and by this rule, when any animal is found to be infected with any contagious or infectious disease, when he or she suspects that any animal is infected with any contagious or infectious disease, or when the animal has been imported into this state in violation of the provisions of W. Va. Code 19-9-1 et seq. or this rule.

4-5.2. The commissioner may extend the special or general quarantine to the premises where the animal is or has been located when the premises is suspected of being capable of transmitting the disease to other animals or humans, or the animal needs to be segregated from other animals so as not to transmit the disease to other animals or humans.

4-5.3. The commissioner may extend the special or general quarantine to the meat or milk products of any animal found to be, or suspected of having, any contagious or infectious disease and to any equipment used in the collection, transportation, processing or manufacturing of the meat or milk products of the animal.

4-5.4. No person may move any animal or article under quarantine from the area specified in the quarantine while the quarantine is in effect, except when the commissioner gives written permission for this movement to take place.

4-5.5. The commissioner will release quarantine when the animal, product or location under quarantine is found to be free of disease or not capable of causing the transmission of disease to other animals or man.

4-5.6. The commissioner shall allow those animals that were released from quarantine when found to be free of disease to enter commerce free from any restraint caused by the quarantine.

61-1-5.6. Tuberculosis or Brucellosis in Cattle.

5-6.1. No person other than an accredited veterinarian, a qualified official of the United States Department of Agriculture or agents of the commissioner may perform any activity for the control or eradication of brucellosis or tuberculosis.

5-6.2. Each laboratory performing tests for brucellosis or tuberculosis shall report, in writing, to the commissioner, the results on all tests for brucellosis and tuberculosis as soon as the test results are received. Each report shall contain a description of the animal including the animal's tattoo or ear tag number and any other marks of identification, the sex, the age the breed, the complete test results, the name and address of the owner of the animal, the place where the animal was located when tested, and the name and address of the person testing the animal.

5-6.3. The test results for brucellosis will be evaluated with other factors such as the age of the animal, the vaccination status, if any, and the herd conditions when the commissioner is determining if an animal is a reactor. An animal tested at a public market may be considered a reactor when both the buffered plate antigen at a 1/25 dilution of serum and the standard card test results are positive.

5-6.4. The commissioner may quarantine any female animal who has not had a calf when found to be a progeny of a cow that is a reactor to brucellosis until the animal has had a calf and a subsequent negative test for brucellosis.

5-6.5. The commissioner shall quarantine any nursing bull calf found in this state that is a progeny of a cow that is a reactor to brucellosis until that animal has been castrated or the commissioner gives a special permit for the movement of that animal.

5-6.6. The commissioner shall mark any animal found to be infected with tuberculosis or brucellosis by placing an ear tag supplied by APHIS in the left ear of the animal and branding the animal high on the left hip near the tailhead with the capital letter "B" for brucellosis or the capital letter "T" for tuberculosis in letters not less than 2 inches high and 1 2 inches wide. The commissioner may accept the use of hot brands for this purpose.

5-6.7. Any person owning any animal infected with or exposed to tuberculosis or brucellosis that is under quarantine may apply to the commissioner for a permit to move the animal to slaughter. The application shall include the complete description of the animal, the place where the owner wishes to have the animal slaughtered and any other information that the commissioner may require to determine if he or she should grant a permit.

5-6.7.a. If the commissioner grants a permit to move to slaughter and issues a VS FORM 1-27 for this purpose, the permit shall specify all conditions for movement under which the permit is approved, including the requirement that the slaughter take place under the supervision of an authorized Federal or State meat plant veterinarian. The commissioner shall require the authorized Federal or State meat plant veterinarian supervising the slaughter to provide him or her immediately with a post-mortem report on the animal in the case where the animal was found to be a reactor to tuberculosis.

5-6.8. The commissioner shall pay an indemnity to the owner of any bison or bovine animal that has been found to be infected with either brucellosis or tuberculosis or to be a reactor to these diseases under

the following conditions:

5-6.8.a. Funds for the payment of indemnities are available to the commissioner;

5-6.8.b. The animal was located in this state when it was when found to be infected or when found to be a reactor;

5-6.8.c. The animal was tested for brucellosis using an APHIS approved test by veterinarians employed by APHIS or by the commissioner or for tuberculosis using an APHIS approved test by an accredited veterinarian;

5-6.8.d. The animal had been vaccinated for brucellosis within the age limits prescribed by the commissioner, as specified in section 9 of this rule, and the animal was at least 20 months of age, if it was a dairy type breed, or at least 24 months of age, if it was a beef type breed when found to be infected or when found to be a reactor;

5-6.8.e. The animal was not vaccinated for brucellosis as an adult nor maintained in a herd where vaccination for brucellosis of any animal in the herd has occurred at an age other than that specified in section 9 of this rule;

5-6.8.f. The animal has been quarantined, branded, issued a certificate of appraisal by the commissioner and slaughtered under the supervision of a Federal or State meat plant veterinarian;

5-6.8.g. The owner of the animal has allowed a quarantine to be placed on all the animals remaining under his or her ownership, signed an agreement with the commissioner listing all cattle owned by him or her and agreed to testing for brucellosis or tuberculosis on all cattle listed in the agreement. The owner has further agreed to destroy any animal found to be infected within 15 days of the date that the commissioner issues a certificate of appraisal for any animal found to be infected;

5-6.8.h. The owner of the animal has agreed to comply with W. Va. Code 19-9-28 through 19-37 and with the provisions of this rule;

5-6.8.i. The owner of the animal has agreed to make any further additions to the herd in compliance with the provisions of W. Va. Code 19-9-1 et seq. and with section 6 of this rule;

5-6.8.j. The owner of the animal has cleaned and disinfected all premises where the animal was located while it was infected;

5-6.8.k. The owner has not been negligent nor carelessly exposed any animals under his or her care to brucellosis or tuberculosis, and the owner has not purchased any animal that he or she knew or had reason to believe that had a communicable disease;

5-6.8.l. The owner of the animal is not any governmental agency or a political sub-division of this state;

5-6.8.m. The owner of the animal or his or her agent has not been previously found to have engaged in any fraudulent attempt to obtain an indemnity for any animal; and

5-6.8.n. The owner of the animal has sold the animal at the highest possible price.

5-6.9. The commissioner will issue a certificate of appraisal based on the purebred value of the animal only when the purebred registration certificate is submitted to the commissioner prior to making the

appraisal. If the animal is less than three years of age, the commissioner may amend the appraisal within 30 days after the original certificate was issued when the breed association submits the registration certificate for the animal. All other certificates of appraisal shall appraise the cattle at a value of a non-purebred, or grade, animal.

~~5-6.10.~~ The commissioner shall require that any herd that has been released from a brucellosis quarantine after the reactor animals in the herd have been removed, be retested for brucellosis at 9 and at 12 months after the quarantine is lifted.

61-1-~~6.7.~~ Animal Importation.

~~6.7.1.~~ No person may import any animal into this state in violation of the provisions of W. Va. Code 19-9-1 et seq. or this rule. Any animal that is imported into this state in violation of W. Va. Code 19-9-1 et seq. or this rule is subject to quarantine at the expense of the owner of the animal. Animals imported into this state for the sole purpose of exhibition at a fair or festival or for sale at a purebred consignment sale are subject to the provisions of section 8 of this rule in addition to those of this section.

~~6.7.2.~~ Except for the provisions of this section, no person may import any animal into this state that is infected with a communicable disease, that has recently been exposed to a communicable disease, or that is from an area under a state or federal quarantine.

~~6.7.3.~~ No person may import any animal into this state for breeding purposes or that is to be included in a dairy herd without a valid ~~official health certificate~~ CVI.

~~6.7.4.~~ The commissioner may require that an animal that is imported into this state for sale at a public market or for exhibition at a fair or festival in this state have a valid ~~official health certificate~~ CVI issued by an accredited veterinarian when the protection of the public and/or animal health of this state warrants this requirement.

~~6.7.5.~~ The animal health official of the state of origin of the animal to be imported into this state should forward the ~~official health certificate~~ CVI to the commissioner, in care of the Animal Health Division, prior to the importation of the animal.

~~6.7.5.a.~~ The commissioner will not accept an ~~official health certificate~~ CVI unless the name of the consignor and the consignee of the animal, an accurate description or identity of the animal, the general health status and any other information that is required by the provisions of this rule are listed on the certificate.

~~6.7.6.~~ The commissioner may decline to accept the ~~official health certificate~~ CVI of any animal, and thus prevent the importation of the animal, under the provisions of W. Va. Code 19-9-25.

~~6.7.7.~~ The commissioner may require that an animal have a special permit issued by him or her prior to importation into this state as specified by this section.

~~6.7.7.a.~~ When the commissioner requires that the animal to be imported have a special permit, the owner or cosigner of the animal shall apply to the commissioner for the permit. The application shall state the name of the owner, the description of the animal, the place of origin and the destination of the animal. The application may cover the importation of more than one animal if the origin and the destination are the same.

~~6.7.7.b.~~ No person may import an animal that requires a special permit for entry without a valid

special permit and may not import an animal in any manner that is contrary to the provisions of the permit issued.

~~6.7.7.c.~~ The commissioner will not issue a special permit for any animal that is not consigned to a legal resident of this state.

~~6.7.7.d.~~ The commissioner will issue a special permit for a period not to exceed fifteen days after the date of issue.

~~6.7.8.~~ The commissioner may allow any animal that does not have, or that has not been exposed to a communicable disease, to be imported into this state for immediate slaughter without an ~~official health certificate~~ CVI. The commissioner will allow an animal to be imported into this state for immediate slaughter when that animal has a communicable disease or has been exposed to a communicable disease only under the provisions of this section.

~~6.7.9.~~ Nursing animals may be imported into this state on the dam's test or status, except where otherwise specified.

~~6.7.10.~~ Any person in possession of any animal that is imported into this state shall maintain the ~~official health certificate~~ CVI on the waybill that shall accompany the animal at all times.

~~6.7.11.~~ All owners and operators of common carriers, railway cars, trucks and any other conveyance may not move livestock into this state or through this state unless the common carrier, railway car, truck or other conveyance:

~~6.7.11.a.~~ is maintained in a sanitary condition, or

~~6.7.11.b.~~ has been thoroughly cleaned and sanitized after use for the transportation of any animal that has been exposed to or that has any communicable disease. In the case where any animal that has been exposed to or has tuberculosis, the owner or operator of that conveyance shall maintain proof with the waybill that the cleaning and sanitizing of the conveyance has occurred under official supervision.

~~6.7.12.~~ Cattle

~~6.7.12.a.~~ No person may import into this state any bison or bovine animal that is affected with or has been exposed to scabies.

~~6.7.12.b.~~ The commissioner may require bison or bovine animals that are not capable of reproducing to have had a tuberculosis test prior to entry.

~~6.7.12.c.~~ The commissioner shall allow any bison or bovine animal infected with brucellosis or tuberculosis to enter this state only for slaughter, and only when a VS FORM 1-27 has been issued for that animal.

~~6.7.12.d.~~ No person may import any bison or bovine animal into this state that has been infected with or has been exposed to brucellosis or tuberculosis without a valid special permit issued by the commissioner.

~~6.7.12.d.A.~~ The special permit that the commissioner issues for an animal exposed to brucellosis or tuberculosis shall require that the animal be quarantined for not less than ninety days after importation and shall be retested after that time at the owner's expense to determine that the animal is not

infected with, or a reactor to, brucellosis or tuberculosis.

6-7.12.e. No person may import any bovine into this state that is from a herd that has been under quarantine for tuberculosis during the 12 months previous to the importation unless that animal has had a negative tuberculosis test no more than 2 months prior to importation into this state.

6-7.12.f. The commissioner may allow any bison or bovine animal imported for breeding purposes or for use in a dairy herd to be imported into this state with an ~~official health certificate~~ CVI and,

6-7.12.f.A. may enter without a tuberculosis test on the animal when that animal comes from a herd that has been completely tested for tuberculosis and found to contain no reactors within 12 months prior to the importation, or when the animal comes from a herd that is accredited as Tuberculosis Free by APHIS, or from a state designated as being tuberculosis free by APHIS, or

6-7.12.f.B. with a negative tuberculosis test no more than 2 months prior to importation into this state.

6-7.12.g. The commissioner may require that any female animal that has not had a calf, but that has been vaccinated for brucellosis and comes from a herd of unknown brucellosis status, may not be imported into this state until a special permit has been issued. The special permit shall require that the animal be quarantined until after the animal's first parturition and a subsequent negative test result for the presence of brucellosis.

6-7.12.h. The commissioner may allow any bovine to be imported for immediate slaughter, or to a public stockyard without an ~~official health certificate~~ CVI or a special permit. However, the Commissioner shall require any bovine that has been vaccinated for brucellosis at an age older than 240 days be issued a VS FORM 1-27 prior to the importation of the animal for the purpose of immediate slaughter.

6-7.12.i. No person may import for feeding purposes any bison or bovine animal that has been infected with tuberculosis or brucellosis.

6-7.12.i.A. The commissioner shall require that any bison or bovine animal that has been infected with tuberculosis or brucellosis be imported into this state only with a valid VS FORM 1-27 issued by APHIS and only for movement directly to slaughter.

6-7.12.j. The commissioner may prohibit any person from importing any bovine into this state for breeding or milking purposes from any state that is designated a "Free", or "Class A" state as designated by the United States Department of Agriculture unless the following conditions are met:

6-7.12.j.A. The animal is

6-7.12.j.A.(a) verifiable progeny of a herd that is a United States Department of Agriculture Certified Brucellosis Free Herd. The latest complete herd test date and results shall be noted on the ~~official health certificate~~ CVI; or

6-7.12.j.A.(b) from a "Free" state and has been tested and found to be free of brucellosis within 1 month of importation into this state. Officially vaccinated dairy type animals less than 20 months of age and officially vaccinated beef type animals less than 24 months of age are exempt from the test required; or

6-7.12.j.A.(c) testing may be waived if originating from a brucellosis-free state, or

6-7.12.j.A.(d) from a "Class A" state and shall be

6-7.12.j.A.(d)(A) from a herd that has had a complete herd test for brucellosis not more than 12 months and not less than 3 months prior to the importation; or

6-7.12.j.A.(d)(B) from a herd that has had a negative milk ring test not more than 6 months and not less than 180 days prior to entry; and

6-7.12.j.A.(d)(C) each individual animal shall have had a negative brucellosis test no more than 30 days prior to entry, except for official vaccinates of dairy breeds that are less than 20 months of age, or for official vaccinates of beef breeds that are less than 24 months of age where the brucellosis test is not required.

6-7.12.k. No person may import into this state any bovine under 18 months of age that is capable of reproducing for feeding purposes without an ~~official health certificate~~ CVI, some form of permanent identification, and without allowing the commissioner to place the animal under quarantine until it is slaughtered or moved out of this state. The commissioner shall require any animal that is capable of reproducing that is over 18 months of age that is imported into this state, to meet all the requirements of cattle imported for breeding cattle.

6-7.12.l. Any animal that is imported into a dairy or breeding herd should be segregated from the herd until a brucellosis test is made within 45-120 days after importation and negative results are received.

6-7.13. Goats

6-7.13.a. No person may import any goat into this state that has been infected with or has been exposed to brucellosis or tuberculosis without a valid special permit issued by the commissioner.

6-7.13.b. The commissioner may prohibit any person from importing any goat into this state for breeding or milking purposes unless that animal has a valid ~~official health certificate~~ CVI showing that the animal has had a negative tuberculosis test within 2 months prior to entry into this state or that the animal has been maintained in a herd that is a United States Department of Agriculture Accredited Tuberculosis Free Herd.

6-7.13.c. The commissioner may prohibit any person from importing any goat into this state for breeding or milking purposes without a valid ~~official health certificate~~ CVI showing that the animal has had a negative brucellosis test within 1 month prior to entry into this state or that the animal has been maintained in a herd that is a United States Department of Agriculture Certified Brucellosis Free Herd.

6-7.14. Equines

6-7.14.a. No person may import any equine, for any purpose except for sale at a public market, without a valid ~~official health certificate~~ CVI showing the results of a negative approved APHIS test for E.I.A. attached to or noted on the health certificate and that the animal has been found free of symptoms of any infectious or clinical disease. The commissioner will accept the test result from a test within 12 months prior to importation into this state if the state of importation has an E.I.A. program that equals or exceeds the program outlined in section 11 of this rule. In all other cases, the commissioner will accept the test result from a test within 6 months prior to importation into this state.

6-7.15. Sheep and lambs

6-7.15.a. No person may import any sheep or lambs into this state for any purpose other than immediate slaughter without a valid ~~official health certificate~~ CVI showing the that flock of origin was fully examined not more than 30 days prior to entry into this state and found to be free of scabies, contagious ecthyma (sore mouth), foot rot, or any other contagious or communicable disease.

~~6-7.15.b.~~ The commissioner shall prohibit the importation of any sheep or lambs into this state that have a condition that can be treated with full immersion in a pesticidal solution, unless that animal has been treated within 10 days prior to entry into this state.

~~6-7.16.~~ Swine

~~6-7.16.a.~~ No person may import into this state any swine that has been vaccinated for pseudorabies.

~~6-7.16.b.~~ No person may import into this state any swine that does not have a valid ~~official health certificate~~ CVI that identifies the animal and states that the animal is free of any infectious or contagious disease. A health certificate and individual identification may, at the discretion of the Commissioner, be the minimum requirements if the swine are consigned to slaughter.

~~6-7.16.c.~~ No person may import into this state any swine that are to be used for breeding purposes without an ~~official health certificate~~ CVI showing that the animal has been;

~~6-7.16.c.A.~~ tested negative to an official brucellosis test within 1 month prior to importation if the animal is not from a herd that has a certification from the United States Department of Agriculture as a validated brucellosis free herd and the ~~official health certificate~~ CVI shows the date of the last brucellosis test on that herd; and

~~6-7.16.c.B.~~ tested negative to an official pseudorabies serologic test or other official pseudorabies test within 1 month prior to importation, if the animal is not from a herd that has a certification as a qualified pseudorabies negative herd. The date of the last pseudorabies test shall be listed on the health certificate.

~~6-7.17.~~ Wildlife

~~6-7.17.a.~~ The commissioner will not allow the importation of any wildlife into this state without a valid ~~official health certificate~~ CVI and without evidence that the animal has been issued a valid "Wildlife Importation Permit" by the Division of Natural Resources, unless that animal is not required to obtain that permit by the Department of Natural Resources.

~~6-7.17.b.~~ Cervidae and Elk

~~6-7.17.b.A.~~ No person may import any animal of the Cervidae genus, except for animals that are consigned directly to slaughter, without a valid ~~official health certificate~~ CVI issued by an accredited veterinarian and a special permit from the commissioner. The ~~official health certificate~~ CVI shall indicate that the animal,

~~6-7.17.b.A.(a)~~ is from a herd that has had no tuberculosis reactors found during a complete herd test for tuberculosis on all animals 6 months of age and older within the 12 months prior to the importation; and,

~~6-7.17.b.A.(b)~~ is an animal that has had a negative tuberculosis test within 2 months prior to the importation of the animal; and

~~6-7.17.b.A.(c)~~ has had a negative brucellosis test within 1 month prior to the importation of the animal.

~~6-7.17.b.B~~ For purposes of this section, the complete herd test for tuberculosis shall use the single cervical test as prescribed by the United States Department of Agriculture on December 31, 1990.

~~6-7.17.b.C.~~ No person may import any animal of the Cervidae genus consigned directly to slaughter without an ~~official health certificate~~ CVI and may only import an animal that has been exposed

to tuberculosis or brucellosis with a VS FORM 1-27 issued by APHIS accompanying the animal.

~~6-7.17.c.~~ No person may import any animal into West Virginia that is to be placed in a zoo, or is of a species likely to be found in a zoo, without a valid ~~official health certificate~~ CVI issued by an accredited veterinarian. The ~~official health certificate~~ CVI shall state that the animal has been examined within 1 month prior to entry and found to be free of any communicable disease not known to have been exposed to any communicable disease.

~~6-7.18.~~ Dogs and Cats

~~6-7.18.a.~~ No person may import any dog or cat into this state that is over 2 months of age without a valid ~~official health certificate~~ CVI stating that the animal over 6 months of age has had a rabies vaccination within the 12 months prior (unless the animal is between 6 and 18 months of age) to the importation. Dogs and cats must be vaccinated for rabies by 6 months of age.

~~6-7.19.~~ Birds Other than ratites

~~6-7.19.a.~~ No person shall import any bird that is from a flock that is known to be infected with pullorum/typhoid or that is from an area under quarantine for Avian Influenza or Viscerotropic Velogenic Newcastle Disease.

~~6-7.19.b.~~ The commissioner requires that any bird that is imported into this state be accompanied by

~~6-7.19.b.A.~~ a statement completed and signed by the owner of the bird upon entry into this state that the bird has been free from disease for the 30 days prior to the importation of the bird and did not originate from a flock known to be infected with pullorum/typhoid; and

~~6-7.19.b.B.~~ a United States Department of Agriculture Form 9-2 from the tester stating that the birds have been tested for pullorum typhoid within 3 months prior to the date of the importation; or

~~6-7.19.b.C.~~ a United States Department of Agriculture Form 9-3 from the tester indicating that the bird has originated from a flock that is not infected with pullorum/typhoid; and

~~6-7.19.b.D.~~ a United States Department of Agriculture Form 9-3 stating that a minimum of 20 birds per flock or the entire flock of 20 birds or less has a negative test for avian influenza within 10 days prior to import. The test shall be a NPIP approved procedure.

~~6-7.19.c.~~ All other birds shall be tested for pullorum typhoid and shown to be free of disease by a tester at the time and place of importation.

~~6-7.20.~~ Ratites

~~6-7.20.a.~~ No person may import any ratite that is from a flock or farm known to be infected with any communicable disease.

~~6-7.20.b.~~ The Commissioner requires that any ratite imported into this state be accompanied by,

~~6-7.20.b.A.~~ an approved health certificate issued by an accredited veterinarian;

~~6-7.20.b.B.~~ a negative AGID test for avian influenza in a federal approved laboratory within 10 days prior to shipment with test date and results listed on the health certificate;

~~6-7.20.b.C.~~ permanent identification listed on the health certificate; and

6-7.20.b.D. a permit issued by the West Virginia Department of Agriculture, with the permit number listed on the interstate health certificate.

6-7.21. Camelids

6-7.21.a. No person may import any camelid that is from a farm known to be infected with any communicable disease.

6-7.21.b. The Commissioner requires that any camelid imported into this state be accompanied by an approved health certificate issued by an accredited veterinarian.

61-1-7.8. Rules for Livestock Sales.

7.8.1. The commissioner may test all bovine animals that are over 18 months of age and sexually intact, for the presence of brucellosis except for,

7.8.1.a. any male animal that is considered to be too dangerous to test; and

7.8.1.b. any official vaccinate that is under 20 months of age for animals of dairy-type breeds and under 24 months of age for animals of beef-type breeds.

7.8.2. The commissioner shall require that any animal considered to be too dangerous to test for brucellosis be consigned directly to slaughter.

7.8.3. The commissioner may require that any animal, including female nursing calves of a reactor, found to be a reactor for brucellosis at a public sale be issued a VS FORM 1-27 and be permanently identified as a brucellosis reactor by the commissioner's agent at the sale and be consigned directly to a slaughterhouse from the public sale. However, male nursing calves may be returned to the owner after castration.

7.8.4. The Commissioner shall allow animals at a public sale that are found to be commingled with positive brucellosis-tested animals, as well as the animals that are positive to the buffered plate antigen at 1/25 dilution of serum and the standard card test, to be:

7.8.4.a. returned to the owner in this State. The animal(s) and the herd of origin will be placed under quarantine and the animals shall not be returned to commerce until the herd is tested clean; or

7.8.4.b. returned to the owner in a state other than West Virginia after agreement of the commissioner, the United States Department of Agriculture and the animal health official of the state of origin.

7.8.5. The commissioner shall require that any animal found to be diseased, down, drugged or dying be consigned directly to slaughter.

61-1-8.9. Requirements for West Virginia Fairs, Festivals and Purebred Consignment Sales.

8.9.1. General

8.9.1.a. No person shall import any animal into the state of West Virginia for showing at a fair, festival, show or sale without a valid ~~official health certificate~~ CVI that has been received by the commissioner at least 5 days prior to the importation of the animal.

8.9.1.b. The commissioner shall permit a nursing animal to be moved based on the test status of the dam.

8-9.2. Cattle

8-2.a. No person may import an animal into this state for the purpose of exhibition without a valid ~~official health certificate~~ CVI.

8-9.2.b. No person may import an animal into this state for the purpose of exhibition without a special permit when the commissioner requires that a special permit be issued due to a disease outbreak in the state of origin.

8-9.2.c. The commissioner recommends that no bovine or bison animal that is affected with warts, pinkeye, or ringworm be exhibited in this state.

8-9.2.d. Tuberculosis

8-9.2.d.A. The commissioner may prohibit any person from showing any bovine or bison originating within this state unless the animal:

8-9.2.d.A.(a) is from a United States Department of Agriculture Accredited Tuberculosis Free Herd;

8-9.2.d.A.(b) is from a herd that has had a complete negative tuberculosis herd test within the 12 months prior to the show;

8-9.2.d.A.(c) will not be sold at the show and is less than 24 months of age;

8-9.2.d.A.(d) has had a negative tuberculosis test within the calendar year of the exhibition but prior to the date of exhibition; or

8-9.2.d.A.(e) will be shown in a slaughter class.

8-9.2.d.B. The commissioner may prohibit any person from showing any bovine or bison originating from without this state unless the animal meets all the requirements of paragraph 8-9.2.d.A. of this rule except that,

8-9.2.d.B.(a) the animal has had a negative tuberculosis test within 3 months prior to the date of exhibition, when a test is required; and,

8-9.2.d.B.(b) animals shown in slaughter classes must have an individual test and meet the requirements of subdivisions 6-7.12.e. and 6-7.12.f. of this rule, except that the negative tuberculosis test must be within 3 months prior to importation into this state.

8-9.2.d.C. No person may offer any bovine or bison for sale at a purebred consignment sale or exhibit at shows, fairs, and festivals unless that animal meets the requirements set forth in subdivisions 6-7.12.e., 6-7.12.f. and 6-7.12.f.A. of this rule.

8-9.2.e. Brucellosis

8-9.2.e.A. No person may exhibit any animal, except steers, at a fair, festival or show that originates from a herd that is under quarantine for brucellosis.

8-9.2.e.B. No person may exhibit an animal at a fair, festival or show that requires an ~~official health certificate~~ CVI when that certificate does not show the animal to be a verifiable progeny of a particular herd.

8-9.2.e.C. The commissioner may prohibit any person from exhibiting an animal at a fair,

festival or show unless that animal originates from a herd:

8-9.2.e.C.(a) that is a United States Department of Agriculture Certified Brucellosis Free Herd;

8-9.2.e.C.(b) that is from a United States Department of Agriculture Certified Brucellosis Free State.

8-9.2.e.C.(c) that has had a complete negative brucellosis test within the 12 months prior to the exhibition of that animal;

8-9.2.e.C.(d) in West Virginia and has had a negative brucellosis test within the calendar year of the exhibition but prior to the exhibition. No individual test is required for official vaccinates that are less than 20 months of age for dairy type breeds, or 24 months of age for beef type breeds; or

8-9.2.e.C.(e) from a state other than West Virginia and has had a negative brucellosis test within 1 month prior to the exhibition except for official vaccinates that are less than 20 months of age for dairy type breeds, or 24 months of age for beef type breeds, in which case no individual test is required.

8-9.2.e.D. No person may offer any bovine or bison for sale at a purebred consignment sale or exhibit at a show, fair or festival unless that animal meets the requirements of subdivision **6-7.12.j.** of this rule.

8-9.3. Goat

8-9.3.a. No person may import any goat into this state for the purpose of showing at an exhibition without a valid ~~official health certificate~~ CVI.

8-9.3.b. No person may import an animal into this state for the purpose of exhibition without a special permit when the commissioner requires that a special permit be issued due to a disease outbreak in the state of origin.

8-9.3.c. No person may import any goat showing signs of caseous lymphadenitis.

8-9.3.d. The commissioner may require that any goat being imported into this state follow the same rules for tuberculosis and brucellosis as set forth in subdivision **8-9.2.d.** and **8-9.2.e.** of this rule for cattle.

8-9.3.e. The commissioner recommends that no goat be exhibited in this state that is affected with warts, pinkeye, or ringworm.

8-9.4. Equine

8-9.4.a. No person may exhibit any equine from any band that is under quarantine for any communicable disease.

8-9.4.b. No person may exhibit any equine showing signs of any infectious or communicable disease.

8-9.4.c. The officials of the exhibition are responsible to see that all equines shown meet the requirements of this subsection.

§-9.4.d. No person may exhibit any equine originating from outside this state without a valid ~~official health certificate~~ CVI that shows the test results for an E.I.A. test.

§-9.4.e. No person may exhibit any equine originating from this State without a negative E.I.A. test within 24 months prior to the exhibition. Equine from states with an E.I.A. program comparable to this State's as set forth in section 11 of this rule, shall have a negative test within 12 months prior to the exhibition. All other equine shall have a negative test within 6 months prior to the exhibition.

§-9.4.e.A. For purposes of this section the negative E.I.A. test must have been performed in an approved United States Department of Agriculture laboratory.

§-9.4.f. Equine Interstate Event Permit

§-9.4.f.A. This document is a signed Memorandum of Agreement between West Virginia and certain other states, whose numbers may vary, that allows the unencumbered interstate movement of equines between those states that are a signatory to said document. The permit shall contain, at a minimum, the following information;

§-9.4.f.A.(a). Name of the Commissioner of Agriculture and the State Veterinarian and the appropriate phone number; title of permit; permit number; owner's name, address and phone number; West Virginia interstate health certificate number and date; date permit was issued and expires; equine's name, breed, sex, color, and age; EIA negative test date, lab name that performed the test, and accession number; three (3) digital color photos showing front and each side view of equine or other means of permanent identification, as may be required by the Commissioner.

§-9.4.f.A.(b). Permits will expire six (6) months from the date it is written.

§-9.4.f.A.(c). Enforcement: Permit holders are subject to the laws of West Virginia as well as the laws of those other states who are a signatory to this Memorandum of Agreement.

§-9.4.f.A.(d). Permit holders are required to keep the permit and a log of all events attended by the equine that is described on the permit, in their possession during all equine activities, shows or sales.

§-9.4.f.A.(e). Certain states that are signatories to this agreement may have certain exceptions that are not the same in all states.

§-9.5. Sheep and Lambs

§-9.5.a. No person may exhibit any sheep or lamb that is capable of breeding that does not have a valid ~~official health certificate~~ CVI or that does not have a certificate that the animal originates from an Honor Flock as designated by the commissioner.

§-9.5.b. The commissioner shall inspect all sheep or lambs in the market class for the presence of any infectious disease when the animal is exhibited. The commissioner may refuse to allow an animal to be shown based on the results of the examination.

§-9.6. Swine

8-9.6.a. Certificates of veterinary inspection are required for all swine entering the State. The Commissioner may require any out-of-state swine entering and exhibiting in West Virginia to be from an APHIS declared Pseudorabies-free state, a Pseudorabies monitored herd or have been tested negative for Pseudorabies within 30 days prior to entry when applicable. The qualified Pseudorabies negative number and test dates must appear on the health certificate. Swine from West Virginia may move freely within the State without Pseudorabies testing.

8-9.6.b. The commissioner may prohibit any person from exhibiting any swine originating within this state that is capable of breeding, that has not had an examination by a veterinarian within 5 days prior to the exhibition, and has been found to be free from any symptoms of infectious disease.

8-9.6.b.A. For purposes of this section, the commissioner shall accept a serum neutralization test or other pseudorabies test approved by APHIS.

8-9.6.c. The commissioner may require a statement from the animal health official of the state of origin that the animal did not originate from an area where pseudorabies is known to be present.

8-9.7. Birds

8-9.7.a. The provisions of subsection 6.19 of this rule apply to the exhibition of birds in this state.

8-9.7.b. The management of the exhibit shall maintain records of the documents required by this section including the names and addresses of all exhibitors and the number of birds exhibited by those persons for a period of 2 years after the show and shall provide the records to the commissioner upon request.

8-9.7.c. The management of the exhibit shall deny entry to all birds of a particular owner when any one of the birds of that owner tests positive for any disease determined by the National Poultry Improvement Plan to be detrimental to poultry health.

8-9.7.d. The owner of any bird found to test positive for any disease that the National Poultry Improvement Plan determines to be detrimental to poultry health shall submit the bird to the commissioner who will necropsy the bird and sample the tissues for recovery of the organism.

61-1-9.10. Official Vaccinates.

9-10.1. Official vaccinates are calves that have been vaccinated for brucellosis between the ages of 120 days and 240 days by an accredited veterinarian who

9-10.1.a. marks the calf at the time of vaccination with a legible tattoo consisting of the letter "R", a "V-shield" and the last number in the current year in the right ear of any calf and securely fastens a metal ear tag in the right ear of any calf that does not already have a legible purebred registration tattoo; and

9-10.1.b. completes a Calfhood Vaccination Report on the animal using forms supplied by the commissioner. The completed report shall contain the name and address of the owner of the calf, the county where the animal was located when vaccinated, the date of the vaccination, the manufacturer and serial number of the vaccine, the number of the ear tag or the purebred animal tattoo, a stamp of the tattoo, the breed, a designation of purebred or grade, the sex of the animal, the date of birth, and the name and address of the person completing the report.

9-10.2. The accredited veterinarian shall forward the original and one copy of the Calhooed Vaccination Report to the commissioner, in care of the Animal Health Division and one copy to the owner of the calf no later than five days following the vaccination. The accredited veterinarian shall keep one copy of the report for ten years following the vaccination.

9-10.3. No person shall classify any official vaccinate as a reactor or suspect for brucellosis, even though the test results may indicate a reactor or suspect, until the animal has been tested after they have reached 20 months of age for animals of the dairy breeds or 24 months of age for animals of the beef breeds.

9-10.4. The commissioner shall classify vaccinated calves or adults from herds containing reactors to brucellosis as reactors when they reach the age of 20 months for animals of dairy type breeds or 24 months for animals of beef type breeds, only if they have a titer of a reactor.

61-1-10.11. Establishment and Maintenance of a Certified Brucellosis Free Herd.

10-11.1. For the purpose of this section, the term herd means one or more cattle six months of age or older that are cows or bulls. No steers or spayed heifers or official vaccinates that are less than 20 months of age for dairy animals or 24 months of age for beef animals shall be considered to be part of a herd. A herd shall be located on a farm any may consist of animals located in separate fields of a farm. The animals in a herd may have several owners.

10-11.2. Establishment of Herd Status

10-11.2.a. The owner or owners, of the herd must sign an agreement with the commissioner that they will comply with W. Va. Code 19-9-20 through 24 and with the provisions of this rule.

10-11.2.b. The commissioner and the United States Department of Agriculture shall certify the herd as brucellosis free after two series of tests for brucellosis between 10 and 14 months apart show that all animals in the herd are free from brucellosis.

10-11.2.c. The commissioner and the United States Department of Agriculture shall then issue a certificate for the Certified Brucellosis Free herd. The certificate is valid for 1 year unless revoked by the commissioner for non-compliance with the provisions of W. Va. Code 19-9-20 through 24 or with the provisions of this rule.

10-11.3. Maintenance of Herd Status

10-11.3.a. The commissioner and the United States Department of Agriculture shall renew a certificate for a Certified Brucellosis Free Herd for the period of one year when the herd has shown no reactors after a complete herd test.

10-11.3.b. The owner or owners, of the herd shall cause any animal in a certified herd that is suspected of having brucellosis to be segregated from the herd. The animal shall be retested between 30 and 60 days after the initial test. If the animal tests negative to the retest, it can be returned to the herd and the animal will not be the cause for non-renewal of the certified herd certificate. The commissioner recommends that all animals in the herd be tested at 180 days under these conditions.

10-11.3.b.A. If the suspect animal tests as a reactor during the subsequent test, then all animals in the herd shall be tested again for brucellosis.

~~10-11.3.c.~~ If more than one reactor is found in a herd, the commissioner shall refuse to renew, and shall revoke the certificate and the owner of the herd must reapply for herd status.

~~10-11.3.c.A.~~ The commissioner shall quarantine the herd until brucellosis testing has been performed to establish the status of the herd and the animals in the herd.

~~10-11.3.d.~~ Addition of animals

~~10-11.3.d.A.~~ The owner or owners, of the herd may add animals to the herd during the period of establishment of herd status or while the herd is certified under the following conditions:

~~10-11.3.d.A.(a)~~ the animal is from a herd that is certified as free of brucellosis. The commissioner will not require the animal to have had a test for brucellosis prior to entry; or

~~10-11.3.d.A.(b)~~ The animal is over 6 months of age and is from a herd that is in the process of establishing brucellosis certification. The animal must have a negative brucellosis test within 30 days of importation into the herd. The animal must be separated from other animals in the herd until they show a negative brucellosis test at 60 days after importation into the herd and segregation.

~~61-1-11.12.~~ Equine Infectious Anemia.

~~11-12.1.~~ The commissioner shall immediately quarantine any equine that is found to be an E.I.A. reactor. The quarantine shall extend to all exposed E.I.A. Animals and to any place or location that the commissioner considers necessary to protect the health of the equines of this state.

~~11-12.1.a.~~ The commissioner may consider all racehorses handled by the same trainer as exposed E.I.A. Animals.

~~11-12.1.b.~~ The commissioner may consider all other equines that have been housed in the same shed row or stall area as exposed E.I.A. Animals.

~~11-12.1.c.~~ If the E.I.A. reactor has a foal, the foal should be isolated from the reactor by the owner as soon as possible after birth and E.I.A. tested. Any foal that is found to be an E.I.A. reactor shall be placed under quarantine by the commissioner. If the foal is tested at 12 months of age and found to be an E.I.A. reactor at that time, then the quarantine remains in effect and the commissioner shall brand the animal.

~~11-12.2.~~ Under terms of the quarantine the commissioner shall require the E.I.A. reactor to be isolated from all equines by stabling or pasturing at least 200 yards from all other equines.

~~11-12.3.~~ The commissioner shall identify all E.I.A. reactors with a visible freeze brand under the mane on the left side of the equine. The brand shall start with "54 A" and end with a number that the commissioner assigns to the equine.

~~11-12.4.~~ The commissioner shall allow the E.I.A. reactor to be removed from the quarantine area only upon written permission.

~~11-12.5.~~ The quarantine remains in effect for all exposed E.I.A. Animals after the E.I.A. reactor has been removed.

~~11-12.6.~~ The commissioner shall not release the quarantine for exposed E.I.A. Animals until all

exposed E.I.A. animals have been determined to be non-E.I.A. reactors at least 30 days after the E.I.A. reactor has been removed from the band.

~~41-12.7.~~ The commissioner shall perform testing for Equine Infectious Anemia on any other equine that the E.I.A. reactor has been in contact with during the past 12 months, within the limits of his or her resources.

~~41-12.8.~~ The commissioner shall not pay an indemnity for any E.I.A. reactor that must be destroyed.

61-1-~~42.13.~~ Pseudorabies in Swine.

~~42.13.1.~~ No person shall perform a test for pseudorabies on any swine without placing an eartag on each animal that is not previously identified with eartags for their purebred registry. The commissioner shall allow only an USDA approved eartags be used for identification of feeder pigs, when eartags are used. The person performing the test shall record the sex, age, breed and the identification of the animal by the eartag number shall record the purebred registry eartags.

~~42.13.2.~~ The commissioner may prohibit any person from selling, lending, leasing, or trading any feeder or breeder swine in this state, or importing into this state or exporting out of this state any feeder pig unless that animal

~~42.13.2.a.~~ originates from a pseudorabies monitored herd or a qualified pseudorabies negative herd from within this state, or from a herd that meets or exceeds the requirements of these herds provided by this section; or

~~42.13.2.b.~~ has been tested and found to be free of pseudorabies within 1 month prior to the movement of the animal or the date of the sale; or

~~42.13.2.c.~~ originates from a Stage V-(Free) state.

~~42.13.2.d.~~ The Commissioner may deny any swine entrance into the state that have not met the pseudorabies requirements of the West Virginia Department of Agriculture.

~~42.13.3.~~ Pseudorabies Monitored Herds

~~42.13.3.a.~~ The owner of a swine breeding herd may establish their status as a pseudorabies monitored herd after all the animals required by this subsection to be tested have been found to be free of pseudorabies. All boars shall be tested. All sows shall be tested in herd of 10 sows or fewer. Ten randomly selected sows shall be tested in herds containing 11 to 35 sows. Thirty percent of the sows, or 30 randomly selected sows, whichever is fewer, shall be tested in herds containing 36 or more sows.

~~42.13.3.b.~~ The owner of a swine breeding herd may maintain their status as a pseudorabies monitored herd by testing the animals every twelve months as prescribed by subdivision ~~42.13.3.a.~~, of this section plus all the boars, and thirty percent of the sows added to the herd since the previous herd test.

~~42.13.4.~~ Qualified Pseudorabies Negative Herds

~~42.13.4.a.~~ A swine breeding herd may establish their status as a qualified pseudorabies negative herd after the provisions of Title 9, Part 85.1 of the Code of Federal Regulations have been met; and

~~42.13.4.a.A.~~ all swine over 6 months of age, plus a number of progeny equal to 20% of the

breeding swine population of the herd have been found to be free of disease when tested using an official pseudorabies serologic test, the herd is not known to have been exposed to the disease within the month previous to the test, and at least ninety percent of the animals in the herd have been in the herd and on the premises for at least 2 months prior to the test or have entered the herd directly from another qualified pseudorabies negative herd. Progeny less than 6 months of age shall be randomly selected from the older swine in the herd.

~~12.13.4.b.~~ A swine breeding herd may maintain their status as a qualified pseudorabies negative herd after

~~12.13.4.b.A.~~ all swine over 6 months of age, and their progeny as described in Paragraph ~~12.4.a.A.~~ of this rule have been found to be free of disease when tested using an official pseudorabies serologic test; and

~~12.13.4.b.B.~~ twenty-five percent of all swine over 6 months of age and their progeny as described in Paragraph 12.4.a.A. of this rule have been found to be free of disease when tested every 80-105 days using an official pseudorabies serologic test. No animal shall be tested more often than once every 12 months; or

~~12.13.4.b.C.~~ ten percent of all swine over 6 months of age and their progeny as described in Paragraph 12.4.a.A. of this rule have been found to be free of disease when tested every month using an official pseudorabies serologic test. No animal shall be tested more often that once every 10 months.

~~12.13.5.~~ The commissioner shall accept a valid Swine Herd Health Certificate issued by the state veterinarian as proof that any animal is part of a Pseudorabies Negative Herd.

~~12.13.6.~~ The commissioner shall accept an official pseudorabies test chart indicating that the animal has been tested and found free of pseudorabies within the past month and identifying the individual feeder pig tested as proof that the animal is free of pseudorabies.

~~12.13.7.~~ The commissioner shall quarantine any swine herd when any animal is found to be a reactor to an official pseudorabies test. The quarantine may be released only after the provisions of Title 9 Part 85.1 of the Code of Federal Regulations has been met including:

~~12.13.7.a.~~ depopulation of all animals that have found to be reactors and all exposed swine, followed by cleaning and disinfecting the location of the herd by a method that has been approved by the commissioner; or

~~12.13.7.b.~~ removal of all swine that have been found to be reactors, cleaning and disinfecting the premises as directed by the commissioner, followed by the testing schedule as follows:

~~12.13.7.b.A.~~ after 1 month, testing all swine, except for nursing animals and finding all animals to test negative to pseudorabies, then

~~12.13.7.b.B.~~ after an additional 1 to 2 months, testing all swine over 6 months of age and finding all animals to test negative to pseudorabies.

61-1-13.14. Rules for Hatcheries, Growers and Contractors Pertaining to Poultry Disease Control and Eradication.

13.14.1. General

13.14.1.a. For the purposes of this section a flock means a group of poultry that are characteristic of the breed, variety, cross or other combination which they are stated to represent.

13.14.1.b. The owners of any flock shall test all poultry on the premises, except for wild birds or unmated and segregated birds held for laying purposes, for pullorum-typhoid.

13.14.1.c. No person shall maintain a flock containing any birds testing positive for pullorum-typhoid without complying with the provisions of this section of this rule.

13.14.1.d. The commissioner intends for the provisions of this section of the rule to supplement, and not supersede, the regulations set forth in the National Poultry Improvement Plan and Auxiliary Provisions set forth in Title 44 of the Code of Federal Regulations Parts 145 through 147 (published October 26, 1979).

13.14.1.e. Any person owning a hatchery or a flock is responsible for furnishing transportation on the premises and necessary labor needed for handling birds at no expense to the commissioner or the tester when needed by the tester to perform his duties under this section of the rule.

13.14.1.f. The commissioner requires that all birds found to be reactors or suspected of being a reactor to any disease be removed from the flock and destroyed within 10 days after the test was reported. The owner of the birds must certify to the commissioner that the birds were destroyed within 10 days of test results in a manner approved by the commissioner.

13.14.2. Testing

13.14.2.a. The commissioner shall accept only official test results. The commissioner shall accept tests performed by inspectors certified by the commissioner and performed according to the provisions of this section of the rule and the National Poultry Improvement Plan and Auxiliary Provisions as official tests.

13.14.2.b. No person may use any chicken for breeding purposes without having that bird tested and found negative for the presence of pullorum-typhoid when the bird reaches 5 months of age and prior to being used for breeding.

13.14.2.c. No person may use any turkey for breeding purposes without having that bird tested and found negative for the presence of pullorum-typhoid when the bird reaches 4 months of age, and prior to being used for breeding.

13.14.2.d. The commissioner shall not accept any test performed with any lot of pullorum-typhoid antigen that was not approved by the United States Department of Agriculture.

13.14.2.e. The commissioner shall not accept any test performed with pullorum-typhoid antigen on any animal that has had a previous test with any Salmonella antigen within 21 days of the pullorum-typhoid test.

13.14.2.f. The commissioner shall set the fee for testing and inspection at a rate to reflect the actual costs of doing the testing and inspection for the commissioner's employees. The costs for testing and inspection for the commissioner's employees is the standard state rate for all travel and \$18 per hour for the time for travel, testing and inspection. The owner of the birds tested shall pay the fee to the West

Virginia Department of Agriculture within 10 days of billing by the commissioner.

~~13-14.2.g.~~ The owner of birds may contract with independent certified testers to perform official testing and inspection. The fees charged by the independent certified tester are not bound by the fees charged by the commissioner.

~~13-14.2.h.~~ The tester shall identify each bird that has been officially tested with an officially sealed and numbered leg or wing band.

~~13-14.3.~~ Reporting

~~13-14.3.a.~~ All persons owning hatcheries shall report the total number of eggs set and the total number of chicks and poults hatched on a weekly basis to the Federal-State Crop and Livestock Reporting Service, United States Department of Agriculture, Capitol Building/Guthrie Center, Charleston, West Virginia 25305.

~~13-14.3.b.~~ The tester shall mail all official test records within seven days of the completion of the test on the flock to the commissioner, in care of the Animal Health Division, Charleston, WV. The official test records shall include the name and address of the owner of the birds, the date of test, the number of the leg or wing band attached to the bird, the test results and the total number of birds tested in the flock.

~~13-14.3.c.~~ Any dealer in baby chicks and broiler contractors shall keep records of the number of shipments of chicks and poults into this state for a period of 5 years and shall provide them to the commissioner upon request.

~~13-14.4.~~ Classification of a flock

~~13-14.4.a.~~ The provisions of the National Poultry Improvement Plan and Auxiliary Provisions shall determine the classification of a flock.

~~13-14.4.b.~~ The commissioner shall not consider the test results of any bird for the purposes of classifying the flock that was found to be a reactor using antigen and subsequently found to be not infected upon necropsy and subsequent bacterial examination.

~~61-1-14.15.~~ Laboratory Services and User Fees.

~~14-15.1.~~ General

~~14-15.1.a.~~ For the purpose of this section only a licensed veterinarian, government-employed animal health technician or a person or persons as designated by the Department as being duly qualified to submit the samples may submit samples to the laboratory.

~~14-15.1.b.~~ The laboratory is prepared to accept only submissions for tests and services that are performed by personnel of the West Virginia Department of Agriculture. If the laboratory receives other submissions, it will forward them to the proper destination. The user is responsible for the costs of services requested and subject to administrative costs of forwarding the sample.

~~14-15.1.c.~~ The Commissioner of Agriculture may waive all fees and requirements under extenuating circumstances.

~~14-15.2.-~~ Schedule of User Fees

14-15.2.a. The fees due the Department for the specific tests are as follows:

<u>TEST</u>	<u>CHARGE</u>	<u>TEST</u>	<u>CHARGE</u>
avian influenza		<i>Mycoplasma gallisepticum</i> (plate)	\$0.20
AGID	\$0.50	<i>Mycoplasma mealeagridis</i> (plate)	\$0.60
PCR	\$15.00	<i>Mycoplasma spp.</i> (HI)	\$1.30
caprine arthritis encephalitis/ ovine progressive pneumonia (ELISA)	\$2.00	<i>Mycoplasma synoviae</i> (plate)	\$0.50
culture samples	\$10.00	Neospora caninum (ELISA)	\$3.00
sensitivity	\$5.00	Necropsy (1-6 birds or 1 animal)	\$20.00
equine infectious anemia (AGID)	\$2.00	<i>Salmonella pullorum-typhoid</i>	
<u>exotic newcastle disease</u>		Screen	\$0.10
<u>PCR</u>	<u>\$15.00</u>	Titer	\$0.25
fecal floatation	\$2.00	Johne's disease (ELISA)	\$5.00
<i>Leptospiriosis spp.</i>	\$5.00	<i>Salmonella typhimurium:</i>	
		Plate	\$0.33
		Titer (micro)	\$0.10

14-15.3. Procedure for payment

14-3.a. Following the last day of each month, the Animal Health Division will submit an invoice to the appropriate persons or companies for the amount of charges for the previous month.

14-15.3.b. All payments shall be made to West Virginia Department of Agriculture, Administrative Services Division, Fiscal Management Office, 1900 Kanawha Boulevard, East, Charleston, West Virginia 25305-0173 within thirty days.

Code of Federal Regulations
Title 9 Animals and Animal Products

PART 79—SCRAPIE IN SHEEP AND GOATS

Sec.

79.1 Definitions.

79.2 Identification of sheep and goats in interstate commerce.

79.3 General restrictions.

79.4 Designation of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks; notice to owners.

79.5 Issuance of certificates.

79.6 Standards for States to qualify as Consistent States.

79.7 Waiver of requirements for scrapie control pilot projects.

Authority:

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

Source:

66 FR 43990, Aug. 21, 2001, unless otherwise noted.

§79.1 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 of this chapter to conduct one or more scrapie tests, or genotype tests, on one or more tissues.

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.

Blackfaced sheep. Any purebred suffolk, hampshire, shropshire or cross thereof, any non-purebred sheep

known to have suffolk, hampshire, or shropshire ancestors, and any non-purebred sheep of unknown ancestry with a black face, except commercial hair sheep.

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 by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals.

Commercial hair sheep. Any commercial sheep with hair rather than wool that is either a full-blooded hair sheep or that resulted from the cross of a hair sheep with a whitefaced wool sheep.

Commercial sheep or goat. Any animal from a flock from which animals are moved only either directly to slaughter or through slaughter channels to slaughter or any animal that is raised only for meat or fiber production and that is not registered with a sheep or goat registry or used for exhibition.

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.

Consistent State. (1) A State that the Administrator has determined conducts an active State scrapie control program that either:

- (i) Meets the requirements of §79.6; or
- (ii) Effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of §79.6.

(2) The Administrator has determined the following States to be Consistent States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

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.

Direct movement to slaughter. Transported to a facility for slaughter, without stops or unloading except for feeding and watering during which the animals are not commingled with any other animals.

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) of this chapter. 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)(f) of this chapter.

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.

Inconsistent State. Any State other than a Consistent State.

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.

Interstate commerce. Trade, traffic, transportation, or other commerce between a place in a State and any place outside of that State, or between points within a State but through any place outside that State.

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 an 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

¹The 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 will give written notice of the proposed withdrawal to the director of the laboratory, and will 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.

Low-risk commercial sheep. Commercial whitefaced, whitefaced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female blackfaced sheep, that are identified with a legible permanent brand or ear-notch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. The term brand includes official brand registry brands on ear-tags in those States whose brand law or regulation recognizes brands placed on ear-tags as official brands. Low-risk commercial sheep may only exist in a State where scrapie has not been diagnosed in the previous 10 years in commercial whitefaced, whitefaced cross, or commercial hair sheep that were not commingled with female blackfaced sheep.

Low-risk goat. A goat that is not a scrapie-positive, suspect, high-risk, or exposed animal, that has not been commingled with sheep, and that is from:

- (1) A State in which scrapie has not been identified in a goat during the previous 10 years;
- (2) A State in which scrapie has been identified in a goat during the previous 10 years, but the scrapie-positive goat was not born in the State and resided in the State for less than 54 months and did not kid while in the State; or,
- (3) A State in which scrapie has been identified in a goat during the previous 10 years, and the scrapie-positive goat was commingled with sheep, but flock records allowed a complete epidemiologic investigation to be completed and all resulting infected, source, and exposed goat herds have completed flock plans and are in compliance with post-exposure monitoring plans.

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.

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 eartag. An identification eartag approved by APHIS as being sufficiently tamper-resistant for the intended use and providing unique identification for each animal. An official eartag may conform to the alphanumeric National Uniform Eartagging system or another system approved by APHIS, or it may bear a premises identification number that either contains or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number.

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 identification. Identification mark or device approved by APHIS for use in the Scrapie Eradication Program. Examples are listed in §79.2(a)(2).

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.

Owner statement. A written statement by the owner that includes the owner's name, signature, address, and phone number, date the animals left the flock of origin, the premises identification number assigned to the premises, the number of animals, the premises portion of the premises identification if premises identification is used, and a statement that the animals were either born or were used for breeding purposes on the premises to which the premises identification is assigned.

Ownership brand. A unique permanent legible brand or earmark pattern applied to an animal that indicates ownership by a particular person when the brand pattern is registered with a State's official brand recording agency.

Permit. An official document issued in connection with the interstate movement of animals (VS Form 1-27 or a State form that contains the same information) that is issued by an APHIS representative, State representative, or an accredited veterinarian authorized to sign such permits. A new permit is required for each change in destination for an animal. A permit lists the owner's name and address; points of origin and destination; number of animals covered; purpose of the movement; whether the animals are from an exposed, noncompliant, infected, or source flock; whether the animal is a high-risk, exposed, scrapie-positive, or scrapie suspect animal; transportation vehicle license number or other identification number; and seal number (if a seal is required). A permit also lists all official identification on the animals covered, including the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), individual animal registered breed association registration number, or any other form of official identification present on the animal.

Premises identification. An APHIS approved eartag, backtag, or legible tattoo bearing the premises identification number, consisting of the State postal abbreviation or code followed by a unique alphanumeric number or name, assigned by a State or Federal animal health official to the premises of the flock of origin for the sheep or goats that, in the judgment of the State animal health official or area veterinarian in charge, is epidemiologically distinct from other premises, or a legible permanent brand or ear notch pattern registered with an official brand registry. Premises identification may be used when official individual animal identification is required, if the premises identification method either includes a unique animal number or is used in conjunction with the producer's livestock production numbering system to provide a unique identification number and where, if brands or ear notches are used, the animals are accompanied by an official brand inspection certificate. Clearly visible and/or legible paint brands may be used on animals moving directly to slaughter and on animals moving for grazing or other management purposes without change in ownership.

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, appropriate State and Federal agencies, and the public and will be drafted, 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 subpart B of part 54 of this chapter.

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

²Individual copies of the SFCP standards may be obtained on the World Wide Web at URL <http://www.aphis.usda.gov/vs>, or from the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737-1235.

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 chapter, 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 of this chapter.³

³The 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 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 conflict.

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 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) of this chapter. 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 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.

Terminal feedlot. (1) A dry lot approved by a State or APHIS representative or an accredited veterinarian authorized to perform this function where animals are separated from all other animals by at least 30 feet at all times or are separated by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and from which animals are moved only to another terminal feedlot or directly to slaughter; or

(2) A pasture when approved by and maintained under the supervision of the State and in which only nonpregnant animals are permitted, where there is no direct fence-to-fence contact with another flock, and from which animals are moved only to another terminal feedlot or directly to slaughter.

(3) Records of all animals entering and leaving a terminal feedlot must be maintained for 1 year after the animal leaves the feedlot and must include the person from whom the animals were acquired and the slaughtering facility in which they were slaughtered. Records must be made available for inspection by an APHIS or State representative upon request.

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.

§79.2 Identification of sheep and goats in interstate commerce.

(a) No sheep or goat that is required to be individually identified or premises identified by §79.3 may be sold, transported, received for transportation, or offered for sale or transportation in interstate commerce unless each sheep or goat is identified in accordance with this section.

(1) The sheep or goat must be identified to its flock of origin and, for an animal born after January 1, 2002, to its flock of birth, by the owner of the flock or his or her agent; at whichever of the following points in commerce comes first, *Except that*; animals born after January 1, 2002, may be moved interstate direct to slaughter without identification to flock of birth until June 1, 2003, and animals that

cannot be identified to their flock of origin because Consistent States have exempted them from flock of origin identification in intrastate commerce in accordance with §79.6(a)(10)(i) may be moved interstate with only individual animal identification traceable to the State of origin and to the owner of the animals at the time they were so identified:

(i) The point of first commingling of the sheep or goats in interstate commerce with sheep or goats from any other flock of origin;

(ii) Upon unloading of the sheep or goats in interstate commerce at any livestock market, except a market described in paragraph (a)(1)(iii) of this section;

(iii) Upon leaving a livestock market that has been approved in accordance with this chapter to handle sheep and goats in interstate commerce and that has agreed to act as an agent for the owner to apply official identification to the animals. In such cases the animals must be:

(A) Moved to the market and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth;

(iv) Upon transfer of ownership of the sheep or goats in interstate commerce;

(v) In the case of animals shipped directly to slaughter at a slaughter plant that has agreed to act as an agent for the owner to apply official identification to the animals, upon arrival of the sheep or goats in interstate commerce at the slaughter plant. In such cases the animals must be:

(A) Moved to the slaughter plant and maintained until officially identified in distinguishable groups identifiable to their flocks of origin and when required their flock of birth by means of partitions or other such maintenance; and,

(B) Accompanied by an owner statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth. If the slaughter plant has agreed to allow APHIS to conduct slaughter sampling, animals need not be identified if they arrive at the plant on days that an APHIS designated sampler is not available at the plant to collect samples; or

(vi) Prior to moving a sheep or goat across a State line, unless the animals are moving to an approved livestock market in accordance with paragraph (a)(1)(iii) of this section or to an approved slaughter plant in accordance with paragraph (a)(1)(v) of this section.

(2) The sheep or goats must be identified by one of the following means of identification, and must remain so identified until they reach their final destination:

(i) Electronic implants for animals required to be identified by the SFCP, when used in a flock participating in the SFCP and when accompanied by a certificate or owner statement that includes the electronic implant numbers and the name of the chip manufacturer;

(ii) Official eartags, including tags approved for use in the SFCP or APHIS-approved premises identification number eartags when combined with a unique animal identification number;

- (iii) United States Department of Agriculture backtags or official premises identification backtags that include a unique animal identification number, when used on sheep or goats moving directly to slaughter and when applied within 3 inches of the poll on the dorsal surface of the head or neck;
- (iv) Legible official registry tattoos that have been recorded in the book of record of a sheep or goat registry association when the animal is accompanied by either a registration certificate or a certificate of veterinary inspection. These tattoos may also be used as premises identification if they contain a unique premises prefix that has been linked in the National Scrapie Database with the assigned premises identification number of the flock of origin;
- (v) Premises identification eartags or tattoos, if the premises identification method includes a unique animal number or is combined with a flock eartag that has a unique animal number and the animal is accompanied by an owner statement; or
- (vi) Premises identification when premises identification is allowed by §79.3 and the animal is accompanied by an owner statement.

(3) The owner of the flock of origin is responsible for the identification of animals required to be identified by this section. No person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce shall receive or otherwise handle any animal in interstate commerce that has not been identified as required by this section. If an animal loses its identification to its flock of origin while in interstate commerce it is the responsibility of the person who has control or possession of the animal to identify the animal prior to commingling it with any other animals. This shall be done by applying individual animal identification to the animal as required in paragraph (a)(2) of this section and recording the means of identification and the corresponding animal identification number. If the flock of origin cannot be determined, all possible flocks of origin shall be listed on the record.

(b) Serial numbers for use in official identification will be assigned to each person who applies to the State animal health official or the area veterinarian in charge for the State in which that person maintains his or her place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or State or APHIS representative who requests official eartags from the State animal health official or the area veterinarian in charge, whoever is responsible for issuing official eartags in that State. The official responsible for issuing eartags in a State may assign serial numbers of official eartags to other responsible persons, such as 4-H leaders, if the State animal health official and the area veterinarian in charge agree that such assignments will improve scrapie control and eradication within the State. Persons assigned serial numbers may either directly apply eartags to animals, or may reassign eartag numbers to producers. If these persons reassign eartag numbers, they must maintain appropriate records that permit traceback of animals to their flock of origin, or flock of birth when required. Premises identification eartag, backtag, and tattoo numbers (series of alphanumeric USDA tags and backtags may be assigned as premises identification if they are linked to the premises in the National Scrapie Database) will be assigned to animal owners by the State animal health official or the area veterinarian in charge, whoever is responsible for assigning premises codes in that State. Persons assigned serial numbers of United States Department of Agriculture backtags, official sheep and goat tattoos, official eartags, and premises identification numbers must:

- (1) If the person assigned the numbers is a flock owner, so that the assigned numbers are directly linked to the flock of origin in the national scrapie database, record the following information on a document:

(i) The premises identification number or serial numbers;

(ii) The number of animals so identified;

(iii) The date the animals were identified;

(iv) For animals born after January 1, 2002, that were not born in the flock of origin and that are not identified to the previous flock of origin, the individual identification number applied and the name, street address, including the city and State, or the township, county, and State, and the telephone number, if the telephone number is available, of the flock of birth if known.

(2) If the person assigned the numbers is a veterinarian, extension agent, auction market operator, dealer, or any person other than the owner of the flock of origin, record the following information on a document:

(i) All serial numbers applied to a sheep or goat;

(ii) Any other serial numbers and approved identification appearing on the sheep or goat;

(iii) The street address, including the city and State, or the township, county, and State, of the premises where the approved means of identification was applied;

(iv) The date the identification was applied;

(v) The name, street address, including the city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person who owns or possesses the sheep or goat, and

(vi) For animals born after January 1, 2002, that were not born in the flock of origin and that are not identified to the previous flock of origin, the individual identification number applied and the name, street address, including the city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the flock of birth if known.

(vii) The serial numbers, the manufacturer, and the type and color of all official tags received. Usually maintaining the tag invoice will meet this requirement.

(3) Maintain these records for 5 years; and

(4) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture or the State, and presentation of his or her official credentials.

(5) Any person who fails to comply with these requirements shall not be assigned serial numbers of United States Department of Agriculture backtags, official sheep and goat tattoos, official eartags, or premises identification numbers. If a person who is not in compliance with these requirements has already been assigned such serial numbers, the Administrator may withdraw the assignment by giving notice to such person. After such notice the person shall be subject to criminal and civil penalties if he continues to use those assigned serial numbers.

(c) No person shall apply a premises identification number or a brand or ear-notch pattern to an animal

that did not originate on the premises to which the number was assigned by a State or APHIS representative or to which the brand or ear notch pattern has been assigned by an official brand registry. This includes individual identification such as USDA tags and backtags that have been assigned to a premises for use as premises identification and registration tattoos that contain prefixes that have been assigned to a premises for use as premises identification. This does not preclude the owner of a flock from using a premises identification number tag assigned to that flock on an animal owned by him that resides in that flock but that was born or previously resided on a different premises as long as the records required in paragraph (b)(1)(iv) of this section are maintained.

(d) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce must ensure that the animals are identified as required in this part and must keep records relating to the transfer of ownership, shipment, or handling of the sheep or goats, such as yarding receipts, sale tickets, invoices, and waybills.

(1) If official individual animal identification is required, the records must include the number of sheep and/or goats; the breed or cross if known; the name, street address, including city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person from whom the sheep or goats were purchased or otherwise obtained; and a copy of any documents required to accompany the animal including any certificate, owner statement, letter, or permit; and

(i) For animals not in slaughter channels the records must include all serial numbers and other approved means of identification appearing on the sheep or goat. This requirement may usually be met by maintaining a copy of the certificate that accompanied the animals. The premises number may be recorded instead of the individual numbers in the case of animals identified with premises identification if:

(A) The premises identification meets the requirements of paragraph (a)(2)(v) of this section for individual animal identification; or

(B) The animals are allowed to move interstate with only premises identification in accordance with §79.3.

(ii) For animals in slaughter channels that are identified with individual animal identification traceable to the flock of origin or that are identified to the flock of origin with official premises identification that meets the requirements for individual animal identification, no additional records are required;

(iii) For animals in slaughter channels that are identified with individual animal identification traceable to a previous flock but not to the flock of origin, or that are identified with official premises identification that meets the requirements for individual animal identification that is traceable to a previous flock but not to the flock of origin, the records must include all serial numbers and other approved means of identification appearing on the sheep or goat;

(iv) For animals that are not required to be identified until they reach their final destination, the records must include the final destination.

(2) If official premises identification is required or allowed, the records must include:

(i) The premises identification number(s) and the number of animals identified with each premises

number;

(ii) Copies of any required documents such as the brand inspection certificate, an owner's statement, an accredited veterinarian's statement, or a health certificate;

(iii) The name, street address, including city and State, or the township, county, and State, and the telephone number if the telephone number is available, of the owner of the flock of origin and, if different, the person from whom the sheep or goats were purchased or otherwise obtained.

(3) Each person required to keep records under this paragraph must maintain the records for at least 5 years after the person has sold or otherwise disposed of the sheep or goat to another person, and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the sheep or goat identified in the records. The person must make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture or the State, upon that employee's request and presentation of his or her official credentials.

(e) No person may remove or tamper with any means of identification required to be on sheep or goats pursuant to this section while the animals are in interstate commerce, and, at the time of slaughter, animal identification must be maintained throughout postmortem inspection in accordance with regulations of the Food Safety and Inspection Service, U.S. Department of Agriculture, in chapter III of this title.

(f) *Requirements for approval of official premises and individual identification tags.* (1) The Administrator may approve tag companies to produce official premises and/or individual identification tags for use on sheep or goats. Tags may be plastic or metal and must be an appropriate size for use in sheep and goats. Tags must be able to legibly accommodate the required alphanumeric sequences. Tags must resist removal and be difficult to place on another animal once removed, but need not be tamper-proof. Tags must be readily distinguishable as USDA official sheep and goat tags, must carry the alphanumeric sequences, symbols, or logos specified by APHIS, and must have a means of discouraging counterfeiting, such as use of a unique copywrited logo or trade mark. Tags for use only on animals in slaughter channels must be marked with the words "Meat" or "For Slaughter Only," or else must be used in conjunction with an ear tattoo of the word "Meat."

(2) Written requests for approval of official premises identification tags for sheep and goats should be sent to the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, Attention: National Scrapie Program Coordinator, 4700 River Road Unit 43, Riverdale, MD 20737-1235. The request must include:

(i) Data supporting the durability of the tag and durability and legibility of the identification numbers and high retention rates of the tags in animals, preferably sheep and/or goats. Preference will be given to tags with high legibility and retention rates in sheep and goats that minimize injury to the ear.

(ii) A signed statement agreeing to:

(A) Send official eartags only to a State or APHIS representative, to a flock owner at the address to which the premises number or tag sequence was assigned by a State or APHIS representative, or as directed by APHIS;

(B) Provide a monthly report by State of all tags produced, including the tag sequences produced and the

person's and address to which the tags were shipped; and

(C) When required by APHIS, enter the sequences of tags shipped into the National Scrapie Database through a web page interface or other means specified by APHIS.

(iii) Twenty-five sample tags. Additional tags must be submitted if requested by APHIS.

(3) Approval to produce official premises and/or individual identification tags will be valid for 1 year and must be renewed annually. The Administrator may also grant approval to produce tags for periods of less than 1 year in cases where all of the submissions required by this section have not been received or evaluated but there is substantial evidence that the tags meet the requirements of this section. The Administrator may decline to renew a company's approval if the tags do not show adequate retention and durability in field use or if any of the requirements of this section are not met by the tag company. If a company's tags do not show adequate retention and durability in field use or if any of the requirements of this section are not met by the tag company, the approval may be withdrawn with 60 days written notice. Any person who is approved to produce official premises or individual identification tags in accordance with this section and who knowingly produces tags that are not in compliance with the requirements of this section, and any person who is not approved to produce such tags but does so, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 7 U.S.C. 8313, or other applicable Federal statutes. Such action may be in addition to, or in lieu of, withdrawal of approval to produce tags.

(g) *New types of identification.* Written requests for approval of sheep or goat identification devices and markings not listed in paragraph (a)(2) of this section should be sent to the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737-1235. If the Administrator determines that the devices and markings will provide a means of tracing sheep and goats in interstate commerce, a proposal will be published in the *Federal Register* to add the devices and markings to the list of approved means of sheep and goat identification.

[66 FR 43990, Aug. 21, 2001, as amended at 68 FR 6343, Feb. 7, 2003]

§79.3 General restrictions.

The following prohibitions and movement conditions apply to the interstate movement of sheep and goats, and no sheep or goat may move interstate except in compliance with them.

Interstate Movement General Restrictions for Sheep and Goats

Note: A CONSISTENT STATE is one whose intrastate identification, reporting, and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

Type of interstate movement	Moved from INCONSISTENT state	Moved from CONSISTENT state
(a) Sale or other movement of breeding animals, show animals or any other animal not specifically addressed in this chart. General Condition: No animal may be removed from slaughter channels in		

interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked "meat" or "slaughter only," or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.

(1) High-risk, scrapie-positive, or suspect animals, or animals from a noncompliant flock.

(2) Non-high-risk animals from an infected or source flock that are not scrapie-positive or suspect animals.

(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and are not animals from an infected or source flock.

Prohibited \1\.... Prohibited \1\

Prohibited \1\.... Prohibited, \1\ except as allowed in an approved scrapie control pilot project flock plan and must meet the requirements for exposed animals.

Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS recognized program, have official individual animal identification, and a permit.\2\
For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171. For any female animal moving for exhibition, the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171. For any female animal moving for exhibition, the permit must include a statement by both the owner and the accredited veterinarian that the animal has not lambed or aborted within 30 days of being exhibited and is not due to lamb within 30 days of being exhibited and that there is no visible vaginal discharge. For

not lambled or aborted within 30 days of being exhibited and is not due to lamb within 30 days of being exhibited and that there is no visible vaginal discharge. For any animal born after 1-1-2002, the certificate must include the flock of birth and the flock of origin, if different.

any animal born after 1-1-2002, the permit must include the flock of birth and the flock of origin, if different.

- (4)(i) Sexually intact sheep except as allowed in (a)(7).
 (ii) Sexually intact goats, except for low-risk goats.

Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS-recognized program, have official individual animal identification, and a certificate. For any animal born after 1-1-2002, the certificate must include the flock of birth and the flock of origin, if different.

Official individual animal identification and a certificate. For any animal born after 1-1-2002, the certificate must include the flock of birth and the flock of origin, if different.

- (5) Sexually intact low-risk goats.

Official individual animal identification and a certificate. For any animal born after 1-1-2002, the certificate must include the flock of birth and the flock of origin, if different.

Official individual animal identification and a certificate. For any animal born after 1-1-2002, the certificate must include the flock of birth and the flock of origin, if different.

- (6) Castrated animals that are not scrapie-positive or

Official individual animal

None, except for exposed animals

suspect animals.

identification
and a certificate.

that must have
official
individual animal
identification.

(7) Low-risk commercial
sheep.

Official
individual animal
identification
and a
certificate, and
the flock must be
enrolled in the
Complete
Monitored
category of the
Scrapie Flock
Certification
Program or an
equivalent APHIS-
recognized
program. For any
animal born after
1-1-2002, the
certificate must
include the flock
of birth and the
flock of origin,
if different.

(i) Official
premises
identification
that is a
permanent brand
or ear notch
pattern
registered with
an official brand
registry;

(ii) A brand
inspection
certificate;

(iii) An owner
statement dated
within 30 days
stating that the
animals were born
in the flock,
that the flock
does not contain
any animal
exhibiting signs
of scrapie, that
to the best of
his or her
knowledge the
flock has no risk
factors for or
exposure to
scrapie, and that
the flock has
never contained:
(A) Any animal
diagnosed as
having scrapie;
(B) any female
blackfaced sheep;
or (C) any female
blackfaced cross
sheep that were
not born in the
flock; and
(iv) An accredited
veterinarian's
statement issued
within 12 months
of the date of
movement
indicating that,
to the best of
his or her
knowledge, the
flock has no
known risk
factors for or

exposure to scrapie, and that he or she has inspected the flock and it does not contain: (A) Any animal exhibiting signs of scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that were not born in the flock. The statements must include the owner's name, address, and the premises identification number and a drawing of the owner's registered brand or ear notch pattern.

None.

(8) Commercial low-risk goats..

Official individual animal identification and a certificate. For any animal born after 1-1-2002, the certificate must include the flock of birth and the flock of origin, if different.

(b) Sale or other movement directly to slaughter, through slaughter channels to slaughter, or to feedlots for later movement to slaughter of animals that are under 18 months of age as evidenced by eruption of the second incisor, not pregnant, and have not lambed or kidded. General Condition: No animal may be removed from slaughter channels in interstate slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked ``meat'' or ``slaughter only,'' or was sold with a bill of sale

marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.

(1) Scrapie-positive or suspect animal.

(2) Sexually intact high-risk animals and sexually intact animals from infected or source flocks that are not scrapie-positive or suspect animals.

(3) Exposed sexually intact animals that are not scrapie-positive, suspect, or high-risk. animals and that are not animals from an infected or source flock.

(4) Sexually intact sheep that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock.

(5) Sheep enrolled in the selective monitored or complete monitored category of the SFCP that are not scrapie-positive, suspect, high-risk, or exposed

Prohibited \1\....

Official individual animal identification and a permit, or a permit and an indelible "S" mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots.\3\)

Official individual animal identification for any animal that is not moving directly to slaughter or to a terminal feedlot. [SU]3[/SU], [SU]4[/SU] (Note: pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots.)

Official premises identification or official individual animal identification for any animal that is not moving direct to slaughter or to a terminal feedlot. [SU]3[/SU]

None.....

Prohibited.\1\

Official individual animal identification and a permit, or a permit and an indelible "S" mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots.\3\)

Official individual animal identification for any animal that is not moving direct to slaughter or to a terminal feedlot. [SU]3[/SU], [SU]4[/SU] (Note: Pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots.)

None.

None.

animals.

(6) Castrated animals that are not scrapie-positive, or suspect animals. None..... None.

(7) Sexually intact goats that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock. None..... None.

(c) Sale or other movement directly to slaughter, through slaughter channels to slaughter, or to feedlots for later movement to slaughter of animals that are over 18 months of age, as evidenced by eruption of the second incisor, or that are pregnant or that have lambed or kidded. General Condition: No animal may be removed from slaughter channels in interstate commerce if it was sold at a slaughter-only auction, is identified with a tag or ear tattoo marked ``meat'' or ``slaughter only,'' or was sold with a bill of sale marked for slaughter only, and other animals may be removed from slaughter channels in interstate commerce only if they are identified to their flock of birth.

(1) Scrapie-positive or suspect animal. Prohibited.[SU]1[/SU]. Prohibited.[SU]1[/SU]

(2) Sexually intact high-risk animals and sexually intact animals from an infected or source flock that are not scrapie-positive, or suspect animals. Official individual animal identification and a permit, or a permit and an indelible ``S'' mark on the left jaw, or sealed conveyance and a permit. (Note: these animals may only be permitted to slaughter or to terminal feedlots.[SU]3[/SU]. Official individual animal identification and a permit, or a permit and an indelible ``S'' mark on the left jaw, or sealed conveyance and a permit. (Note: These animals may only be permitted to slaughter or to terminal feedlots.[SU]3[/SU]

(3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and are not animals from an infected or source flock. Official individual animal identification and a permit, or a permit and an indelible ``S'' mark on the left jaw, or sealed conveyance and a permit. (Note: pregnant animals and animals with a visible vaginal discharge may Official individual animal identification. (Note: pregnant animals and animals with a visible vaginal discharge may

- | | | |
|--|--|---|
| | conveyance and a permit when moving directly to slaughter. (Note: pregnant animals and animals with a visible vaginal discharge may only be permitted to slaughter or to terminal feedlots. [SU]3[/SU], [SU]4[/SU] | only be moved directly to slaughter or to terminal feedlots. [SU]3[/SU], [SU]4[/SU] |
| (4) Sheep over 18 months of age that are not scrapie-positive, suspect, sexually intact high-risk, or sexually intact exposed animals and that are not sexually intact animals from an infected or source flock. | Official individual animal identification and a certificate.\4\. | Official individual animal identification.\4 \ |
| (5) Low-risk commercial sheep. | Official individual animal identification and a certificate \4\. | (i) Official premises identification that is a permanent legible brand or ear notch pattern registered with an official brand registry or, in the case of animals moving directly to slaughter, may be a legible paint brand registered with an official brand registry;
(ii) A brand inspection certificate;
(iii) An owner statement dated within 30 days of the movement stating that the flock does not contain any animal exhibiting signs of scrapie, and that, to the best of his or her knowledge, the flock has no risk factors for or exposure to scrapie and has |

never contained:

- (A) Any animal diagnosed as having scrapie;
- (B) any female blackfaced sheep;
- or (C) any female blackfaced cross sheep that was not born in the flock;

(iv) An accredited veterinarian's statement issued within 12 months of the date of movement indicating that, to the best of his or her knowledge, the flock has no known risk factors for or exposure to scrapie, and that he or she has inspected the flock and it does not contain: (A) Any animal exhibiting signs of scrapie; (B) any female blackfaced sheep; or (C) any female blackfaced cross sheep that was not born in the flock. The statements must include the owner's name, address, and the premises identification number and a drawing of the owner's registered brand or ear notch pattern.\4\

(6) Goats that are not scrapie-positive, suspect, sexually intact high-risk, or sexually intact exposed animals and that are not sexually intact animals from an infected or source flock.

None..... None.

(d) Movement of animals for grazing or other management purposes without change of ownership.

- (1) Scrapie-positive, suspect, or sexually intact high-risk animals. Prohibited \1\.... Prohibited.\1\
- (2) Non-high-risk animals from an infected or source flock. Prohibited \1\.... Prohibited,\1\ except as allowed in an approved scrapie control pilot project flock plan and must meet the requirements for exposed animals.
- (3) Sexually intact exposed animals that are not scrapie-positive, suspect, or high-risk animals and that are not animals from an infected or source flock. Official individual animal identification and a permit.\2\ For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171. Official individual animal identification and a permit.\2\ For any female exposed sheep the results of an official genotype test must be included on or attached to the permit and must be QR or RR at codon 171.
- (4) Sexually intact sheep or sexually intact goats that have been commingled with sheep and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock. Official premises identification and a certificate.. None.
- (5) Sexually intact goats that have not been commingled with sheep and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected or source flock. None..... None.
- (6) Castrated animals that are not scrapie-positive or suspect animals and are not an animal from an infected or source flock. None..... None.

-
- \1\ Animals prohibited movement may be moved interstate only if they are moving interstate for destruction or research as approved by the Administrator.
 - \2\ A copy of the permit must be sent to the State veterinarian and the AVIC of the receiving State prior to movement of animals.
 - \3\ No exposed or high-risk animal from any State or any animal from an Inconsistent State shall be removed from slaughter channels once it

has entered interstate commerce.

\4\ Official individual animal identification or official premises identification is not required for these slaughter animals if the animals are kept as a group on the same premises on which they were born or used for breeding purposes and are not commingled with animals from another premises at any time, including throughout the feeding, marketing, and slaughter process.

§79.4 Designation of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks; notice to owners.

(a) *Designation.* A designated scrapie epidemiologist will designate an animal to be a scrapie-positive animal, high-risk animal, exposed animal, or suspect animal after determining that the animal meets the criteria of the relevant definition in §79.1.

(1) A State or APHIS veterinarian will designate an animal to be a suspect animal after determining that the animal meets the criteria of the relevant definition in §79.1.

(2) A designated scrapie epidemiologist will designate a flock to be a source, infected, or exposed flock after reviewing sale, movement, and breeding records that indicate the flock meets the criteria of the relevant definition in §79.1.

(i) A designated scrapie epidemiologist may conduct testing of animals if he or she determines such testing is needed to properly designate a flock to be a source, infected, or exposed flock. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Flocks meeting the definition of infected or source flocks that are designated as exposed flocks must complete a post exposure monitoring and management plan. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter.

(ii) If an owner does not make his or her animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples, the flock will be designated a source, infected, or exposed flock, whichever definition applies. Any flock that is pending designation must comply with the movement restrictions for infected flocks.

(3) A designated scrapie epidemiologist will designate a flock to be a noncompliant flock after determining that the flock meets the definition of a noncompliant flock in §79.1.

(b) *Redesignation.* (1) A designated scrapie epidemiologist may reclassify an animal designated a high-risk animal as an exposed animal after receiving negative results from an official test or in accordance with an approved Scrapie Control Pilot Project.

(2) A State or APHIS veterinarian may remove the suspect animal designation from an animal that had clinical signs of scrapie and that did not test positive for scrapie or for the proteinase resistant protein associated with scrapie upon determination that it is alive and no longer exhibits such signs, or that the signs are not caused by scrapie.

(3) A designated scrapie epidemiologist may remove the suspect animal designation from an animal that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on an unofficial test based on knowledge of the test used or based on an epidemiologic investigation which may include additional testing of the suspect animal and or animals that have been commingled with the suspect animal.

(4) A designated scrapie epidemiologist may remove the suspect animal designation from an animal that tested positive on a live-animal screening test based on an epidemiologic investigation which includes additional official testing of the suspect animal and when appropriate, animals that have been commingled with the suspect animal.

(5) A designated scrapie epidemiologist may remove the exposed flock designation after completing an epidemiologic investigation or upon completion of a post-exposure management and monitoring plan. As part of the epidemiologic investigation the designated scrapie epidemiologist may conduct testing of animals if he or she determines such testing is needed to properly redesignate the flock. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter. A designated scrapie epidemiologist shall redesignate an exposed flock as a noncompliant flock if the owner fails to make his animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples.

(6) Based on an epidemiologic investigation and testing, a designated scrapie epidemiologist may redesignate an infected flock or source flock as an exposed flock. The designated scrapie epidemiologist may only use this option when the epidemiologic investigation reveals that the scrapie exposure was minor or could not be confirmed due to inadequate records. The designated scrapie epidemiologist will select animals for testing in a manner that will provide a 95 percent confidence of detecting scrapie at a prevalence of 1 percent or, when flock records are adequate and all exposed animals that lambed in the flock are available for testing, may limit the testing to all exposed and suspect animals. Testing may include live-animal testing using a live-animal official test, an official genotype test, the culling and postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, and postmortem examination and testing of animals found dead or cull animals at slaughter. Infected or source flocks that are redesignated as exposed flocks must complete a post exposure monitoring and management plan. If an owner does not make his or her animals available for testing within 60 days of notification or as mutually agreed or fails to submit required postmortem samples, the flock designation will remain unchanged.

(7) A designated scrapie epidemiologist may remove the noncompliant flock designation after reviewing any required testing of the flock and determining that the flock has complied with the required testing or no longer meets the definition of a noncompliant flock.

(8) A designated scrapie epidemiologist may redesignate an exposed animal, exposed flock, or infected flock by removing that designation after completing an epidemiologic investigation and determining that the exposure was limited to a scrapie-positive male animal that was not born in the flock (the owner must have adequate records and animal identification to show that the scrapie-positive male animal was purchased).

(c) *Notice to owner.* As soon as possible after making such a determination, a State or APHIS

representative will attempt to notify the owner(s) of the flock(s) in writing that their flock contained or contains a scrapie-positive animal, a suspect animal, a high-risk animal or an exposed animal, or that the flock is an infected, source, exposed, or noncompliant flock or that the flock is pending designation as an infected, source, exposed, or noncompliant flock. The notice will include:

- (1) A description of the interstate movement restrictions and identification requirements;
- (2) Reporting requirements;
- (3) Sample submission requirements for suspect and high-risk animals contained in this part;
- (4) Options for controlling the spread of scrapie from, and eradicating 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; and
- (5) In the case of flocks that are pending designation the notification shall include the testing options available to them and the designation their flock will receive if they decline to test.

§79.5 Issuance of certificates.

(a) Certificates are required as specified by §79.3 for certain interstate movements of animals. A certificate must show the official ear tag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, and any other official individual identification of each animal to be moved; *provided that*, in the case of animals identified with premises identification⁴ that is assigned to the flock of origin and that meets the requirements for individual animal identification, the premises number may be recorded instead of the individual identification numbers. A certificate must also show the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor, and the consignee. Certificates must indicate the flock of birth for any breeding sheep born after January 1, 2002, that are covered by the certificate. The certificate must include a statement by the issuing accredited or State or Federal veterinarian that the animals were not exhibiting clinical signs associated with scrapie at the time of examination and an owner statement indicating whether the animal is or is not a scrapie-positive, suspect, high-risk or exposed animal and whether it originated in an infected, source, exposed, or noncompliant flock. Except as provided in paragraphs (b) and (c) of this section, all of the information required by this paragraph must be typed or written on the certificate. Note that in accordance with §79.3(a), (b), and (c), scrapie-positive, suspect, and high-risk animals, some exposed animals, and animals that originated in an infected or source flock require permits rather than certificates.

⁴Ownership brands may be used on certificates for sheep and goats moved interstate when premises identification is required under this part, provided the ownership brands are legible and are registered with the official brand recording agency and the animals are accompanied by a brand inspection certificate.

(b) *Animal identification documents attached to certificates.* As an alternative to typing or writing individual animal identification on a certificate, another document may be used to provide this information, but only under the following conditions:

- (1) The document must be a State form or APHIS form that requires individual identification of animals;

(2) A legible copy of the document must be stapled to the original and each copy of the certificate;

(3) Each copy of the document must identify each animal to be moved with the certificate, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be typed or written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

(c) *Ownership brands documents attached to certificates.* As an alternative to typing or writing ownership brands on a certificate, an official brand inspection certificate may be used to provide this information, but only under the following conditions:

(1) A legible copy of the official brand inspection certificate must be stapled to the original and each copy of the certificate;

(2) Each copy of the official brand inspection certificate must show the ownership brand of each animal to be moved with the certificate, but any other ownership brands, and any unused space for recording ownership brands, must be crossed out in ink; and

(3) The following information must be typed or written in ink in the official identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the attached document; and

(ii) Either the serial number on the official brand inspection certificate or, if the official brand inspection certificate is not imprinted with a serial number, both the name of the person who prepared the official brand inspection certificate and the date it was signed.

§79.6 Standards for States to qualify as Consistent States.

(a) In reviewing a State for Consistent State status, the Administrator will evaluate the State statutes, regulations, and directives pertaining to animal health activities; reports and publications of the State animal health agency; and a written statement from the State animal health agency describing State scrapie control activities and certifying that these activities meet the requirements of this section. In determining whether a State is a Consistent State, the Administrator will determine whether the State:

(1) Has the authority, based on State law or regulation, to restrict the movement of all scrapie-infected and source flocks.

(2) Has the authority, based on State law or regulation, to require the reporting of any animal suspected of having scrapie and test results for any animals tested for scrapie to State or Federal animal health authorities.

(3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding between APHIS and the State that delineates the respective roles of each in the National Scrapie Program implementation.

(4) Has placed all known scrapie-infected and source flocks under movement restrictions, with movement of animals only to slaughter, to feedlots under permit and movement restrictions that ensure later movement to slaughter, for destruction, or for research. Scrapie-positive and suspect animals may be moved only for transport to an approved research facility or for purposes of destruction.

(5) Has effectively implemented policies to:

(i) Investigate all animals reported as scrapie suspect animals within 7 days of notification;

(ii) Designate a flock's status, within 15 days of notification that the flock contains a scrapie-positive animal, based on an investigation by State or Federal animal health authorities and in accordance with this part;

(iii) Restrict the movement, in accordance with paragraph (a)(4) of this section, of newly designated scrapie-infected and source flocks within 7 days after they are designated in accordance with §79.4;

(iv) Relieve infected and source flock movement restrictions only after completion of a flock plan created in accordance with §54.14 of this chapter or a flock plan created in accordance with an approved scrapie control pilot project, or as permitted by the conditions of such a flock plan, and after agreement by the owner to comply with a 5-year post-exposure management and monitoring plan;

(v) Conduct an epidemiologic investigation of source and infected flocks that includes the designation of high-risk and exposed animals and that identifies animals to be traced;

(vi) Conduct tracebacks of scrapie-positive animals and traceouts of high-risk and exposed animals and report any out-of-State traces to the appropriate State within 45 days of receipt of notification of a scrapie-positive animal; and

(vii) Conduct tracebacks based on slaughter sampling within 15 days of receipt of notification of a scrapie-positive animal at slaughter.

(6) Effectively monitors and enforces quarantines.

(7) Effectively enforces State reporting laws and regulations for scrapie.

(8) Has designated at least one APHIS or State animal health official to coordinate scrapie program activities in the State and to serve as the designated scrapie epidemiologist in the State.

(9) Has educated those engaged in the interstate movement of sheep and goats regarding the identification and recordkeeping requirements of this part.

(10) Has provided APHIS with a plan and timeline for complying with the following additional requirements, which must be met within 2 years of designation of the State as a Consistent State⁵ :

⁵This provision would apply until January 1, 2003. Any State designated as a Consistent State after that

date would have to meet all requirements prior to designation.

(i) Requires, based on State law or regulation, and effectively enforces official identification upon change of ownership of all animals of any age not in slaughter channels and any sheep over 18 months of age as evidenced by eruption of the second incisor such that the animal may be traced to its flock of birth; provided that:

(A) A State may exempt commercial goats in intrastate commerce that have not been in contact with sheep from this identification requirement if there has been in that State no case of scrapie in a commercial goat in the past 10 years that originated in that State and cannot be attributed to exposure to infected sheep, and there are no exposed commercial goat herds in that State; and

(B) A State may exempt commercial whitefaced sheep or commercial hair sheep under 18 months of age in intrastate commerce from this identification requirement if there has been in that State no case of scrapie in the exempted class that originated from that State, and there are no exposed commercial whitefaced or hair sheep flocks in that State that have been exposed by a female animal.

(C) States that exempt these types of commercial animals must put in place the regulations necessary to require identification of these animals within 90 days of these conditions no longer existing.

(ii) Maintains in the National Scrapie Database administered by APHIS, or in a State database approved by the Administrator as compatible with the National Scrapie Database, the State's:

(A) Premises information and assigned premises numbers and individual identification number sequences assigned for use as premises identification;

(B) Individual animal information on all scrapie-positive, suspect, high-risk, and exposed animals in the State;

(C) Individual animal information on all out-of-State animals to be traced; and

(D) Accurate flock status data.

(iii) Requires official individual identification of any live scrapie-positive, suspect, or high-risk animal of any age and of any sexually intact exposed animal of more than 1 year of age or any sexually intact exposed animal of less than 1 year of age upon change of ownership (except for exposed animals moving in slaughter channels at less than 1 year of age), whether or not the animal resides in a source or infected flock.

(iv) Effectively enforces movement restrictions on all scrapie-positive, suspect, and high-risk animals throughout their lives unless they are moved in accordance with §79.3.

(v) Requires that tissues from all scrapie-positive or suspect animals and female high-risk animals that have lambed (when they have died or have been destroyed) be submitted to a laboratory authorized by the Administrator to conduct scrapie tests and requires complete destruction of the carcasses of scrapie-positive and suspect animals.

(vi) Prohibits any animal from being removed from slaughter channels unless it is identified to the flock of birth, is not from an Inconsistent State, and is not scrapie-exposed or from an infected or source flock.

(b) If the Administrator determines that statutory changes are needed to bring a State into full compliance, the Administrator may grant up to a 2-year extension to allow a State to acquire additional authorities before removing a State's Consistent Status. The decision to grant an extension will be based on the State's ability to prevent the movement of scrapie-infected animals out of the State and on the progress being made in making the needed statutory changes.

§79.7 Waiver of requirements for scrapie control pilot projects.

(a) 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:

(1) 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

(2) 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.

(b) [Reserved]

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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Form #3

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: West Virginia Code 19-9-2

AMENDMENT TO AN EXISTING RULE: YES NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Animal Disease Control

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

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