ESTIMATED DOMESTIC EDIBLE, EXCLUDING SEED, AND RELATED USES FOR 2000–CROP PEANUTS WITH MARKETING LEVELS OF 97.6 PERCENT AND 99.3 PERCENT—Continued

Item	Farmer Stock Equivalent (Short tons)	
	99.3% of quota marketed	97.6% of quota marketed
Related uses	.....	.....
Crushing residual	128,500	128,500
Shrinkage and other losses	44,000	44,000
Unused quota	8,500	28,500
Totals	1,170,000	1,190,000

The estimate of 2000 domestic food use was developed in two steps. First, normal commercial use was estimated based upon figures from the USDA Interagency Commodity Estimates Committee (ICEC) adjusted to take out peanut imports, peanut butter imports, and peanut butter exports (which are normally comprised of additional peanuts only). Then, farm sales and other direct marketings to consumers were added based upon differences between production data and Federal-State Inspection Service inspection data. Insofar as related uses are concerned, an added allowance is made for the normal crushing residual that cannot effectively be used for food use, and that amount has traditionally been about 12 percent, on a farmer stock basis, of the total of MY domestic production. An allowance for shrinkage and other losses is made to account for reduced kernel and other kernel losses during storage, using the customary factor of 4 percent of domestic food use. In addition, disaster transfers of poor quality peanuts are included as part of other losses. Finally, the unused quota allowance goes to those instances where the farmer cannot fulfill a quota either because of under-planting or because the farmer is unable to produce enough Segregation 1 peanuts to fill the full quota. Because of the program changes in the 1996 Act, which have been outlined in previous notices, there is now a greater incentive than in the past to fully market the quota and it is expected that, after discounting for quality problems, somewhere between 97.6 percent and 99.3 percent of the quota will be marketed.

In MY 1996 about 97.3 percent was marketed; in MY 1997 about 99.7 percent of quota was marketed; in MY 1998 about 98.0 percent of quota was marketed; and for MY 1999 between 94.0 percent and 98 percent of the quota is anticipated to be marketed. Also, it is anticipated that between 97.6 and 99.3 percent of the MY 2000 quota will be marketed.

The proposed 2000 quota range, as set forth above, reflects the uncertainty in domestic consumption of peanut products. Although a small increase in demand has resulted from new uses and from lower peanut support prices in recent years, Government Domestic Feeding and Child Nutrition Program purchases in MY 1998 decreased 32 percent from 38,053, 476 pounds in MY 1997 to 28,831,842 pounds in MY 1998. Also, peanut butter consumption, the major food use of peanuts, declined almost 2 percent during 1998. Overall demand may change little from the current level.

List of Subjects in 7 CFR Part 729

Peanuts, Penalties, Poundage quotas, Reporting and recordkeeping requirements.

Accordingly, it is proposed that 7 CFR part 729 be amended as follows:

PART 729—PEANUTS

1. The authority citation for 7 CFR part 729 continues to read as follows:

Authority: 7 U.S.C. 1301, 1357 *et seq.*, 1372, 1373, 1375, and 7271.

2. Section 729.216 paragraph (c) is revised to read as follows:

§ 729.216 National poundage quota.

* * * * *

(c) Quota determination for individual marketing years:

(1) The national poundage quota (excluding seed) for quota peanuts for marketing year 1996 is 1,100,000 short tons.

(2) The national poundage quota (excluding seed) for quota peanuts for marketing year 1997 is 1,133,000 short tons.

(3) The national poundage quota (excluding seed) for quota peanuts for marketing year 1998 is 1,167,000 short tons.

(4) The national poundage quota (excluding seed) for quota peanuts for marketing year 1999 is 1,180,000 short tons.

(5) The national poundage quota (excluding seed) for quota peanuts for marketing year 2000 will be set between 1,170,000 and 1,190,000 short tons.

* * * * *

Signed at Washington, DC, on November 24, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 99–31111 Filed 11–24–99; 3:33 pm]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 97–093–2]

RIN 0579–AA90

Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to restrict the interstate movement of sheep and goats from States that do not follow effective flock management practices for scrapie. We also propose to require animal identification for sheep and goats moving interstate and to reinstate a scrapie indemnity program to compensate owners of certain animals destroyed due to scrapie. These changes would help prevent the interstate spread of scrapie, an infectious disease of sheep and goats.

DATES: Consideration will be given only to comments received on or before December 30, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–093–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comments refer to Docket No. 97–093–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Diane Sutton, Senior Staff Veterinarian, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235, (301) 734–7709.

SUPPLEMENTARY INFORMATION: Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats, a member of a class of diseases called transmissible spongiform encephalopathies (TSEs). Its control is complicated because the disease has an extremely long incubation period without clinical signs of disease, and because there is no live-animal test for the disease that has been validated (demonstrated to be accurate by impartial research).

Scrapie is not a highly contagious disease; however, transmission to uninfected and susceptible animals can sometimes occur following exposure to small amounts of tissues from an infected animal. The exact conditions favorable to animal-to-animal transmission are not fully understood, though some factors that increase the risk are known (e.g., contact of a young animal with the afterbirth of an infected female animal). The scrapie agent moves from infected to susceptible animals by direct animal-to-animal contact, or indirect contact through contaminated premises and may enter through the gastrointestinal tract, open wounds, or other routes. Consequently, its spread appears to be both maternal (mother to offspring) and horizontal (direct contact between unrelated sheep).

There is no evidence that any human has ever contracted scrapie or any similar disease by eating lamb or mutton. However, it has been theorized that scrapie may have been spread to other animals when whole scrapie-positive animals have been rendered and used as animal feed. This is a prominent theory for the origin of bovine spongiform encephalopathy (BSE) in cattle in the United Kingdom. As a precautionary measure to prevent the possible spread of TSEs via ruminant feed in the United States, the U.S. Food and Drug Administration published a final rule on June 5, 1997 (62 FR 30935–30978) that prohibited the use of animal protein derived from most mammalian tissues in ruminant feed.

While diseases caused by TSEs do not frequently or easily cross species lines, there is reason to be concerned that TSEs infecting one species could at some point lead to diseases in other animal species or humans, as has been demonstrated with BSE in cattle in the United Kingdom. New variant Creutzfeldt Jakob Disease (vCJD) is a human neurological disease recently identified in the United Kingdom that is believed to have its origins in the BSE outbreak in cattle in the United Kingdom. The agent that causes vCJD is indistinguishable from the causative agent of BSE. As of September 21, 1999, 46 cases of vCJD had been identified in the United Kingdom and one in France. The exact means by which the victims were exposed to the agent is uncertain; it may have been through eating beef products that contained high risk materials (brain and spinal cord) from BSE-positive cattle or through some other exposure.

Based on the above facts, it is reasonable to conclude that control of scrapie in the United States, in addition to addressing a disease problem in sheep, would also reduce concerns about the apparently low but undefined risks that the scrapie agent could lead to diseases in other species.

There are nearly 8 million sheep and lambs in the United States. It is impossible to estimate with any accuracy how many of them are infected with scrapie. This is because the disease may go undiagnosed. Scrapie has a lengthy incubation period, which complicates epidemiological studies, and there has been no live-animal test to diagnose it. These factors have impeded surveillance programs for scrapie, requiring it to be identified by symptoms and postmortem examination. However, the following information can be used to develop a rough estimate of the number of sheep in the United States that may be infected with scrapie: (1) In a 1996 NAHMS report, 1.2 percent of participating producers reported that they had seen scrapie in their flock in the last 5 years; (2) The average flock size in the United States is 105 animals; (3) The number of flocks in the United States is 68,800; (4) In a flock that has had one case, the percent of animals that will come down with scrapie is highly variable. Based on this data, it is likely that at least 826 flocks are affected and that at least 86,730 sheep have been exposed to and may be infected with scrapie. It is likely that the number of exposed and potentially infected animals is significantly higher since owners are likely to under report disease because it is confused with another disease.

To control the spread of scrapie within the United States, the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), administers regulations at 9 CFR part 79, which restrict the interstate movement of certain sheep and goats. APHIS also administers the Voluntary Scrapie Flock Certification Program (the VSFCP), described in regulations at 9 CFR part 54, and produces a program standards document entitled ''Program Standards—Voluntary Scrapie Flock Certification Program,'' which is available at http://www.aphis.usda.gov/vs/scrapie/umr. A hard-copy of the Program Standards may be obtained by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**. The regulations at 9 CFR parts 54 and 79 are referred to below as the scrapie regulations.

For over 40 years USDA has had programs to eradicate or reduce the incidence of scrapie in the United States. While comprehensive data on the incidence of scrapie has always been hard to assemble due to the nature of the disease and its diagnosis, these programs apparently have not resulted in a major reduction in the incidence of scrapie. A major reason for this result is that State programs for scrapie have varied tremendously in their resources and effectiveness, from State to State and over time. States where sheep are not a major agricultural commodity may not invest sufficient resources to identify infected flocks or reduce the incidence of scrapie within that State, and sheep with undiagnosed cases of scrapie could then easily move to other States, infecting new flocks. Therefore, we believe that to build an effective national scrapie program, the current regulations must be adjusted to recognize that sheep from States with minimal or nonexistent scrapie programs represent a higher risk than sheep from other States.

In an advance notice of proposed rulemaking (ANPR) published in the **Federal Register** on January 26, 1998 (63 FR 3671–3673, Docket No. 97–093–1), we solicited public comments to help us develop options for potential changes to the scrapie regulations. The primary issues on which we sought comment were:

- Should APHIS further restrict interstate movement of animals from States that do not consider scrapie a reportable disease or do not quarantine infected flocks or source flocks? Should APHIS define how a State must conduct a quarantine in order to avoid further

restrictions on interstate movement of animals from that State?

• Should APHIS restrict interstate movement of high-risk animals from flocks that are not infected flocks or are not source flocks, and if so, how?

• Should any of the definitions in the scrapie regulations be revised (e.g., the definitions of source flock, trace flock, and high-risk animal)?

• Should there be additional permit or official identification requirements for the interstate movement of any classes of sheep and goats to allow for a more effective national program for surveillance for scrapie and traceback of scrapie-positive animals?

• Should APHIS continue to provide the following information on the World Wide Web: The identity of scrapie infected flocks and source flocks designated under part 79, and the identity and certification status of flocks participating in the VSFCP?

We solicited comments concerning our ANPR for 60 days ending March 27, 1998. We received 27 comments by that date. The commenters were sheep producers, industry associations, State agencies, and individuals. The comments and data submitted were carefully reviewed, and helped us develop this proposed rule.

Briefly, the three major changes we are proposing to the scrapie regulations are:

• Further restrictions on the interstate movement of sheep and goats from States that do not consider scrapie a reportable disease or do not quarantine infected flocks or source flocks. We are also proposing standards describing how a State must conduct a quarantine in order to avoid further restrictions on interstate movement of animals.

• Additional official identification requirements for the interstate movement of sheep and goats to allow for a more effective national program for surveillance for scrapie and traceback of scrapie-positive animals. The proposed identification requirements are similar to current requirements for cattle and swine.

• Reinstatement of a scrapie indemnification program for sheep and goats that owners agree to destroy. The owners of destroyed high-risk animals and animals diagnosed as scrapie positive by an approved live-animal test would be eligible for indemnity payments.

State Quarantine Activities and Interstate Movement Restrictions

Many commenters supported the idea that States should have intrastate quarantines and controls on the movement of sheep and goats sufficient to prevent intrastate spread of scrapie from known sources, and that States lacking such quarantines and controls should have the interstate movement of their sheep and goats further restricted. These commenters expressed the opinion that the current regulations do not do enough to prevent the spread of scrapie from States with weak scrapie programs into States with more effective scrapie programs. Most of these commenters supported the idea that an adequate State program is one that considers scrapie to be a reportable disease, that quarantines scrapie infected and source flocks and maintains them under a flock plan, and that imposes intrastate movement restrictions equivalent to Federal interstate movement restrictions imposed under current part 79.

Commenters generally stated that if a State has or develops such an intrastate program, and APHIS determines the State program to be comparable in effectiveness to its interstate regulations in part 79, that State should not be subject to further interstate movement restrictions. However, a few commenters suggested that if a State implements a program of intrastate restrictions, that should be sufficient to avoid further interstate movement restrictions on sheep from that State, without an APHIS determination that the State program is comparable in effectiveness to the Federal program under part 79.

Commenters also generally stated that flocks participating in the VSFCP should not be subject to further interstate movement restrictions, even if they are in a State that does not have an adequate intrastate program as described above.

We believe that programs developed and implemented by States are essential to the control and eradication of scrapie, and we encourage varying approaches to these programs to meet individual State needs and to try and evaluate different control methods. However, we also believe APHIS should have a role in determining that each State program achieves a minimum level of effectiveness to serve national needs. Valid complaints in the past have noted that some State programs exist as little more than a name, and are ineffective. This introduces unacceptable hazards when sheep and goats from such States move in interstate commerce. Additionally, the creation of a uniform minimal standard on the national level would be consistent with the recommendations of international animal health organizations and the World Trade Organization, both of which recommend that a national authority establish minimum standards for programs affecting trade.

Therefore, we are proposing that if a State is to avoid the requirements described below under ''Additional Interstate Movement Restrictions for Sheep and Goats,'' the State program must be reviewed by APHIS and determined to be comparable to the Federal program contained in part 79. APHIS would conduct this review by evaluating the State statutes, regulations, and directives pertaining to animal health activities to determine whether the State has established authority to conduct a scrapie control program comparable to the Federal one, and would also examine reports and publications of the State animal health agency to determine whether the existing authorities are being exercised in the form of an effective program. The States would be required to submit a written statement containing this information and certifying that they are in compliance with this section.

Additional Interstate Movement Restrictions for Sheep and Goats

Most commenters supported the idea that APHIS should further restrict interstate movement of sheep and goats from States that do not consider scrapie a reportable disease, or that do not quarantine infected and source flocks. Most commenters also stated APHIS should set minimum criteria for how a State must conduct a quarantine. Four commenters opposed APHIS setting minimum criteria in this area because they were concerned that APHIS would dictate detailed command-and-control requirements to State programs, rather than minimum effectiveness criteria. This is not the intention of APHIS.

In this proposal, we describe two sets of interstate movement restrictions: One set for ''Consistent States'' and another set for ''Inconsistent States.'' Consistent States would be States that conduct an active State scrapie program which effectively enforces certain requirements to identify scrapie in flocks and control its spread. We propose to establish in the new § 79.6 the requirements a State would have to meet to be a Consistent State. These requirements include reporting and investigating any scrapie suspect animal, affected animal, or scrapie-positive animal; identifying and quarantining infected and source flocks; and individually identifying certain exposed animals and individually identifying and monitoring certain high-risk animals in all flocks, not just source or infected flocks. All States that are not Consistent States would be Inconsistent States. APHIS believes almost all States currently have the State legislative

authority and animal health infrastructure to qualify as Consistent States. However, this must be confirmed on a State-by-State basis through discussions between APHIS and State animal health authorities. Before this proposal is finalized, APHIS will develop and publish for comment a list of States that qualify as Consistent States. After finalizing the rule, APHIS will insert the list of ''Consistent States'' in § 79.1. From time to time, APHIS will amend the list when it is determined that States meet or do not meet the definition of Consistent State in § 79.1.

While this proposal does not require it, it may also be desirable to require all Consistent States to sign a compliance agreement with APHIS describing the State scrapie program operations; we would appreciate public comment on whether our regulations should require such an APHIS-State compliance agreement.

Such an agreement would provide evidence of the intent of a State to impose the requirements and provide the services necessary for it to be considered a Consistent State. The agreement could also describe cooperative activities between the State and APHIS to support the State scrapie regulatory activities. This agreement would be similar to, or could be made a part of, the cooperative agreement or memorandum of understanding that some States have signed with APHIS to cooperate in a number of animal disease control programs, including the VSFCP (see § 54.13). Under part 54, some States may have already signed a cooperative agreement with APHIS that describes the respective roles of APHIS and State personnel in implementing the VSFCP. Such agreements also specify the financial, material, and personnel resources to be committed by the State and APHIS and assign specific activities to APHIS or State personnel.

APHIS considered adding one other requirement to the standard for a State to qualify as a Consistent State. The proposed requirement states that Consistent States must report and investigate any scrapie suspect animal, affected animal, or scrapie-positive animal, but it does not specify any particular level of effectiveness in these investigations, nor does it require that States be able, in their investigation, to trace back a scrapie-positive animal to its flock of birth, if it was born in that State, and otherwise to its State of origin. When an animal that has moved through several flocks is identified as scrapie-positive, e.g., at slaughter, it greatly aids the scrapie control program when the animal can be traced back to its flock of birth. This is not always possible to do with the records and identification required by current State programs. However, it might significantly increase the burden on States to upgrade their programs to the point where any animal sold for slaughter, breeding, or other purposes can be traced back to its flock of birth. Therefore, we would appreciate receiving comments on whether the standard for declaring a State to be a Consistent State should include a requirement that the State's scrapie control program must be able to trace any animal from a flock in that State back to its flock of birth, if it was born in that State, and otherwise to its State of origin, and whether provisions for monitoring and when available live-animal testing of such flocks should be required.

The interstate movement restrictions proposed for Consistent States are similar to the regulations in current part 79, except that they include additional identification requirements and would restrict the interstate movement of high-risk animals and prohibit the interstate movement of scrapie positive, affected, and suspect animals (except when they are moved for destruction or research under conditions approved by the Administrator). The restrictions proposed for Inconsistent States are stricter, and are designed to minimize several areas of risk associated with the indeterminate scrapie status of sheep and goats from these States. Sheep and goats from Inconsistent States would be subject to stricter movement conditions to minimize their contact with other animals, and stricter identification requirements to aid traceback from any scrapie outbreak that may be associated with the animals. Also, sheep and goats from Inconsistent States could not move interstate for breeding purposes unless they are enrolled in the VSFCP or an equivalent APHIS-recognized State flock certification program. An equivalent APHIS-recognized State flock certification program does not equate to a Consistent State. It is possible, though unlikely, that a State might not institute the Statewide controls that would qualify it as a Consistent State—investigation and identification of all suspect and high-risk animals, quarantine of all source and infected flocks, etc.—but would have a program providing VSFCP-like standards for particular individual flocks within the State whose owners request it.

The following chart describes the proposed interstate movement conditions.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS

Type of interstate movement	Moved from INCONSISTENT State	Moved from CONSISTENT State
Sale or other movement of breeding animals, show animals or any other animal not specifically addressed below:		
High-risk animal, scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.
Non-high risk animal from an infected or source flock.	Prohibited*	Prohibited*.
Other animal	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS-recognized program and have certificate.	Individual animal ID and certificate.
Sale or other movement directly to slaughter or through slaughter channels to slaughter of animals under 6 months of age:		
Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Type of interstate movement	Moved from INCONSISTENT State	Moved from CONSISTENT State
High-risk animals and animals from infected or source flock.	Individual animal ID and permit, or sealed conveyance and permit (no individual ID) when moving directly to slaughter, or a permit (no individual ID) and an indelible ''S'' mark on the left jaw.	Individual animal ID and permit, or sealed conveyance and permit (no individual ID) when moving directly to slaughter, or a permit (no individual ID) and an indelible ''S'' mark on the left jaw.
Other animal	Premises ID** and certificate	None.
Sale or other movement directly to slaughter or through slaughter channels to slaughter of animals over 6 months of age, or animals of any age to feedlots for later movement to slaughter:		
Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.
High-risk animals and animals from infected or source flock.	Individual animal ID and permit	Individual animal ID and permit.
Other exposed animals	Individual animal ID and permit	Individual animal ID.
Other animals over 1 year of age	Individual animal ID and certificate	Individual animal ID.
Other animals between 6 months and 1 year of age, or animals under 6 months of age moving to feedlots for later movement to slaughter.	Individual animal ID and certificate	Premises ID**.
Movement of animals for grazing or other management purposes without change of ownership		
Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.
High-risk animal or animal from infected or source flock.	Prohibited*	Prohibited*.
Exposed animals	Individual animal ID and certificate	Premises ID.
Other animal	Premises ID and certificate	None.

*Animals prohibited movement may be moved interstate only if they are moving interstate for destruction or research approved by the Administrator.

**Premises ID is not required for slaughter animals if the animals are kept as a group on the same premises on which they were born and are not commingled with animals from another premises at any time, including throughout the slaughter process, or, if they are commingled during the slaughter process, they are officially identified on arrival at the slaughter facility such that any animal can be traced back to its flock of origin.

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

As summarized in the above chart, there are different interstate movement conditions depending on the State's scrapie program status, age of the animal moved, and on whether the animal is moved for slaughter or for other purposes. The movement conditions vary with the risk of spreading scrapie by the movement, and range from no requirements for animals of no known risk moved to slaughter from a State with a strong scrapie program, through severe requirements for animals of known risk moving from Inconsistent States, to outright prohibition of movement for the highest risk categories. The requirements employed to control risk in the middle range include premises identification (ID), individual animal ID, certificates, permits, and sealed conveyances. The meanings of these terms are discussed below under ''Changes to Definitions in Parts 54 and 79.''

The interstate movement of all scrapie-positive animals, suspect animals, and affected animals is prohibited unless the Administrator approves their movement for destruction or research. Uncontrolled movement of these animals always poses a risk that they may come in contact with other sheep and goats and spread scrapie to these other animals. Therefore, when the Administrator approves movement for destruction or research, the animals must be moved and maintained under conditions to prevent the spread of scrapie.

The interstate movement of high-risk animals and animals from infected or source flocks is subject to various restrictions that depend on the age and source of the animal and the purpose of the movement. High-risk animals and animals from infected or source flocks are prohibited movement unless they are moving to slaughter or moving in slaughter channels. Such animals of any age may be moved to a feedlot for later slaughter if they have individual animal ID and a permit. High-risk animals and animals from infected or source flocks may move directly to slaughter if they are over 6 months old and have individual animal ID and a permit. The purpose of the permit is to trace the movement of each lot of animals, and the purpose of the individual ID is to make it easy to ensure that individual animals are not diverted out of slaughter channels, e.g., by becoming mixed with other animals at feedlots prior to slaughter.

High-risk animals and animals from infected or source flocks animals under 6 months of age may be moved directly to slaughter if they meet one of three conditions: (1) Individual animal ID and a permit; (2) A sealed conveyance (no animal ID) and a permit; or (3) A permit and an indelible ''S'' mark on the jaw, in lieu of animal ID. These additional options are provided for animals under 6 months of age due to the large volume of lambs shipped to slaughter, and because it is often impractical or uneconomical to individually identify younger lambs.

Animals that are not in the categories described above (i.e., they are not scrapie-positive animals, suspect animals, affected animals, or high-risk animals) may move interstate to slaughter under conditions that vary depending on their age, and whether they are moving from a Consistent or

Inconsistent State. Generally, the older the animal moving to slaughter, the more requirements apply, because older animals may have had more opportunities to move from one flock to another and thereby increase their exposure to scrapie. The program is more likely to need records that allow the older animals to be traced back to earlier premises. While it would usually be possible to trace the movement of an animal from flock to flock in a Consistent State based on flock records, individual animal ID makes this task easier for animals over 1 year of age, which have a longer history than lambs and may have had several owners. Also, it is currently impossible to diagnose scrapie in animals under 6 months of age, by either a live-animal test or necropsy, so there is no opportunity to identify a scrapie-positive animal under 6 months of age and trace it back to its origin. Therefore, individual animal ID is seldom required for animals under 6 months of age; it is only required when the point of the identification is not traceback, but to ensure individual animals are not commingled with animals from other lots (e.g., when they are sent to a feedlot en route to slaughter).

When animals that are not scrapie-positive animals, suspect animals, affected animals, or high-risk animals move from a Consistent State, the animals may move with no requirements if they are under 6 months of age and are moving to slaughter. However, if such animals under 6 months of age are moving from an Inconsistent State to slaughter, they require a premises ID and a certificate. When they are over 6 months of age but less than 1 year of age, such animals may move from a Consistent State to slaughter, or to a feedlot, with only a premises ID; but if they are moving from an Inconsistent State, they require individual animal ID and a certificate. In this case the individual animal ID is required for animals from Inconsistent States because it is sometimes possible to diagnose scrapie in an animal between 6 months to 1 year of age, and tracing these animals back to origin in an Inconsistent State is not possible with only a premises ID because Inconsistent States would not require records that would allow the animal to be traced back farther than the premises from which the animal was shipped to slaughter. When they are over 1 year of age, such animals may move from a Consistent State to slaughter, or to a feedlot, only if they have individual animal ID; but if they are moving from an Inconsistent State, they require both individual animal ID and a certificate. The higher requirements for animals from Inconsistent States are largely due to the fact that Consistent States impose significant restrictions on movements between flocks within the State but Inconsistent States do not, so our regulations must use certificates and individual animal ID more extensively for Inconsistent States to increase the probability of successful tracebacks.

The proposed requirements also address interstate movement for purposes other than slaughter. Animals that are not scrapie-positive animals, suspect animals, affected animals, high-risk animals, or animals from infected or source flocks may move interstate from a Consistent State for grazing or other management purposes, without change of ownership, with no requirements (unless the animal is an exposed animal as defined in the regulations, in which case a premises ID is required). Such animals moving interstate from an Inconsistent State must have a premises ID and certificate, unless they are exposed animals, in which case individual animal ID and a certificate is required.

Indemnification Program

We are also proposing to reinstate an indemnification program to compensate the owners for destruction of high-risk animals, animals diagnosed scrapie-positive by an approved live-animal test, affected animals, suspect animals (if the postmortem indicates them to be scrapie-positive), and other groups of animals when the Administrator determines that their destruction will contribute to the eradication of scrapie. We believe indemnification is necessary to contribute to scrapie control, mainly by providing the economic incentive to remove scrapie-positive and high-risk animals from flocks and reduce the number of flocks under quarantine. This economic incentive, combined with advances in diagnostic techniques that allow faster and more accurate identification of scrapie-positive animals, should contribute substantially to reducing the incidence of scrapie in the United States.

The types of animals proposed as eligible for indemnity are animals diagnosed with scrapie, or known to be closely associated with animals diagnosed with scrapie under conditions where they could contract the disease. These animals could potentially cause many new cases of scrapie, and, therefore, we believe paying indemnity to destroy them is in the interest of effective scrapie control.

The indemnity payments would be $150 for registered animals and $50 for other animals. As of January 1, 1999, the national average sale price of a sheep was $88; as of January 1, 1998, it was $102. These average sale prices reflect the sale of millions of slaughter sheep and a few thousand valuable registered breeding sheep. The average price for registered breeding sheep is in the range of $300, with some selling for thousands of dollars. Therefore, if sale prices persist in the range experienced in the past 2 years, the average owners of both slaughter and registered sheep who accept indemnity for their animals rather than selling them would recover about half the market value of the animals.

The indemnity amounts of $150 and $50 represent an effort to provide an indemnity that will be attractive, while also stretching available indemnity funds to ultimately remove as large a number of diseased animals as possible. The indemnity amounts are not so high, compared to fair market value, as to provide a perverse incentive, *i.e.,* to encourage flock owners to expose animals to scrapie to obtain a higher price. The indemnity amounts were decided based on our past experience with industry participation in scrapie indemnity programs, and the $150 and $50 amounts are the same indemnities used in our previous scrapie indemnity program which expired in 1996, at which time the national average sale price of a sheep was $87.

We considered whether it would be appropriate to pay a lower indemnity, either for all eligible animals or for those that test positive for scrapie on a future live-animal test, in view of the economic fact that sheep infected with scrapie really have little or no economic value. However, we believe that reducing the indemnities below the proposed values would encourage owners to hide the presence of scrapie and thus hurt the effectiveness of the scrapie control program. This view is supported by the experience of the British Government in controlling BSE. When the British Government increased the indemnity for BSE-infected cattle from 50 percent of market value to 100 percent, the number of reported BSE cases increased by 73 percent.[1]

It should be noted that if this proposal is adopted, the total number of animals that can be indemnified each year and the total amount of indemnity funds expended will be limited by the amount of program funding appropriated for that purpose. We invite comments on the total amount of indemnity that should be needed, and on whether the payment amounts are appropriate.

[1] Food Microbiology (1990) 7:253–279.

In deciding to propose this indemnity program, we examined alternatives to determine whether the same funds could be expended on other activities to control scrapie and achieve a greater reduction in the disease. Two activities that could produce substantial reductions in scrapie are development of a live-animal test and education of sheep producers and veterinarians to recognize and control scrapie. However current and planned funds for both of these initiatives appear to be at a level that will produce optimal results, and we do not believe diverting indemnity funds to them would accelerate their progress. Instead, an indemnity program would complement use of a live-animal test and education programs. The three approaches together will be needed to successfully control scrapie.

Another alternative we considered, under the assumption that a live-animal test for scrapie will soon be available, was to impose a large-scale, mandatory live-animal testing requirement of all animals moved interstate for other than slaughter purposes. For this approach to be effective, we would need to condemn and destroy any animals that tested positive, to ensure they do not come in contact with and infect other animals in the future. This alternative was rejected because an approved live-animal test is not currently available. Once a live-animal test has been approved and fully evaluated, this option will be reconsidered.

We also considered prohibiting the movement in interstate commerce for any purpose of any animal that was considered to be at high risk of being scrapie infected. This was rejected because: (1) There is no evidence that scrapie is a threat to public health; (2) Scrapie-infected animals moving to slaughter pose little risk of spreading the disease; and (3) Given the past history of scrapie indemnity funding, it is likely that we would be unable to indemnify all of these animals causing a significant economic hardship on owners of high-risk sheep. To mitigate the remote risk that these animals pose when moving in slaughter channels, we have proposed to indemnify and destroy them whenever possible. Finally, we considered restricting these animals without compensation. This option was rejected for the reasons discussed under indemnification.

Live-Animal Testing

While no live-animal test for scrapie has yet been approved, several varieties of live-animal tests show promise, and we anticipate the availability of a live-animal test in the near future. Therefore, this proposed rule includes reference to live-animal tests as a means to identify scrapie-positive animals and affected animals, without specifying the exact protocols of the live-animal tests. As discussed below, the definitions for *live-animal screening test* (used to identify affected animals) and *scrapie-positive animal* state that the tests must use protocols approved by the Administrator and must be performed by laboratories approved by the Administrator. Once developed, the Administrator will initiate rulemaking in the **Federal Register** to publish these protocols or incorporate them by reference.

The availability of a validated live-animal test will significantly affect the nature of the scrapie control program. Such a test would make it possible to identify confirmed infected live animals for destruction, reducing the need to destroy large groups or entire flocks of suspect animals in order to control the spread of scrapie.

Changes to Definitions in Parts 54 and 79

Three definitions would be removed because they are no longer needed for the proposed regulations (*bloodline animal*, because this category has not been used since termination of an earlier indemnity program; *department*, because we refer instead in this proposal to APHIS; and trace flock, because its definition has been absorbed by the new definition of *source flock* discussed below). Nine other definitions would be amended (*affected animal, destroyed, exposed animal, flock, flock plan, high-risk animal, infected flock, scrapie-positive animal,* and *source flock*). Some of these changes would be made to adapt the regulations to the probability that a validated live-animal test for scrapie may be available in the near future. The definition of *destroyed* would be changed to remove movement to slaughter as a means of destruction. Animals to be destroyed would have to be euthanized, and the carcasses disposed of by means authorized by the Administrator. Animals for which an indemnity is paid under the regulations must be destroyed, rather than sent to slaughter, for two reasons. First, any movement of animals eligible for indemnity represents a potential risk of spreading scrapie, and we do not want to encourage movement of these animals to slaughter when we have the alternative of destroying them on their home premises and disposing of the carcasses safely. Second, if animals eligible for indemnity are slaughtered, this may result in the scrapie agent entering the animal food chain, and we want to avoid this. The Food and Drug Administration has published regulations (62 FR 30935–30978, June 5, 1997) requiring that ruminant feed must not contain animal protein derived from mammalian tissues, in order to prevent the possible spread of transmissible spongiform encephalopathies, such as scrapie, to ruminants. However, sheep protein is still used for other nonruminant animal feed, such as zoo animal foods. Research has shown that a variety of species can conceivably contract some form of spongiform encephalopathy by oral inoculation with protein from a scrapie-positive animal. The wide distribution of meat byproducts from slaughter plants makes it likely that if indemnity animals were allowed to go to slaughter, some of their protein would be used in nonruminant animal feed. The risk that nonruminants could contract a transmissible spongiform encephalopathy from consuming animal feed containing protein from a scrapie-positive animal is extremely small. However, we propose to control this small risk by taking the opportunity presented by the indemnity program to order indemnity animals to be destroyed, rather than sent for slaughter. The Administrator will authorize disposal methods (often incineration or burial) that are consistent with local laws and conditions and that minimize the dispersal of possibly infectious material. The proposed definition of *destroyed* ties into the proposed *Procedures for destruction of animals* in § 54.7. These procedures include a requirement that carcasses may not be processed for animal food unless subjected to a treatment process approved by the Administrator and known to eliminate the agents of transmissible spongiform encephalopathies. This requirement would address the established risk that some species of animals conceivably could contract scrapie by consuming animal feed generated from scrapie-positive animals.

Exposed animal would be redefined as any animal that has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts, and any animal born in a flock after a scrapie-positive animal was born into that flock, if born before that flock completes the requirements of a flock plan. The earlier definition of this term also defined limited contacts, which would now be defined in a separate definition. The earlier definition also did not include animals that were born into a flock after the removal of a scrapie-positive animal born into that flock. We believe such animals should

be considered exposed because there is some risk that they may contract scrapie from objects or animals the earlier scrapie-positive animal came in contact with, unless this risk has been mitigated by the completion of a flock plan.

Because the definition of *flock plan* currently contains a large volume of procedures not appropriate for a definition, this definition would be shortened by expanding and moving some of its text to new § 54.14, ''Requirements for flock plans and post-exposure management monitoring plans.'' The definition of *Uniform methods and rules—voluntary scrapie flock certification* would be updated and renamed *Scrapie Flock Certification Program standards,* consistent with the program name change discussed elsewhere in this document. For the same reason, a definition would be added for the *Scrapie Flock Certification Program*.

The following new definitions for terms used in the proposed rule would also be added to part 54, part 79, or both:

Area veterinarian in charge would be defined as ''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.'' This definition is needed to identify those veterinarians who perform certain duties under the regulations including processing of indemnification applications.

Certificate would be defined as ''An official document issued in accordance with § 79.5 of this part by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals, which includes a statement that the animals were not exhibiting clinical signs associated with scrapie at the time of examination.'' A certificate is required by the regulations for interstate movement of certain animals.

Consistent State would be defined as ''A State which the Administrator has determined conducts an active State scrapie control program which either: (1) meets the requirements of § 79.6 of this part, or (2) effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of § 79.6 of this part.'' This definition would be the basis for determining whether animals from a particular State qualify for the less restrictive, or more restrictive, interstate movement requirements proposed in § 79.3. When the list of Consistent States is developed, it will be added to this definition. Any State not listed would be an Inconsistent State.

Designated scrapie epidemiologist would be defined as ''An epidemiologist selected by the State animal health official and the area veterinarian in charge to reclassify animals already designated as high-risk, exposed, or affected with scrapie, based on epidemiologic investigation or the results of a live-animal test. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must concur in the selection and appointment of the designated scrapie epidemiologist.'' Designated scrapie epidemiologists would operate under proposed § 79.4 to reclassify animals as necessary.

Electronic implant, one form of allowed animal identification, would be defined as ''Any radio frequency identification 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.''

The definition of *flock* would be amended to clarify when more than one flock may be maintained on a single premises without being considered a single flock. This definition considers that flocks on a premises are separate if they never commingle, never share facilities and equipment, and have separate flock records and identification. To address questions raised by flock owners, this revised definition also states that changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock.

Individual animal identification would be defined as ''An electronic implant, flank tattoo, ear tattoo, or tamper-resistant ear tag approved by APHIS. In the case of goats, the form of identification may alternatively be a tail fold tattoo. The official identification must provide a unique identification number that is applied by the owner of the flock or his or her agent in accordance with instructions by an APHIS representative or State representative.''

Inconsistent State would be defined as ''Any State other than a Consistent State.''

Interstate commerce would be defined as ''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 would be defined as ''Incidental contacts between animals 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 with an animal during, or up to 60 days after, lambing or kidding. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or transportation to other flocks for breeding, except as allowed by the Scrapie Flock Certification Program standards.'' This definition is needed to help distinguish between contacts that do not present a pronounced risk of spreading scrapie (e.g., casual contacts between animals at fairs or shows) and contacts that present a pronounced risk (e.g., contacts with animals during or within 60 days following lambing, when infectivity is high and infectious materials such as afterbirth are present).

Post-exposure management and monitoring plan would describe an agreement written jointly by the flock owner, an accredited veterinarian, and an APHIS or State representative in which each participant agrees to undertake certain actions to monitor for the occurrence or recurrence of scrapie in the flock for at least 5 years after the flock was exposed to a scrapie-positive animal, or contained a high-risk animal. Experience in monitoring flocks has shown that if scrapie recurs from a previous outbreak in a flock, its signs are likely to become evident within 5 years. This definition, like the definition of flock plan, would refer to new § 54.14, ''Requirements for flock plans and post-exposure management monitoring plans.'' Federally required post-exposure monitoring is necessary to guard against recurrence of scrapie, because flocks whose owners receive indemnity payments may or may not be subject to State quarantines, and even if they are subject to State quarantine there is great variation in the effectiveness of State quarantine procedures in detecting signs of scrapie in a timely manner. As discussed in proposed § 54.5, in order to receive indemnity an owner must agree to maintain their flock under a post-exposure monitoring management plan for 5 years after removal of the last high-risk or scrapie-positive animal. Based on the typical clinical progress of scrapie, we believe any renewed outbreak of

scrapie in the flock would show signs within 5 years.

Premises identification, one requirement of proposed § 79.3 for moving certain animals interstate, would be defined as ''An APHIS approved eartag, backtag, or tattoo bearing the premises identification number assigned by a State or Federal animal health official to the premises on which the sheep or goats originated, or a brand registered with an official brand registry.''

The definition of *scrapie-positive animal* would be updated by referring to additional laboratory techniques (western blotting, bioassay, fibril detection by electron microscopy) that have proven useful in confirming scrapie from tissue samples, by allowing confirmation of scrapie-positive status by ''any other test method approved by the Administrator,'' and by adding a footnote describing how the Administrator will approve laboratories to conduct tests for scrapie-positive animals.

The definition of *infected flock* would be changed to include any flock in which a scrapie-positive animal had lambed within the past 18 months, counted from the time the tissues used to diagnose the scrapie-positive animal were collected from the scrapie-positive animal. This change would be made as a result of evidence that placenta shed 15½ months prior to death may contain infectious agent. Since the progress of the disease and the level of infectivity can be expected to vary somewhat among individual animals, we set the lambing limit at 18 months rather than 15½ months to allow a margin of error, and because 18 months is an easier figure than 15½ months for planning and compliance activities of both regulators and sheep producers. Also, in the definitions for infected flock and source flock, we are dropping a reference limiting their application to cases where the scrapie-positive diagnosis was made ''after March 31, 1989.'' This date was added to the regulations in 1992 to cover a temporary situation where diagnoses employed one standard before 1989 and another afterwards. Due to the lifespan of sheep and goats, there are no more flock situations where a diagnosis prior to that date would be relevant or used, and so the date would be deleted as superfluous and confusing.

The current definition of *source flock* includes flocks in which at least two animals later diagnosed as scrapie-positive are born. Because we agree with comments that stated that the birth of a single animal later determined to be scrapie-positive indicates that a flock is a significant risk as a source of scrapie, we would change this definition to include flocks where a single animal later diagnosed as scrapie-positive is born.

The definition of *affected animal* would be changed to allow the use of a live-animal test as a screening test without affecting flock status. The designation ''affected animal'' could be used if a live-animal test is developed that proves to be less specific than the current tests used to classify an animal as a scrapie-positive animal as defined in § 54.1. The type of test that may be approved to identify affected animals is described in a new definition for *live-animal screening test*, which reads ''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.'' This definition also includes a footnote describing how the Administrator will approve laboratories to conduct this test.

Genetics and DNA Testing Issues

Much current research addresses methods for identifying gene sequences in sheep that affect the animal's resistance or susceptibility to scrapie, or the length of the incubation period. As answers emerge from research, we will propose further changes to our scrapie programs to take advantage of new knowledge about the role of genetics in the disease-host interaction. In time, it may be possible to exempt certain breeds of sheep, or sheep that have been tested for particular codon sequences, from some program requirements because of their ''natural immunity.'' We are prepared to amend our regulations when specific, relevant genetic results are confirmed, but we do not believe any such changes to the regulations would be appropriate at the current time.

Change of Name—Voluntary Scrapie Flock Certification Program to Scrapie Flock Certification Program

We are proposing to change the name of the Voluntary Scrapie Flock Certification Program, described in 9 CFR part 54, to the Scrapie Flock Certification Program (SFCP). The purpose of the change is to increase acceptance of the program for export purposes. There has been some confusion and administrative delay in the acceptance by other national governments of health certificates and other documents issued for U.S. sheep and goats and sheep and goat products when these documents base their determination of health status on a ''voluntary'' program; the term is not used consistently in international commerce. In some uses it has implied that participants adhere to some standards part of the time, rather than meaning that participants voluntarily commit to following all standards the entire time they participate in a program. Removing the term ''voluntary'' will result in expedited processing of these documents, and a clearer understanding that this program is a valid determination of flock status that is monitored by the U.S. Government. There is no intent to change the voluntary nature of the program, as should be clear from the unchanged description of the nature of the program contained in § 54.10, ''Administration,'' and § 54.11, ''Participation.''

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We do not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is summarized below. We are inviting comments concerning potential effects. In particular, we are interested in determining whether sheep and goat producers would be affected positively or negatively by this rule, and whether any additional costs may result from this rule that are not discussed in this analysis.

Below is a summary of the economic analysis for the changes to the scrapie regulations proposed in this document. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and the initial analysis of impacts on small entities as required by the Regulatory Flexibility Act. A copy of the full economic analysis is available for review at the location listed in the **ADDRESSES** section at the beginning of this document.

We are considering taking the actions described in this proposed rule in order to strengthen scrapie control programs on the national level, to reduce the losses that scrapie causes to the sheep and goat industries. This action is considered necessary because not all State scrapie control programs are effective in identifying animals that may be infected with scrapie and controlling

their movement in intrastate and interstate commerce in a manner that will prevent the further spread of scrapie. Statutory authorities including 21 U.S.C. 111, 114, 114a, and 134a–134h authorize the Department of Agriculture to conduct programs for the control of communicable animal diseases and to restrict the interstate movement of animals that may spread disease.

As alternatives to this action, APHIS considered a complete ban on interstate movement of sheep and goats from States that do not have effective scrapie control programs. We also considered adding stricter certification, recordkeeping, and animal identification requirements for all sheep and goats moving interstate, without regard to the effectiveness of individual State scrapie programs. We also considered setting up a system to employ a prospective live-animal test in mandatory testing of sheep and goats before they could be sold for any commercial purpose, with mandatory destruction and disposal of animals that fail the test. All of these alternatives would impose more costs and recordkeeping requirements than the proposed alternative, and we do not believe any of these alternatives would control scrapie more effectively than the selected alternative. A complete ban on movements from Inconsistent States would hurt the economies of those States, and while it would provide other States with some protection against infection from Inconsistent States, it would not eradicate the reservoirs of scrapie in those States. The alternative of stricter recordkeeping and identification for all interstate movements would not be effective as long as some of the information to be recorded is unknown or dubious, as can frequently happen when the animal originates in a State with a weak scrapie program. The alternative of mandatory testing and destruction of animals that fail was discussed earlier in this proposal, it is not a practical option because a live-animal test has not been validated and approved and also impractical at this time on economic grounds.

This rule would result in the expenditure of indemnity funds by APHIS to compensate the owners of certain animals destroyed to prevent the spread of scrapie. This would also encourage certain States to improve the effectiveness of their State scrapie programs, to avoid additional restrictions on the movement of sheep and goats from their States. Finally, because this rule allows certain interstate movements only if the flock is enrolled in the Scrapie Flock Certification Program or an equivalent State program, this rule would encourage producers to enroll in such programs and bear the resulting flock management and identification costs.

The budgetary effects on APHIS of this proposal would fall into three categories: A small increase in outlays for staff to work with States and producers as they adapt to the new scrapie program requirements, a new program for indemnity payments, and the cost of providing official eartags and backtags, all within available funds. The initial amount of indemnity payments (the first year) is estimated to be approximately $384,250, based on an estimated 3,074 animals eligible for indemnity in known scrapie-infected and source flocks, but may be more than that if producer response to the availability of indemnity results in new admissions of infection that reveal additional cases of scrapie. The amount of indemnity paid should decline in subsequent years, although if slaughter surveillance is initiated or if live-animal tests are approved and widely used, this decline may not occur for several years, depending on the number of scrapie-positive animals that are revealed by initial use of these tests. This indemnity program would be less costly than *some* previous indemnity programs since it focuses on eliminating individual infected and high-risk animals rather than entire flocks, a focus that should be aided in the near future by the availability of a validated live-animal test. If a live-animal test is accepted for official use, an increase in indemnity costs would be expected initially as new infected flocks are identified.

Some States would bear additional costs to improve their State scrapie programs so that the producers in their States could avoid additional interstate movement restrictions proposed for States without effective intrastate programs. However, we believe that most States already have effective intrastate programs that would qualify them as Consistent States and that all but two or three States have the necessary authority and infrastructure to run an effective intrastate program.

Overview of U.S. Sheep and Goat Industry Operations, Inventory and Trade

There were 7.822 million sheep and lambs in the United States based on 1997 Census of Agriculture reports. In the national inventory, 5.85 million were breeding sheep and lambs and the rest were market sheep, based on National Agricultural Statistics Service reports. Ewes, 1 year old or older, totaled 4.57 million during the same period.

Small farms, as shown in Table 1, accounted for over 99 percent of all the farms raising sheep and lambs, while farms considered to be large accounted for less than 0.3 percent. About 85 percent of the farms had an inventory of less than 100 animals and accounted for about 17 percent of the total inventory of sheep and lambs. On the other hand, sheep operations with an inventory of 5,000 sheep or more represented less than 0.3 percent of the farms but accounted for nearly 26 percent of the total inventory.

Table 1 Sheep and Lambs: Farms and Inventory by Size, 1997

Farm inventory	Number of farms	Farm share	Inventory share
1 to 24	35,584	0.54	0.045
25 to 99	20,461	0.31	0.123
100 to 299	6,010	0.09	0.123
300 to 999	2,429	0.04	0.158
1,000 to 2,499	820	0.01	0.160
2,500 to 4,999	297	0.005	0.128
5,000 or more	189	0.003	0.263
Total	65,790		

Source: USDA, *Census of Agriculture* 1997.

Of the total number of operations, about 60 percent were full owners, about 32 percent were part owners, and about 8 percent were tenants.

Sheep are produced in all parts of the United States, although stock levels vary from State to State. Ten States accounted for nearly 73 percent of the total inventory, mostly in western and central areas. Northern and southeastern States have the smallest sheep populations, accounting only for 5.2 percent of the total. About 3.805 million sheep were commercially slaughtered in 1997. Additionally, about 57,000 sheep were slaughtered on the farms, yielding a total of about 3.861 million sheep slaughtered in 1997. About 3.62 million slaughtered sheep were Federally inspected, of which 3.46 million were lambs and yearlings and about 211,000 were mature sheep.

There were about 1.99 million goats in the United States in 1997, of which 52 percent were goats other than Angora or milk goats, 41 percent were Angora goats and about 7 percent were milk goats. The State of Texas accounted for about 64.3 percent of the goat inventory. Other States where goats are raised include Arizona, California, Georgia, New Mexico, North Carolina, Oklahoma, and Tennessee. These States together represented another 14.2 percent of the U.S. goats holdings. An average holding was about 35 goats. All goat holdings were considered to be small.

During 1997 the United States produced about 267 million pounds of mutton, lamb and goat meat. It exported 6.4 million pounds and imported about 84 million pounds valued at $145 million. The United States exported 1,474,060 sheep and goats valued at $63 million in 1997, of which 1,457,144 went to Mexico. The United States imported 47,405 sheep and goats valued at $6.684 million in 1997, of which 46,991 were from Canada, 364 from New Zealand, 40 from Mexico, and 10 from Australia. The United States imported 83,472,084 pounds of sheep and goat meat valued at $145.174 million and exported 6,528,605 pounds of sheep and goat meat valued at $7.362 million in 1997. Most lamb and mutton imports came from Australia and New Zealand, countries recognized as being free from scrapie. The United States is a net importer of lamb and mutton.

Sheep and Goats Affected by Scrapie Interstate Movement Restrictions

At present, of the approximately 8 million sheep and 2 million goats in the United States,[2] over 90 percent belong to commercial flocks (operations rearing sheep for sale, mostly to be slaughtered). There are 14 States altogether with 72 flocks that were on the infected or source flock list as of June 6, 1999 (66 are scrapie infected flocks, 6 are scrapie source flocks). Also, 31 other flocks contained a scrapie-positive animal during FY 1998, but the implicated animals were destroyed and the flocks are therefore not infected or source flocks. Infected and source flocks are potential candidates for destruction and indemnity payments. Additionally, over the last 8 years (1990–1997), an annual average of 132 individual suspect scrapie cases have been reported, of which approximately 48.6 percent were determined to be scrapie-positive animals. However, it is likely that the number of reported cases will increase as the indemnity payments become available. There are about 1.932 million breeding sheep and lambs in the 14 States in which positive cases have occurred in FY 1998 or in which a source or infected flock exists. These animals represent approximately 33 percent of all breeding sheep and lambs in the United States and have a market value of about $185 million.

The average size of a flock in an operation in the 14 States was 86, with between 21 and 479 per operation. Approximately 82.5 percent of these sheep are marketed, in most cases across State lines. However, nearly 33 percent of the marketed sheep are lambs less than 6 months of age, and would be exempt from individual animal identification under the proposed rule.

Indemnity Costs for Animals Destroyed Due to Scrapie

The exact number of scrapie-positive and high-risk animals that would qualify for indemnity payments is not known. However, an estimate of the number of animals potentially eligible for indemnity would be 48.6 percent of the animals in an average scrapie infected or source flock (based on past field experience). There are currently 66 scrapie infected flocks and 6 scrapie source flocks. Additionally there were 64 other infected animals diagnosed in the past year that are no longer in flocks on the infected flock list, because the flock owners voluntarily destroyed the implicated animals. Thus, based on average flock size and the average percentage of scrapie-positive animals in infected and source flocks, the number that could be estimated to qualify for indemnity payments during the first year would be 3,074 animals (=(72×86×.0486+64)). This estimate implies that about 0.15 percent of the total number of breeding sheep and goats in the 14 States that could potentially move interstate would be designated as high-risk animals and be eligible for indemnity. The proportion of more expensive registered animals was 74.38 percent (8,199/11,023).[3] Assuming a 75 percent registered to 25 percent nonregistered animal composition, with a $150 and $50 per animal indemnity payments, the estimated indemnity expenditure would be about $384,250 (3.074×0.75×150+3,074×0.25×50). If the producer response to indemnity payment availability is positive, resulting in an increased number of indemnity requests, the expenditure would increase accordingly. However, even if a much larger number of animals were to be indemnified, the destruction of all known infected animals would greatly advance the goal of scrapie eradication, and could only be positive in terms of long-term reduced expenditure.

Costs to Producers and APHIS for Official Identification of Animals Moving Interstate

The animal identification that would be required by this proposed rule would result in additional costs. Of the approximately 8 million sheep and lambs and 2 million goats in the United States, about 82.5 percent are potentially interstate movers and of these about 33 percent are lambs less than 6 months of age, which would not require identification tags under the new rule. Currently, the cost of metal identification tags for cattle is about $0.15 per animal. Assuming the total number of sheep and goats that would need identification tags is 4.633 million, the tag cost would be approximately $695,000 (4,633,000×0.15) for identifying interstate movers. If the time it takes the owner to apply the tag (about 2 minutes per animal) is valued at $7.36 per hour (the average wage for livestock workers in April, 1999), this labor cost represents another $1.137 million. In some States, tags are provided by APHIS free to accredited veterinarians, while in others, they are purchased by accredited veterinarians through the State. Generally, wherever APHIS directly distributes tags they are free; where States distribute them, there may be no charge, a small processing fee, or a fee covering the full cost of the

[2] USDA, *Sheep and Goats*. Washington, DC: Agricultural Statistics Board, Februrary 1991.

[3] Based on the composition of 8,199 registered and 2,824 commercial animals as reported by APHIS personnel.

tags, depending on State regulations. If owners elect to use backtags, the costs would be less. Owners will incur the costs of applying identification. The impact on goat owners would be less, since about 72 percent of goats are the angora type, which are raised for their mohair and are less frequently moved interstate. Thus the total potential identification cost for goat owners would be in the range of $37,000.

International Trade Effects

The United States has limited foreign trade both in live sheep and goats and their products. Australia, a potential major importer of U.S. sheep for breeding purposes, is scrapie-free and prohibits imports of sheep from the United States. Australia allows imports of live goats from the United States only if they undergo a 3-year quarantine upon arrival. Canada and Mexico both allow the importation of U.S. sheep only if the sheep are from flocks enrolled in the Voluntary Scrapie Flock Certification Program or if USDA can certify the flock's scrapie status. In 1997 the total earnings from exports of live sheep, goats, and sheep and goat meat and meat products was approximately $65 million. The United States is a net exporter of live animals, while it is a net importer of mutton, lamb and goat meat. Both the sources of imports and destinations of exports are concentrated in a few countries. Scrapie-free animals, and to some extent their products, are likely to be highly valued in the domestic and international markets. U.S. breeding stock that can be certified scrapie-free is expected to be in high demand internationally. While scrapie-free status would do little to enhance domestic or export consumption of U.S. mutton and lamb, the lack of scrapie-free status could seriously reduce demand for these products if public fears about transmissible spongiform encephalopathies ever become associated with U.S. sheep products.

The U.S. competitiveness in the domestic and international markets depends upon its reputation for producing high quality animals and products. The actual product, as well as the purchasers' perception of quality, both contribute to continued market acceptance. Thus, efforts to eradicate scrapie and secure the health of U.S. sheep and goats will continue to serve the economic interests of the industry and nation. This proposed rule could give incentive for more rigorous efforts to find infection and proceed rapidly to eradicate infected animals in order to preserve a scrapie-free status.

This proposed rule should benefit U.S. producers in a number of ways, especially by avoiding a number of direct costs and market losses. Associations representing breeding sheep owners, slaughter sheep owners, and wool-production sheep owners have all submitted comments supporting the approach of this proposed rule and also stated their associations' opinion that the benefits of the program would greatly exceed the costs. Scrapie may cost the sheep industry as much as $20.1 million per year in direct losses ($10 million in lost breeding stock and embryo export sales, $3.95 million in disposal costs for offal, and $6.176 to divert offal from ruminant food chains and in loss of offal export markets. Scrapie also costs an unknown amount in lost potential international markets and lost flock productivity. Additionally, the sheep industry currently loses sales to drug companies because the U.S. Food and Drug Administration requires scrapie-free sources of sheep or goat materials for pharmaceutical or biological products implanted or injected in humans.

Therefore, adopting this proposal could make the U.S. sheep industry more competitive, particularly in live sheep and goat exports, since current trade shows that the value of live animal exports is almost four times that of the meat in the global market. This proposal also addresses consumer concerns about the presence of a transmissible spongiform encephalopathy in food. While there is no evidence that scrapie is a human health risk, there is a perception of risk. This perception might be playing a significant role in encouraging U.S. imports of over $170 million worth of lamb and mutton, since imported lamb sells at a higher price than domestic lamb and mutton.

In summary, this proposed rule would regulate the interstate movement of sheep and goats from States that do not follow effective flock management practices for scrapie. Interstate movement of sheep and goats is beneficial, as it reduces interstate price differences faced by consumers of livestock products, and allows producers to seek the best available prices for their products. The proposed rule would encourage States to carry out the necessary surveillance and quarantine activities quickly, thereby reducing the spread of the disease. The process outlined in the proposed rule would encourage these States to begin stringent surveillance procedures immediately to identify any additional infected flocks and help to realize the goal of eradicating scrapie from the United States. The proposed rule would also encourage flock owners to participate in State scrapie programs or the Federal Scrapie Flock Certification Program, contributing further to the control of scrapie. Apart from the cost of program activities by APHIS and State agencies, and expenditure of indemnity funds by APHIS, the cost of identifying animals for interstate movement is the primary cost imposed by this proposed rule. This cost will impose some burden upon owners, which will be passed along to those who are interested in buying these animals, possibly reducing interstate commerce in sheep and goats slightly.

The proposed changes to the regulations would result in new information collection or recordkeeping requirements, as described below under the heading ''Paperwork Reduction Act.'' Executive Order 12612 and Federalism

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The provisions contained in this proposed rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

The Administrator has examined the federalism implications of the requirements in this proposal, i.e., different interstate movement requirements for sheep and goats depending on whether they are moving from a Consistent State or an Inconsistent State. The Administrator believes that this action adheres to Constitutional principles for the exercise of Federal power and is clearly authorized by statutory authorities delegated to APHIS.

This action would not absolutely impose any new compliance costs on State or local governments, but it is true that, if adopted, this rule would strongly encourage some States to expend additional funds to upgrade their State programs for disease control in sheep and goats. Owners of sheep and goats in States that do not fund their programs to an extent that allows them to qualify as Consistent States would face additional restrictions on the interstate movement of their sheep and goats.

As discussed above, this proposal was preceded by an advance notice of proposed rulemaking which sought comments from the public, industry, and State and local officials. That notice specifically requested comments addressing ''the alignment of Federal interstate movement restrictions with State standards.'' The comments that we received and considered when drafting

this proposal, including comments on State issues, are addressed above. Additionally, in drafting this proposal, APHIS had many discussions with officials of animal health agencies in affected States.

During these consultations, most States supported the proposal's intention to establish a system to certify that State programs for sheep and goats meet certain minimum standards, in order to provide a baseline of protection against the spread of disease when moving sheep and goats in interstate commerce. A very few officials commented that APHIS should accept any State animal health program without enforcing minimum standards. APHIS disagrees with this position because experience in animal health programs on a national level has shown that the absence of effective programs for scrapie in a few States can quickly cause animal disease problems and financial losses affecting many States as animals move in interstate commerce.

State and local governments have the opportunity to comment on this proposed rule, and we encourage them to submit comments on federalism concerns or any other issues. As this rulemaking continues, APHIS intends to continue active consultation with State animal health agencies and the elected officials of affected State and local governments.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 97–093–2. Please send a copy of your comments to: (1) Docket No. 97–093–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would revise various recordkeeping and notification requirements of APHIS scrapie regulations and the Voluntary Scrapie Flock Certification Program. The purpose of these requirements is primarily to prevent the uncontrolled interstate movement of animals that could spread scrapie, and to identify and certify flocks that are free of scrapie in order to prevent the disease from spreading.

Collecting this information necessitates the use of a number of information-gathering documents, including certificates and permits, that are critical to our ability to locate flocks infected with scrapie and to prevent the interstate spread of scrapie. The collection of this information is therefore crucial to the success of scrapie control. State animal health agencies would also have to submit descriptions of their scrapie program activities to assist APHIS in determining whether they qualify for Consistent State status.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses).

Estimate of burden: The public reporting burden for this collection of information is estimated to average 2.5049 hours per response.

Respondents: Flock owners, State animal health officials, accredited veterinarians, State and Federal veterinary medical officers, and State and Federal diagnostic laboratory personnel.

Estimated annual number of respondents: 1,180.

Estimated annual number of responses per respondent: 5.3610.

Estimated annual number of responses: 6,326.

Estimated total annual burden on respondents: 15,846 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, tribal governments, and the private sector. Under section 202 of the UMRA, APHIS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires APHIS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that may result in expenditures by State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. A few States may not qualify as Consistent States under this rule unless and until they choose to increase their expenditures on scrapie control programs, but based on knowledge of current State budgets and our experience with the costs involved in conducting sheep and goat disease programs, we estimate that the possible increases in expenditures by these States will fall far below $100 million. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects

9 CFR Part 54

Animal diseases, Goats, Indemnity payments, Scrapie, Sheep.

9 CFR Part 79

Animal diseases, Goats, Quarantine, Reporting and recordkeeping requirements, Scrapie, Sheep, Transportation.

Accordingly, we are proposing to revise 9 CFR parts 54 and 79 as follows:

PART 54—CONTROL OF SCRAPIE

Sec.
54.1 *Definitions.*

Subpart A—Scrapie Indemnification Program

54.3 *Animals eligible for indemnity payments.*
54.4 *Application by owners for indemnity payments.*
54.5 *Certification by owners.*
54.6 *Amount of indemnity payments.*
54.7 *Procedures for destruction of animals.*

Subpart B—Scrapie Flock Certification Program

54.10 Administration.
54.11 *Participation.*
54.12 *State scrapie certification boards.*
54.13 *Cooperative agreements with States.*
54.14 *Requirements for flock plans and post-exposure management monitoring plans.*

Authority: 21 U.S.C. 111, 114, 114a, and 134a–134h; 7 CAR 2.22, 2.80, and 371.2(d).

§ 54.1 Definitions.

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

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

Affected animal. An animal for which a diagnosis of scrapie has been made by an APHIS or State representative based on the results of a live-animal screening test approved for this use by the Administrator. A live-animal screening test may be approved for this use without also being approved for the official diagnosis of a scrapie-positive animal.

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.

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

Breed association and registries. Organizations 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.

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 any physical contact.

Destroyed. Euthanized by means other than slaughter, and the carcass disposed of, by means authorized by the Administrator.

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

Exposed animal. Any animal that has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts. Any animal born in a flock after a scrapie-positive animal was born into that flock, if born before that flock completes the requirements of a flock plan.

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 a flock do not change the identity of the flock or the regulatory requirements applicable to the 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 an APHIS representative determines based upon examination of flock records that no animals have moved between the flocks;

(2) The flocks never commingle and are kept at least 30 feet apart at all times;

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

(4) 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;

(5) The flocks do not share equipment without cleaning and disinfection in accordance with the guidelines published in the Scrapie Flock Certification Program standards; and

(6) There is no interchange of animals between the flocks.

Flock plan. A written flock management agreement designed by the owner of a flock, an accredited veterinarian, and an APHIS representative or State 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 § 54.14 of this part.

High-risk animal. An animal that is:

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

(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.

Infected flock. Any flock in which an APHIS representative or a State representative has determined an animal to be a scrapie-positive animal or in which an APHIS representative or a State representative has determined that a scrapie-positive animal had lambed within 18 months of the time at which the tissues used for diagnosis were collected from the scrapie-positive animal. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.

Limited contacts. Incidental contacts between animals 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 an animal during, or up to 60 days after, lambing or kidding.

Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or transportation to other flocks for breeding, except as allowed by the Scrapie Flock Certification Program standards.

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

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

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

Post-exposure management and monitoring plan. A written agreement designed by the owner of a flock, an accredited veterinarian, and an APHIS representative or State representative in which each participant agrees to undertake actions specified in the agreement to monitor for the recurrence of scrapie in the flock for at least 5 years after the last high-risk or scrapie-positive animal is removed from the flock or to monitor for occurrence of scrapie for 5 years after the last exposure of the flock to a scrapie-positive animal, unless otherwise specified by an APHIS or state animal health official. As part of a post-exposure management and monitoring plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the plan. The plan must include the requirements in § 54.14 of this part.

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

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

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

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

(2) The use of protease-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.[3]

Separate contemporary lambing groups. To be a separate contemporary lambing group, the group must be maintained separately such that the animals cannot come into physical contact with other lambs, kids, ewes or 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 between lambings in accordance with the guidelines published in the Scrapie Flock Certification Program standards.

Source flock. A flock in which an APHIS representative or a State representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 54 months or less. 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. A sheep or goat exhibiting any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian, an APHIS representative, or a State 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. A suspect animal will no longer be a suspect animal upon determination by an APHIS representative or a State representative that it no longer exhibits such signs, or that the signs are not caused by scrapie.

Subpart A—Scrapie Indemnification Program

§ 54.3 Animals eligible for indemnity payments.

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

(1) Destruction of high-risk animals;

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

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

[3] The names and addresses of laboratories approved by the Administrator to conduct tests are published in the Notices Section of the **Federal Register**. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) Follows standard test protocols; (c) Meets check test proficiency requirements; and (d) Will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the 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.

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

(3) Destruction of live scrapie-positive animals;

(4) Destruction of affected animals; and

(5) Destruction of suspect animals that are subsequently determined to be scrapie-positive animals.

(b) No indemnity will be paid for an animal if the owner of the animal fails to provide APHIS, within 30 days of request, with animal registration certificates, sale and movement records, or other records requested in accordance with § 54.5 of this part. No indemnity will be paid until the premises, including all structures, holding facilities, conveyances, and materials contaminated because of occupation or use by the depopulated animals, have been properly cleaned and disinfected in accordance with the guidelines published in the Scrapie Flock Certification Program standards. Premises or portions of premises may be exempted from such cleaning and disinfecting requirements if the APHIS or State representative determines that the exempted buildings, holding facilities, conveyances, or other materials on the premises do not require cleaning and disinfection to prevent the spread of scrapie.

§ 54.4 Application by owners for indemnity payments.

(a) Normally, an application for indemnification will be initiated by an APHIS or State representative who is working with the owner of a flock that has already been determined to be an infected flock or source flock, or that is already under a State quarantine. In such cases, the flock owner will confirm information about the flock's eligibility for indemnity that is contained in the application submitted by the APHIS or State representative. However, an owner of a flock that has or has not been determined to be an infected flock or source flock, and is not under a State quarantine, may apply directly to receive indemnification by submitting to the Administrator a written request containing the following information:

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

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

(3) Location of flock premises;

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

(5) A copy of the registration papers issued in the name of the owner for any registered animals in the flock. If the registration papers are unavailable or if the animals are less than 1 year old and are not registered at the time the claim for indemnity is submitted, the area veterinarian in charge may grant a 60-day extension or the Administrator may grant an extension longer than 60 days for the presentation of registration papers; and

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

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

§ 54.5 Certification by owners.

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

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

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

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

§ 54.6 Amount of indemnity payments.

Indemnity paid in accordance with 54.3 of this part will be $150 for each registered animal destroyed and $50 for each unregistered animal destroyed.

§ 54.7 Procedures for destruction of animals.

(a) Animals for which indemnification is sought must be destroyed on the premises where held, pastured, or penned at the time indemnity is approved, unless the APHIS representative involved approves in advance of destruction moving the animals to another location for destruction.

(b) The carcasses of animals destroyed in accordance with this section are authorized by the Administrator to be buried, incinerated, or disposed of by other methods in accordance with local, State, or Federal law. The carcasses must not be processed for animal food, unless subjected to a treatment process approved by the Administrator and known to eliminate the agents of transmissible spongiform encephalopathies. The carcasses may not be processed for human food.

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

(d) APHIS will not be responsible for any costs or charges for the destruction and disposal of animals in accordance with this part.

Subpart B—Scrapie Flock Certification Program

§ 54.10 Administration.

The Scrapie Flock Certification Program is a cooperative effort between APHIS; members of the sheep and goat industry, including owners of flocks, slaughtering and rendering establishments, and breed associations and registries; accredited veterinarians; and State governments. APHIS coordinates with State scrapie certification boards and State animal health agencies to encourage flock owners to reduce the incidence of scrapie by voluntarily complying with the Scrapie Flock Certification Program standards.

§ 54.11 Participation.

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

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

§ 54.12 State scrapie certification boards.

An area veterinarian in charge, after consulting with a State representative and industry representatives, may appoint a State scrapie certification board for the purpose of coordinating activities for the Scrapie Flock Certification Program, including making decisions to admit flocks to the Scrapie Flock Certification Program and to change flock status in accordance with the Scrapie Flock Certification Program standards. No more than one State scrapie certification board may be formed in each State. Each State scrapie certification board shall include as members the area veterinarian in charge, one or more State representatives, one or more accredited veterinarians, and one or more owners of flocks, and, at the discretion of the area veterinarian in charge, may include other members.

§ 54.13 Cooperative agreements with States.

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

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

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

(a) The owner of the flock or his or her agent must identify all animals 1 year of age or over within the flock. All animals less than 1 year of age must be identified when a change of ownership occurs, with the exception of those animals under 6 months of age moving within slaughter channels that must be identified in accordance with § 79.2 of this chapter. The form of identification must be an electronic implant, flank tattoo, ear tattoo, or tamper-resistant ear tag approved by APHIS. In the case of goats, the form of identification may alternatively be a tail fold tattoo. The official identification must provide a unique identification number that is applied by the owner of the flock or his or her agent.

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

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

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

(e) The owner of the flock or his or her agent must immediately report to a State representative, APHIS representative, or an accredited veterinarian any animals in the flock exhibiting the following: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, swaying of back end; increased sensitivity to noise and sudden movement; tremor, ''star gazing'', head pressing, recumbency, or other signs of neurological disease or chronic wasting illness. Such animals must not be removed from the flock without written permission of an APHIS representative or State representative.

(f) *Requirements for flock plans only:*

(1) An epidemiologic investigation must be conducted to identify high-risk and exposed animals that currently reside in the flock or that previously resided in the flock, and all high-risk animals, scrapie-positive animals, affected animals, and suspect animals must be removed from the flock. The animals must be removed by euthanization and disposal of the carcasses by burial, incineration, or other methods in accordance with State or Federal law, or, in the case of high-risk animals, by movement to slaughter (slaughtered animals are not eligible for indemnity) in accordance with the provisions of part 79 of this chapter, or upon request in individual cases by another means determined by the Administrator to be sufficient to prevent the spread of scrapie;

(2) The premises of a flock under a flock plan must be cleaned and disinfected in accordance with the guidelines published in the Scrapie Flock Certification Program standards;

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

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

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

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

(2) Sex, breed, sire, dam, and offspring of the animal;

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

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

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, affected animals, high-risk animals, exposed animals, suspect animals, source flocks, and infected flocks; notice to owners.*
79.5 *Issuance of certificates.*
79.6 *Standards for State programs to qualify as Consistent States.*

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 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.

Affected animal. An animal for which a diagnosis of scrapie has been made by an APHIS or State representative based on the results of a live-animal screening test approved for this use by the Administrator. A live-animal screening test may be approved for this use without also being approved for the diagnosis of a scrapie-positive animal.

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.

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

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

Certificate. An official document issued in accordance with § 79.5 of this part by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals, which includes a statement that the animals were not exhibiting clinical signs associated with scrapie at the time of examination.

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

(1) Meets the requirements of § 79.6 of this part; or

(2) Effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of § 79.6 of this part.

Designated scrapie epidemiologist. An epidemiologist selected by the State animal health official and the area veterinarian in charge to reclassify animals already designated as high-risk, exposed, or affected with scrapie, based on epidemiologic investigation or the results of a live-animal test. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must concur in the selection and appointment of the designated scrapie epidemiologist.

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. Any animal that has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts. Any animal born in a flock after a scrapie-positive animal was born into that flock, if born before that flock completes the requirements of a flock plan.

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 a flock do not change the identity of the flock or the regulatory requirements applicable to the 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 an APHIS representative determines based upon examination of flock records that no animals have moved between the flocks;

(2) The flocks never commingle and are kept at least 30 feet apart at all times;

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

(4) 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;

(5) The flocks do not share equipment without cleaning and disinfection in accordance with the guidelines published in the Scrapie Flock Certification Program standards; and

(6) There is no interchange of animals between the flocks.

Flock plan. A written flock management agreement designed by the owner of a flock, an accredited veterinarian, and an APHIS representative or State 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 § 54.14 of this chapter.

High-risk animal. An animal that is:

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

(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.

Inconsistent State. Any State other than a Consistent State.

Infected flock. Any flock in which an APHIS representative or a State representative has determined an animal to be a scrapie-positive animal or in which an APHIS representative or a State representative has determined that a scrapie-positive animal had lambed within 18 months of the time at which the tissues used for diagnosis were collected from the scrapie-positive animal. 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 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 an animal during, or up to 60 days after, lambing or kidding. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or transportation to other flocks for breeding, except as allowed by 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]

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.

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 infected flock or a source flock, 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 tattoo bearing the premises identification number assigned by a State or Federal animal health official to the premises on which the sheep or goats originated, or a brand registered with an official brand registry.

Scrapie Flock Certification Program (SFCP). The cooperative Federal-State-industry voluntary program for the control of scrapie conducted in accordance with 9 CAR part 54, subpart B.

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

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

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

(2) By the use of protease-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) Another test method approved by the Administrator.

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 between lambings in accordance with the guidelines published in Scrapie Flock Certification Program standards.

Source flock. A flock in which an APHIS representative or a State representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 54 months or less. 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. A sheep or goat exhibiting any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian, an APHIS representative, or a State 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. A suspect animal will no longer be a suspect animal upon determination by an APHIS representative or a State representative that it no longer exhibits such signs, or that the signs are not caused by scrapie.

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

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

[2] Individual copies of the Program 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.

§ 79.2 Identification of sheep and goats in interstate commerce.

(a) No sheep or goat that is required to be individually identified by § 79.3 of this part 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 at whichever of the following comes first:

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

(ii) Upon unloading of the sheep or goats in interstate commerce at any livestock market;

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

(iv) Upon arrival of the sheep or goats in interstate commerce at their final destination.

(2) The sheep or goats must be identified by one of the following means of identification, and must remain so identified while they are in interstate commerce:

(i) Electronic implants for animals required to be identified by the SFCP, when used in a flock participating in the SFCP;

(ii) Official eartags, including tags approved for use in the SFCP, when used on any sheep or goat;

(iii) United States Department of Agriculture backtags, when used on sheep or goats moving to slaughter;

(iv) Official sheep or goat tattoos, when used on sheep or goats participating in the SFCP; or

(v) Official registry tattoos that have been recorded in the book of record of a sheep or goat registry association.

(3) 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 is responsible for the identification of the sheep or goats as provided by this section.

(b) Serial numbers of United States Department of Agriculture backtags and official sheep and goat tattoos 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 Federal 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. Premises identification numbers will be assigned to participants in the SFCP 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, and official eartags must:

(1) Record the following information on a document:

(i) All serial numbers applied to the 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; and

(iv) The telephone number, if available, of the person who owns or possesses the sheep or goat;

(2) Maintain these records for 5 years; and

(3) 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, and presentation of his or her official credentials.

(c) 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 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) The records must include:

(i) If individual animal identification is required, all serial numbers and other approved means of identification appearing on the sheep or goat; and

(ii) The street address, including city and State, or the township, county, and State, and the telephone number, if available, of the person from whom the sheep or goats were purchased or otherwise obtained.

(2) 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, upon that employee's request and presentation of his or her official credentials.

(d) No person may remove or tamper with any approved 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 Inspection Service in chapter III of this title.

(e) Written requests for approval of sheep or goat identification devices and markings not listed in paragraph (b) 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.

§ 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

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 below:		
(1) High-risk animal, scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) Non-high risk animal from an infected or source flock.	Prohibited*	Prohibited.*
(3) Other animal	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS-recognized program and have certificate.	Individual animal ID and certificate.
(b) Sale or other movement directly to slaughter, or through slaughter channels to slaughter, of animals under 6 months of age:		
(1) Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) High-risk animals and animals from infected or source flock.	Individual animal ID and permit or sealed conveyance and permit when moving directly to slaughter, or a permit and an indelible''S'' mark on the left jaw.	Individual animal ID and permit or sealed conveyance and permit when moving directly to slaughter, or a permit and an indelible ''S'' mark on the left jaw.
(3) Other animal	Premises ID** and certificate	None.
(c) Sale or other movement directly to slaughter, or through slaughter channels to slaughter, of animals over 6 months of age, or animals of any age to feedlots for later movement to slaughter:		
(1) Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) High-risk animals and animals from infected or source flock.	Individual animal ID and permit	Individual animal ID and permit.
(3) Other exposed animals	Individual animal ID and permit	Individual animal ID.
(4) Other animals over 1 year of age	Individual animal ID and certificate	Individual animal ID.
(5) Other animals between 6 months and 1 year of age, or animals under 6 months of age moving to feedlots for later movement to slaughter.	Individual animal ID and certificate	Premises ID.**
(d) Movement of animals for grazing or other management purposes without change of ownership:		
(1) Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) High-risk animal or animal from infected or source flock.	Prohibited*	Prohibited.*
(3) Exposed animals	Individual animal ID and certificate	Premises ID.
(4) Other animal	Premises ID and certificate	None.

*Animals prohibited movement may be moved interstate only if they are moving interstate for destruction or research as approved by the Administrator.

**Premises ID is not required for slaughter animals if the animals are kept as a group on the same premises on which they were born and are not commingled with animals from another premises at any time, including throughout the slaughter process, or, if they are commingled during the slaughter process, they are officially identified on arrival at the slaughter facility such that any animal can be traced back to its flock of origin.

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

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

(a) *Designation.* An APHIS representative or State representative will designate an animal to be a scrapie-positive animal, affected animal, high-risk animal, exposed animal, or suspect animal after determining that the animal meets the criteria of the relevant definition in § 79.1 of this part. An APHIS representative or State representative will designate a flock to be a source flock after reviewing sale, movement, and breeding records that indicate the flock meets the definition of a source flock in § 79.1 of this part. An APHIS representative or State representative will designate a flock to be an infected flock after determining that the flock meets the definition of an infected flock in § 79.1 of this part.

(b) *Reclassification.* A designated scrapie epidemiologist may reclassify an exposed animal 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 scrapie-positive animal must have individual animal identification traceable to the flock of origin), and was not housed in lambing facilities or commingled with lambs while in the flock. A designated scrapie epidemiologist may reclassify an animal designated a high-risk animal as an exposed animal after receiving negative results from an approved live-animal test.

(c) *Notice to owner.* As soon as possible after making such a determination, an APHIS representative or State representative will attempt to notify the owner(s) of the flock(s) in

writing that their flock contained or contains a scrapie-positive animal, an affected animal, a suspect animal, a high-risk animal or an exposed animal, or that the flock is an infected flock, or source flock. The notice will include a description of the interstate movement restrictions and identification requirements contained in this part.

§ 79.5 Issuance of certificates.

(a) Certificates are required as specified by § 79.3 of this part 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; 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. Ownership brands or other premises identification may be used in place of individual animal identification on certificates for sheep and goats moved interstate when premises identification is required under this part, provided the ownership brands are registered with the official brand recording agency. 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.

(b) 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) 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 State programs 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 consider whether the State's scrapie control program:

(1) Requires the reporting of and investigation of any suspect animal, affected animal, or scrapie-positive animal;

(2) Requires the official permanent individual identification of any live scrapie-positive, affected, or suspect animal of any age, and of any exposed animal, including high-risk animals, 1 year of age or over and any exposed animals less than 1 year of age when a change of ownership occurs, except those animals under 6 months of age moving within slaughter channels in accordance with this part (whether or not the exposed animal resides in a source or infected flock);

(3) Effectively enforces quarantines of all source and infected flocks;

(4) Effectively enforces quarantines of all high-risk, affected, suspect, and scrapie-positive animals throughout their lives unless moved in accordance with this part;

(5) If an affected, suspect or scrapie-positive animal dies or is destroyed, requires that tissues be submitted for diagnostic testing to a laboratory authorized by the Administrator to conduct scrapie tests in accordance with this part and that the carcass be completely destroyed; and

(6) Releases quarantines of these flocks only upon completion of a flock plan and agreement by the owner to participate in a post-exposure monitoring and management plan as defined in part 54 of this chapter.

(b) [Reserved]

Done in Washington, DC, this 23rd day of November 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–31087 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–34–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

Share Insurance and Appendix

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: The NCUA proposes to revise its share insurance regulations with respect to living trusts, joint revocable trusts, IRA accounts, public unit accounts, guardian accounts and the application of local law to share insurance determinations. NCUA also proposes to revise the substance and format of the Appendix to part 745. These proposals, which parallel the Federal Deposit Insurance Corporation's (FDIC's) insurance rules, are intended to maintain parity between NCUA's and FDIC's insurance programs and to prevent confusion in understanding and applying the share insurance rules.

DATES: NCUA welcomes comments on these proposals. Comments must be received on or before January 31, 2000.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union