

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 51

[Docket No. 00-002-1]

Brucellosis in Sheep, Goats, and Horses; Payment of Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the brucellosis indemnity regulations to allow us to pay indemnity for sheep, goats, and horses destroyed because of brucellosis. This action would make it easier to eliminate affected herds/flocks and infected animals as sources of infection by encouraging herd and flock owners to cooperate with our brucellosis eradication program. This action is intended to help reduce the incidence of brucellosis and the likelihood of it spreading within the United States.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by November 13, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00-002-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 00-002-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7708.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella*. It affects both animals and humans. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. In humans, brucellosis initially causes flu-like symptoms, but the disease may develop into a variety of chronic conditions, including arthritis. Humans can be treated for brucellosis with antibiotics.

Brucellosis is mainly a disease of cattle, bison, and swine. *Brucella abortus* affects mainly bovines; *B. suis* affects mainly swine. Goats, sheep, and horses are also susceptible to *B. abortus*. In horses, the disease is known as fistulous withers. A third strain, *B. melitensis*, affects mainly goats and sheep.

In the United States, goats, sheep, and horses are rarely infected with *B. abortus* or *B. melitensis*. When they are, it is almost always because they have been in direct contact with infected animals or in an environment contaminated by discharges from infected animals.

The continued presence of brucellosis in a herd or flock seriously threatens the health of other animals. To prevent any possible spread of infection, we ask livestock owners to promptly destroy all infected and exposed animals. To encourage them, we pay Federal indemnity for certain cattle, bison, and swine destroyed because of brucellosis. Regulations governing indemnity for cattle, bison, and swine are contained in 9 CFR part 51.

Animals infected with brucellosis must be quarantined. Quarantining is

lengthy and expensive for both the owner and the U.S. Department of Agriculture (USDA). USDA must pay to have the quarantined herd or flock tested periodically, until it is found to be free of brucellosis. In the interim, the owner may not sell or move any breeding animals, except for slaughter. This means a financial loss for the animal owner, as slaughter animals generally receive lower prices than breeding animals. Without financial incentives to destroy infected animals, some owners choose to keep their affected herds or flocks, even though the animals must remain under quarantine.

Maintaining herds/flocks under quarantine also has another major drawback—it does not guarantee that brucellosis will not spread. Brucellosis spreads both directly and indirectly. For example, a quarantined animal may jump the fence and spread disease directly to adjacent herds, or a fox, dog, vulture, or other animal may move infective materials, such as placentas, from the quarantined area to other pastures where nonquarantined livestock can come in contact with it. For these reasons, it is important to remove infected animals rapidly.

State, Federal, and industry efforts have almost completely eliminated brucellosis in the United States. *B. abortus* and *B. suis* are now present only in a few areas. As of December 2000, there were no longer any cattle herds in the United States affected with *B. abortus*. *B. melitensis* is not known to exist in the United States at this time. However, *B. melitensis* does exist in Mexico. In 1999, one herd of mixed goats and sheep in southern Texas was destroyed because they were found to be infected with *B. melitensis*. This was the first known case of *B. melitensis* in the United States since the 1970's.

We believe our current indemnity program is sufficient to encourage owners of affected cattle herds to allow them to be destroyed. However, goats, sheep, and horses can spread brucellosis to other livestock and to humans. The brucellosis eradication program is in its final critical stages. Removing all infected animals and herds is ultimately the only effective means of eradicating the disease. Being able to pay indemnity for goats, sheep, and horses, as we do for cattle, bison, and swine, is a crucial tool to encourage livestock owners to

destroy infected or exposed animals and eliminate the last sources of infection.

The proposed indemnity program for goats, sheep, and horses that is the subject of this proposed rule would be a voluntary program. If producers respond positively, animals that pose a disease threat would be destroyed. This would advance our program to eradicate brucellosis in the United States. If brucellosis is eradicated, U.S. livestock will be valued higher in international markets. In addition, brucellosis-related restrictions on the movement of livestock within the United States will also be removed, reducing costs for U.S. producers. These factors together indicate that U.S. livestock and livestock products will be more competitive in both national and international markets.

Therefore, we are proposing to amend the regulations in part 51 by adding a new subpart containing provisions for an indemnity program for goats, sheep, and horses.

We modeled these proposed regulations on our existing indemnity regulations for cattle and bison, making adjustments as necessary to better address brucellosis in goats, sheep, and horses, and we reorganized and rewrote the requirements to make them easier to understand. Definitions of words used in the subpart are contained in proposed § 51.20. Proposed § 51.21 contains a statement that we will cooperate with State authorities to eradicate brucellosis and pay indemnity for animals destroyed because of brucellosis. The remainder of the proposed regulations are contained in §§ 51.22 through 51.33.

Goats and sheep are herd/flock animals. A single infected animal in a herd or flock exposes all the animals in that herd/flock to the disease, and goats and sheep infected with brucellosis can easily spread it to other members of the herd/flock. Therefore, in order to eliminate any possibility of brucellosis spreading from a herd of goats, flock of sheep, or herd of mixed goats and sheep, all animals in the herd or flock must be destroyed, or depopulated. As a result, under our proposed regulations we would pay brucellosis indemnity for goats and sheep only if they are destroyed as part of a whole herd/flock depopulation (§§ 51.22(a) and 51.23(a) and (b)). An epidemiologist would have to determine if the herd/flock was affected. Whether to depopulate a herd/flock would be decided based on all available information about the affected herd/flock, including blood test results, culture results, and exposure to other animals.

Horses infected with brucellosis almost always become infected by

contact with brucellosis-infected cattle, bison, swine, goats, or sheep. There is little evidence that horses play a significant role in spreading brucellosis, and we do not know of any case in the United States where an entire herd of horses has been affected with brucellosis. Therefore, horses would not be subject to the same whole herd depopulation requirement as sheep and goats. Rather, under our proposed regulations, individual horses tested and found to be infected with brucellosis would be eligible for indemnity (§ 51.23(c)).

Under the proposed regulations, the Administrator would authorize the payment of indemnity for approved herds/flocks or horses as long as: (1) Sufficient funds are available, (2) the State or area in which the animal is located is not under Federal quarantine, (3) the State has requested payment of Federal indemnity, or (4) the State has not requested a rate lower than the maximum. Prior to paying indemnity, the Veterinarian in Charge would have to have received proof that the animal or animals had been destroyed (§ 51.22(c)). These proposed regulations are the same as our current requirements for paying indemnity for cattle and bison destroyed because of brucellosis.

We would pay indemnity only for those animals that had been identified and disposed of according to our regulations. Proposed § 51.24 states that animals must be individually appraised, and that the indemnity amount will be the appraised fair market value minus the salvage value of the animal. The USDA will select and pay for an independent appraiser to determine that amount. There would be an upper limit of \$20,000 on the amount of indemnity that would be paid for an individual horse. As the 1997 average U.S. sales price for a horse was \$3,165, with State average sales prices ranging between \$794 and \$18,795, this proposed cap of \$20,000 would potentially affect the owners of only the most expensive horses (e.g., purebred horses). Given that the proposed indemnity program would be voluntary, the owner of any horse would have the option of maintaining the horse in quarantine rather than destroying the horse and accepting an indemnity payment. The proposed regulations include instructions on how to prove that animals have been destroyed (§ 51.25), how to compile test records and identify animals for testing (§ 51.26), how to mark animals with identification showing they are to be destroyed (§ 51.27), how to move animals to slaughter or other locations (§ 51.28),

and how to destroy animals (§ 51.29). There are time limits for marking animals with identification showing they are to be destroyed, specified in proposed § 51.27, and for destroying animals, specified in proposed § 51.29.

The regulations in proposed § 51.29 are modeled on our indemnity requirements for cattle affected with *B. abortus*. The only significant difference is that goats and sheep infected with *B. melitensis* could not be sent to slaughter. Instead, they would have to be destroyed and then buried, incinerated, or rendered in accordance with applicable State law. *B. melitensis* is easily transmitted by handling the carcasses of infected animals. Therefore, to protect slaughterhouse workers, we would require these animals to be disposed of by other means. *B. abortus* poses a very minimal risk to slaughterhouse workers, and infected animals can be safely slaughtered. Owners may, however, choose to bury, incinerate, or render carcasses of animals infected with *B. abortus*.

The proposed regulations require records on each animal destroyed. We would require records of tests and test results, and records showing the individual identification of animals tested and destroyed. These records would help us do three things: Ensure that the animals intended for destruction are actually infected or exposed to brucellosis; track individual animals intended for destruction to be sure they are actually destroyed; and ensure that the animals we would be paying indemnity for are the same animals that were destroyed (§§ 51.26, 51.27, and 51.29).

In addition, we would require infected and exposed animals moving interstate to do so only under permit. The animals could only be moved interstate to slaughter. This is consistent with our regulations for cattle and bison. The animals would have to be accompanied directly to slaughter by an Animal and Plant Health Inspection Service (APHIS) or State representative, or moved in vehicles closed with official seals (§ 51.28). This would help ensure that animals are not diverted en route.

All the requirements for filing an indemnity claim are in proposed § 51.30. These proposed requirements are the same as under our indemnity program for cattle.

The regulations would also include cleaning and disinfecting requirements. Premises where infected animals have been held would have to be cleaned and disinfected within a stated time limit to ensure that new animals brought there do not contract brucellosis. These

proposed requirements, which are found in § 51.31, are the same as our requirements under the cattle, bison, and swine indemnity program.

Proposed § 51.32 contains a lists of claims we would not allow. Proposed § 51.33 states that if an indemnity claim is paid for animals destroyed because of brucellosis, no other claims for indemnity will be paid for the same animals. These two sections are modeled on our current requirements concerning the payment of indemnity for cattle, bison, and swine destroyed because of brucellosis.

Miscellaneous

We are also proposing to make a minor, nonsubstantive change in part 51 to reflect the creation of new subparts A and B.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Brucellosis is a contagious, costly disease of livestock. It affects mainly ruminants and swine. However, it may

also infect other animals, including horses. In addition, it is contagious to humans. Because of the serious consequences of infection in its animal hosts, which include loss of young through abortion or birth of weak offspring, reduced milk production, infertility, weight loss, and lameness, and its rapid spread among animals and potential for human infection, brucellosis is considered one of the most serious livestock diseases. At present, there is no effective treatment for animals. Affected herds/flocks and infected animals can be quarantined. However, quarantining does not eliminate possible spread; only destroying infected and exposed animals ensures that the disease is not transmitted to other animals.

We are proposing to amend the brucellosis indemnity regulations to allow us to pay indemnity for sheep, goats, and horses destroyed because of brucellosis, which would make it easier to eliminate affected herds/flocks and infected animals as sources of infection and would encourage herd and flock owners to cooperate with our brucellosis eradication program. This proposed action is intended to help reduce the incidence of brucellosis and the likelihood of it spreading within the United States.

Goats and Sheep—Operations, Inventory, and Trade

It is estimated that there were approximately 9.8 million sheep and lambs in the United States in 1999.¹ Small farms² account for over 99 percent of farms raising sheep and lambs, while farms considered to be large account for less than 0.3 percent of farms raising sheep and lambs. About 85 percent of all farms raising sheep and lambs have fewer than 100 animals each; these farms collectively accounted for about 17 percent of domestic sheep and lamb holdings. On the other hand, large sheep operations with 5,000 or more sheep accounted for about 26 percent of domestic sheep and lamb holdings.

According to the most recent figures available, there were approximately 57,925 goat producers in the United States in 1997, who raised about 1,989,799 goats, valued at approximately \$74 million.³ With an average holding of about 35 goats, most, if not all, goat operations are relatively small and earn less than \$500,000.

The United States has limited foreign trade in live sheep, live goats, and their products. Figures for 1999 are shown in table 1.

TABLE 1.—SHEEP AND GOAT IMPORTS AND EXPORTS, 1999

Item	Imports		Exports	
	Number	Value, in millions	Number	Value, in millions
Sheep	51,999	\$5.01	445,307	\$18.96
Goats	1,166	0.32	72,950	3.03
Total	53,165	5.33	518,257	21.99

Source: *World Trade Atlas*, June 2000.

The United States also imports and exports sheep and goat meat. During 1999, U.S. imports totaled 111 million pounds of sheep and goat meat, valued at \$183.74 million. Exports totaled 5.6 million pounds, valued at \$6.46 million.

Horses—Operations, Inventory, and Trade

According to the *1997 Census of Agriculture*, there were 375,218 farms in the United States with a total 2,427,277 horses. During 1997, 79,516 of these

farms sold 325,306 horses for about \$1.03 billion, with an average value per horse of \$3,165.⁴ Using this average value, the total market value of horses in the United States was \$10.847 billion in 1997. Over 98 percent of farms with horses had gross annual sales of less than \$500,000 and thus are considered to be small entities according to the Small Business Administration size standards.⁵

The contribution of horses to the economy of the Nation is substantial. A

study for the American Horse Council showed that the horse industry directly contributed about \$25.3 billion to the gross domestic product. The horse industry's indirect and induced impact on the national economy is about \$112 billion.

Horses also play an important role in the international trade of the United States. Figures for 1999 are shown in table 2.

¹ USDA, National Agricultural Statistics Service (NASS), *Agricultural Statistics 2000*, United States Government Printing Office, Washington, DC.

² Based on size standards established by the Small Business Administration (SBA) for animal production, a sheep and goat business with less than \$0.5 million gross annual sales qualifies as a small entity (13 CFR part 121).

³ USDA, NASS, *1997 Census of Agriculture*, Tables 19, 20, and 25.

⁴ USDA, NASS, *1997 Census of Agriculture*, Washington, DC, 1997.

⁵ Horse farms with less than \$0.5 million in annual sales are classified as small entities according to the SBA size standards for animal

production (13 CFR part 121). According to the *1997 Census of Agriculture*, an average farm had 6.5 horses, while according to the American Horse Council, 1.9 million people owned 6.9 million horses, yielding an average of 3.6 horses per owner.

TABLE 2.—HORSE IMPORTS AND EXPORTS, 1999

Animals	Imports		Exports	
	Number	Value, in millions	Number	Value, in millions
Purebred	3,677	\$24.33	26,494	\$132.69
Nonpurebred	28,081	301.42	52,206	160.17
Total	31,758	325.75	78,700	292.86

Source: *World Trade Atlas*, June 2000.

Amount of Indemnity

Under this proposed rule, the amount of indemnity would be the fair market value of each animal, minus salvage, if any, received for the animal. There would usually be no salvage value for sheep and goats destroyed because of *B. melitensis*, as the carcass would have to be buried, incinerated, or rendered after the animal was destroyed. Animals would have to be individually appraised before destruction to determine their fair market value. An independent appraiser selected by the Administrator and paid by USDA would conduct all appraisals.

It is impossible to estimate indemnity expenditures, as market values vary depending upon the specific animal. However, as of January 1, 1999, the average national sales price of a sheep was \$88, while as of January 1, 1998, it was \$102. These prices reflect the average of the sale of millions of slaughter sheep, and the sale of a few thousand registered breeding sheep.⁶

As of January 1, 1999, the average sales price for goats was \$35 per head. As in the case of sheep, market values vary, depending whether the animal is a slaughter goat, angora goat, dairy goat, crossbred or purebred, etc.

There is much variation in the price of horses. In 1997, the average U.S. sales price for a horse was \$3,165. Purebred horses are more expensive than nonpurebred. State average sales prices ranged between \$794 and \$18,795, with a median price of about \$1,860 per horse. The median indicates that the market value of a horse in 50 percent of States was above \$1,860 per head and in 50 percent below it.

At this time, there are no goats, sheep, or horses in the United States known to be infected with *B. abortus* or *B. melitensis*. We estimate that fewer than a dozen herds, flocks, or individual animals would be eligible for indemnity under this proposed rule by the time brucellosis is eradicated from the United States.

⁶ The average price for registered breeding sheep is in the range of \$300, with some selling for thousands of dollars.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

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 and 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. 00-002-1. Please send a copy of your comments to: (1) Docket No. 00-002-1, 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 provide for the Department to pay indemnity for the

voluntary depopulation of herds of goats, flocks of sheep, and mixed herds of goats and sheep affected with *B. abortus* or *B. melitensis* and for the voluntary slaughter of individual horses infected with brucellosis. Implementing the proposed indemnity program would necessitate the use of several information collection activities, including the completion of indemnity claims, test records, and permits; the use of official seals and animal identification; and the submission of proof of destruction and requests for the extension of certain program-related deadlines.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the 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; and

(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 of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Sheep, goat, and horse owners who may be eligible to participate in a brucellosis indemnity program; State and accredited veterinarians; and slaughter plant operators.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 4.

Estimated total annual burden on respondents: 1 hour.

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

List of Subjects in 9 CFR Part 51

Animal diseases, Cattle, Goats, Hogs, Horses, Indemnity payments, Reporting and recordkeeping requirements, Sheep.

Accordingly, we propose to amend 9 CFR part 51 as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation for part 51 would continue to read as follows:

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

§§ 51.1 through 51.10 [Designated as subpart A]

2. Sections 51.1 through 51.10 would be designated as Subpart A—Indemnity for Cattle, Bison, and Swine.

§ 51.1 [Amended]

2. In § 51.1, in the definition of *Permit*, the word "Part" would be removed and the word "subpart" added in its place.

3. A new Subpart B—Indemnity for Sheep, Goats, and Horses, §§ 51.20 through 51.33, would be added to read as follows:

Subpart B—Indemnity for Sheep, Goats, and Horses

- Sec.
- 51.20 Definitions.
 - 51.21 Cooperation with States.
 - 51.22 Payment to owners for goats, sheep, and horses destroyed.
 - 51.23 Eligibility for indemnity.
 - 51.24 Maximum per-head indemnity amounts.
 - 51.25 Proof of destruction.
 - 51.26 Record of tests.
 - 51.27 Identification of goats, sheep, and horses to be destroyed.
 - 51.28 Moving goats, sheep, and horses to be destroyed.
 - 51.29 Destruction of animals; time limit.
 - 51.30 Claims for indemnity.
 - 51.31 Disinfecting premises, conveyances, and materials.
 - 51.32 Claims not allowed.
 - 51.33 Multiple indemnity payments.

§ 51.20 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this title to

perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Affected Herd/Flock. Any herd or flock in which any cattle, bison, breeding swine, sheep, or goat has been classified as a brucellosis reactor and which has not been released from quarantine.

Animal. Sheep, goats, and horses.

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 who is authorized to perform the function involved.

Appraisal. An estimate of the fair market value of an animal to be destroyed because of brucellosis.

Brucellosis exposed. Except for brucellosis reactors, animals that are part of a herd known to be affected, or are in a quarantined feedlot or a quarantined pasture, or are brucellosis suspects, or that have been in contact with a brucellosis reactor for a period of 24 hours or more, or for a period of less than 24 hours if the brucellosis reactor has aborted, calved, or farrowed within the past 30 days or has a vaginal or uterine discharge.

Brucellosis reactor animal. Any cattle, bison, or swine classified as a brucellosis reactor as provided in the definition of official test in § 78.1 of this chapter, and any sheep, goat, or horse classified as a brucellosis reactor as provided in § 51.23 of this subpart.

Condemn. The determination made by an APHIS representative, State representative, or accredited veterinarian that animals for which indemnity is sought under this subpart will be destroyed.

Designated brucellosis epidemiologist. An epidemiologist selected by the State animal health official and the Veterinarian in Charge to perform the functions required. The regional epidemiologist and the APHIS brucellosis staff must concur in the selection and appointment of the designated epidemiologist.

Destroyed. Condemned under State authority and slaughtered or otherwise dies.

Flock. Any group of sheep maintained on common ground for any purpose, or two or more groups of sheep under common ownership or supervision, geographically separated but which

have an interchange or movement of animals without regard to health status.

Herd. Any group of goats, or mixed sheep and goats, maintained on common ground for any purpose, or two or more groups of goats, or two or more groups of mixed sheep and goats, under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

Herd Depopulation. Removal by slaughter or other means of destruction of all sheep or goats in a flock or herd, or from a specific premises or under common ownership prior to restocking such premises with new animals.

Mortgage. Any mortgage, lien, or interest that is recorded under State law or identified in the indemnity claim form filed in accordance with this subpart, and held by any person other than the one claiming indemnity.

Official seal. A serially numbered metal strip consisting of a self-locking device on one end and a slot on the other end, which forms a loop when the ends are engaged and which cannot be reused if opened, and is applied by a representative of the Veterinarian in Charge or the State animal health official.

Owner. Any person who has legal or rightful title to sheep, goats, and horses, whether or not the animals are subject to a mortgage.

Permit. An official document for movement of animals under this subpart issued by an APHIS representative, State representative, or accredited veterinarian listing the disease status and identification of the animal, where consigned, cleaning and disinfecting requirements and proof of slaughter certification.

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

Registered sheep and goats. Sheep and goats for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the species, and for which individual registration certificates are issued and recorded by such breed association.

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

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

agreement with the United States Department of Agriculture.

Veterinarian in Charge. The APHIS veterinary official who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State or area concerned, or any person authorized to act for the Veterinarian in Charge.

§ 51.21 Cooperation with States.

The Administrator has been delegated the authority to cooperate with the proper State authorities in the eradication of brucellosis and to pay indemnities for the destruction of brucellosis-reactor animals or brucellosis-exposed animals.

§ 51.22 Payment to owners for goats, sheep, and horses destroyed.

(a) The Administrator may authorize the payment of Federal indemnity by the U.S. Department of Agriculture to any owner whose goats, sheep, or horses are destroyed after having been approved for destruction by APHIS.¹ Goats or sheep must be destroyed as

part of a whole herd/flock depopulation to be eligible for Federal indemnity.

(b) The amount of Federal indemnity will be determined in accordance with the regulations in this part that were in effect on the date infected animals were found, or the date that the whole-herd/flock depopulation or destruction of individual animals was approved.

(c) Prior to payment of indemnity, proof of destruction must be furnished to the Veterinarian in Charge.

§ 51.23 Eligibility for indemnity.

Owners of animals destroyed because of brucellosis are eligible to receive Federal indemnity for their animals if the animals are:

(a) Sheep and goats in a herd or flock that has been approved for whole herd/flock depopulation because of *B. abortus* or *B. melitensis*. A diagnosis of brucellosis must be made by a designated brucellosis epidemiologist,² based on test results, herd/flock history, and/or culture results. Any test used for cattle and bison under the APHIS

official brucellosis eradication program (see part 78 of this chapter) may be used, but test results must be interpreted by a designated brucellosis epidemiologist;

(b) Sheep and goats that were obtained from a herd or flock that was subsequently found to be affected with *B. abortus* or *B. melitensis*. Epidemiological information such as test results, herd/flock history, and related evidence will be used to establish a probable date when the herd or flock was first affected with brucellosis. Animals removed from the herd or flock after that date will be considered exposed to the disease and eligible for indemnity; those removed before that date will not;

(c) Individual horses diagnosed with brucellosis. A diagnosis must be made by a designated brucellosis epidemiologist, based on epidemiological information or culture results, or positive results for brucellosis in accordance with one of the following tests:

Test	Positive results
Standard plate test (SPT)	If antibody titer positive at 1:100 dilution or higher
Standard tube test (STT)	If antibody titer positive at 1:100 dilution or higher
Rivanol test	If antibody titer positive at 1:50 dilution or higher
Particle concentration fluorescence immunoassay (PCFIA)	If reading is 0.3 or lower
Complement fixation test (CF)	If reading is 2+ :20 dilution

§ 51.24 Maximum per-head indemnity amounts.

Owners of the types of animals listed in § 51.22 of this subpart are eligible to receive Federal indemnity for their animals. All animals must be individually appraised to determine their fair market value. The indemnity amount will be the appraised value minus the salvage value of the animal, up to a maximum of \$20,000 per animal in the case of horses. An independent appraiser selected by the Administrator will conduct appraisals. APHIS will pay the cost of appraisals.

§ 51.25 Proof of destruction.

The Veterinarian in Charge will accept any of the following documents as proof of destruction:

- (a) A postmortem report;
- (b) A meat inspection certification of slaughter;
- (c) A written statement by a State representative, APHIS representative, or

accredited veterinarian attesting to the destruction of the animals;

(d) A written, sworn statement by the owner or caretaker of the animal attesting to the destruction of the animals;

(e) A permit (VS Form 1-27) consigning the animal from a farm or livestock market directly to a slaughter establishment; or

(f) In unique situations where none of the documents listed above are available, other similarly reliable forms of proof of destruction.

§ 51.26 Record of tests.

An APHIS representative, State representative, or accredited veterinarian will compile, on an APHIS-approved form, a complete test record for each animal. The claimant must provide any information necessary to complete the form. The test record must include the type of test and the test results for each animal. It must also include the individual identification of

each tested animal. Any unique identification is acceptable. The animal's owner and the appropriate State veterinarian's office will each receive a copy of the test record.

§ 51.27 Identification of goats, sheep, and horses to be destroyed.

The claimant must ensure that any goats, sheep, and horses for which indemnity is claimed are marked with unique, individually numbered identification showing they are to be destroyed. This must be done within 15 days after the animals are condemned. The Veterinarian in Charge may extend the time limit to 30 days when the Veterinarian in Charge receives a request for extension prior to the expiration date of the original 15-day period, and when the Veterinarian in Charge determines that the extension will not adversely affect the brucellosis eradication program. However, the Administrator may extend the time limit beyond 30 days when unusual or

¹ The Administrator will authorize payment of Federal indemnity by the U.S. Department of Agriculture as provided in § 51.24: (a) As long as sufficient funds appropriated by Congress appear to be available for this purpose for the remainder of the fiscal year; (b) in States or areas not under

Federal quarantine; (c) in States requesting payment of Federal indemnity; and (d) in States not requesting a lower rate.

² Requirements for designated brucellosis epidemiologists are contained in Veterinary

Services Memorandum No. 551.10. A copy of this memorandum may be obtained from an APHIS representative, the State Animal Health Official, or a State representative.

unforeseen circumstances occur that prevent or hinder the identification of the animal within 30 days, such as, but not limited to, floods, storms, or other Acts of God, which are beyond the control of the owner, or when identification is delayed due to requirements of another Federal agency.

§ 51.28 Moving goats, sheep, and horses to be destroyed.

Goats, sheep, and horses to be destroyed because of brucellosis must be accompanied by a permit and either:

(a) Accompanied directly to slaughter by an APHIS or State representative; or

(b) Moved in vehicles closed with official seals applied and removed by an APHIS representative, State representative, accredited veterinarian, or an individual authorized for this purpose by an APHIS representative. The official seal numbers must be recorded on the accompanying permit.

§ 51.29 Destruction of animals; time limit.

(a) The claimant must ensure that goats, sheep, and horses infected with or exposed to *B. abortus* are either:

(1) Sold under permit to a recognized slaughtering establishment;

(2) Moved to an approved stockyard for sale to a recognized slaughtering establishment; or

(3) Destroyed and buried, incinerated, or rendered in accordance with applicable State law.

(b) The claimant must ensure that goats and sheep destroyed because of *B. melitensis* are destroyed and buried, incinerated, or rendered in accordance with applicable State law.

(c) Indemnity will be paid under this part only if the animals are destroyed within 15 days after the date they are marked with identification showing they are to be destroyed. However, the Veterinarian in Charge may extend the time limit to 30 days if:

(1) The animals' owner asks the Veterinarian in Charge for an extension before the initial 15-day period expires, or the animals were sold for slaughter before the original 15-day period expires; and

(2) The Veterinarian in Charge determines that extending the time limit will not adversely affect the Brucellosis Eradication Program.

(d) The Administrator may extend the time limit beyond 30 days when unusual and unforeseen circumstances occur that prevent or hinder the destruction of the animals within 30 days, such as, but not limited to, floods, storms, or other Acts of God, which are beyond the control of the owner, or

when destruction is delayed due to requirements of another Federal agency.

§ 51.30 Claims for indemnity.

(a) Claims for indemnity for goats, sheep, and horses destroyed because of brucellosis must be made using an indemnity claim form furnished by APHIS. On the form, the owner of the animals must certify whether the animals are subject to a mortgage. If the owner states there is a mortgage, the claim form must be signed by the owner and by each mortgage holder, consenting to the payment of any indemnity allowed to the owner. Payment will be made only if the claimant has submitted a complete indemnity claim form to the Veterinarian in Charge and the claim has been approved by the Veterinarian in Charge or by an APHIS representative designated by him or her. The Veterinarian in Charge or an APHIS representative designated by the Veterinarian in Charge will record on the APHIS indemnity claim form the amount of Federal and State indemnity payments that appear to be due to the owner of the animals. The owner of the animals will receive a copy of the completed APHIS indemnity claim form. The owner is responsible for paying all fees for holding the animals on the farm pending disposal and for all trucking fees.

(b) Claims for indemnity for registered sheep and registered goats must be accompanied by the animal's registration papers, issued in the name of the owner. If the registration papers are unavailable or if the animal is less than 1 year old and not registered at the time the claim for indemnity is submitted, the 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. Any animal that is not registered but is eligible for registration at the time the claim is submitted will be considered unregistered unless the animal has been in the flock for less than 12 months.

§ 51.31 Disinfecting premises, conveyances, and materials.

All premises, including all structures, holding facilities, conveyances, and materials contaminated because they have been used by animals destroyed because of brucellosis, must be properly cleaned and disinfected in accordance with recommendations of the APHIS or State representative. Cleaning and disinfecting must be completed within 15 days from the date the animals were removed from the premises, except that

the Veterinarian in Charge may extend the time limit for disinfection to 30 days when he or she receives a request prior the expiration date of the original 15 days, and when the Veterinarian in Charge determines that an extension will not adversely affect the Brucellosis Eradication Program. The Administrator may extend the time limit beyond 30 days when unusual and unforeseen circumstances occur that prevent or hinder disinfection of the premises, conveyances, and materials within 30 days, such as, but not limited to floods, storms, or other Acts of God, which are beyond the control of the owner. A premises may be exempted from such cleaning and disinfecting requirements if the APHIS or State representative recommends it in writing and the Veterinarian in Charge approves.

§ 51.32 Claims not allowed.

Claims for indemnity for goats, sheep, and horses destroyed because of brucellosis will not be allowed if any of the following circumstances exist:

(a) The claimant has failed to comply with any of the requirements of this part;

(b) The claim is based on a brucellosis test, and the person who administered the test was not properly trained, authorized, or certified at the time of the test;

(c) Testing of goats, sheep, and horses in the herd or flock for brucellosis was not done under APHIS or State supervision, or by an accredited veterinarian;

(d) There is substantial evidence that the claim is an unlawful or improper attempt to obtain indemnity; or

(e) If, at the time of test or condemnation, the animals belonged to or were upon the premises of any person to whom they had been sold for slaughter, shipped for slaughter, or delivered for slaughter.

§ 51.33 Multiple indemnity payments.

APHIS has indemnity programs for several other livestock diseases. However, if a claim is paid for indemnity for animals destroyed because of brucellosis, no other claims for indemnity will be paid for the same animals.

Done in Washington, DC, this 6th day of September 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

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