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APHIS for part or all of the costs associated with the approval and monitoring of the laboratory.

(Approved by the Office of Management and Budget under control numbers 0579–0101 and 0579–0469)

[84 FR 11185, Mar. 25, 2019]

Subpart B—Scrapie Free Flock Certification Program

§ 54.20 Administration.

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

§ 54.21 Participation.

Any owner of a sheep or goat flock may apply to enter the Scrapie Free Flock Certification Program by sending a written request to a State scrapie certification board or to the Veterinary Services, Field Operations, AVIC responsible for the State involved. A notice containing a current list of flocks participating in the Scrapie Free Flock Certification Program, and the certification status of each flock, may be obtained from the APHIS website at *http://www.aphis.usda.gov/animal-health/scrapie*. A list of noncompliant flocks and a list of flocks that sold exposed animals that could not be traced may also be obtained from this site, and these lists may be obtained by writing to the National Scrapie Program Coordinator, Strategy and Policy, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

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

[84 FR 11185, Mar. 25, 2019]

§ 54.22 State scrapie certification boards.

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

PART 55—CONTROL OF CHRONIC WASTING DISEASE

Sec.

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Subpart B—Chronic Wasting Disease Herd Certification Program

55.21 Administration.
55.22 Participation and enrollment.
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55.24 Herd status.
55.25 Animal identification.

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

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

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

Animal. Any farmed or captive deer, elk, or moose.

Animal identification. A device or means of animal identification approved for use under this part by APHIS. Examples of animal identification devices that APHIS has approved are listed in § 55.25.

Animal identification number (AIN). A numbering system for the official identification of individual animals in the United States. The AIN contains 15 digits, with the first 3 being the country code (840 for the United States), the alpha characters USA, or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording.

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

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

Approved State CWD Herd Certification Program. A program operated by a State government for certification of cervid herds with respect to CWD that the Administrator has determined to meet the requirements of § 55.23(a).

Cervid. All members of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer, and related species. For the purposes of this part, the term ''cervid'' refers specifically to cervids susceptible to CWD. These are animals in the genera Odocoileus, Cervus, and Alces and their hybrids, *i.e.*, deer, elk, and moose.

Commingled, commingling. Animals are commingled if they have direct contact with each other, have less than 10 feet of physical separation, or share equipment, pasture, or water sources/watershed. Animals are considered to have commingled if they have had such contact with a positive animal or contaminated premises within the last 5 years.

CWD-exposed animal. An animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 5 years.

CWD-exposed herd. A herd in which a CWD-positive animal has resided within 5 years prior to that animal's diagnosis as CWD-positive, as determined by an APHIS employee or State representative.

CWD Herd Certification Program. The Chronic Wasting Disease Herd Certification Program established by this part. This program includes both herds that are directly enrolled in the CWD Herd Certification Program and herds that are included based on their participation in Approved State CWD Herd Certification Programs.

CWD-positive animal. An animal that has had a diagnosis of CWD established through official confirmatory testing conducted by the National Veterinary Services Laboratories.

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

CWD-source herd. A herd that is identified through testing, tracebacks, and/or epidemiological evaluations to be the source of CWD-positive animals identified in other herds.

CWD-suspect animal. An animal for which an APHIS employee or State representative has determined that unofficial CWD test results, laboratory evidence or clinical signs suggest a diagnosis of CWD, but for which official laboratory results have been inconclusive or not yet conducted.

CWD-suspect herd. A herd for which unofficial CWD test results, laboratory evidence, or clinical signs suggest a diagnosis of CWD, as determined by an APHIS employee or State representative, but for which official laboratory results have been inconclusive or not yet conducted.

Deer, elk, and moose. All animals in the genera Odocoileus, Cervus, and Alces and their hybrids.

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Department. The United States Department of Agriculture.

Farmed or captive. Privately or publicly maintained or held for economic or other purposes within a perimeter fence or confined area, or captured from a free-ranging population for interstate movement and release.

Herd. One or more animals that are:

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

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

Herd plan. A written herd and/or premises management agreement developed by APHIS in collaboration with the herd owner, State representatives, and other affected parties. The herd plan will not be valid until it has been reviewed and signed by the Administrator, the State representative, and the herd owner. A herd plan sets out the steps to be taken to control the spread of CWD from a CWD-positive herd, to control the risk of CWD in a CWD-exposed or CWD-suspect herd, or to prevent introduction of CWD into that herd or any other herd. A herd plan will require specified means of identification for each animal in the herd; regular examination of animals in the herd by a veterinarian for clinical signs of disease; reporting to a State or APHIS representative of any clinical signs of a central nervous system disease or chronic wasting condition in the herd; maintaining records of the acquisition and disposition of all animals entering or leaving the herd, including the date of acquisition or removal, name and address of the person from whom the animal was acquired or to whom it was disposed; and the cause of death, if the animal died while in the herd. A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the particular circumstances of the herd and its premises, including but not limited to depopulation of the herd, specifying the time for which a premises must not contain cervids after CWD-positive, -exposed, or -suspect animals are removed from the premises; fencing requirements; selective culling of animals; restrictions on sharing and movement of possibly contaminated livestock equipment; premises cleaning and disinfection requirements; or other requirements. A herd plan may be reviewed and changes to it suggested at any time by any party signatory to it, in response to changes in the situation of the herd or premises or improvements in understanding of the nature of CWD epidemiology or techniques to prevent its spread. The revised herd plan will become effective after it is reviewed by the Administrator and signed by the Administrator, the State representative, and the herd owner.

Herd status. The status of a herd assigned under the CWD Herd Certification Program in accordance with §55.24, indicating a herd's relative risk for CWD. Herd status is based on the number of years of monitoring without evidence of the disease and any specific determinations that the herd has contained or has been exposed to a CWD-positive, -exposed or -suspect animal.

Materials. Parts of barns or other structures, straw, hay, and other feed for animals, farm products or equipment, clothing, and any other articles on the premises that have been in contact with captive cervids.

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

National Uniform Eartagging System. A numbering system for the official identification of individual animals in the United States providing a nationally unique identification number for each animal. The National Uniform Eartagging System employs an eight- or nine-character alphanumeric format, consisting of a two-number State or territory code, followed by two or three letters and four additional numbers. Official APHIS disease control programs may specify which format to employ.

Official animal identification. A device or means of animal identification approved for use under this part by APHIS to uniquely identify individual animals. Examples of approved official animal identification devices are listed

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in § 55.25. The official animal identification must include a nationally unique animal identification number that adheres to one of the following numbering systems:

(1) National Uniform Eartagging System. The CWD program allows the use of either the eight-character or nine-character format for cervids.

(2) Animal identification number (AIN).

(3) Premises-based number system. The premises-based number system combines an official premises identification number (PIN), as defined in this section, with a producer's livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag.

(4) Any other numbering system approved by the Administrator for the identification of animals in commerce.

Official appraiser (APHIS official appraiser, State official appraiser). A person authorized by APHIS (an APHIS official appraiser) or a State (a State official appraiser) to appraise animals for the purposes of this part. An official appraiser may be an APHIS employee, a State employee, or a professional livestock appraiser working under contract to APHIS or a State.

Official CWD test. Any test for the diagnosis of CWD approved by the Administrator and conducted in a laboratory approved by the Administrator in accordance with § 55.8 of this part.

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

Premises identification number (PIN). A nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority, a geographically distinct location from other premises. The premises identification number is associated with an address, geospatial coordinates, and/or location descriptors which provide a verifiably unique location. The premises identification number may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. It may also be used as a component of a group/lot identification number. The premises identification number may consist of:

(1) The State's two-letter postal abbreviation followed by the premises' assigned number; or

(2) A seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

Secretary. The Secretary of Agriculture of the United States, or any officer or employee of the Department delegated to act in the Secretary's stead.

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

State representative. A person regularly employed in the animal health work of a State and who is authorized by that State to perform the function involved.

Trace back herd. A herd in which a CWD-positive animal formerly resided.

Trace forward herd. A herd that has received exposed animals from a CWD-positive herd within 5 years prior to the diagnosis of CWD in the positive herd or from the identified date of entry of CWD into the positive herd.

Veterinarian in charge. The veterinary official of Veterinary Services, APHIS, who is assigned by the Administrator to supervise and perform official animal health work for APHIS in the State concerned.

[67 FR 5931, Feb. 8, 2002, as amended at 71 FR 41701, July 21, 2006; 77 FR 35565, June 13, 2012; 79 FR 23891, Apr. 29, 2014]

Subpart A—Chronic Wasting Disease Indemnification Program

§ 55.2 Payment of indemnity.

The Administrator is authorized to pay for the purchase and destruction of CWD positive animals, CWD exposed animals, and CWD suspect animals. Subject to available funding, the amount of the Federal payment for any such animals will be 95 percent of the

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appraised value established in accordance with § 55.3 of this part, but the Federal payment shall not exceed $3,000 per animal. If a non-Federal source makes a payment for an animal for which a Federal indemnity is paid, and the non-Federal payment exceeds 5 percent of the appraised value established in accordance with § 55.3 of this part, the amount of the Federal payment for any such animals will be reduced by the amount by which the non-Federal payment exceeds 5 percent of the appraised value. The Administrator is also authorized to reimburse State governments or State animal health agencies for payments they make for the purchase and destruction, on or after October 1, 2001, of CWD positive animals, CWD exposed animals, and CWD suspect animals, and for State expenditures for associated carcass disposal and cleaning and disinfection costs resulting from such purchase and destruction, in accordance with cooperative agreements signed by the Administrator and the duly authorized agent of the State.

§ 55.3 Appraisal and destruction of captive cervids.

(a) CWD positive herds, or individual CWD suspect animals or exposed animals removed by APHIS from a herd for testing, will be appraised by an APHIS official appraiser and a State official appraiser jointly, or, if APHIS and State authorities agree, by either a State official appraiser or an APHIS official appraiser alone.

(b) The appraisal of cervids will be the fair market value as determined by the meat or breeding value of the animals. Animals may be appraised in groups, provided that where appraisal is by the head, each animal in the group is the same value per head, and where appraisal is by the pound, each animal in the group is the same value per pound.

(c) Appraisals of cervids must be reported on forms furnished by APHIS and signed by the appraisers, and signed by the owner of the cervids to indicate agreement with the appraisal amount. Reports of appraisals must show the number of cervids and the value per head or the weight and value by pound.

(d) In accordance with instructions from an APHIS employee, cervids for which indemnification is sought must be:

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

(2) Moved to another location for destruction under conditions specified by the APHIS employee; or

(3) Moved to an approved research facility under conditions specified by the APHIS employee.

(e) The carcasses of any cervids destroyed in accordance with this part are authorized by the Administrator to be incinerated, destroyed in an alkaline hydrolysis tissue digestor, or disposed of by any other method authorized by an APHIS employee and in accordance with local, State, and Federal laws. APHIS will pay the reasonable costs of destruction and carcass disposal for animals that are indemnified. To obtain reimbursement for disposal costs, animal owners must obtain written approval of the disposal costs from APHIS, prior to disposal. Except in cases where APHIS or a State directly arranges for disposal, the owner of the animals must present an APHIS employee with a written contract or estimate of disposal costs. Prior to receiving reimbursement, the owner must also present an APHIS employee with a copy of either a receipt for expenses paid by the owner or a bill for services rendered to the owner. Any bill for services rendered presented by the owner must not be greater than the normal fee for similar services provided by commercial entities. The carcasses of cervids destroyed in accordance with this section may not be sold to be processed for human or animal food, including dietary supplements.

(Approved by the Office of Management and Budget under control number 0579–0189)

§ 55.4 Disinfection of premises, conveyances, and materials.

After cervids are destroyed in accordance with this part, all premises, including barns, stockyards and pens, all cars and other conveyances, and all other materials on any premises or conveyances used to house or transport such cervids must be cleaned and disinfected under the supervision of an

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APHIS employee or a State representative, using methods specified by the APHIS employee or a State representative. Premises may not be restocked with cervids until after the date specified in the herd plan required by § 55.7(b) of this part. The owner to whom the indemnity is paid will be responsible for expenses incurred in connection with the cleaning and disinfection, except that APHIS or a State will pay for cleaning and disinfection of the conveyances used to transport the cervids to the location of disposal. However, APHIS may also decide to pay the cost of cleaning and disinfecting premises when the procedures needed to conduct effective cleaning and disinfection are unusually extensive and require methods that are not normally available on a premises. For example, normal procedures would include washing surfaces with high-pressure hoses and disinfectants and burying or burning contaminated materials. Unusually extensive procedures would include disposing of contaminated materials by digestive disposal or high-temperature incineration.

§ 55.5 Presentation of claims for indemnity.

Claims for indemnity for the value of animals destroyed must be documented on a form furnished by APHIS and presented to an APHIS employee or a State representative authorized to accept the claims.

(Approved by the Office of Management and Budget under control number 0579–0189)

§ 55.6 Mortgage against animals.

When cervids have been destroyed under this part, any claim for indemnity must be presented on forms furnished by APHIS. The owner of the cervids must certify on the forms that the cervids covered are, or are not, subject to any mortgage as defined in this part. If the owner states there is a mortgage, the owner and each person holding a mortgage on the cervids must sign, consenting to the payment of indemnity to the person specified on the form.

(Approved by the Office of Management and Budget under control number 0579–0189)

§ 55.7 Claims not allowed.

(a) The Department will not allow claims arising out of the destruction of cervids unless the cervids have been appraised as prescribed in this part and the owners have signed the appraisal form indicating agreement with the appraisal amount as required by § 55.3(c) of this part.

(b) The Department will not allow claims arising out of the destruction of cervids unless the owners have signed a written agreement with APHIS in which they agree that if they maintain cervids in the future on the premises used for cervids for which indemnity is paid, they will maintain the cervids in accordance with a herd plan and will not introduce cervids onto the premises until after the date specified in that herd plan. Persons who violate this written agreement may be subject to civil and criminal penalties.

(c) The Department will not allow claims arising out of the destruction of cervids that have been moved or handled by the owner or a representative of the owner in violation of a law or regulation administered by the Secretary regarding animal disease, or in violation of a law or regulation for which the Secretary has entered into a cooperative agreement.

(Approved by the Office of Management and Budget under control number 0579–0189)

§ 55.8 Official CWD tests and approval of laboratories to conduct official CWD tests.

(a) An official CWD test is:

(1) Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of CWD, using test protocols provided by the National Veterinary Services Laboratories (NVSL);

(2) The use of proteinase-resistant protein analysis methods including but not limited to immunohistochemistry and/or western blotting on CNS and/or peripheral tissue samples from a live or a dead animal, using test protocols provided by NVSL; or

(3) Any other test method approved by the Administrator in accordance with this section.

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(b) The Administrator may approve new tests for the diagnosis of CWD conducted on live or dead animals, and will base the approval or disapproval of a test on the evaluation by APHIS and, when appropriate, outside scientists, of:

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

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

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

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

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

(c) Specific protocols for official CWD tests are available upon request to NVSL.

(d) State, Federal, and university laboratories will be approved by the Administrator to conduct official CWD tests when he or she determines that the laboratory:

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

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

(3) Follows standard test protocols;

(4) Meets check test proficiency requirements;

(5) Meets recordkeeping requirements;

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

(7) Will allow APHIS to inspect[1] the laboratory without notice during normal business hours; and

(8) Will report all test results to State and Federal animal health officials within agreed timeframes.

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

Subpart B—Chronic Wasting Disease Herd Certification Program

SOURCE: 77 FR 35566, June 13, 2012, unless otherwise noted.

§ 55.21 Administration.

The CWD Herd Certification Program is a cooperative effort between APHIS, State animal health and wildlife agencies, and deer, elk, and moose owners. APHIS coordinates with these State agencies to encourage deer, elk, and moose owners to certify their herds as low risk for CWD by being in continuous compliance with the CWD Herd Certification Program standards.

§ 55.22 Participation and enrollment.

(a) *Participation by States.* Any State that operates a State program to certify the CWD status of deer, elk, or moose may request the Administrator to designate the State program as an Approved State CWD Herd Certification Program. The Administrator will approve or disapprove a State program in accordance with § 55.23(a). In States with an Approved State CWD Herd Certification Program, program activities will be conducted in accordance with the guidelines of that program as long as the State program meets the minimum requirements of this part. A list of Approved State

[1] An inspection may include, but is not limited to, review and copying of records, examination of slides, observation of the test being conducted, and interviewing of personnel.

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CWD Herd Certification Programs may be obtained by writing to the National Center for Animal Health Program, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

(b) *Participation by owners.* Any owner of a farmed or captive deer, elk, or moose herd may apply to enroll in an Approved State CWD Herd Certification Program by sending a written request to the appropriate State agency. Subject to the availability of appropriated funds for a Federal CWD Herd Certification Program, the owner may apply to the APHIS veterinarian in charge if no Approved State CWD Herd Certification Program exists in the herd's State. APHIS or the State will determine the herd's eligibility, and if needed will require the owner to submit more details about the herd animals and operations. An application for participation may be denied if APHIS or the State determines that the applicant has previously violated State or Federal laws or regulations for livestock, and that the nature of the violation indicates that the applicant may not faithfully comply with the requirements of the CWD Herd Certification Program. If the enrolling herd is a CWD-positive herd or CWD-exposed herd, immediately after enrollment it must begin complying with a herd plan developed in accordance with § 55.24. After determining that the herd is eligible to participate in accordance with this paragraph, APHIS or the appropriate State agency will send the herd owner a notice of enrollment that includes the herd's enrollment date. Inquiries regarding which herds are participating in the CWD Herd Certification Program and their certification should be directed to the State representative of the relevant State.

(1) *Enrollment date.* With the exceptions listed in this paragraph, the enrollment date for any herd that joins the CWD Herd Certification Program after August 13, 2012 will be the date the herd is approved for participation.

(i) For herds already participating in State CWD programs, the enrollment date will be the first day that the herd participated in a State program that APHIS subsequently determines qualifies as an Approved State CWD Herd Certification Program in accordance with § 55.23(a) of this part.

(ii) For herds that enroll directly in the Federal CWD Herd Certification Program, which is allowed only when there is no Approved State CWD Herd Certification Program in their State and which is subject to the availability of appropriated funds, the enrollment date will be the earlier of:

(A) The date APHIS approves enrollment; or

(B) If APHIS determines that the herd owner has maintained the herd in a manner that substantially meets the conditions specified in § 55.23(b) for herd owners, the first day that the herd participated in such a program. However, in such cases the enrollment date may not be set at a date more than 3 years prior to the date that APHIS approved enrollment of the herd.

(iii) For new herds that were formed from and contain only animals from herds enrolled in the CWD Herd Certification Program, the enrollment date will be the latest enrollment date for any source herd for the animals.

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 0579–0237)

§ 55.23 Responsibilities of States and enrolled herd owners.

(a) *Approval of State programs and responsibilities of States.* In reviewing a State program's eligibility to be designated an Approved State CWD Herd Certification Program, the Administrator will evaluate a written statement from the State that describes the State's CWD control and deer, elk, and moose herd certification activities and that cites relevant State statutes, regulations, and directives pertaining to animal health activities and reports and publications of the State. In determining whether the State program qualifies, the Administrator will determine whether the State:

(1) Has the authority, based on State law or regulation, to restrict the intrastate movement of all CWD-positive, CWD-suspect, and CWD-exposed animals.

(2) Has the authority, based on State law or regulation, to require the prompt reporting of any animal suspected of having CWD and test results

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for any animals tested for CWD to State or Federal animal health authorities.

(3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding with APHIS that delineates the respective roles of the State and APHIS in CWD Herd Certification Program implementation.

(4) Has placed all known CWD-positive, CWD-exposed, and CWD-suspect animals and herds under movement restrictions, with movement of animals from them only for destruction or under permit.

(5) Has effectively implemented policies to:

(i) Promptly investigate all animals reported as CWD-suspect animals;

(ii) Designate herds as CWD-positive, CWD-exposed, or CWD-suspect and promptly restrict movement of animals from the herd after an APHIS employee or State representative determines that the herd contains or has contained a CWD-positive animal;

(iii) Remove herd movement restrictions only after completion of a herd plan agreed upon by the State representative, APHIS, and the owner;

(iv) Conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect and exposed animals and that identifies animals to be traced;

(v) Conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any out-of-State traces to the appropriate State promptly after receipt of notification of a CWD-positive animal; and

(vi) Conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.

(6) Effectively monitors and enforces State quarantines and State reporting laws and regulations for CWD.

(7) Has designated at least one State animal health official, or has worked with APHIS to designate an APHIS official, to coordinate CWD Herd Certification Program activities in the State.

(8) Has programs to educate those engaged in the interstate movement of deer, elk, and moose regarding the identification and recordkeeping requirements of this part.

(9) Requires, based on State law or regulation, and effectively enforces identification of all animals in herds participating in the CWD Herd Certification Program;

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

(i) Premises information and assigned premises numbers;

(ii) Individual animal information on all deer, elk, and moose in herds participating in the CWD Herd Certification Program in the State;

(iii) Individual animal information on all out-of-State deer, elk, and moose to be traced; and

(iv) Accurate herd status data.

(11) Requires that tissues from all CWD-exposed or CWD-suspect animals that die or are depopulated or otherwise killed be submitted to a laboratory authorized by the Administrator to conduct official CWD tests and requires appropriate disposal of the carcasses of CWD-positive, CWD-exposed, and CWD-suspect animals.

(b) *Responsibilities of enrolled herd owners.* Herd owners who enroll in the CWD Herd Certification Program agree to maintain their herds in accordance with the following conditions:

(1) Each animal in the herd must be identified using means of animal identification specified in §55.25. All animals in an enrolled herd must be identified before reaching 12 months of age. In addition, all animals of any age in an enrolled herd must be identified before being moved from the herd premises. In addition, all animals in an enrolled herd must be identified before the inventory required under paragraph (b)(4) of this section, and animals found to be in violation of this requirement during the inventory must be identified during or after the inventory on a schedule specified by the APHIS employee or State representative conducting the inventory;

(2) The herd premises must have perimeter fencing adequate to prevent ingress or egress of cervids. This fencing must also comply with any applicable State regulations;

(3) The owner must immediately report to an APHIS employee or State

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representative all animals that escape or disappear, and all deaths (including animals killed on premises maintained for hunting and animals sent to slaughter) of deer, elk, and moose in the herd aged 12 months or older; Except that, APHIS employees or State representatives may approve reporting schedules other than immediate notification when herd conditions warrant it in the opinion of both APHIS and the State. The report must include the identification numbers of the animals involved and the estimated time and date of the death, escape, or disappearance. For animals that die (including animals killed on premises maintained for hunting and animals sent to slaughter), the owner must inform an APHIS or State representative and must make the carcasses of the animals available for tissue sampling and testing in accordance with instructions from the APHIS or State representative. In cases where animals escape or disappear and thus are not available for tissue sampling and testing, or when the owner provides samples that are of such poor quality that they cannot be tested for CWD, an APHIS representative will investigate whether the unavailability of animals or usable samples for testing constitutes a failure to comply with program requirements and will affect the herd's status in the CWD Herd Certification Program;

(4) The owner must maintain herd records that include a complete inventory of animals that states the species, age, and sex of each animal, the date of acquisition and source of each animal that was not born into the herd, the date of disposal and destination of any animal removed from the herd, and all individual identification numbers (from tags, tattoos, electronic implants, etc.) associated with each animal. Upon request by an APHIS employee or State representative, the owner must allow either of these officials or a designated accredited veterinarian access to the premises and herd to conduct an inventory. The owner will be responsible for assembling, handling, and restraining the animals and for all costs incurred to present the animals for inspection. The APHIS employee or State representative may order either an inventory that consists of review of herd records with visual examination of an enclosed group of animals, or a complete physical herd inventory with verification to reconcile all animals and identifications with the records maintained by the owner. In the latter case, the owner must present the entire herd for inspection under conditions where the APHIS employee, State representative, or accredited veterinarian can safely read all identification on the animals. During inventories, the owner must cooperate with the inspector to resolve any discrepancies to the satisfaction of the person performing the inventory. Inventory of a herd will be conducted no more frequently than once per year, unless an APHIS employee, State representative, or accredited veterinarian determines that more frequent inventories are needed based on indications that the herd may not be in compliance with CWD Herd Certification Program requirements. A complete physical herd inventory must be performed on a herd in accordance with this paragraph at the time a herd is enrolled in the CWD Herd Certification Program; Except that, APHIS may accept a complete physical herd inventory performed by an APHIS employee, State representative, or accredited veterinarian not more than 1 year before the herd's date of enrollment in the CWD Herd Certification Program as fulfilling the requirement for an initial inventory. In addition, a complete physical herd inventory must be performed for all herds enrolled in the CWD Herd Certification Program no more than 3 years after the last complete physical herd inventory for the herd;

(5) If an owner wishes to maintain separate herds, he or she must maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There must be a buffer zone of at least 30 feet between the perimeter fencing around separate herds, and no commingling of animals may occur. Movement of animals between herds must be recorded as if they were separately owned herds;

(6) New animals may be introduced into the herd only from other herds enrolled in the CWD Herd Certification Program. If animals are received from

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an enrolled herd with a lower program status, the receiving herd will revert to that lower program status. If animals are obtained from a herd not participating in the program, then the receiving herd will be required to start over in the program.

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§ 55.24 Herd status.

(a) *Initial and subsequent status.* When a herd is first enrolled in the CWD Herd Certification Program, it will be placed in First Year status; except that, if the herd is composed solely of animals obtained from herds already enrolled in the Program, the newly enrolled herd will have the same status as the lowest status of any herd that provided animals for the new herd. If the herd continues to meet the requirements of the CWD Herd Certification Program, each year, on the anniversary of the enrollment date the herd status will be upgraded by 1 year; *i.e.*, Second Year status, Third Year status, Fourth Year status, and Fifth Year status. One year from the date a herd is placed in Fifth Year status, the herd status will be changed to Certified, and the herd will remain in Certified status as long as it is enrolled in the program, provided its status is not lost or suspended in accordance with this section.

(b) *Loss or suspension of herd status.* (1) If a herd is designated a CWD-positive herd or a CWD-exposed herd, it will immediately lose its program status and may only reenroll after entering into a herd plan.

(2) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd, it will immediately be placed in Suspended status pending an epidemiologic investigation by APHIS or a State animal health agency. If the epidemiologic investigation determines that the herd was not commingled with a CWD-positive animal, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level.

(i) If the epidemiologic investigation determines that the herd was commingled with a CWD-positive animal, the herd will lose its program status and will be designated a CWD-exposed herd.

(ii) If the epidemiological investigation is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (*i.e.*, a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status will continue as Suspended unless and until a herd plan is developed for the herd. If a herd plan is developed and implemented, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level; *Except that*, if the epidemiological investigation finds that the owner of the herd has not fully complied with program requirements for animal identification, animal testing, and recordkeeping, the herd will be reinstated into the CWD Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status. Any herd reinstated after being placed in Suspended status must then comply with the requirements of the herd plan as well as the requirements of the CWD Herd Certification Program. The herd plan will require testing of all animals that die in the herd for any reason, regardless of the age of the animal, may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question, and may include other requirements found necessary to control the risk of spreading CWD.

(3) If an APHIS or State representative determines that animals from a herd enrolled in the program have commingled with animals from a herd with a lower program status, the herd with the higher program status will be reduced to the status of the herd with which its animals commingled.

(c) *Cancellation of enrollment by Administrator.* The Administrator may cancel the enrollment of an enrolled herd by giving written notice to the herd owner. In the event of such cancellation, any herd enrolled in the CWD Herd Certification Program by that herd owner may not reach Certified

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status until 5 years after the herd owner's new application for enrollment is approved by APHIS, regardless of the status of the animals of which the herd is composed. The Administrator may cancel enrollment after determining that the herd owner failed to comply with any requirements of this subpart. Before enrollment is canceled, an APHIS representative will inform the herd owner of the reasons for the proposed cancellation.

(1) Herd owners may appeal designation of an animal as CWD-positive, cancellation of enrollment of a herd, or loss or suspension of herd status by writing to the Administrator within 10 days after being informed of the reasons for the action. The appeal must include all of the facts and reasons upon which the herd owner relies to show that the reasons for the action are incorrect or do not support the action. Specifically, to appeal designation of an animal as CWD-positive, the owner may present as evidence the results of a DNA test requested and paid for by the owner to determine whether previous official CWD test results were correctly associated with an animal that belonged to the owner. If the owner intends to present such test results as evidence, he or she shall request the tests and state this in the written notice sent to the Administrator. In such cases the Administrator may postpone a decision on the appeal for a reasonable period pending receipt of such test results. To this end, laboratories approved under § 55.8 are authorized to conduct DNA tests to compare tissue samples tested for CWD to samples from tissues that were collected at the same time from the same animal and are attached to an official identification device. Such DNA tests are available only if the animal owner arranged to submit animal tissue attached to an official identification device along with the other tissues that were collected for the official CWD test. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If the Administrator grants an appeal of the status of a CWD-positive animal, the animal shall be redesignated as CWD-suspect pending further investigation to establish the final status of the animal and its herd. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(2) [Reserved]

(d) *Herd status of animals added to herds.* A herd may add animals from herds with the same or a higher herd status in the CWD Herd Certification Program with no negative impact on the certification status of the receiving herd.[5] If animals are acquired from a herd with a lower herd status, the receiving herd reverts to the program status of the sending herd. If a herd participating in the CWD Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new enrollment date of the date of acquisition of the animal.

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§ 55.25 Animal identification.

Each animal required to be identified by this subpart must have at least two forms of animal identification attached to the animal. One of the animal identifications must be official animal identification as defined in this part, with a nationally unique animal identification number that is linked to that animal in the CWD National Database or in an approved State database. The second animal identification must be unique for the individual animal within the herd and also must be linked to that animal and herd in the CWD National Database or in an approved State database. The means of animal identification must be approved for this use by APHIS, and must be an electronic implant, flank tattoo, ear tattoo, tamper-resistant ear tag, or other device approved by APHIS.

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[5] Note that in addition to this requirement, § 81.3 of this chapter restricts the interstate movement of farmed and captive deer, elk, and moose based on their status in the CWD Herd Certification Program.

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PART 56—CONTROL OF H5/H7 LOW PATHOGENIC AVIAN INFLUENZA

Sec.
56.1 Definitions.
56.2 Cooperation with States.
56.3 Payment of indemnity and/or compensation.
56.4 Determination of indemnity and/or compensation amounts.
56.5 Destruction and disposal of poultry and cleaning and disinfection (virus elimination) of premises, conveyances, and materials.
56.6 Presentation of claims for indemnity and/or compensation.
56.7 Mortgage against poultry or eggs.
56.8 Conditions for payment.
56.9 Claims not allowed.
56.10 Initial State response and containment plan.

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

SOURCE: 71 FR 56323, Sept. 26, 2006, unless otherwise noted.

§56.1 Definitions.

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

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Breeding flock. A flock that is composed of stock that has been developed for commercial egg or meat production and is maintained for the principal purpose of producing progeny for the ultimate production of eggs or meat for human consumption.

Classification. A designation earned by participation in a Plan program.

Cleaning. The removal of gross contamination, organic material, and debris from the premises or respective structures, via mechanical means like sweeping (dry cleaning) and/or the use of water and soap or detergent (wet cleaning), in order to minimize organic material to prepare for effective disinfection.

Commercial flock or slaughter plant. A commercial poultry flock or slaughter plant that is required because of its size to participate in the special provisions in part 146 of this chapter in order to participate in the Plan.

Compensation. In the case of H5/H7 LPAI detection, compensation specifically refers to reimbursement for the activities associated with the depopulation of infected or exposed poultry, including the disposal of contaminated carcasses and materials and the cleaning and disinfection of premises, conveyances, and materials that came into contact with infected or exposed poultry. In the case of contaminated materials, if the cost of cleaning and disinfection would exceed the value of the materials, or cleaning and disinfection would be impracticable for any reason, APHIS' Veterinary Services will base compensation on the fair market value (depreciated value) of those materials. Compensation does not include payment for depopulated birds or eggs destroyed (see definition of *Indemnity* in this section).

Cooperating State Agency. Any State authority recognized by the Department to cooperate in the administration of the provisions of this part 56. This may include the State animal health authority or the Official State Agency.

Department. The U.S. Department of Agriculture.

Disinfection. Methods used on surfaces to destroy or eliminate H5/H7 LPAI virus through physical (*e.g.*, heat) or chemical (*e.g.*, disinfectant) means. A combination of methods may be required.

Domesticated. Propagated and maintained under the control of a person.

Flock plan. A written flock management agreement developed by APHIS and the Official State Agency with input from the flock owner and other affected parties. A flock plan sets out the steps to be taken to eradicate H5/H7 LPAI from a positive flock, or to prevent introduction of H5/H7 LPAI into another flock. A flock plan shall include, but is not necessarily limited to, poultry and poultry product movement and geographically appropriate infected and control/monitoring zones. Control measures in the flock plan should include detailed plans for safe handling of conveyances, containers, and other associated materials that could serve as fomites; disposal of

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