

## §51.9

premises that would require such cleaning and disinfection.

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[42 FR 64336, Dec. 23, 1977. Redesignated at 46 FR 13674, Feb. 23, 1981, and 47 FR 53324, Nov. 26, 1982; 48 FR 57472, Dec. 30, 1983; 50 FR 11993, Mar. 27, 1985; 54 FR 32435, Aug. 8, 1989; 56 FR 18506, Apr. 23, 1991]

### §51.9 Claims not allowed.

Claims for compensation for animals destroyed because of brucellosis shall not be allowed if any of the following circumstances exist:

(a) If the claimant has failed to comply with any of the requirements of this part.

(b) If the existence of brucellosis in the animal was determined based on the results of an official test, as defined in §78.1 of this chapter, and specific instructions for the administration of the official test had not previously been issued to the individual performing the test by APHIS and the State animal health official.

(c) If all cattle, bison, and swine eligible for testing in the claimant's herd have not been tested for brucellosis under APHIS or State supervision.

(d) If the animals are:

(1) Barrows or gilts maintained for feeding purposes; or

(2) Spayed heifers or steers, unless the steers are work oxen, or unless the spayed heifers or steers are unweaned animals in a herd approved for depopulation in accordance with §51.3 of this part.

(e) If the animals are classified as reactors and are unofficial vaccinates, unless there is either a record of a negative official test made not less than 30 days following the date of unofficial vaccination or unless other APHIS approved tests show the unofficial vaccinates are affected with virulent *Brucella*.

(f) If there is substantial evidence that the owner or his agent has in any way been responsible for any unlawful or improper attempt to obtain indemnity funds for such animal.

(g) 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 slaugh-

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ter; shipped for slaughter, or delivered for slaughter.

(h) If any known brucellosis reactor animal remains in the herd, unless, in the opinion of the Veterinarian in Charge, a reasonable search has been made for the brucellosis reactor animal and the brucellosis reactor animal could not be found and removed.

(i) If the animals are brucellosis reactor animals which are slaughtered other than as part of a herd depopulation, and which are from a herd: (1) That was already classified as a "herd known to be affected" at the time the animals were identified as brucellosis reactor animals and (2) for which an approved action plan or approved individual herd plan (as defined in §78.1 of this chapter) was not in effect at the time the claim was filed.

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[42 FR 64336, Dec. 23, 1977. Redesignated at 46 FR 13674, Feb. 23, 1981, and 47 FR 53324, Nov. 26, 1982, and amended at 47 FR 53324, Nov. 26, 1982; 48 FR 57472, Dec. 30, 1983; 50 FR 11993, Mar. 27, 1985; 50 FR 47036, Nov. 14, 1985; 51 FR 11300, Apr. 2, 1986; 54 FR 32435, Aug. 8, 1989; 56 FR 18506, Apr. 23, 1991; 63 FR 47423, Sept. 8, 1998]

### §51.10 Part 53 of this chapter not applicable.

No claim for indemnity for animals destroyed because of brucellosis shall hereafter be paid under the regulations contained in part 53 of this chapter, but all such claims shall be presented and paid pursuant to and in compliance with regulations contained in this part.

[42 FR 64336, Dec. 23, 1977. Redesignated at 46 FR 13674, Feb. 23, 1981, and 47 FR 53324, Nov. 26, 1982; 50 FR 11993, Mar. 27, 1985]

## Subpart B—Indemnity for Sheep, Goats, and Horses

SOURCE: 69 FR 41912, July 13, 2004, unless otherwise noted.

### §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.* (1) Any sheep or goat that has been determined by a designated brucellosis epidemiologist<sup>1</sup> to be affected with brucellosis, 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.

(2) Any horse that has been determined by a designated brucellosis epidemiologist to be affected with brucellosis, 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.

(3) Any cattle, bison, or swine classified as a brucellosis reactor as provided in the definition of official test in § 78.1 of this chapter.

*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/flock 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.

<sup>1</sup>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.

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*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.<sup>1</sup> 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 an affected herd or flock;

(b) Sheep and goats that were obtained from a herd or flock that was subsequently found to be an affected herd or flock. 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

<sup>1</sup>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.