

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Agriculture
(DLS Control No. 16-027)**

Overview and Legal and Fiscal Impact

These regulations repeal the Maryland Department of Agriculture’s existing regulations relating to the eradication of scrapie in sheep and goats and substitute updated regulations that meet federal standards for the control and prevention of the spread of the disease.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Agriculture:

Animal Health: Eradication of Scrapie in Maryland: COMAR 15.11.18.1-.08

Legal Analysis

Background

Scrapie is a transmissible, degenerative, and fatal disease that affects the central nervous system of sheep and goats. The National Scrapie Eradication Program, a cooperative effort of the U.S. Department of Agriculture (USDA), state governments, and sheep and goat producers, seeks to control and eradicate scrapie from the United States and meet the World Organization for Animal Health criteria for disease freedom through mandatory surveillance and reporting requirements. Additional participation in the voluntary Scrapie Flock Certification Program allows sheep and goat producers to demonstrate that their flocks are free of scrapie and increase the marketability of their animals.

On September 10, 2015, USDA’s Animal and Plant Health Inspection Service (APHIS) published proposed regulations to update and improve the effectiveness of the National Scrapie Eradication Program. According to APHIS, the proposed revisions provide a more flexible approach to disease investigations and affected flock management and more consistent animal identification and recordkeeping requirements.

The department advises that implementation of these regulations will enable Maryland to meet federal scrapie control standards and retain its status as a “scrapie consistent state.” As a result, Maryland producers will continue to enjoy favorable treatment and the free movement of

their livestock in any market. In addition, the regulations further efforts to completely eradicate scrapie in Maryland.

Summary of Regulations

These regulations repeal existing Chapter 18 of COMAR 15.11, entitled “Eradication of Scrapie in Maryland,” and substitute new Chapter 18, entitled “Requirements for Sheep and Goats for the Eradication of Scrapie.” A description of significant new regulations follows.

Official Identification Requirements and Exceptions

Regulation .03 requires, with specified exceptions, an owner to ensure that a sheep or goat entering or moving within Maryland has an “official identification,” which is a specified identification mark or device that is approved by the department and APHIS. An owner must keep and maintain a record of each animal’s official identification for five years to allow tracing by the department.

Requirements for Sheep and Goats Entering Maryland

Regulation .04 prohibits a person from importing a sheep or goat unless the animal (1) is moving to immediate slaughter or (2) originates from a flock in a scrapie-consistent state or from a flock enrolled in the Scrapie Flock Certification Program. In addition, a person may not import a high- or low-risk exposed animal without the department’s written approval.

A hauler or other person responsible for a sheep or goat entering the State must ensure that each animal is accompanied by an interstate certificate of veterinary inspection unless the animal is moving into the State for immediate slaughter and is accompanied by an owner-hauler statement. An owner must provide specified information to the veterinarian issuing the certificate. The veterinarian must include specified information in the certificate, send a copy to the chief animal health official in the destination state within seven days of issuance, and keep a copy for five years. A certificate is invalid 30 days after issuance.

General Requirements for Movement of Sheep or Goats Within Maryland

Regulation .05 authorizes the movement of a sheep or goat within Maryland only if the animal has an official identification, unless exempted under Regulation .03. The seller and new owner must keep a specified record of the transaction for a minimum of five years to provide traceability. In addition, an owner or hauler must ensure that (1) an animal being moved *to* an approved tagging site is accompanied by a properly completed owner-hauler statement; and (2) an animal being moved *from* an approved tagging site or a restricted livestock facility to a farm is officially identified and accompanied by a waybill.

Movement of Sheep or Goats for Immediate Slaughter

Regulation .06 requires an owner or hauler that is selling or transferring a sheep or goat for immediate slaughter to note “immediate slaughter only” on the owner-hauler statement or waybill.

In addition, an owner, dealer, market operator, or hauler must ensure that the animal is delivered to the slaughter facility for processing within 72 hours of the sale or transfer. Additionally, the regulation prohibits the removal of a sheep or goat from immediate slaughter except under specified circumstances.

Movement of Scrapie Exposed Sheep or Goats

Regulation .07 authorizes the department, with the concurrence of the Veterinary Services unit of APHIS (APHIS-VS), to redesignate certain high risk exposed animals as low risk exposed animals based on the scrapie type involved or the epidemiology of the flock. This regulation also prohibits the movement of specified high risk exposed animals without prior written approval from the department.

Reporting Requirements

Regulation .08 requires a flock owner or veterinarian to notify the department or the APHIS-VS district office within 24 hours of finding a clinically suspicious animal or test suspect. When the results of a scrapie test are positive, the veterinarian or laboratory that conducted the test must notify the department of the results within 24 hours and the department must immediately notify the APHIS-VS district office.

Management of Scrapie-Suspect or Scrapie-Positive Animals and Flocks

Regulation .09 specifies actions that the department, animal health official, animal owner, and designated scrapie epidemiologist or other appropriate official must take when (1) a clinical or other scrapie suspect animal is reported by an owner, veterinarian, or other person and (2) a scrapie positive animal is identified by an official test.

Management of Flocks that have Received Scrapie Exposed or High Risk Animals

Regulation .10 specifies actions that the flock owner, animal health official, and designated scrapie epidemiologist or veterinary medical officer must take when a flock of sheep or goats is determined to have received a scrapie exposed or high risk animal.

Compliance with Additional Federal Requirements

Regulation .11 requires an owner of a sheep or goat to comply with the APHIS-VS requirements set forth in 9 CFR Parts 54 and 79, in addition to the requirements established under Chapter 18.

Enforcement

Regulation .12 specifies that a person who violates any provision of Chapter 18 is (1) subject to a certain administrative penalty in an amount up to \$10,000 and (2) guilty of a misdemeanor and subject to a certain fine or imprisonment.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Secretary of Agriculture cites §§ 3-101, 3-105, and 3-108 of the Agriculture Article as statutory authority for the regulations. Section 3-101(a) grants the Secretary broad authority to protect the health of domestic animals in the State from all contagious or infectious diseases by (1) adopting and enforcing quarantine, sanitary, or other regulations that the Secretary deems necessary; (2) making inquiries to ascertain the exact condition of the health of livestock; and (3) prohibiting the importation of any animal believed to be infected with or exposed to a contagious or infectious disease and detaining the animal for inspection or quarantine. Section 3-101(c) specifically authorizes the Secretary to adopt regulations governing the importation of domestic animals into the State from another state. Section 3-105 authorizes the Secretary to undertake various activities to prevent the spread of contagious and infectious diseases, including testing any animal by any method, ordering an exposed animal to be isolated, ordering a location to be quarantined, issuing any order deemed necessary or expedient by the Secretary to prevent the communication of a disease from a quarantined area, and requiring the destruction of an infected or exposed animal or carcass and any object that might carry infection or contagion. Section 3-108 requires an owner of an animal that is slaughtered because of infection with or exposure to an infectious or contagious disease to dispose of the animal in compliance with the department's regulations.

Although not cited by the Secretary, § 3-116 of the Agriculture Article authorizes the Secretary to impose an administrative penalty on any person who violates a provision of law regulating infectious or contagious livestock diseases and requires the Secretary to adopt implementing regulations. In addition, § 12-103 establishes that a violation of a regulation adopted by the Secretary under the Agriculture Article is a misdemeanor and is punishable by a certain fine or imprisonment, in addition to any administrative penalty.

With the addition of §§ 3-116 and 12-103, this authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, the department added §§ 3-116 and 12-103 of the Agriculture Article to the citation of statutory authority for the regulations. The department also corrected various typographical errors.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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