

PSEUDORABIES CONTROL AND ERADICATION ACT

Administration: This Act is administered by the Nebraska Department of Agriculture, Bureau of Animal Industry, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. Telephone: (402)471-2351.

Revisions: The provisions of this Act were revised during the 2004 session of the Nebraska Legislature.

Rules: A regulation has been promulgated under this Act, known as Title 23, Chapter 15, Nebraska Administrative Code - Pseudorabies Regulations.

INDEX

<u>Section</u>	<u>Subject</u>
54-2235.....	Act, how cited.
54-2236.....	Pseudorabies control and eradication program; legislative intent.
54-2237.....	Definitions, where found.
54-2238.....	Accredited veterinarian, defined.
54-2239.....	Affected herd, defined.
54-2240.....	Affected premises, defined.
54-2241.....	Affected swine herd, defined.
54-2242.....	Area testing, defined.
54-2243.....	Breeding swine, defined.
54-2244.....	Circle testing, defined.
54-2245.....	Cleanup testing, defined.
54-2246.....	Concentration point, defined.
54-2247.....	Department, defined.
54-2248.....	Exposed, defined.
54-2249.....	Feeder swine, defined.
54-2250.....	Herd, defined.
54-2251.....	Infected, defined.
54-2252.....	Livestock, defined.
54-2253.....	Negative, defined.
54-2254.....	Official test, defined.
54-2255.....	Positive, defined.
54-2256.....	Private treaty, defined.

<u>Section</u>	<u>Subject</u>
----------------	----------------

54-2257..... Program activity, defined.
 54-2258..... Program area, defined.
 54-2259..... Pseudorabies, defined.
 54-2260..... Quarantine, defined.
 54-2262..... Sale, defined.
 54-2262.01..... Stage, defined.
 54-2263..... Status swine herd, defined.
 54-2264..... Surveillance, defined.
 54-2265..... Suspect, defined.
 54-2266..... Swine herd, defined.
 54-2267..... Swine herd cleanup plan, defined.
 54-2268..... Testing, defined.
 54-2269..... Veterinarian, defined.
 54-2270..... Department of Agriculture, Bureau of Animal
 Industry; cooperation with other
 organizations.
 54-2271..... Department; federal funds; allocation.
 54-2276..... Quarantine; cleanup plan.
 54-2277..... Cleanup plan; requirements.
 54-2278..... Area testing required; when.
 54-2279..... Circle testing required; when.
 54-2280..... Cleanup testing.
 54-2281..... Random sample requirements; criteria.
 54-2283..... Import requirements.
 54-2286..... Surveillance procedures and criteria.
 54-2287..... Department; conduct feeder and breeding swine
 testing program; status swine herd title.
 54-2288..... Department; conduct pseudorabies control and
 eradication program; prohibited acts;
 violation; penalty.
 54-2289..... Pseudorabies vaccine; department; powers.
 54-2290..... Department; adopt rules and regulations.
 54-2291..... Violation; action to enjoin; county attorney;
 duties.
 54-2292..... Costs; Pseudorabies Control Cash Fund;
 created.
 54-2293..... Pseudorabies Control Cash Fund; use;
 investment.
 54-2294..... Department; access to premises.
 54-2295..... Records and reports; access.
 54-2296..... Testing; duties of owner; costs.
 54-2297..... Prohibited acts.
 54-2298..... Destination; diversion of livestock;
 prohibited; when.
 54-2299..... Conformance with federal standards.
 54-22,100..... Violation; penalty.

54-2235. Act, how cited. Sections 54-2235 to 54-22,100 shall be
 known and may be cited as the Pseudorabies Control and
 Eradication Act.

54-2236. Pseudorabies control and eradication program; legislative intent. It is the intent of the Legislature to have a pseudorabies control and eradication program. The goal of the program is to eliminate pseudorabies from the livestock of the state by a process of eradication and surveillance. The program shall be designed to eradicate pseudorabies from all swine herds where pseudorabies is found and to use surveillance to achieve and maintain pseudorabies-free conditions in the state.

54-2237. Definitions, where found. For purposes of the Pseudorabies Control and Eradication Act, unless the context otherwise requires, the definitions found in sections 54-2238 to 54-2269 shall be used.

54-2238. Accredited veterinarian, defined. Accredited veterinarian shall mean a veterinarian approved by the Deputy Administrator of the United States Department of Agriculture in accordance with 9 C.F.R. part 161, in effect on January 1, 2002.

54-2239. Affected herd, defined. Affected herd shall mean a herd in which livestock are infected.

54-2240. Affected premises, defined. Affected premises shall mean land on which is located an affected swine herd and shall include the buildings and equipment located on such land.

54-2241. Affected swine herd, defined. Affected swine herd shall mean a swine herd in which swine have been determined by the results of an official test to be infected with or diagnosed by a veterinarian as having pseudorabies.

54-2242. Area testing, defined. Area testing shall mean testing of a random sample of each swine herd in a program area.

54-2243. Breeding swine, defined. Breeding swine shall mean boars, sows, and gilts being used or intended for use for reproductive purposes.

54-2244. Circle testing, defined. Circle testing shall mean testing of a random sample of each swine herd located within two miles of the affected premises if in a Stage II, III, or IV status area and within five miles if in a Stage V status area.

Stages II, III, IV and V status areas are established pursuant to the Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, in effect on January 1, 2002.

54-2245. Cleanup testing, defined. Cleanup testing shall mean testing done in an affected swine herd as part of a swine herd cleanup plan.

54-2246. Concentration point, defined. Concentration point shall mean any facility where livestock from two or more herds are assembled and subsequently dispersed to one or more locations.

54-2247. Department, defined. Department shall mean the Department of Agriculture or its authorized agent.

54-2248. Exposed, defined. Exposed shall mean being part of an affected herd or having had a reasonable opportunity to come in contact with infected livestock or a pseudorabies virus.

54-2249. Feeder swine, defined. Feeder swine shall mean swine being fed or intended to be fed for weight-gaining purposes and eventual slaughter.

54-2250. Herd, defined. Herd shall mean (1) any group of livestock maintained on common ground for any purpose or (2) two or more groups of livestock under common ownership or supervision geographically separated but which have an interchange of livestock without regard to whether the livestock are infected or exposed.

54-2251. Infected, defined. Infected shall mean determined by the results of an official test or diagnosed by a veterinarian as having pseudorabies.

54-2252. Livestock, defined. Livestock shall mean cattle, swine, sheep, or goats.

54-2253. Negative, defined. Negative shall mean not infected as determined by the department based on results of an official test.

54-2254. Official test, defined. Official test shall mean any testing procedure recognized for use in the diagnosis of pseudorabies by (1) the United States Department of Agriculture in 9 C.F.R. part 85, in effect on January 1, 2002, or (2) the department in rules and regulations adopted and promulgated pursuant to the Pseudorabies Control and Eradication Act.

54-2255. Positive, defined. Positive shall mean infected as determined by the department based upon results of an official test.

54-2256. Private treaty, defined. Private treaty shall mean a sale of livestock from one person to another person other than at a concentration point.

54-2257. Program activity, defined. Program activity shall mean any activity required by the department for determining the presence of pseudorabies in swine herds or any activity relating to eradicating pseudorabies from swine herds and to surveillance as part of the pseudorabies control and eradication program.

54-2258. Program area, defined. Program area shall mean a portion of a county, an entire county, a group of adjacent counties, or part of or the entire state designated by the department to be given priority assignment of a program activity and state funds.

54-2259. Pseudorabies, defined. Pseudorabies shall mean the contagious, infectious, and communicable disease of livestock, variously known as Aujeszky's Disease, mad itch, PRV, or infectious bulbar paralysis.

54-2260. Quarantine, defined. Quarantine shall mean restriction of:

(1) Movement imposed by the department on (a) livestock, including one or more livestock classified suspect, positive, or exposed, (b) a herd which is reasonably suspected of being infected or exposed, (c) a swine herd when the swine herd owner refuses testing of his or her swine herd as required by the Pseudorabies Control and Eradication Act, (d) swine imported into the state in violation of the Animal Importation Act, or (e) swine imported into the state when a retest is required according to subdivision (4) of section 54-2290; and

(2) Use imposed by the department of the premises, vehicles, and equipment used for such livestock or herd.

54-2262. Sale, defined. Sale shall mean a sale, lease, loan, trade, or gift.

54-2262.01. Stage, defined. Stage shall mean a designation II, III, IV, or V assigned to a state or area of a state by the United States Department of Agriculture with respect to the prevalence of pseudorabies contained therein.

54-2263. Status swine herd, defined. Status swine herd shall mean a swine herd which has been given a title approved and assigned by the department according to the pseudorabies disease condition of the swine herd.

54-2264. Surveillance, defined. Surveillance shall mean testing done to determine the presence of pseudorabies in the state or a program area.

54-2265. Suspect, defined. Suspect shall mean unable to be classified as positive or negative, as determined by the department, based on the results of an official test.

54-2266. Swine herd, defined. Swine herd shall mean (1) any group of swine maintained on common ground for any purpose or (2) two or more groups of swine under common ownership or supervision geographically separated but which have an interchange of swine without regard to whether the swine are infected or exposed.

54-2267. Swine herd cleanup plan, defined. Swine herd cleanup plan shall mean a written agreement (1) which is designed to eradicate pseudorabies from the swine herd pursuant to section 54-2277, (2) which is developed by the swine herd owner or the authorized representative of the swine herd owner and the development of which may include the veterinarian for such swine herd, and (3) which is approved by the department.

54-2268. Testing, defined. Testing shall mean (1) the collection of a blood sample from a swine by or under the supervision of an accredited veterinarian, (2) submitting such blood sample to a laboratory which is approved by the administrator of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, and which is set out in the Veterinary Services Notice listing such laboratories, and (3) subjecting such blood sample to an official test.

54-2269. Veterinarian, defined. Veterinarian shall mean an individual who is a graduate of a college of veterinary medicine.

54-2270. Department of Agriculture, Bureau of Animal Industry; cooperation with other organizations. The Pseudorabies Control and Eradication Act shall be administered by the Bureau of Animal Industry of the department. In administering such act, the department shall cooperate and may contract with persons or appropriate local, state, or national organizations, public or private, for the performance of activities required or authorized pursuant to such act.

54-2271. Department; federal funds; allocation. The department shall cooperate with the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, by recommending where and how federal funds allocated for the pseudorabies control and eradication program in Nebraska should be spent.

54-2276. Quarantine; cleanup plan. Any swine herd determined to be an affected swine herd by the department and any swine herd for which the owner refuses to comply with the Pseudorabies Control and Eradication Act or any rules and regulations adopted and promulgated thereto shall be put under quarantine by the

department, and a swine herd cleanup plan shall be filed pursuant to section 54-2277.

54-2277. Cleanup plan; requirements. Each owner or the authorized representative of the owner of a swine herd under quarantine shall file a swine herd cleanup plan with the department within seven days after the date of issuance of the quarantine.

54-2278. Area testing required; when. The department shall determine when and where area testing shall be done based on epidemiological evaluation.

54-2279. Circle testing required; when. The department may require circle testing around any affected swine herd.

54-2280. Cleanup testing. Cleanup testing (1) shall include testing of one hundred percent of the breeding swine in an affected swine herd for the purpose of removing infected swine and may include testing of up to one hundred percent of all other swine on the same premises or (2) may include testing of up to one hundred percent of all swine on the premises in an affected swine herd without breeding swine for the purpose of removing infected swine.

54-2281. Random sample requirements; criteria. The department shall establish criteria for random sample requirements to be used for testing pursuant to the Pseudorabies Control and Eradication Act.

54-2283. Import requirements. The department shall establish import requirements for all swine imported into Nebraska.

54-2286. Surveillance procedures and criteria. The department shall establish procedures and criteria for surveillance. Such surveillance procedures may include testing of samples collected at slaughter establishments, at concentration points, and from any swine herd.

54-2287. Department; conduct feeder and breeding swine testing program; status swine herd title. (1) The department shall continually conduct a feeder and breeding swine testing program. Under the program, the department may require testing of both feeder and breeding swine whenever such swine are moving in commerce through concentration points or whenever feeder and breeding swine are sold at private treaty.

(2) The department shall assign a status swine herd title to those swine herds which meet the requirements developed by the department for such title. Such requirements shall include (a) the method and number of swine subjected to testing, (b) the procedure for herd additions, deletions, and movement into and

out of such herds, and (c) a legal description of the land on which facilities are located to maintain a qualified pseudorabies negative herd or a qualified pseudorabies negative growout herd.

(3) The department may cancel or suspend the title of a qualified pseudorabies negative herd or a qualified pseudorabies negative growout herd for failure to meet the requirements of subsection (2) of this section. The department shall not renew such titles if the approved testing schedule is not adhered to.

54-2288. Department; conduct pseudorabies control and eradication program; prohibited acts; violation; penalty.

The department shall continually conduct a pseudorabies control and eradication program. Under the program, the department shall quarantine livestock and may require the testing of swine exposed to or reasonably suspected of having been exposed to infected livestock. Under the program, the department shall also quarantine livestock and require the testing of swine imported into Nebraska in violation of pseudorabies-related importation requirements existing in rules and regulations adopted and promulgated by the department. The department shall quarantine swine when a retest of such swine is a requirement of the pseudorabies importation rules and regulations. The department may prohibit the addition of swine into affected or exposed swine herds.

It shall be unlawful for any person to fail to test or to remove any livestock which have been placed in quarantine from the place of quarantine until such quarantine is released by the department except authorized movement for slaughter or other movement as authorized by the department.

Any person violating this section shall be guilty of a Class III misdemeanor for the first offense and a Class II misdemeanor for each subsequent offense.

54-2289. Pseudorabies vaccine; department; powers. For the protection of the livestock industry in Nebraska and to aid in achieving the purposes of the Pseudorabies Control and Eradication Act, the department shall regulate the sale and use of pseudorabies vaccine. The department may restrict the sale and use of pseudorabies vaccine and when deemed appropriate by the department may require the use of pseudorabies vaccine. The department shall require detailed record keeping and reporting by persons involved in the sale or use, or both, of such vaccine.

54-2290. Department; adopt rules and regulations. The department shall adopt and promulgate rules and regulations to aid in implementing the Pseudorabies Control and Eradication Act. The rules and regulations may include, but shall not be limited to, provisions governing:

(1) The conduct of the feeder and breeding swine testing program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine are to be subjected to testing; (c) how and by whom results of testing are to be recorded; (d) by whom and to whom the results of the testing are to be reported; and (e) how, by whom, and for what purposes such results will be utilized;

(2) The conduct of the pseudorabies control and eradication program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine are to be subjected to testing; (c) requirements of swine herd cleanup plans, including form, execution, contents, duration, amendments, and enforcement; (d) how and by whom results of testing are to be recorded; (e) by whom and to whom the results of the testing are to be reported; (f) how, by whom, and for what purposes such results will be utilized; and (g) assignment of and requirements for titles for status swine herds and the suspension, expiration, and cancellation of such titles;

(3) The conduct of surveillance in swine herds and at slaughter establishments and concentration points, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what swine and swine herds are to be subjected to testing; (c) how and by whom results of testing are to be recorded and reported; and (d) the use of the results of testing by the department;

(4) Importation of swine, including provisions governing: (a) Age, origin, entry, movement, and destination in the state; (b) when, where, how, by whom, and how often imported swine are to be subjected to testing; (c) what imported swine are to be subjected to testing; and (d) how testing results are to be recorded, reported, and utilized;

(5)(a) What constitutes a program area; (b) what epidemiological factors will be considered in determining the program area; and (c) when and for what purpose a program activity will be selected;

(6) The issuance and release of quarantines and the requirements regarding the handling, movement, and disposition of livestock under quarantine;

(7) The cleaning and disinfecting of affected premises, including provisions governing: (a) The materials to be used; (b) the procedures to be used; and (c) when such procedures are to be performed;

(8) The testing of livestock to detect pseudorabies, including provisions governing: (a) Which tests are to be deemed official tests; (b) by whom the testing is to be administered;

(c) how the testing is to be conducted; (d) the reaction tolerances to be recognized; and (e) the classification of results as to negative, suspect, or positive. These rules and regulations shall be consistent with the best available scientific information relative to the control and eradication of pseudorabies;

(9) The pseudorabies vaccination program, including provisions governing: (a) The vaccines to be used; (b) the age of the swine to be vaccinated; (c) the effect of vaccination on the interpretation of test results; and (d) the reported sale and use of vaccine;

(10) The identification of swine subject to the act, including provisions governing: (a) Exposed and infected swine; (b) vaccinated swine; and (c) swine to be tested;

(11) Random sampling of swine herds, including provisions governing: (a) When, where, how, by whom, and how often a random sample is to be used in testing swine herds; (b) when and for what purpose a random sample of a swine herd will be subjected to testing; (c) the number of feeder, breeding, and other swine in a particular status swine herd or in a swine herd which is not a status swine herd constituting a random sample to be subjected to testing; (d) the age of swine in a status swine herd and a swine herd which is not a status swine herd to be used as a random sample and subjected to testing; and (e) how testing results are to be recorded, reported, and utilized;

(12) Compliance with Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, in effect on January 1, 2002;

(13) Compliance with 9 C.F.R. part 85, in effect on January 1, 2002, for pseudorabies control and eradication;

(14) Administration of the pseudorabies control and eradication program subject to the availability of state funds;

(15) The assessment and collection of costs for services provided and expenses, not to exceed actual costs, incurred under the act;

(16) The preparation, maintenance, handling, filing, and disposition of records and reports by persons subject to the act concerning the vaccination, testing, or movement of swine;

(17) Program activities and cleanup testing under the act on which state funds, if appropriated and available, shall be used

by the department and limitations on use of such state funds for testing and other activities under the act; and

(18) Any other areas deemed necessary by the department to effectively control and eradicate pseudorabies.

54-2291. Violation; action to enjoin; county attorney; duties.

(1) In order to insure compliance with the Pseudorabies Control and Eradication Act, the department may apply for a temporary restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the act or the rules and regulations adopted and promulgated under the act. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(2) The county attorney of the county in which violations of the act or the rules and regulations thereunder are occurring or about to occur shall, when notified of such violation or threatened violation, cause appropriate proceedings under subsection (1) of this section to be instituted and pursued without delay.

54-2292. Costs; Pseudorabies Control Cash Fund; created. The department may assess and collect costs for services provided and expenses incurred pursuant to its responsibilities under the Pseudorabies Control and Eradication Act. All costs assessed and collected pursuant to this section shall be remitted to the State Treasurer. The State Treasurer shall credit such costs to the Pseudorabies Control Cash Fund which is hereby created.

54-2293. Pseudorabies Control Cash Fund; use; investment.

The Pseudorabies Control Cash Fund shall consist of money appropriated by the Legislature and gifts, grants, costs, or charges from any source, including federal, state, public, and private sources. The fund shall be utilized for the purpose of carrying out the Pseudorabies Control and Eradication Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

54-2294. Department; access to premises. In administering the Pseudorabies Control and Eradication Act, the agents and employees of the department shall have access to any premises where livestock may be for purposes of the pseudorabies surveillance testing program or when the department has reasonable cause to believe that infected or exposed livestock are present on the premises.

54-2295. Records and reports; access. (1) Any person subject to the Pseudorabies Control and Eradication Act shall for two years keep on file records or make reports pertaining to vaccination, testing, and movement of livestock infected with or exposed to or suspected of being infected with or exposed to pseudorabies. Such person shall keep on file any other records or make any other reports the department deems necessary to enforce such act.

(2) Any person subject to the act shall, at all reasonable times, provide access to all records and reports to the department and its representatives for the purpose of examining and copying such records and reports necessary to enforce the act.

54-2296. Testing; duties of owner; costs. (1) When testing is to be performed pursuant to the Pseudorabies Control and Eradication Act, the owner of the swine shall be responsible for gathering, confining, and restraining such swine for testing and for providing the necessary facilities and assistance.

(2) The department may provide state funds for certain activities or any portion thereof in connection with the implementation of the act to or on behalf of swine herd owners if funds for such activities or any portion thereof have been appropriated and are available. The department shall develop statewide priorities for the expenditure of state funds available for program activities.

(3) Part of such state funds may be used by the department to pay a portion of the cost of testing done by or for accredited veterinarians if such work is approved by the department. All of such testing shall be performed by or under the direct supervision of the accredited veterinarian, except that nothing in this subsection shall restrict an employee of the state or federal government in the performance of such employee's duties under the act or federal law.

(4) In administering the act and programs pursuant thereto, the department shall not pay for (a) testing done for change of ownership at private treaty or at concentration points, (b) costs of gathering, confining, and restraining swine subjected to testing or costs of providing necessary facilities and assistance, and (c) the cost of testing to qualify or maintain a status swine herd.

54-2297. Prohibited acts. (1) It shall be unlawful for a buyer to purchase feeder swine, breeding swine, or both from a seller who has not complied with the Pseudorabies Control and Eradication Act or to import such swine into the state when the seller has not complied with the Pseudorabies Control and Eradication Act or the Animal Importation Act.

(2) It shall be unlawful for a seller to sell or import swine if not in compliance with such acts.

54-2298. Destination; diversion of livestock; prohibited; when. Whenever livestock are required or designated pursuant to the Pseudorabies Control and Eradication Act to move to a particular destination, it shall be unlawful to divert the livestock from such destination without having first obtained permission from the department.

54-2299. Conformance with federal standards. In administering the Pseudorabies Control and Eradication Act and conducting program activities authorized by the act, the department shall as far as reasonably practical conform its program activities to Part III Program Stages and Requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication as approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, in effect on January 1, 2002.

54-22,100. Violation; penalty. Except as provided in section 54-2288, any person who violates the Pseudorabies Control and Eradication Act or any rules and regulations adopted and promulgated pursuant thereto shall be guilty of a Class IV misdemeanor for the first offense and shall be guilty of a Class II misdemeanor for each subsequent offense.

ACTBD.doc