

## Opinion No. 64-159

December 30, 1964

**BY:** OPINION OF EARL E. HARTLEY, Attorney General George Richard Schmitt,  
Assistant Attorney General

**TO:** L. E. Bodenweiser, D.V.M., Director-Chief Veterinarian Sheep Sanitary Board of  
New Mexico, Room 314 /- Korber Building Albuquerque, New Mexico

### QUESTION

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May the Sheep Sanitary Board require slaughtering plants to keep accurate records of purchase and sale of all sheep, name and address of seller or consignor, and license numbers of vehicles delivering the sheep?

#### CONCLUSION

Yes.

### OPINION

#### ANALYSIS

The Sheep Sanitary Board of New Mexico advises that theft of sheep is increasing annually and this year has reached a tremendously high peak. The sheep inspectors are quite certain these animals are being slaughtered within the State in slaughter houses which are open to the public. The Board believes that a regulation, such as the one proposed above, would be of great assistance to the inspectors in their efforts to trace stolen sheep as well as in the proper enforcement of the law and elimination of theft.

Whether or not the proposed regulation is valid depends upon two basic principles of administrative law. A regulation of an administrative agency will be upheld if it is within the scope of the agency's statutory authority and if it is a reasonable exercise of said authority, not resulting in injustice or unfairness. 2 **Am. Jur.** 2d 123, 124.

The proposed regulation appears to fall well within the legal boundaries of the rules announced above. It is true that no express authority for this particular regulation is conferred upon the Sheep Sanitary Board under the law governing the operations of said Board, namely Sections 47-8-1 through 47-8-42, N.M.S.A., 1953 Compilation. However, it is a general rule that statutory authority may be implied as well as expressed and an express grant of power will be deemed to include such other powers as are necessary or reasonably incident to the powers granted. 1 **Am. Jur.** 2d 867-869.

We believe the Board to be impliedly authorized to adopt such a regulation through the express grant of power under Section 47-8-8 (8) and 47-8-39, supra, which grants the Board the right to "make and enforce rules and regulations necessary or convenient to carry out the purpose and intent" of the Sheep Sanitary Law, supra. A regulation assisting the authorities in the discovery of stolen sheep and to prevent the larceny of same is obviously within the purpose and intent of the law.