## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Parts 145 and 147

**[Docket No. APHIS–2006–0008]**

**RIN 0579–AC27**

### National Poultry Improvement Plan and Auxiliary Provisions

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The changes were voted on and approved by the voting delegates at the Plan's 2004 National Plan Conference. These changes will keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

**EFFECTIVE DATE:** February 12, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 101, Conyers, GA 30094–5104; (770) 922–3496.

**SUPPLEMENTARY INFORMATION:**

#### Background

The National Poultry Improvement Plan (NPIP, also referred to below as ''the Plan'') is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-disseminated poultry diseases. Participation in all Plan programs is voluntary, but flocks, hatcheries, and dealers must first qualify as ''U.S. Pullorum-Typhoid Clean'' as a condition for participating in the other Plan programs.

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 145 and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS, also referred to as ''the Service'') of the U.S. Department of Agriculture (USDA, also referred to as ''the Department'') amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

On June 19, 2006, we published in the **Federal Register** (71 FR 35203–35220, Docket No. APHIS–2006–0008) a proposal [1] to amend the Plan by providing new or modified sampling and testing procedures; adding a procedure for the approval of diagnostic test kits; reorganizing the egg-type and meat-type breeding chicken regulations to separate the regulations concerning primary breeding flocks from those concerning multiplier breeding flocks; and making other changes to update and clarify the regulations.

We solicited comments concerning our proposal for 60 days ending August 18, 2006. We received one comment by that date, from a private citizen. The commenter raised concerns about the welfare of poultry in an agricultural setting.

APHIS does not have statutory authority to promulgate regulations regarding the welfare of poultry in an agricultural setting. The NPIP is designed to control the incidence of disease in breeding and commercial poultry.

The commenter also stated that the Plan should have provisions for ensuring that Authorized Agents are not corrupt.

The Official State Agencies that work with APHIS to administer the provisions of the Plan designate Authorized Agents to perform sampling on flocks that participate in the Plan. Each Official State Agency has provisions for determining whether persons are qualified to serve as Authorized Agents and for ensuring the integrity of Authorized Agents that it designates to perform tasks in the administration of the Plan.

We are not making any changes in response to this commenter's comments.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are amending the Plan and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The proposed changes were voted on and approved by the voting delegates at the Plan's 2004 National Plan Conference. These changes will keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

The poultry industry plays an important role in the U.S. economy, directly employing approximately 240,000 workers.[2] The poultry industry is primarily composed of two types of companies: Primary breeding companies and highly integrated companies that combine multiplier breeding, hatching, and growing functions. The primary breeder companies are responsible for the development of genetic lines of poultry for commercial companies that market the product to final consumers. They maintain and expand pure designated blood lines and supply breeding stock to commercial poultry companies all over the globe. Improved genetic poultry are multiplied through the hatchery system. The hatcheries, in turn, supply these more efficient birds to producers and growers in nearby States. Hatcheries incubate and hatch eggs and sell chicks to the commercial producer when they are 1 day old. The commercial producers grow the chicks either for meat production or as egg-laying varieties. The genetic lines of both egg-laying varieties and meat-producing poultry are carefully controlled by primary breeding companies.

Almost all birds are produced on a contractual basis between a highly integrated company and individual contract growers who raise the birds, *i.e.*, growers. In such arrangements, the grower normally supplies the poultry house, land, labor, litter, equipment, taxes, utilities, and insurance, while the company provides the chicks, feed, necessary medications, and supervision. Labor and equipment for catching and hauling the birds to market are also provided by the company. The company retains title to the birds, and in return growers are paid according to the amount produced (pounds of birds or dozens of eggs).

Currently, there are three major firms that produce primary breeding stock of

[1] To view the proposed rule and the comment we received, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0008, then click on ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

[2] USDA/FAS, Export Promotion Increase Employment in U.S. Poultry Industry, FASONLINE (*http://www.fas.usda.gov/dlp/poultry/success.html*), May 6, 2002.

egg-type chickens, three breeders of meat-type chickens, two breeders of turkey, and one firm producing both egg-type and meat-type chickens. All of these are large facilities headquartered in the United States, and all of them operate in domestic and international markets. Other multinational organizations headquartered in Europe, Israel, and Japan produce several varieties of breeding stock offered to commercial facilities around the globe.

U.S. broiler production totaled 8.5 billion birds in 2003. Ten States accounted for over 79 percent of broilers produced in the United States (table 1). U.S. turkey production in 2003 totaled 274 million birds. The top 10 turkey-producing States accounted for 82 percent of total production. A total of 87.2 billion eggs were produced in 2003. Ten States accounted for 62 percent of total egg production. Approximately 85 percent of egg production was for human consumption (the table-egg market), while the remainder of production was for the hatching market.

TABLE 1.—BROILERS, EGG-LAYING CHICKENS, AND TURKEYS: VALUE BY MAJOR STATES, 2003

| Broilers | | Egg-laying chickens | | Turkeys | |
|---|---|---|---|---|---|
| State | Value (million $) | State | Value (million $) | State | Value (million $) |
| Georgia | 2,143 | Iowa | 460 | Minnesota | 425 |
| Arkansas | 1,987 | Georgia | 396 | North Carolina | 398 |
| Alabama | 1,838 | Ohio | 374 | Missouri | 286 |
| North Carolina | 1,512 | Pennsylvania | 371 | Virginia | 177 |
| Mississippi | 1,424 | Arkansas | 344 | Arkansas | 176 |
| Texas | 1,032 | Texas | 310 | South Carolina | 172 |
| Delaware | 543 | Indiana | 308 | California | 151 |
| Kentucky | 507 | Alabama | 296 | Indiana | 139 |
| Maryland | 495 | California | 282 | Pennsylvania | 101 |
| Virginia | 442 | North Carolina | 242 | Iowa | 96 |
| Other States | 3,292 | Other States | 1,932 | Other States | 599 |
| U.S. total | 15,215 | U.S. total | 5,315 | U.S. total | 2,720 |

Source: USDA/NASS, Poultry-Production and Value: 2003 Summary, April 2004.

Cash receipts from sales of poultry and eggs (broilers, farm chickens, eggs, turkey, ducks, and other poultry) were about $23.9 billion in 2003.[3] Of this total, 64 percent was from broilers, 22 percent from eggs, 11 percent from turkeys, and 3 percent from other poultry. In terms of tonnage, poultry production and trade exceeds that of beef or pork. For instance, in 2003, the United States produced 38.4 billion pounds of poultry meat, compared with 26.2 billion pounds of beef and 19.9 billion pounds of pork. Poultry meat per capita consumption (98.9 pounds) exceeded that of both beef (64.9 pounds) and pork (51.8). Furthermore, the United States exported more poultry meat (5,404 million pounds) than beef and veal (2,518 million pounds) or pork (1,717 million pounds) during the same period.[4]

The United States is a major exporter of poultry and poultry products. It exported poultry and poultry products valued at $2,287 million in 2003.[5] The major importers, accounting for $1,720 million worth of exports of U.S. poultry, are Russia ($384 million), Canada ($346 million), Mexico ($293 million), Hong Kong ($236 million), China ($117 million), Japan ($83 million), South Korea ($56 million), European Union ($126 million), Turkey ($42 million), and Taiwan ($37 million). U.S. imports of poultry and poultry products totaled $307 million. Of this total, $135 million was from Canada, $113 million from China, $19 million from Taiwan, and $16 million from France.

**Impact on Small Entities**

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. The Small Business Administration has established guidelines for determining which types of firms are to be considered small under the Regulatory Flexibility Act. The main entities that will be affected by this rule are those engaged in production of poultry breeding stock. Currently there are three major firms that produce primary breeding stock of egg-type chickens, three breeders of meat-type chickens, two breeders of turkeys, and one firm producing both egg-type and meat-type chickens. All of these are large facilities headquartered in the United States and operating in domestic and international markets. Additionally, broiler operations (North American Industry Classification System [NAICS] 112320), turkey operations (NAICS 112330), hatcheries (NAICS 112340) and other poultry operations (NAICS 112390) will be positively, at least qualitatively, affected, as they will benefit from the supply of improved and healthy breeding stock. There were a total of 79,600 commercial growers with sales in 2002.[6] Nearly 100 percent of broiler operations, 70 percent of turkey operations, and about 43 percent of layer operations produce poultry through production contracts. All of these commercial grower farms are considered to be small if they have annual sales of $750,000 or less. About 93 percent of these farms are small, while the rest are large. Commercial egg producers (NAICS 112310) are considered small if they have annual sales of less than $10.5 million.

This rule will introduce a series of minor changes to the NPIP and will not involve significant changes in program operations. Most of the changes involve clarifications, rearrangements of procedures, and definitions of terms. These changes are in line with the industry's best practices and will likely involve no additional costs in order to meet these requirements. Additionally, the NPIP is a voluntary program established between the industry and State and Federal governments. Any person producing or dealing in products may participate in the NPIP when he or she has demonstrated that his or her facilities, personnel, and practices are

[3] USDA/ERS, Cash receipts by commodity groups and selected commodities, United States, 1997–2003, August 2004.

[4] USDA/ERS, Livestock, Dairy and Poultry Outlook/LDP–M–122, August 2004.

[5] USDA/ERS, Foreign Agricultural Trade of the United States, September 2004.

[6] USDA/NASS, 2002 Census of Agriculture-State Data (Table 13), page 356.

adequate for carrying out the applicable provisions of the NPIP. Since most countries will not accept hatching eggs or live birds from a producer unless it can be shown to be a NPIP participant, being a member of the NPIP allows greater ease in exporting hatching eggs or live birds to other countries. The poultry industry plays a very important role in the U.S. economy, and the final rule will help to ensure the safety of the industry and benefit the economy.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 9 CFR Parts 145 and 147**

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR parts 145 and 147 as follows:

## PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

■ 1. The authority citation for part 145 continues to read as follows:

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

■ 2. Section 145.1 is amended as follows:

■ a. By revising the definition of *Authorized Agent* to read as set forth below.

■ b. By adding, in alphabetical order, a new definition of *Authorized Testing Agent* to read as set forth below.

**§ 145.1 Definitions.**

* * * * *

*Authorized Agent.* Any person designated under § 145.11(a) to collect official samples for submission to an authorized laboratory as described in §§ 147.1(a) and 147.12 of this subchapter.

* * * * *

*Authorized Testing Agent.* Any person designated under § 145.11(a) to collect official samples for submission to an authorized laboratory as described in §§ 147.1(a) and 147.12 of this subchapter and to perform the stained antigen, rapid whole blood test for pullorum typhoid.

* * * * *

■ 3. In § 145.11, paragraphs (a) and (b) are revised to read as follows:

**§ 145.11 Supervision.**

(a) The Official State Agency may designate qualified persons as Authorized Agents to do the sample collecting provided for in § 145.14 and may designate qualified persons as Authorized Testing Agents to do the sample collecting and blood testing provided for in § 145.14.

(b) The Official State Agency shall employ or authorize qualified persons as State Inspectors to perform the qualification testing of participating flocks, and to perform the official inspections necessary to verify compliance with the requirements of the Plan.

* * * * *

**§ 145.12 [Amended]**

■ 4. In § 145.12, paragraph (a), the word ''inspected'' is removed and the words ''audited at least one time annually or'' are added in its place.

■ 5. In § 145.14, in the introductory text of the section, the second, third, and fifth sentences are revised to read as follows:

**§ 145.14 Blood testing.**

* * * Blood samples for official tests shall be drawn by an Authorized Agent, Authorized Testing Agent, or State Inspector and tested by an authorized laboratory, except that the stained antigen, rapid whole-blood test for pullorum-typhoid may be conducted by an Authorized Testing Agent or State Inspector. For Plan programs in which a representative sample may be tested in lieu of an entire flock, except the ostrich, emu, rhea, and cassowary program in § 145.63(a), the minimum number tested shall be 30 birds per house, with at least 1 bird taken from each pen and unit in the house. * * * In houses containing fewer than 30 birds other than ostriches, emus, rheas, and cassowaries, all birds in the house must be tested.

* * * * *

■ 6. A new § 145.15 is added to Subpart A to read as follows:

**§ 145.15 Approved tests.**

(a) The procedures for the bacteriological examination of poultry and poultry environments described in part 147 of this subchapter are approved tests for use in the NPIP. In addition, all tests that use veterinary biologics (*e.g.,* antiserum and other products of biological origin) that are licensed or produced by the Service and used as described in part 147 of this subchapter are approved for use in the NPIP.

(b) Diagnostic test kits that are not licensed by the Service (*e.g.,* bacteriological culturing kits) may be approved through the following procedure:

(1) The sensitivity of the kit will be estimated in at least three authorized laboratories selected by the Service by testing known positive samples, as determined by the official NPIP procedures found in part 147 of this subchapter. If certain conditions or interfering substances are known to affect the performance of the kit, appropriate samples will be included so that the magnitude and significance of the effect(s) can be evaluated.

(2) The specificity of the kit will be estimated in at least three authorized laboratories selected by the Service by testing known negative samples, as determined by the official NPIP procedures found in part 147 of this subchapter. If certain conditions or interfering substances are known to affect the performance of the kit, appropriate samples will be included so that the magnitude and significance of the effect(s) can be evaluated.

(3) The kit will be provided to the cooperating laboratories in its final form and include the instructions for use. The cooperating laboratories must perform the assay exactly as stated in the supplied instructions. Each laboratory must test a panel of at least 25 known positive clinical samples supplied by the manufacturer of the test kit. In addition, each laboratory will be asked to test 50 known negative clinical samples obtained from several sources, to provide a representative sampling of the general population. The identity of the samples must be coded so that the cooperating laboratories are blinded to identity and classification. Each sample must be provided in duplicate or triplicate, so that error and repeatability data may be generated.

(4) Cooperating laboratories will submit to the kit manufacturer all raw data regarding the assay response. Each sample tested will be reported as positive or negative and the official NPIP procedure used to classify the sample must be submitted in addition to the assay response value.

(5) The findings of the cooperating laboratories will be evaluated by the NPIP technical committee, and the technical committee will make a recommendation regarding whether to approve the test kit to the General Conference Committee. If the technical committee recommends approval, the final approval will be granted in accordance with the procedures described in §§ 147.46 and 147.47 of this subchapter.

■ 7. In subpart B, the subpart heading is revised to read as follows:

## Subpart B—Special Provisions for Multiplier Egg-Type Chicken Breeding Flocks and Products

### § 145.22 [Amended]

■ 8. Section 145.22 is amended as follows:

■ a. In the introductory text, by adding the word ''multiplier'' before the words ''egg type''.

■ b. In paragraph (b), by removing the word ''primary'' and adding the word ''multiplier'' in its place.

### § 145.23 [Amended]

■ 9. Section 145.23 is amended as follows:

■ a. In paragraph (b)(2), in the introductory text, by removing the words ''or a breeding flock composed of progeny of a primary breeding flock which is intended solely for the production of multiplier breeding flocks,''.

■ b. In paragraph (b)(2)(iii), by adding the word ''Testing'' after the word ''Authorized''.

■ c. By removing paragraph (b)(5).

■ d. By removing and reserving paragraph (c)(1)(i).

■ e. In paragraph (c)(2), by removing the words '': *Provided,* That U.S. M. Gallisepticum Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (c)(1)(i) of this section are set''.

■ f. By removing and reserving paragraph (e)(1)(i).

■ g. In paragraph (e)(2), by removing the words '': *Provided,* That U.S. M. Synoviae Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (e)(1)(i) or (ii) of this section are set''.

■ h. By removing and reserving paragraph (h)(1).

■ i. In paragraph (h)(2)(i), by adding the words '': *Provided:* That multiplier spent fowl must be tested within 30 days prior to movement to disposal'' after the words ''180 days''.

### § 145.24 [Amended]

■ 10. Section 145.24 is amended as follows:

■ a. In paragraph (a)(1)(i), by removing the word ''and'' and by adding the words '', § 145.73(b)(2)(i), and § 145.83(b)(2)(i)'' immediately before the period.

■ b. By adding and reserving paragraph (b).

■ 11. In subpart C, the subpart heading is revised to read as follows:

## Subpart C—Special Provisions for Multiplier Meat-Type Chicken Breeding Flocks and Products

### § 145.32 [Amended]

■ 12. Section 145.32 is amended as follows:

■ a. In the introductory text, by adding the word ''multiplier'' before the words ''meat type''.

■ b. In paragraph (b), by removing the word ''primary'' and adding the word ''multiplier'' in its place.

### § 145.33 [Amended]

■ 13. Section 145.33 is amended as follows:

■ a. In paragraph (b)(2), in the introductory text, by removing the words ''or a breeding flock composed of progeny of a primary breeding flock which is intended solely for the production of multiplier breeding flocks,''.

■ b. In paragraph (b)(2)(iii), by adding the word ''Testing'' after the word ''Authorized''.

■ c. By removing paragraph (b)(5).

■ d. By removing and reserving paragraph (c)(1)(i).

■ e. In paragraph (c)(2), by removing the words '': *Provided,* That U.S. M. Gallisepticum Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (c)(1)(i) of this section are set''.

■ f. By removing and reserving paragraph (e)(1)(i).

■ g. In paragraph (e)(2), by removing the words '': *Provided,* That U.S. M. Synoviae Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (e)(1)(i) or (ii) of this section are set''.

■ h. By removing and reserving paragraphs (h) and (i).

■ i. By removing and reserving paragraph (l)(1).

■ j. In paragraph (l)(2), in the introductory text, by adding the words ''and prior to the onset of egg production'' after the word ''age.''

■ k. In paragraph (l)(2)(i), by adding the words '': *Provided:* That multiplier spent fowl must be tested within 30 days prior to movement to slaughter'' after the words ''180 days.''

### § 145.34 [Amended]

■ 14. Section 145.34 is amended as follows:

■ a. In paragraph (a)(1)(i), by removing the word ''and'' and by adding the words '', § 145.73(b)(2)(i), and § 145.83(b)(2)(i)'' immediately before the period.

■ b. In paragraph (b)(1)(ii), by adding the words ''in accordance with §§ 145.33(c) and 145.83(c)'' after the word ''Clean''.

■ 15. Section 145.43 is amended as follows:

■ a. In paragraph (b)(2)(iii), by adding the word ''Testing'' after the word ''Authorized''.

■ b. By revising paragraphs (f)(1), (f)(2), (f)(7), (g)(1) introductory text, (g)(1)(i), (g)(2) introductory text, and (g)(2)(i) to read as set forth below.

### § 145.43 Terminology and classification; flocks and products.

* * * * *

(f) * * *

(1) Hatchery debris (dead germ hatching eggs, fluff, and meconium collected by sexors), swabs collected from hatch debris in hatcher trays, a sample of all the poults that died within 10 days after hatching up to 10 poults, or a combination of 2 or all 3 of the above, from each hatch or a candidate breeding flock produced by a primary breeder, are examined bacteriologically at an authorized laboratory for *Salmonella.*

(2) The poults for the candidate breeding flock are placed in a building that has been cleaned and disinfected. An Authorized Agent must collect environmental samples from the building and submit them to an authorized laboratory for a bacteriological examination for the presence of *Salmonella,* as described in § 147.12 of this subchapter.

* * * * *

(7) Hatchery debris (dead germ hatching eggs, fluff, and meconium collected by sexors), swabs collected from hatch debris in hatcher trays, a

sample of all the poults that died within 10 days after hatching up to 10 poults, or a combination of 2 or all 3 of the above, shall be cultured as a means of evaluating the effectiveness of the control procedures.

(g) * * *

(1) It is a primary breeding flock in which a minimum of 30 birds has been tested negative for antibodies to type A avian influenza virus by the agar gel immunodiffusion test specified in § 147.9 of this subchapter. Positive samples shall be further tested by an authorized laboratory using the hemagglutination inhibition test to detect antibodies to the hemagglutinin subtypes H5 and H7 when more than 4 months of age and prior to the onset of egg production. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; *Provided,* that primary spent fowl be tested within 30 days prior to movement to disposal; or

* * * * *

(2) It is a multiplier breeding flock in which a minimum of 30 birds has been tested negative for antibodies to type A avian influenza virus by the agar gel immunodiffusion test specified in § 147.9 of this subchapter. Positive samples shall be further tested by an authorized laboratory using the hemagglutination inhibition test to detect antibodies to the hemagglutinin subtypes H5 and H7 when more than 4 months of age and prior to the onset of egg production. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 180 days; *Provided,* that multiplier spent fowl be tested within 30 days prior to movement to disposal; or

* * * * *

**§ 145.53 [Amended]**

■ 16. Section 145.53 is amended as follows:

■ a. In paragraph (b)(2)(iii), by adding the word ''Testing'' after the word ''Authorized''.

■ b. In paragraph (e), in the paragraph heading, by adding the words ''*H5/H7*'' before the words ''*Avian Influenza*''.

■ c. In the introductory text of paragraphs (e), (e)(1), and (e)(2), by adding the words ''the H5 and H7 subtypes of'' before the words ''avian influenza'' each time they occur.

■ 17. In § 145.63, paragraph (a)(2) is revised to read as follows:

**§ 145.63 Terminology and classification; flocks and products.**

* * * * *

(a) * * *

(2) It is a breeding flock that meets one of the following criteria:

(i)(A) It is a multiplier or primary breeding flock of fewer than 300 birds in which a sample of 10 percent of the birds in a flock or at least 1 bird from each pen, whichever is more, has been officially tested for pullorum-typhoid within the past 12 months with no reactors; or

(B) It is a multiplier or primary breeding flock of 300 birds or more in which a sample of a minimum of 30 birds has been officially tested for pullorum-typhoid within the past 12 months with no reactors.

(ii) It is a flock that has already been designated U.S. Pullorum-Typhoid Clean and uses a subsequent bacteriological examination monitoring program of hatcher debris or eggs for ostriches, emus, rheas, or cassowaries acceptable to the Official State Agency and approved by the Service in lieu of annual blood testing.

(iii) It is a multiplier breeding flock located in a State that has been deemed to be a U.S. Pullorum-Typhoid Clean State for the past 3 years, and during which time no isolation of pullorum or typhoid has been made that can be traced to a source in that State, that uses a bacteriological examination monitoring program of hatcher debris or eggs or a serological examination monitoring program acceptable to the Official State Agency and approved by the Service in lieu of annual blood testing.

* * * * *

■ 18. A new Subpart G is added to read as follows:

**Subpart G—Special Provisions for Primary Egg-Type Chicken Breeding Flocks and Products**

Sec.



## Subpart G—Special Provisions for Primary Egg-Type Chicken Breeding Flocks and Products

**§ 145.71 Definitions.**

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

*Chicks.* Newly hatched chickens.

*Primary egg-type chicken breeding flocks.* Foundation flocks that are composed of pedigree, great-grandparent, and grandparent stock that has been developed for egg production and are maintained for the principal purpose of producing multiplier breeding chicks used to produce table egg layers.

*Started chickens.* Young chickens (chicks, pullets, cockerels, capons) which have been fed and watered and are less than 6 months of age.

**§ 145.72 Participation.**

Participating flocks of primary egg-type chickens, and the eggs and chicks produced from them, shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart G.

(a) Started chickens shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 145.5(a).

(b) Hatching eggs produced by primary breeding flocks shall be fumigated (see § 147.25 of this subchapter) or otherwise sanitized.

(c) Any nutritive material provided to chicks must be free of the avian pathogens that are officially represented in the Plan disease classifications listed in § 145.10.

**§ 145.73 Terminology and classification; flocks and products.**

Participating flocks, and the eggs and chicks produced from them, which have met the respective requirements specified in this section, may be designated by the following terms and the corresponding designs illustrated in § 145.10:

(a) [Reserved]

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in paragraph (b)(1) or (b)(2) of this section: *Provided,* That a flock qualifying by means of a blood test shall be tested within the past 12 months, except that the retesting of a participating flock which is retained for more than 12 months shall be conducted a minimum of 4 weeks after the induction of molt. (See § 145.14 relating to the official blood test where applicable.)

(1) It has been officially blood tested with no reactors.

(2) It is a primary breeding flock that meets the following criteria:

(i) The primary breeding flock is located in a State in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks during the preceding 12 months and in which it has been determined by the Service that:

(A) All hatcheries within the State are qualified as ''National Plan Hatcheries'' or have met equivalent requirements for pullorum-typhoid control under official supervision;

(B) All hatchery supply flocks within the State are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided,* That if other domesticated fowl, except waterfowl, are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(C) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(D) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;

(E) All reports of any disease outbreak involving a disease covered under the Plan are promptly followed by an investigation by the Official State Agency to determine the origin of the infection; *Provided,* That if the origin of the infection involves another State, or if there is exposure to poultry in another State from the infected flock, then officials administering the National Poultry Improvement Plan will conduct an investigation;

(F) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested following the procedure for reacting flocks as contained in § 145.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection;

(G) All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition; and

(H) Discontinuation of any of the conditions or procedures described in paragraphs (b)(2)(i)(A) through (b)(2)(i)(G) of this section, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks within or originating within the State shall be grounds for the Service to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity to present its views; and

(ii) In the primary breeding flock, a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid with no reactors: *Provided,* That a bacteriological examination monitoring program acceptable to the Official State Agency and approved by the Service may be used in lieu of blood testing.

(c) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in compliance with the provisions of § 147.26 of this subchapter and in which freedom from *M. gallisepticum* has been demonstrated under the criteria specified in paragraph (c)(1)(i) of this section.

(i) It is a flock in which all birds or a sample of at least 300 birds has been tested for *M. gallisepticum* as provided in § 145.14(b) when more than 4 months of age: *Provided,* That to retain this classification, a minimum of 150 birds shall be tested at intervals of not more than 90 days: *And provided further,* That a sample comprised of fewer than 150 birds may be tested at any one time, if all pens are equally represented and a total of 150 birds is tested within each 90-day period.

(ii) [Reserved]

(2) A participant handling U.S. M. Gallisepticum Clean products shall handle only products of equivalent status.

(3) U.S. M. Gallisepticum Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 147.24(a) of this subchapter.

(d) *U.S. S. Enteritidis Clean.* This classification is intended for primary egg-type breeders wishing to assure their customers that the hatching eggs and multiplier chicks produced are certified free of *Salmonella enteritidis.*

(1) A flock and the hatching eggs and chicks produced from it which have met the following requirements as determined by the Official State Agency:

(i) The flock originated from a U.S. S. Enteritidis Clean flock, or meconium from the chick boxes and a sample of chicks that died within 7 days after hatching are examined bacteriologically for salmonella at an authorized laboratory. Cultures from positive samples shall be serotyped.

(ii) All feed fed to the flock shall meet the following requirements:

(A) Pelletized feed shall contain either no animal protein or only animal protein products produced under the Animal Protein Products Industry (APPI) *Salmonella* Education/Reduction Program. The protein products must have a minimum moisture content of 14.5 percent and must have been heated throughout to a minimum temperature of 190 °F, or above, or to a minimum temperature of 165 °F for at least 20 minutes, or to a minimum temperature of 184 °F under 70 lbs. pressure during the manufacturing process.

(B) Mash feed may contain no animal protein other than an APPI animal protein product supplement manufactured in pellet form and crumbled: *Provided,* That mash feed may contain nonpelleted APPI animal protein product supplements if the finished feed is treated with a salmonella control product approved by the U.S. Food and Drug Administration.

(iii) Feed shall be stored and transported in such a manner as to prevent possible contamination;

(iv) The flock is maintained in compliance with §§ 147.21, 147.24(a), and 147.26 of this subchapter. Rodents and other pests should be effectively controlled;

(v) Environmental samples shall be collected from the flock by an Authorized Agent, as described in § 147.12 of this subchapter, when the flock is 2 to 4 weeks of age. The samples shall be examined bacteriologically for group D salmonella at an authorized laboratory. Cultures from positive samples shall be serotyped. The Authorized Agent shall also collect samples every 30 days after the first sample has been collected.

(vi) If a *Salmonella* vaccine is used that causes positive reactions with pullorum-typhoid antigen, one of the following options must be utilized.

(A) Administer the vaccine after the pullorum-typhoid testing is done as described in paragraph (d)(1)(vii) of this section.

(B) If an injectable bacterin or live vaccine that does not spread is used, keep a sample of 350 birds unvaccinated and banded for identification until the flock reaches at least 4 months of age. Following negative serological and bacteriological examinations as described in paragraph (d)(1)(vii) of this section, vaccinate the banded, non-vaccinated birds.

(vii) Blood samples from 300 non-vaccinated birds as described in paragraph (d)(1)(vi) of this section shall be tested with either pullorum antigen or by a federally licensed *Salmonella enteritidis* enzyme-linked immunosorbent assay (ELISA) test when the flock is more than 4 months of age. All birds with positive or inconclusive reactions, up to a maximum of 25 birds, shall be submitted to an authorized laboratory and examined for the presence of group D salmonella, as described in § 147.11 of this subchapter. Cultures from positive samples shall be serotyped.

(viii) Hatching eggs are collected as quickly as possible and are handled as described in § 147.22 of this subchapter and are sanitized or fumigated (see § 147.25 of this subchapter).

(ix) Hatching eggs produced by the flock are incubated in a hatchery that is in compliance with the recommendations in §§ 147.23 and 147.24(b) of this subchapter, and sanitized either by a procedure approved by the Official State Agency or fumigated (see § 147.25 of this subchapter).

(2) A flock shall not be eligible for this classification if *Salmonella enteritidis* serotype *enteritidis* (SE) is isolated from a specimen taken from a bird in the flock. Isolation of SE from an environmental or other specimen, as described in paragraph (d)(1)(v) of this section, will require bacteriological examination for SE in an authorized laboratory, as described in § 147.11(a) of this subchapter, of a random sample of 60 live birds from a flock of 5,000 birds or more, or 30 live birds from a flock with fewer than 5,000 birds. If only one specimen is found positive for SE, the participant may request bacteriological examination of a second sample, equal in size to the first sample, from the flock. If no SE is recovered from any of the specimens in the second sample, the flock will be eligible for the classification.

(3) A non-vaccinated flock shall be eligible for this classification if SE is isolated from an environmental sample collected from the flock in accordance with paragraph (d)(1)(v) of this section: *Provided,* That testing is conducted in accordance with paragraph (d)(1)(vii) of this section each 30 days and no positive samples are found.

(4) In order for a hatchery to sell products of this classification, all products handled shall meet the requirements of the classification.

(5) This classification may be revoked by the Official State Agency if the participant fails to follow recommended corrective measures. The Official State Agency shall not revoke the participant's classification until the participant has been given an opportunity for a hearing in accordance with rules of practice adopted by the Official State Agency.

(e) *U.S. M. Synoviae Clean.* (1) A flock maintained in compliance with the provisions of § 147.26 of this subchapter and in which freedom from *M. synoviae* has been demonstrated under the criteria specified in paragraph (e)(1)(i) of this section.

(i) It is a flock in which a minimum of 300 birds has been tested for *M. synoviae* as provided in § 145.14(b) when more than 4 months of age: *Provided,* That to retain this classification, a sample of at least 150 birds shall be tested at intervals of not more than 90 days: *And provided further,* That a sample comprised of fewer than 150 birds may be tested at any one time if all pens are equally represented and a total of 150 birds is tested within each 90-day period.

(ii) [Reserved]

(2) A participant handling U.S. M. Synoviae Clean products shall handle only products of equivalent status.

(3) U.S. M. Synoviae Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 147.24(a) of this subchapter.

(f) *U.S. Avian Influenza Clean.* This program is intended to be the basis from which the breeding-hatchery industry may conduct a program for the prevention and control of avian influenza. It is intended to determine the presence of avian influenza in primary breeding chickens through routine serological surveillance of each participating breeding flock. A flock and the hatching eggs and chicks produced from it will qualify for this classification when the Official State Agency determines that they have met the following requirements:

(1) It is a primary breeding flock in which a minimum of 30 birds have been tested negative for antibodies to avian influenza when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days: *Provided,* That primary spent fowl must be tested within 30 days prior to movement to disposal; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period.

(2) [Reserved]

■ 19. A new subpart H is added to read as follows:

**Subpart H—Special Provisions for Primary Meat-Type Chicken Breeding Flocks and Products**

Sec.



## Subpart H—Special Provisions for Primary Meat-Type Chicken Breeding Flocks and Products

### § 145.81 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

*Chicks.* Newly hatched chickens.

*Primary meat-type chicken breeding flocks.* Foundation flocks that are composed of pedigree, great-grandparent, and grandparent stock that has been developed for meat production and are maintained for the principal purpose of producing multiplier breeding chicks used to produce commercial broilers.

*Started chickens.* Young chickens (chicks, pullets, cockerels, capons) which have been fed and watered and are less than 6 months of age.

### § 145.82 Participation.

Participating flocks of primary meat-type chickens, and the eggs and chicks produced from them, shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart H.

(a) Started chickens shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 145.5(a).

(b) Hatching eggs produced by primary breeding flocks shall be fumigated (see § 147.25 of this subchapter) or otherwise sanitized.

(c) Any nutritive material provided to chicks must be free of the avian pathogens that are officially represented in the Plan disease classifications listed in § 145.10.

### § 145.83 Terminology and classification; flocks and products.

Participating flocks, and the eggs and chicks produced from them, which have met the respective requirements specified in this section, may be designated by the following terms and the corresponding designs illustrated in § 145.10:

(a) [Reserved]

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in paragraph (b)(1) or (b)(2) of this section: *Provided,* That a flock qualifying by means of a blood test shall be tested within the past 12 months, except that the retesting of a participating flock which is retained for more than 12 months shall be conducted a minimum of 4 weeks after the induction of molt. (See § 145.14 relating to the official blood test where applicable.)

(1) It has been officially blood tested with no reactors.

(2) It is a primary breeding flock that meets the following criteria:

(i) The primary breeding flock is located in a State in which pullorum

disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months and in which it has been determined by the Service that:

(A) All hatcheries within the State are qualified as ''National Plan Hatcheries'' or have met equivalent requirements for pullorum-typhoid control under official supervision;

(B) All hatchery supply flocks within the State are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided,* That if other domesticated fowl, except waterfowl, are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(C) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(D) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;

(E) All reports of any disease outbreak involving a disease covered under the Plan are promptly followed by an investigation by the Official State Agency to determine the origin of the infection; *Provided,* That if the origin of the infection involves another State, or if there is exposure to poultry in another State from the infected flock, then officials administering the National Poultry Improvement Plan will conduct an investigation;

(F) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested following the procedure for reacting flocks as contained in § 145.14(a)(5) of this subchapter, and all birds fail to demonstrate pullorum or typhoid infection;

(G) All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition; and

(H) Discontinuation of any of the conditions or procedures described in paragraphs (b)(2)(i)(A) through (b)(2)(i)(G) of this section, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks within or originating within the State shall be grounds for the Service to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity to present its views; and

(ii) In the primary breeding flock, a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid with no reactors: *Provided,* That a bacteriological examination monitoring program acceptable to the Official State Agency and approved by the Service may be used in lieu of blood testing.

(c) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in compliance with the provisions of § 147.26 of this subchapter and in which freedom from *M. gallisepticum* has been demonstrated under the criteria specified in paragraph (c)(1)(i) of this section.

(i) It is a flock in which all birds or a sample of at least 300 birds has been tested for *M. gallisepticum* as provided in § 145.14(b) of this subchapter when more than 4 months of age: *Provided,* That to retain this classification, a minimum of 40 birds shall be tested at intervals of not more than 28 days, and a total of at least 150 birds shall be tested within each 90-day period.

(ii) [Reserved]

(2) A participant handling U.S. M. Gallisepticum Clean products must handle only products of equivalent status.

(3) U.S. M. Gallisepticum Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 147.24(a) of this subchapter.

(d) *U.S. M. Synoviae Clean.* (1) A flock maintained in compliance with the provisions of § 147.26 of this subchapter and in which freedom from *M. synoviae* has been demonstrated under the criteria specified in paragraph (d)(1)(i) of this section.

(i) It is a flock in which all birds or a sample of at least 300 birds has been tested for *M. synoviae* as provided in § 145.14(b) of this subchapter when more than 4 months of age: *Provided,* That to retain this classification, a sample of at least 40 birds shall be tested at intervals of not more than 28 days, and a total of at least 150 birds shall be tested within each 90-day period.

(ii) [Reserved]

(2) A participant handling U.S. M. Synoviae Clean products shall handle only products of equivalent status.

(3) U.S. M. Synoviae Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 147.24(a) of this subchapter.

(e) *U.S. S. Enteritidis Clean.* This classification is intended for primary meat-type breeders wishing to assure their customers that the chicks produced are certified free of *Salmonella enteritidis.*

(1) A flock and the hatching eggs and chicks produced from it shall be eligible for this classification if they meet the following requirements, as determined by the Official State Agency:

(i) The flock originated from a U.S. S. Enteritidis Clean flock, or one of the following samples has been examined bacteriologically for *S. enteritidis* at an authorized laboratory and any group *D Salmonella* samples have been serotyped:

(A) A 25-gram sample of meconium from the chicks in the flock collected and cultured as described in § 147.12(a)(5) of this subchapter; or

(B) A sample of chick papers collected and cultured as described in § 147.12(c) of this subchapter; or

(C) A sample of 10 chicks that died within 7 days after hatching.

(ii) All feed fed to the flock meets the following requirements:

(A) Pelletized feed must have a minimum moisture content of 14.5 percent and must have been heated throughout to a minimum temperature of 190 °F, or to a minimum temperature of 165 °F for at least 20 minutes, or to a minimum temperature of 184 °F under 70 lbs. pressure during the manufacturing process;

(B) Mash feed may contain animal protein if the finished feed is treated with a salmonella control product approved by the U.S. Food and Drug Administration.

(C) All feed is stored and transported in such a manner as to prevent possible contamination.

(iii) The flock is maintained in compliance with §§ 147.21, 147.24(a), and 147.26 of this subchapter.

(iv) Environmental samples are collected from the flock by or under the supervision of an Authorized Agent, as described in § 147.12 of this subchapter, when the flock reaches 4 months of age and every 30 days thereafter. The environmental samples shall be examined bacteriologically for group D salmonella at an authorized laboratory, and cultures from group D positive samples shall be serotyped.

(v) Blood samples from 300 birds from the flock are officially tested with pullorum antigen when the flock is at least 4 months of age. All birds with

positive or inconclusive reactions, up to a maximum of 25 birds, shall be submitted to an authorized laboratory and examined for the presence of group D salmonella in accordance with §§ 147.10 and 147.11 of this subchapter. Cultures from group D positive samples shall be serotyped.

(vi) Hatching eggs produced by the flock are collected as quickly as possible and are handled as described in § 147.22 of this subchapter.

(vii) Hatching eggs produced by the flock are incubated in a hatchery that is in compliance with the recommendations in §§ 147.23 and 147.24(b) of this subchapter, and the hatchery must have been sanitized either by a procedure approved by the Official State Agency or by fumigation.

(2) If *Salmonella enteritidis* serotype *enteritidis* (SE) is isolated from a specimen taken from a bird in the flock, except as provided in paragraph (e)(3) of this section, the flock shall not be eligible for this classification.

(3) If SE is isolated from an environmental sample collected from the flock in accordance with paragraph (e)(1)(iv) of this section, 25 randomly selected live birds from the flock and/or 500 cloacal swabs collected in accordance with § 147.12(a)(2) of this subchapter must be bacteriologically examined for SE as described in § 147.11 of this subchapter. If only 1 bird from the 25-bird sample is found positive for SE, the participant may request bacteriological examination of a second 25-bird sample from the flock. If no SE is recovered from any of the specimens in the second sample, the flock will be eligible for the classification and will remain eligible for this classification if the flock is tested in accordance with paragraph (e)(1)(v) of this section each 30 days and no positive samples are found.

(4) In order for a hatchery to sell products of this classification, all products handled by the hatchery must meet the requirements of this paragraph.

(5) This classification may be revoked by the Official State Agency if the participant fails to follow recommended corrective measures. The Official State Agency shall not revoke the participant's classification until the participant has been given an opportunity for a hearing in accordance with rules of practice adopted by the Official State Agency.

(6) A pedigree, experimental, or great-grandparent flock that is removed from the U.S. S. Enteritidis Clean program may be reinstated whenever the following conditions are met:

(i) The owner attests that corrective measures have been implemented, which may include one or more of the following:

(A) Test and slaughter infected birds based on blood tests of every bird in the flock, with either pullorum antigen or by a federally licensed *Salmonella enteritidis* enzyme-linked immunosorbent assay (ELISA) test when the flock is more than 4 months of age.

(B) Perform other corrective actions including, but not limited to, vaccination, medication, cleaning and disinfection of houses, rodent control, and movement of uninfected birds to premises that have been determined to be environmentally negative for *S. enteritidis* as described in § 147.12(a) of this subchapter.

(C) One hundred percent of blood samples from the birds moved to the clean premises are tested negative for *Salmonella pullorum* and group D *Salmonella.* All birds with positive or inconclusive reactions, up to a maximum of 25 birds, shall be submitted to an authorized laboratory and examined for the presence of group D *Salmonella,* as described in § 147.11 of this subchapter. Cultures from positive samples shall be serotyped.

(D) Two consecutive environmental drag swabs taken at the clean premises collected as specified in § 147.12(a) of this subchapter 4 weeks apart are negative for *S. enteritidis.*

(E) Other corrective measures at the discretion of the Official State Agency.

(ii) Following reinstatement, a flock will remain eligible for this classification if the flock is tested in accordance with paragraph (e)(1)(v) of this section every 30 days and no positive samples are found and the flock meets the requirements set forth in § 145.83(e).

(f) *U.S. Salmonella Monitored.* This program is intended to be the basis from which the breeding-hatching industry may conduct a program for the prevention and control of salmonellosis. It is intended to reduce the incidence of *Salmonella* organisms in hatching eggs and chicks through an effective and practical sanitation program at the breeder farm and in the hatchery. This will afford other segments of the poultry industry an opportunity to reduce the incidence of *Salmonella* in their products.

(1) A flock and the hatching eggs and chicks produced from it that have met the following requirements, as determined by the Official State Agency.

(i) The flock is maintained in compliance with §§ 147.21, 147.24(a), and 147.26 of this subchapter;

(ii) If feed contains animal protein, the protein products must have a minimum moisture content of 14.5 percent and must have been heated throughout to a minimum temperature of 190 °F or above, or to a minimum temperature of 165 °F for at least 20 minutes, or to a minimum temperature of 184 °F under 70 lbs. pressure during the manufacturing process;

(iii) Feed shall be stored and transported in a manner to prevent possible contamination;

(iv) Chicks shall be hatched in a hatchery meeting the requirements of §§ 147.23 and 147.24(b) of this subchapter and sanitized or fumigated (see § 147.25 of this subchapter).

(v) An Authorized Agent shall take environmental samples from the hatchery every 30 days; i.e., meconium or chick papers. An authorized laboratory for *Salmonella* shall examine the samples bacteriologically;

(vi) An Authorized Agent shall take environmental samples as described in § 147.12 of this subchapter from each flock at 4 months of age and every 30 days thereafter. An authorized laboratory for *Salmonella* shall examine the environmental samples bacteriologically;

(vii) Owners of flocks may vaccinate with a paratyphoid vaccine: *Provided,* That a sample of 350 birds, which will be banded for identification, shall remain unvaccinated until the flock reaches at least 4 months of age.

(2) The Official State Agency may use the procedures described in § 147.14 of this subchapter to monitor the effectiveness of the egg sanitation practices.

(3) In order for a hatchery to sell products of this classification, all products handled shall meet the requirements of the classification.

(4) This classification may be revoked by the Official State Agency if the participant fails to follow recommended corrective measures.

(g) *U.S. Avian Influenza Clean.* This program is intended to be the basis from which the breeding-hatchery industry may conduct a program for the prevention and control of avian influenza. It is intended to determine the presence of avian influenza in primary breeding chickens through routine serological surveillance of each participating breeding flock. A flock and the hatching eggs and chicks produced from it will qualify for this classification when the Official State Agency determines that they have met the following requirements:

(1) It is a primary breeding flock in which a minimum of 30 birds have been tested negative for antibodies to avian influenza when more than 4 months of age and prior to the onset of egg production. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; *Provided,* that primary spent fowl be tested within 30 days prior to movement to slaughter; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period.

(2) [Reserved]

## PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

■ 20. The authority citation for part 147 continues to read as follows:

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

### § 147.7 [Amended]

■ 21. In § 147.7, paragraph (b)(1)(vii), the citation ''§ 147.6'' is removed and the citation ''§ 147.6(a)'' is added in its place.

■ 22. Section 147.11 is amended as follows:

■ a. In paragraph (a), by revising the introductory text to read as set forth below.

■ b. By removing and reserving paragraph (b).

### § 147.11 Laboratory procedure recommended for the bacteriological examination of salmonella.

(a) *For egg- and meat-type chickens, turkeys, waterfowl, exhibition poultry, and game birds.* All reactors to the pullorum-typhoid tests, up to 25 birds, and birds from *Salmonella enteritidis* (SE) positive environments should be cultured in accordance with both the direct enrichment (paragraph (a)(1)) and selective enrichment (paragraph (a)(2)) procedures described in this section: *Provided,* That in turkeys, if there are more than four reactors to the pullorum-typhoid tests in the flock, a minimum of four reactors as provided for in § 145.14(a)(6)(ii) of this subchapter shall be submitted to the authorized laboratory for bacteriological examination. Careful aseptic technique should be used when collecting all tissue samples.

* * * * *

### § 147.12 [Amended]

■ 23. In § 147.12, paragraph (b)(3) is amended by adding the words ''using a PCR-based assay approved by the NPIP under § 145.15'' after the word ''enrichment''.

■ 24. Section 147.17 is amended as follows:

■ a. By revising the section heading, the introductory text of the section, and paragraphs (a) and (c) to read as set forth below.

■ b. In paragraph (d), by removing the number ''15''.

### § 147.17 Laboratory procedure recommended for the bacteriological examination of cull chicks and poults for salmonella.

The laboratory procedure described in this section is recommended for the bacteriological examination of cull chicks from egg-type and meat-type chicken flocks and waterfowl, exhibition poultry, and game bird flocks and poults from turkey flocks for salmonella.

(a) For cull chicks, from 25 randomly selected 1- to 5-day-old chicks that have not been placed in a brooding house, prepare 5 organ pools, 5 yolk pools, and 5 intestinal tissue pools as follows. For poults, from a sample of 10 poults that died within 10 days after hatching, prepare organ pools, yolk pools, and intestinal pools as follows:

(1) *Organ pool:* From each of five chicks or two poults, composite and mince 1- to 2-gram samples of heart, lung, liver, and spleen tissues. Include the proximal wall of the bursa of Fabricius for chicks only.

(2) *Yolk pool:* From each of five chicks or two poults, composite and mince 1- to 2-gram samples of the unabsorbed yolk sac or, if the yolk sac is essentially absent, the entire yolk stalk remnant.

(3) *Intestinal pool:* From each of five chicks or two poults, composite and mince approximately 0.5 $cm^2$ sections of the crop wall and 5-mm-long sections of the duodenum, cecum, and ileocecal junction.

* * * * *

(c) For cull chicks, repeat the steps in paragraphs (a) and (b) of this section for each 5-chick group until all 25 chicks have been examined, producing a total of 15 pools (5 organ, 5 yolk, and 5 intestinal). For poults, repeat the steps in paragraphs (a) and (b) of this section for each two-poult group until all the poults in the sample have been examined.

* * * * *

■ 25. A new subpart D is added to read as set forth below.

## Subpart D—Molecular Examination Procedures

### § 147.30 Laboratory procedure recommended for the polymerase chain reaction (PCR) test for Mycoplasma gallisepticum and M. synoviae.

(a) *DNA isolation.* Isolate DNA from 1 mL of eluate from tracheal swabs in PBS or 1 mL of broth culture by a non-phenolic procedure. Centrifuge samples at 14,000 x g for 5 to 10 minutes. Decant supernatant and wash the pellet with 1 mL of PBS. Centrifuge as above and re-suspend the pellet in 25–50 µl of 0.1 percent DEP (Diethyl Pyrocarbonate; Sigma) water. Boil at 120 °C for 10 minutes followed by 10 minutes incubation at 4 °C. Centrifuge as above and transfer the supernatant DNA to a nuclease-free tube. Estimate the DNA concentration and purity by spectrophotometric reading at 260 nm and 280 nm.

(b) *Primer selection.* (1) *M. gallisepticum.* The primer for *M. gallisepticum* should consist of the following sequences:

| | |
|---|---|
| MG-F | 5' GAG CTA ATC TGT AAA GTT GGT C |
| MG-R | 5' GCT TCC TTG CGG TTA GCA AC |

(2) *M. synoviae.* The primer for *M. synoviae* should consist of the following sequences:

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| MS–F | 5' | GAG | AAG | CAA | AAT | AGT | GAT | ATC | A |
| MS–R | 5' | CAG | TCG | TCT | CCG | AAG | TTA | ACA | A |

(c) *Polymerase chain reaction.* (1) Treat each sample (100 to 2000 ng/5 µl) with one of the following 45 µl PCR cocktails:

(i) 5 µl 10x PCR buffer, 1 µl dNTP (10 mM), 1 µl of Reverse primer (50 µM), 1 µl of Forward primer (50 µM), 4 µl $MgCl_2$ (25 mM), 1 µl taq-polymerase (5 U), 32 µl DEP water.

(ii) 18 µl water, 25 µl PCR mix (Promega), 1 µl Reverse primer (50 µM), 1 µl Forward primer (50 µM).

(2) Perform DNA amplification in a Perkin-Elmer 9600 thermocycler or in a Hybaid PCR Express thermocycler.[24] The optimized PCR program is as follows:

| Temperature (°C) | Duration | Cycles |
|---|---|---|
| 94 | 30 seconds | 30–40. |
| 55 | 30 seconds | 30–40. |
| 72 | 1 minute | 30–40. |
| 72 | 5 minutes | 1 (final extension). |

(d) *Electrophoresis.* Mix PCR products (5 to 10 µl) with 2 µl loading buffer (Sigma) and electrophorese on a 2 percent agarose gel containing 0.5 µg/mL ethidium bromide in TAE buffer (40 mM tris; 2 mM EDTA; pH 8.0 with glacial acetic acid) for 30 minutes at 80 V. *M. gallisepticum* (185 bp) and *M. synoviae* (214 bp) amplicons can be visualized under an ultraviolet transilluminator along with the PCR marker (50 to 2000 bp; Sigma).

Done in Washington, DC, this 28th day of December 2006.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E6–22635 Filed 1–11–07; 8:45 am]

**BILLING CODE 3410–34–P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 110

**RIN 3150–AI02**

## Export and Import of Nuclear Material; Exports to Libya Restricted

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its export/import regulations by moving Libya from the list of embargoed destinations to the list of restricted destinations. This amendment is necessary to conform NRC's regulations with U.S. Government foreign policy.

**DATES:** The final rule is effective January 12, 2007.

**ADDRESSES:** Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments can be viewed and downloaded electronically via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *PDR@nrc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Schwartzman, International Relations Specialist, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–2317, e-mail *jks1@nrc.gov,* or Brooke G. Smith, International Policy Analyst, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–2347, e-mail *bgs@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The purpose of this final rule is to revise the NRC's export/import regulations in 10 CFR Part 110, ''Export and Import of Nuclear Equipment and Material,'' with regard to Libya in light of the June 30, 2006 rescission by the Secretary of State of Libya's designation as a State Sponsor of Terrorism. Libya was designated as a State Sponsor of Terrorism in 1979. The Executive Branch has recommended that, in light of the rescission of the designation, 10 CFR Part 110 should be amended by moving Libya from the embargoed destinations list to the restricted destinations list.

This rule moves Libya from the embargoed destinations list for exports in 10 CFR 110.28 to the restricted destinations list in 10 CFR 110.29. This means that exports to Libya of small quantities of certain nuclear materials and byproduct materials may qualify for the NRC general license specified in §§ 110.21 through 110.24.

The NRC staff has determined that moving Libya from the embargoed list to the restricted list is consistent with current U.S. law and policy, and will pose no unreasonable risk to the public health and safety or to the common defense and security of the United States.

Because this rule involves a foreign affairs function of the United States, the notice and comment provisions of the Administrative Procedure Act do not apply (5 U.S.C. 553(a)(1)). This rule will become effective immediately upon publication.

### Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal Agencies use technical standards that are developed or adopted by voluntary

[24] Trade names are used in these procedures solely for the purpose of providing specific information. Mention of a trade name does not constitute a guarantee or warranty of the product by the U.S. Department of Agriculture or an endorsement over other products not mentioned.