DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 82, 145, and 147

[Docket No. 03–017–1]

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend 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 proposed changes were voted on and approved by the voting delegates at the Plan's 2002 National Plan Conference. These changes would keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

DATES: We will consider all comments that we receive on or before July 22, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–017–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–017–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–017–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

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 200, 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. Also, the regulations in 9 CFR part 82, subpart C, which provide for certain testing, restrictions on movement, and other restrictions on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis,* prohibit hatching eggs or newly hatched chicks from egg-type chicken breeding flocks from being moved interstate unless they are classified ''U.S. S. Enteritidis Monitored'' under the Plan or have met equivalent requirements for S. *enteritidis* control, in accordance with 9 CFR 145.23(d), under official Federal or State supervision. (The name of the ''U.S. S. Enteritidis Monitored'' classification has changed; as discussed below, we are proposing to amend part 82, subpart C, to reflect this change.)

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) of the U.S. Department of Agriculture (USDA or the Department) amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

The proposed amendments discussed in this document are consistent with the recommendations approved by the voting delegates to the National Plan Conference that was held from May 30 to June 1, 2002. Participants in the 2002 National Plan Conference represented flockowners, breeders, hatcherymen, and Official State Agencies from all cooperating States. The proposed amendments are discussed in greater detail below.

Update of S. enteritidis Regulations

On February 25, 2002, we published in the **Federal Register** (67 FR 8466–8475, Docket No. 00–075–2) a final rule that, among other things, amended § 145.23(d) by changing the name of the ''U.S. S. Enteritidis Monitored'' classification to ''U.S. S. Enteritidis Clean.'' We made this change because the monitoring and prevention elements of this program had been effective enough that the focus of the program had shifted towards maintaining the freedom of flocks from *Salmonella enteritidis.* At the time we made this change, we should have updated § 82.34 to reflect the classification's new name, but we failed to do so. Therefore, we are proposing to change the reference to ''U.S. S. Enteritidis Monitored'' in § 82.34 to read ''U.S. S. Enteritidis Clean'' to make the regulations consistent.

Blood Testing for Pullorum-Typhoid

We propose to reorganize § 145.14(a), which specifies the procedures for testing flocks for pullorum-typhoid, to improve that paragraph's clarity. The current paragraph does not clearly state the order in which the various tests for pullorum-typhoid should be administered. To save money and time, testing should begin with the rapid serum test, the enzyme-labeled immunosorbent assay, or the rapid whole blood plate test. These tests are considered screening tests and are highly sensitive, which may lead to false positives. To confirm positive results from these tests, the standard tube agglutination test or the microagglutination test must be used. If the standard tube agglutination test or microagglutination test confirms the earlier positive result, flock owners must submit all the reactors to an authorized laboratory for bacteriological examination. If there are four or more reactors in the flock, at least four reactors must be submitted.

Some owners of small flocks who suspect that the standard tube agglutination or microagglutination tests have produced false-positive results may be reluctant to submit reactors for bacteriological examination, because this process requires that the reactors be destroyed. In such a situation, the regulations provide that rather than immediately submitting reactors for bacteriological examination, the owner may isolate the reactors for 30 days, after which they must be retested. If the

reactors continue to test positive, it is mandatory that the reactors be submitted for bacteriological examination.

While these procedures are enumerated in the current regulations, their presentation is somewhat unclear, with the result that tests may be administered in improper order and reactors may be destroyed unnecessarily for the purposes of bacteriological examination. The proposed reorganization of § 145.14(a) is intended to eliminate that possibility by making the regulations easier to understand.

Additionally, in the current regulations, the procedures for testing for pullorum-typhoid (§ 145.14(a)(9)) are presented after the procedures in § 145.14(a)(7) by which a flock may be determined to be free of pullorum-typhoid once a flock has tested positive for this disease. We propose to reorder these paragraphs to reflect the order in which these procedures would be undertaken by flockowners.

Minimum Weight of Hatching Eggs

At one time, the Plan served as a certification program for breeders, determining the required characteristics for saleable hatching eggs of various types. Over the years, the Plan's focus shifted towards preventing the establishment and spread of poultry diseases. The poultry industry has developed its own standards for hatching eggs, and these standards are widely accepted among producers. Therefore, we believe that the NPIP requirements for the minimum weights of hatching eggs that are part of the participation criteria for certain Plan programs are no longer applicable or necessary and should be removed from the regulations.

In § 145.22, we propose to remove paragraphs (a) and (b), which require, respectively, that the minimum weight of hatching eggs sold from egg type chicken breeding flocks shall be 11/22 ounces, unless otherwise specified by the purchaser of the eggs, and that Mediterranean breed eggs shall be reasonably free from tints. In § 145.32, we propose to remove paragraph (a), which requires that the minimum weight of hatching eggs sold from meat type chicken breeding flocks shall be 1 10/12 ounces, except as otherwise specified by the purchaser of the eggs. In § 145.42, we propose to remove paragraph (b), which requires that the minimum weight of hatching eggs from turkey breeding flocks that are shipped interstate shall be 2 ounces for small varieties and 2½ ounces for large varieties, unless otherwise specified by the purchaser of the eggs.

Flock Sampling Levels for M. Gallisepticum and M. Synoviae Programs

For both the U.S. M. Gallisepticum Clean and U.S. M. Synoviae Clean programs, as provided in § 145.33(c) and (e), respectively, we propose to modify the current requirements for testing male breeding birds for the diseases before adding these birds to a participating multiplier breeding flock. Instead of requiring that 3 percent of the male breeding birds be tested, we would require that 30 of these birds be tested, or, if fewer than 30 birds are being introduced, that all of these birds be tested. We believe that the 3 percent standard, if used when fewer than 1,000 male breeding birds are being added to a participating flock, can result in sample sizes that are not large enough for the test results to be statistically significant. Requiring that 30 male breeding birds be tested (or that all of the male breeding birds be tested if fewer than 30 are being introduced) would provide greater assurance that the male breeding birds being introduced are free of these diseases.

We also propose to amend § 145.33(c) and (e) by inserting a reference to the diagnostic procedure in § 145.14(b) for *M. gallisepticum* and *M. synoviae* to clarify that if the male breeding birds are tested serologically, the test must be carried out as prescribed in § 145.14(b).

For both the U.S. M. Gallisepticum Monitored and U.S. M. Synoviae Monitored programs, as provided in § 145.33(j) and (k), respectively, we propose to increase the sampling level required to retain this classification from 20 birds, 10 from the front half of the house and 10 from the back half of the house, to 30 birds, 15 from the front of the house and 15 from the back of the house. We believe that 20 birds is an insufficient sample size for testing for these diseases, and that the proposed requirement that 30 birds be tested would provide more useful results.

Restrictions on Animal Protein in Mash and Pellet Feed

We propose to eliminate the restrictions on the use of animal protein in mash and pelletized feed that are currently found in the regulations governing the U.S. S. Enteriditis Clean program, in paragraphs § 145.33(h)(1)(ii)(A) and (h)(1)(ii)(B); the U.S. Salmonella Monitored program, in paragraph § 145.33(i)(1)(iii); and the U.S. Sanitation Monitored program for turkeys, in § 145.43(f)(3). Currently, animal protein used in either pelletized or mash feed under these programs must be produced under the Salmonella Education/Reduction program of the Animal Protein Products Industry (APPI) or, for the U.S. S. Enteriditis Clean and U.S. Sanitation Monitored programs, the Fishmeal Inspection Program of the National Marine Fisheries Service (NMFS). We are proposing to remove these restrictions and allow the use of any animal protein for feed under these programs.

We originally required animal protein used in pelletized or mash feed for poultry to be produced under the APPI or NMFS programs because we believed that such a requirement was an effective way to lower the risk that animal protein used in feed was contaminated with *Salmonella.* However, since that requirement was instituted, technological methods, such as thermal lethality treatments, and chemical products have been introduced to control the incidence of *Salmonella* in protein feed. These technological and chemical methods are generally more effective than the program controls in ensuring that *Salmonella* is not present in protein used in feed.

In fact, the control programs have often proven ineffective. For example, in 2000, Salmonella Education/Reduction Program test results showed that 20 percent of tested protein samples were positive for *Salmonella.* This level of positive results is not significantly different from the level of *Salmonella* positive results found among renderers and processors that did not operate under the APPI program. Removing the requirement that protein used in feed be produced under the APPI or NMFS programs, therefore, is not likely to reduce the quality of protein used in feed, and to the extent that it encourages the use of the more effective technological and chemical *Salmonella* control methods, is likely to increase that quality.

In addition, we propose to replace the current thermal lethality treatment for pelletized feed specified in the U.S. Sanitation Monitored program for turkeys by providing for the use of any of three specified thermal lethality treatments or any other equivalent thermal lethality treatment. Alternatively, we would require that a Food and Drug Administration-approved *Salmonella* control product be added to all finished pellets or conditioned mash feed. Turkey flocks are more likely than other poultry flocks to be fed animal protein; we have therefore determined that our regulations for treating animal protein feed for turkeys should be as specific as possible to ensure that the animal protein feed prepared for turkey flocks carries the lowest possible risk of

infecting turkeys with *Salmonella.* The proposed additional requirements would further reduce the chance that turkey feed is infected with *Salmonella* under this program.

Reinstatement Procedure for U.S. S. Enteriditis Clean Program

We propose to add a provision for reinstatement to the U.S. S. Enteriditis Clean program for meat type chicken breeding flocks and products in a new paragraph § 145.33(h)(6). This reinstatement provision would require breeders of meat type flocks to undertake corrective measures to ensure that a flock that has been removed from the U.S. S. Enteriditis Clean program due to infection is no longer affected by that bacterium, in addition to any other measures that may be specified by the Official State Agency. These measures would include testing and slaughtering infected birds based on the testing of every bird in the flock, vaccination, medication, cleaning and disinfection of houses, rodent control, and movement to premises that have been determined to be environmentally negative for *S. Enteriditis* as described in § 147.12(a). Once these measures have been performed, the flock would be tested and environmental drag swabs would be taken. If both tests do not indicate the presence of *S. Enteriditis*, the flock would be reinstated into the program.

Currently, there is no reinstatement provision for the U.S. S. Enteriditis Clean program, and as a result primary breeders who wish to participate in the program must destroy foundation level primary breeding birds if those birds are part of a flock affected with *S. enteritidis.* Such birds often have valuable, specific traits that cannot be duplicated, and their destruction can result in considerable losses to the primary breeder. Allowing for reinstatement of flocks into the U.S. S. Enteriditis Clean program under the proposed conditions would enable primary breeders to retain their foundation level primary breeding birds if they are not infected with *S. Enteriditis* while continuing to ensure that the flocks that participate in the U.S. S. Enteritidis Clean program are kept free of this disease.

New U.S. Avian Influenza Clean Programs

We propose to add new U.S. Avian Influenza Clean programs to the regulations governing turkey breeding flocks and products in § 145.43(g) and to the regulations governing waterfowl, exhibition poultry, and game breeding flocks and products in § 145.53(e). Both of these programs are modeled on the existing U.S. Avian Influenza Clean program for meat type chicken breeding flocks and products, set out at § 145.33(l). Like the U.S. Avian Influenza Clean program for meat type chicken breeding flocks and products, the programs for turkey breeding flocks and products and waterfowl, exhibition poultry, and game breeding flocks and products would require that a sample of at least 30 birds must test negative for antibodies to avian influenza, as indicated by the agar gel immunodiffusion test specified in § 147.9. For primary breeding flocks, the maximum interval between tests would be 90 days; for multiplier breeding flocks, the maximum interval between tests would be 180 days. The program for turkeys would additionally require that if a killed influenza vaccine from a subtype other than the H5 or H7 subtypes is used for turkeys, the hemagglutinin and the neruaminidase subtypes of the vaccine must be reported to the Official State Agency for laboratory and reporting purposes.

Both of these U.S. Avian Influenza Clean programs are intended to provide flockowners with an optional way to improve their flocks' marketability in foreign countries. A program requiring regular testing of turkeys for avian influenza with the agar gel immunodiffusion test would provide a useful certification to turkey flockowners seeking to expand their exports to countries that required such testing.

Since most countries require that waterfowl, exhibition poultry, and game breeding birds be tested for avian influenza before they can be imported, the avian influenza testing program for those birds would not only provide exporters with an additional useful certification but could also save time and expense at export.

Section 145.10 contains illustrative designs or emblems that correspond to the Plan's various classifications. The design for the U.S. Avian Influenza Clean program is found in § 145.10(r), which currently reads ''*U.S. Avian Influenza Clean.* (*See* §§ 145.23(h) and 145.33(l).)'' Because we are proposing to establish a U.S. Avian Influenza Clean program for waterfowl, exhibition poultry, and game breeding birds, we would amend § 145.10(r) so that it also refers to § 145.53(e), which is the section that would contain the requirements of the U.S. Avian Influenza Clean program for waterfowl, exhibition poultry, and game breeding birds.

We are proposing to refer to the similar program for turkeys as the U.S. H5/H7 Avian Influenza Clean program, because its intent is to determine the presence of the H5 and H7 subtypes of avian influenza in participating flocks. However, § 145.10 does not currently contain an illustrative design that bears this title. Therefore, we are proposing to add a new paragraph (t) to § 145.10 which would read ''*U.S. H5/H7 Avian Influenza Clean.* (*See* § 145.43(g).)'' This paragraph would contain an appropriate illustrative design for use with this program.

Isolation and Identification of Salmonella

We propose to modify the regulations governing the isolation and identification of *Salmonella* in § 147.12(b) by adding a rapid diagnostic method involving a rapid ruthenium-labeled *Salmonella* sandwich immunoassay to the list of approved diagnostic methods. The steps involved in using this method would be detailed in a new paragraph § 147.12(b)(3). The two other approved methods, tetrathionate enrichment with delayed secondary enrichment and pre-enrichment followed by selective enrichment (listed in paragraphs (b)(1) and (b)(2) of § 147.12, respectively), both require more time and resources to accomplish than the rapid ruthenium-labeled *Salmonella* sandwich immunoassay, while the latter method provides equally accurate results. Adding this method to the list of approved methods would provide greater flexibility to diagnostic laboratories while continuing to ensure accurate results in testing.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

The objective of the NPIP is to provide a cooperative Industry-State-Federal program through which new technology can be effectively applied to the improvement of poultry and poultry products throughout the country. The provisions of the Plan, developed jointly by industry members and State and Federal officials, establish standards for the evaluation of poultry breeding stock and hatchery products with respect to freedom from hatchery-disseminated diseases. Participation in the program is voluntary. Currently, the NPIP has active control programs for pullorum, fowl typhoid, avian mycoplasmas, *Salmonella enteritidis,* and avian influenza.

Periodically, provisions of the Plan are amended to keep current with the development of the poultry industry and the utilization of new information as it becomes available, based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who take part in the Plan's National Plan Conference meetings. Accordingly, this proposed rule would change some of the Plan's provisions to keep the provisions of the Plan current with changes in the poultry industry, establish new certification programs, modify current disease control practices, and provide for the use of new sampling and testing procedures. The proposed changes were voted on and approved by the voting delegates at the Plan's 2002 National Plan Conference. The proposed changes have been generated by industry representatives, Official State Agencies, or Federal representatives with the goal of reducing disease risk and increasing product marketability.

The United States is the world's largest producer and exporter of poultry meat and the second-largest egg producer. In 2001, U.S. producers held a total of 441.1 million chickens, excluding commercial broilers, whose estimated value was $1.068 billion. Broiler production, which primarily comes from chickens raised under contract with a broiler processor, totaled 8.262 billion broilers with a combined live weight of 41.5 billion pounds. The value of broiler production for that year was $13.9 billion. The United States is also the world's largest turkey producer. In 2001, turkey production totaled 269 million birds with a combined live weight of 6.98 billion pounds and value of $2.8 billion. Finally, in 2000, the United States produced approximately 84.4 million eggs worth an estimated $4.3 billion.[1]

The U.S. poultry industry plays a significant role in international trade. In fact, the United States is the world's largest exporter of both broilers and turkey products. In 2001, broiler exports totaled 5.5 billion pounds, valued at $1.8 billion. Turkey exports for the same year totaled 487 million pounds and were valued at $257 million. In addition, 191 million dozen eggs and egg products were exported in 2001.[2]

Participation in the Plan serves as a ''seal of approval'' for eggs and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. As such, while participation in the Plan is voluntary, many foreign nations, such as Russia, do not accept poultry products unless they have originated from flocks participating in the Plan.[3] Consequently, participation in the Plan increases product marketability both domestically and internationally, which in turn increases the economic benefits received by the poultry industry from participation in the Plan.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their regulations on small entities. Under the North American Industry Classification System (NAICS) used by the Small Business Administration, chicken egg operations are considered small entities if they have $10.5 million or less in annual receipts (NAICS code 112310). All other poultry products and meat operations are considered small entities if they have $750,000 or less in annual receipts (NAICS code 112320).[4] As this regulation only seeks to make minor changes in a continuing program in an effort to better safeguard poultry health, the economic effects on poultry producers are not expected to be significant.

The last agricultural census estimated there were 63,246 domestic poultry and poultry products farms.[5] Unfortunately, the size distribution of these farms is not known. However, because most poultry production is carried out by small farms working under contract with larger processors or marketing firms, we can assume a fair amount of poultry production is carried out by small operations.

However, only those producers that voluntarily participate in the Plan will be affected. As is the case in the majority of voluntary control programs, individuals are likely to remain in the program as long as the costs of implementing the program are lower than the added benefits they receive from the program. In any event, the proposed changes would not have a significant economic effect on Plan participants.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed 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

9 CFR Part 82

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

9 CFR Parts 145 and 147

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

Accordingly, we propose to amend 9 CFR parts 82, 145, and 147 as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

1. The authority citation for part 82 would continue to read as follows:

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

§ 82.34 [Amended]

2. Section 82.34 would be amended by removing the word ''Monitored'' and adding the word ''Clean'' in its place.

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

3. The authority citation for part 145 would continue to read as follows:

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

4. Section 145.10 would be amended as follows:

a. In paragraph (r), by removing the word ''and'' and adding a comma in its

[1] USDA, *Agricultural Statistics 2002.* Washington, DC: National Agricultural Statistics Service, 2002.

[2] USDA, *Poultry and Eggs: Trade.* Washington, DC: Economic Research Service, 2002.

[3] USDA, *Export Requirements for Russia.* Washington, DC: Food Safety and Inspection Service, 2003.

[4] Table of Size Standards based on NAICS 2002. Washington, DC: U.S. Small Business Administration, 2002.

[5] USDA, *1997 Census of Agriculture.* Washington, DC: National Agricultural Statistics Service.

place and by adding the words ‘‘, and 145.53(e)’’ after the citation ‘‘145.33(l)’’.

b. By adding a new paragraph (t) to read as set forth below.

§ 145.10 Terminology and classification; flocks, products, and States.

* * * * *

(t) *U.S. H5/H7 Avian Influenza Clean.* (*See* § 145.43(g).)

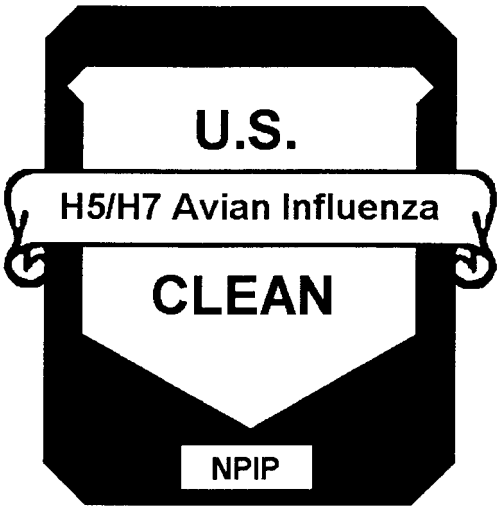

FIGURE 21

5. Section 145.14 would be amended as follows:

a. By removing paragraph (a)(9).

b. By redesignating paragraphs (a)(6) through (a)(8) as paragraphs (a)(7) through (a)(9), respectively.

c. In newly redesignated paragraph (a)(7), in the first sentence, by removing the words ‘‘reactors are found in serum or blood from any flock, or’’.

d. By adding a new paragraph (a)(6) to read as set forth below.

§ 145.14 Blood testing.

* * * * *

(a) * * *

(6) Poultry from flocks undergoing qualification testing for participation in the Plan that have a positive reaction to an official blood test named in paragraph (a)(1) of this section shall be evaluated for pullorum-typhoid as follows:

(i) Serum samples that react on rapid serum test or enzyme-labeled immunosorbent assay test (ELISA), or blood from birds that react on the stained antigen, rapid whole-blood test for all birds except turkeys, shall be tested with either the standard tube agglutination test or the microagglutination test.

(ii) Reactors to the standard tube agglutination test (in dilutions of 1:50 or greater) or the microagglutination test (in dilutions of 1:40 or greater) shall be submitted to an authorized laboratory for bacteriological examination. If there are more than four reactors in a flock, a minimum of four reactors shall be submitted to the authorized laboratory; if the flock has four or fewer reactors, all of the reactors must be submitted. The approved procedure for bacteriological examination is set forth in § 147.11 of this chapter. When reactors are submitted to the authorized laboratory within 10 days of the date of reading an official blood test named in paragraph (a)(6)(i) of this section, and the bacteriological examination fails to demonstrate pullorum-typhoid infection, the Official State Agency shall presume that the flock has no pullorum-typhoid reactors.

(iii) If a flock owner does not wish to submit reactors for bacteriological examination, then the reactors shall be isolated and retested within 30 days using an official blood test named in paragraph (a)(1) of this section. If this retest is positive, additional examination of the reactors and flock will be performed in accordance with paragraph (a)(6)(ii) of this section. During this 30-day period, the flock must be maintained under a security system, specified or approved by the Official State Agency, that will prevent physical contact with other birds and assure that personnel, equipment, and supplies that could be a source of pullorum-typhoid spread are sanitized.

* * * * *

§ 145.22 [Amended]

6. In § 145.22, paragraphs (a) and (b) would be removed and paragraphs (c) through (e) would be redesignated as paragraphs (a) through (c), respectively.

§ 145.32 [Amended]

7. In § 145.32, paragraph (a) would be removed and paragraphs (b) through (d) would be redesignated as paragraphs (a) through (c), respectively.

8. Section 145.33 would be amended as follows:

a. By revising paragraphs (c)(4), (e)(4), (h)(1)(ii)(A), (h)(1)(ii)(B), (i)(1)(iii), (j)(1), and (k)(1) to read as set forth below.

b. By adding a new paragraph (h)(6) to read as set forth below.

§ 145.33. Terminology and classification; flocks and products.

* * * * *

(c) * * *

(4) Before male breeding birds may be added to a participating multiplier breeding flock, a sample of at least 30 birds to be added, with a minimum of 10 birds per pen, shall be tested for *M. gallisepticum* as provided in § 145.14(b), or by a polymerase chain reaction (PCR)-based procedure approved by the Department. If fewer than 30 male breeding birds are being added, all the birds shall be tested as described above. The male birds shall be tested no more than 14 days prior to their intended introduction into the flock. If the serologic testing of the birds yields hemagglutination inhibition titers of 1:40 or higher as provided in § 145.14(b), or if the PCR testing is positive for *M. gallisepticum,* the male birds may not be added to the flock and must be either retested or destroyed.

* * * * *

(e) * * *

(4) Before male breeding birds may be added to a participating multiplier breeding flock, a sample of at least 30 birds to be added, with a minimum of 10 birds per pen, shall be tested for *M. synoviae* as provided in § 145.14(b) or by a polymerase chain reaction (PCR)-based procedure approved by the Department. If fewer than 30 male breeding birds are being added, all the birds shall be tested as described above. The male birds shall be tested no more than 14 days prior to their intended introduction into the flock. If the serologic testing of the birds yields hemagglutination inhibition titers of 1:40 or higher as provided in § 145.14(b), or if the PCR testing is positive for *M. synoviae,* the male birds may not be added to the flock and must be either retested or destroyed.

* * * * *

(h) * * *

(1) * * *

(ii) * * *

(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 lb 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 Food and Drug Administration.

* * * * *

(6) A pedigree, experimental, or great-grand parent 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 chapter.

(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 chapter. 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 chapter 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 (h)(1)(v) of this section every 30 days and no positive samples are found and the flock meets the requirements set forth in § 145.33(h).

(i) * * *

(1) * * *

(iii) 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 lb pressure during the manufacturing process;

* * * * *

(j) * * * (1) A multiplier breeding flock in which all birds or a sample of at least 30 birds per house 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 30 birds per house shall be tested again at 36 to 38 weeks and at 48 to 50 weeks at a minimum: *And provided further,* That each 30-bird sample should come from 2 locations within the house (15 from the front half of the house and 15 from the back half of the house). A representative sample of males and females should be sampled. The samples shall be marked ''male'' or ''female.''

* * * * *

(k) * * * (1) A multiplier breeding flock in which all birds or a sample of at least 30 birds per house 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 minimum of 30 birds per house shall be tested again at 36 to 38 weeks and at 48 to 50 weeks at a minimum: *And provided further,* That each 30-bird sample should come from 2 locations within the house (15 from the front half of the house and 15 from the back half of the house). A representative sample of males and females should be sampled. The samples shall be marked ''male'' or ''female.''

* * * * *

§ 145.42 [Amended]

9. In § 145.42, paragraph (b) would be removed and paragraphs (c) and (d) would be redesignated as paragraphs (b) and (c), respectively.

10. Section 145.43 would be amended as follows:

a. By revising paragraph (f)(3) to read as set forth below.

b. By adding a new paragraph (g) to read as set forth below.

§ 145.43 Terminology and classification; flocks and products.

* * * * *

(f) * * *

(3) Feed for turkeys in the candidate and breeding flock should meet the following requirements:

(i) All feed manufactured in pellet form must have a maximum moisture content of 13.5 percent upon delivery to the farm. It should have been preconditioned to the minimum of one of the following parameters before pelleting:

(A) Feed is to reach a minimum temperature of 185 °F for a minimum of 6 minutes of retention in the conditioning chamber. The conditioned mash feed moisture must be a minimum of 16 percent during the conditioning process. This method utilizes time retention to allow permeation to the center core of each feed particle; or

(B) The feed is to be pressurized in order to expedite the transfer of the heat and moisture to the core of each feed particle. The feed should be conditioned to the parameters of a minimum of 16 percent moisture and 200 °F; or

(C) The feed should be submitted to pressurization to the extent that the initial feed temperature rises to 235 °F for 4 seconds; or

(D) The feed should be submitted to an equivalent thermal lethality treatment; or

(E) A Food and Drug Administration (FDA)-approved product for *Salmonella* control should be added to the finished pellets.

(ii) Mash feed should be treated with an FDA-approved *Salmonella* control product.

(iii) All feed is to be stored and transported in such a manner as to prevent possible contamination with pathogenic bacteria.

(iv) FDA-approved products for *Salmonella* control may be added to either unfinished or finished feed.

* * * * *

(g) *U.S. H5/H7 Avian Influenza Clean.* This program is intended to be the basis from which the turkey breeding industry may conduct a program for the prevention and control of the H5 and H7 subtypes of avian influenza. It is intended to determine the presence of the H5 and H7 subtypes of avian influenza in breeding turkeys through routine serological surveillance of each participating breeding flock. A flock, and the hatching eggs and poults produced from it, will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a primary breeding flock in which a minimum of 30 birds has been tested negative for antibodies to the H5 and H7 subtypes of avian influenza by the agar gel immunodiffusion test specified in § 147.9 of this chapter 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; 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 are tested within each 90-day period.

(2) It is a multiplier breeding flock in which a minimum of 30 birds has been tested negative for antibodies to the H5 and H7 subtypes of avian influenza by the agar gel immunodiffusion test specified in § 147.9 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 180 days; 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 are tested within each 180-day period.

(3) For both primary and multiplier breeding flocks, if a killed influenza vaccine against avian influenza subtypes other than H5 and H7 is used, then the hemagglutinin and the neuraminidase subtypes of the vaccine must be reported to the Official State Agency for laboratory and reporting purposes.

* * * * *

11. In § 145.53, a new paragraph (e) would be added to read as follows:

§ 145.53 Terminology and classification; flocks and products.

* * * * *

(e) *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 waterfowl, exhibition poultry and game bird breeding flocks 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 it has met one of the following requirements:

(1) It is a primary breeding flock in which a minimum of 30 birds has been tested negative for antibodies to avian influenza by the agar gel immunodiffusion test specified in § 147.9 of this chapter 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; 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 are tested within each 90-day period.

(2) It is a multiplier breeding flock in which a minimum of 30 birds has been tested negative for antibodies to avian influenza by the agar gel immunodiffusion test specified in § 147.9 of this chapter 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 180 days; 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 unvaccinated sentinel birds are tested within each 180-day period.

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

12. The authority citation for part 147 would continue to read as follows:

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

13. Section 147.12 would be amended as follows:

a. In paragraph (b), introductory text, the words ''or the rapid detection method'' would be added after the word ''procedures.''

b. A new paragraph (b)(3) would be added to read as set forth below.

§ 147.12 Procedures for collection, isolation, and identification of Salmonella from environmental samples, cloacal swabs, chick box papers, and meconium samples.

* * * * *

(b) * * *

(3) *Approved rapid detection method.* After selective enrichment, a rapid ruthenium-labeled *Salmonella* sandwich immunoassay may be used to determine the presence of *Salmonella.* Positive samples from the immunoassay are then inoculated to selective plates (such as BGN and XLT4). Incubate the plates at 37 °C for 20 to 24 hours. Inoculate three to five *Salmonella*-suspect colonies from the plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Incubate the slants at 37 °C for 20 to 24 hours. Screen colonies by serological (*i.e.*, serogroup) and biochemical (*e.g.*, API) procedures as shown in illustration 2. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

* * * * *

Done in Washington, DC, this 19th day of May 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–82–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes. This proposal would require a one-time visual inspection to determine if discrepant circuit breakers are installed, and corrective action if