

§ 146.1

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

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**Subpart A—General Provisions**

**§ 146.1 Definitions.**

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

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

*Affiliated flock.* A meat-type flock that is owned by or has an agreement to participate in the Plan with a slaughter plant and that participates in the Plan through that slaughter plant.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*Authorized Agent.* Any person designated under §146.10(a) to perform functions under this part.

*Authorized laboratory.* An authorized laboratory is a laboratory that meets the requirements of §147.51 and is thus qualified to perform the assays described in part 147 of this subchapter.

*Classification.* A designation earned by participation in a Plan program.

*Commercial meat-type flock.* All of the meat-type chickens, meat-type turkeys, commercial upland game birds, or commercial waterfowl on one farm. However, at the discretion of the Official State Agency, any group of poultry which is segregated from another group in a manner sufficient to prevent the transmission of H5/H7 LPAI and has been so segregated for a period of at least 21 days may be considered as a separate flock.

*Commercial table-egg layer flock.* All table-egg layers of one classification in one barn or house.

*Commercial table-egg layer premises.* A farm containing contiguous flocks of commercial table-egg layers under common ownership.

*Department.* The U.S. Department of Agriculture.

*Domesticated.* Propagated and maintained under the control of a person.

*Equivalent.* Requirements which are equal to or exceed the program, conditions, criteria, or classifications with which they are compared, as determined by the Official State Agency and with the concurrence of the Service.

*H5/H7 low pathogenic avian influenza (LPAI).* An infection of poultry caused by an influenza A virus of H5 or H7 subtype that has an intravenous pathogenicity index test in 6-week-old chickens less than 1.2 or any infection with

influenza A viruses of H5 or H7 subtype for which nucleotide sequencing has not demonstrated the presence of multiple basic amino acids at the cleavage site of the hemagglutinin.

*H5/H7 LPAI virus infection (infected).* Poultry will be considered to be infected with H5/H7 LPAI for the purposes of this part if:

(1) H5/H7 LPAI virus has been isolated and identified as such from poultry; or

(2) Viral antigen or viral RNA specific to the H5 or H7 subtype of AI virus has been detected in poultry; or

(3) Antibodies to the H5 or H7 subtype of the AI virus that are not a consequence of vaccination have been detected in poultry. If vaccine is used, methods should be used to distinguish vaccinated birds from birds that are both vaccinated and infected. In the case of isolated serological positive results, H5/H7 LPAI infection may be ruled out on the basis of a thorough epidemiological investigation that does not demonstrate further evidence of H5/H7 LPAI infection.

*Official State Agency.* The State authority recognized by the Department to cooperate in the administration of the Plan.

*Person.* A natural person, firm, or corporation.

*Plan.* The provisions of the National Poultry Improvement Plan contained in this part.

*Poultry.* Domesticated chickens and turkeys that are bred for the primary purpose of producing eggs or meat.

*Program.* Management, sanitation, testing, and monitoring procedures which, if complied with, will qualify, and maintain qualification for, designation of a flock, a slaughter plant, or a State by an official Plan classification and illustrative design, as described in §146.9 of this part.

*Service.* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*State.* Any of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States, or any territory or possession of the United States.

*State Inspector.* Any person employed or authorized under §146.10(b) to perform functions under this part.

*United States.* All of the States.

[71 FR 56328, Sept. 26, 2006, as amended at 74 FR 14715, Apr. 1, 2009]

#### § 146.2 Administration.

(a) The Department cooperates through a Memorandum of Understanding with the Official State Agency in the administration of the Plan. In the Memorandum of Understanding, the Official State Agency must designate a contact representative to serve as a liaison between the Service and the Official State Agency.

(b) The administrative procedures and decisions of the Official State Agency are subject to review by the Service. The Official State Agency shall carry out the administration of the Plan within the State according to the applicable provisions of the Plan and the Memorandum of Understanding.

(c)(1) An Official State Agency may accept for participation a commercial table-egg layer flock or a commercial meat-type flock (including an affiliated flock) located in another participating State under a mutual understanding and agreement, in writing, between the two Official State Agencies regarding conditions of participation and supervision.

(2) An Official State Agency may accept for participation a commercial table-egg layer flock or a commercial meat-type flock (including an affiliated flock) located in a State that does not participate in the Plan under a mutual understanding and agreement, in writing, between the owner of the flock and the Official State Agency regarding conditions of participation and supervision.

(d) The Official State Agency of any State may adopt regulations applicable to the administration of the Plan in such State further defining the provisions of the Plan or establishing higher standards, compatible with the Plan.

(e) An authorized laboratory will follow the laboratory protocols outlined in part 147 of this chapter when determining the status of a participating flock with respect to an official Plan classification.