

PART 146—NATIONAL POULTRY IMPROVEMENT PLAN FOR COMMERCIAL POULTRY

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

SOURCE: 71 FR 56328, Sept. 26, 2006, unless otherwise noted.

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 common age or pullet source on one premises.

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

Commercial table-egg layer pullet flock. A table-egg layer flock prior to the onset of egg production.

Cooperating State Agency. Any State authority recognized by the Department to cooperate in the administration of the provisions of part 56 of this chapter. This may include the State animal health authority or the Official State Agency.

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 in 6-week-old chickens less than 1.2 or less than 75 percent mortality in 4- to 8-week-old chickens infected intravenously, or an infection with influenza A viruses of H5 or H7 subtype with a cleavage site that is not consistent with a previously identified highly pathogenic avian influenza virus.

H5/H7 LPAI virus infection (infected). (1) Poultry will be considered to be infected with H5/H7 LPAI for the purposes of this part if:

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

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

(iii) 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, as determined by APHIS.

(2) The official determination that H5/H7 LPAI virus has been isolated and

identified, viral antigen or viral RNA specific to the H5 or H7 subtype of AI virus has been detected, or antibodies to the H5 or H7 subtype of AI virus have been detected may only be made by the National Veterinary Services Laboratories.

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; 75 FR 10658, Mar. 9, 2010; 76 FR 15796, Mar. 22, 2011]

§ 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

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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.

(f) Cooperating State Agencies will be responsible for making the determination to request Federal assistance under part 56 of this chapter in the event of an outbreak of H5/H7 LPAI.

[71 FR 56328, Sept. 26, 2006, as amended at 74 FR 14716, Apr. 1, 2009; 75 FR 10658, Mar. 9, 2010]

§ 146.3 Participation.

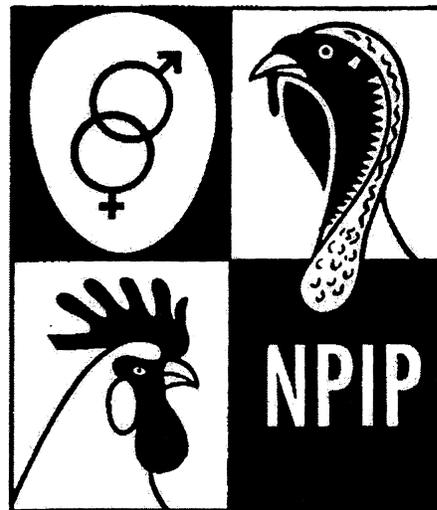
(a) Any table-egg producer, raised-for-release upland game bird premises, and raised-for-release waterfowl premises and any commercial upland game bird, commercial waterfowl, meat-type chicken or meat-type turkey slaughter plant, including its affiliated flocks, may participate in the Plan when the producer or plant has demonstrated, to the satisfaction of the Official State Agency, that its facilities, personnel,

and practices are adequate for carrying out the relevant special provisions of this part and has signed an agreement with the Official State Agency to comply with the relevant special provisions of this part.

(b) Each participant shall comply with the Plan throughout the operating year, or until released by the Official State Agency.

(c) A participating slaughter plant shall participate with all of the commercial upland game bird, commercial waterfowl, meat-type chicken and/or meat-type turkey flocks that are processed at the facility, including affiliated flocks. Affiliated flocks must participate through a written agreement with a participating slaughter plant that is approved by the Official State Agency.

(d) Participation in the Plan shall entitle the participant to use the Plan emblem reproduced as follows:



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FIGURE 1.

(e) Participation in the NPIP by commercial table-egg layers will cease after September 26, 2008 unless the majority of the commercial table-egg layer delegates vote to continue the program in accordance with subpart E of part 147 of this chapter at a National Plan Conference.

[71 FR 56328, Sept. 26, 2006, as amended at 74 FR 14716, Apr. 1, 2009]

§ 146.4 General provisions for all participating flocks and slaughter plants.

(a) Records that establish the identity of products handled shall be maintained in a manner satisfactory to the Official State Agency.

(b) Material that is used to advertise products shall be subject to inspection by the Official State Agency at any time.

(c) Advertising must be in accordance with the Plan, and applicable rules and regulations of the Official State Agency and the Federal Trade Commission. A participant advertising products as being of any official classification may include in their advertising reference to associated or franchised slaughter or production facilities only when such facilities produce products of the same classification.

(d) Each participant shall be assigned a permanent approval number by the Service. This number, prefaced by the numerical code of the State, will be the official approval number of the participant and may be used on each certificate, invoice, shipping label, or other document used by the participant in the sale of the participant's products. Each Official State Agency which requires an approval number for out-of-State participants to ship into its State shall honor this number.

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56328, Sept. 26, 2006, as amended at 75 FR 10658, Mar. 9, 2010]

§ 146.5 Specific provisions for all participating flocks.

(a) Participating flocks, and all equipment used in connection with the flocks, shall be separated from non-participating flocks in a manner acceptable to the Official State Agency.

(b) Poultry equipment, and poultry houses and the land in the immediate vicinity thereof, shall be kept in sanitary condition as recommended in § 147.21(c) of this subchapter.

§ 146.6 Specific provisions for participating slaughter plants.

(a) Only commercial upland game bird, commercial waterfowl, meat-type

chicken, and meat-type turkey slaughter plants that are under continuous inspection by the Food Safety and Inspection Service of the Department or under State inspection that the Food Safety and Inspection Service has recognized as equivalent to Federal inspection may participate in the Plan.

(b) To participate in the Plan, meat-type chicken, meat-type turkey, and commercial upland game bird and commercial waterfowl slaughter plants must follow the relevant special provisions in §§ 146.33(a), 146.43(a), and 146.53(a), respectively, for sample collection and flock monitoring, unless they are exempted from the special provisions under §§ 146.32(b), 146.42(b), or 146.52(b), respectively.

[74 FR 14716, Apr. 1, 2009]

§ 146.7 Terminology and classification; general.

The official classification terms defined in §§ 146.8 and 146.9 and the various designs illustrative of the official classifications reproduced in § 146.9 may be used only by participants and to describe products that have met all of the specific requirements of such classifications.

§ 146.8 Terminology and classification; slaughter plants.

Participating slaughter plants shall be designated as "U.S. H5/H7 Avian Influenza Monitored." All Official State Agencies shall be notified by the Service of additions, withdrawals, and changes in classification.

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

Participating flocks, products produced from them, and States that have met the requirements of a classification in this part may be designated by the corresponding illustrative design in this section.

(a) *U.S. H5/H7 Avian Influenza Monitored.* (See §§ 146.23(a), 146.33(a), 146.43(a), and 146.53(a) and (b).)

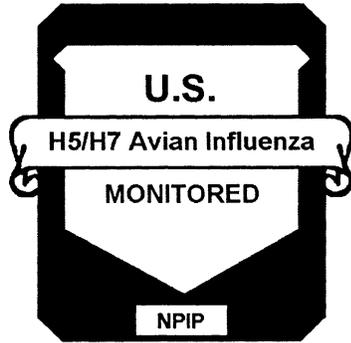


Figure 2.

(b) *U.S. H5/H7 Avian Influenza Monitored State, Layers.* (See §146.24.)

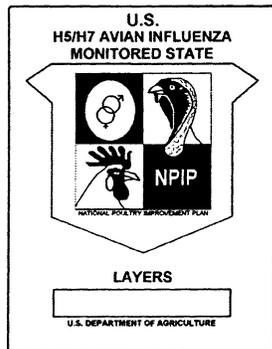


Figure 3.

(c) *U.S. H5/H7 Avian Influenza Monitored State, Turkeys.* (See §146.44.)

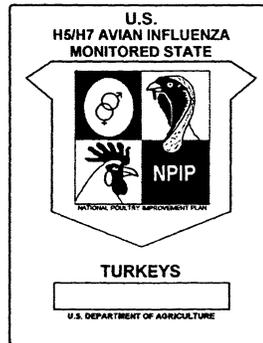


Figure 4.

[71 FR 56328, Sept. 26, 2006, as amended at 74 FR 14716, Apr. 1, 2009; 76 FR 15796, Mar. 22, 2011]

§ 146.10 Supervision.

(a) The Official State Agency may designate qualified persons as Authorized Agents to do the sample collecting provided for in §146.13 of this part.

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

(c) Authorities issued to Authorized Agents or State Inspectors under the provisions of this section shall be subject to cancellation by the Official State Agency on the grounds of incompetence or failure to comply with the provisions of the Plan or regulations of the Official State Agency. Such actions shall not be taken until thorough investigation has been made by the Official State Agency and the authorized person has been given notice of the proposed action and the basis thereof and an opportunity to present his or her views.

§ 146.11 Inspections.

(a) Each participating slaughter plant shall be audited at least once annually or a sufficient number of times each year to satisfy the Official State

Agency that the participating slaughter plant is in compliance with the provisions of this part. The yearly audit will consist of an evaluation of 2 weeks' worth of records, selected at random, of the following data:

(1) The actual flock slaughter date for each flock. This information must come from a verifiable source. Verifiable sources include electronic record systems that have oversight from the Department's Grain Inspectors, Packers and Stockyards Administration or Food Safety and Inspection Service (FSIS) documents such as FSIS Form 9061-2.

(2) Laboratory test results for each flock slaughtered with the sample collection date and test result. The test must be NPIP-approved and performed in an authorized laboratory of the NPIP.

(b) A flock will be considered to be not conforming to protocol if there are no test results available, if the flock was not tested within 21 days before slaughter, or if the test results for the flocks were not returned before slaughter.

(c) Two or more flocks that are found to be not conforming to protocol in the yearly audit for a slaughter plant shall be cause for a deficiency rating for that plant. However, if the root cause for the deficiency was identified, corrected, and documented, the plant will be eligible for an immediate reevaluation of 2 additional weeks' worth of records, again selected at random. If no more than one missed flock is identified in this reevaluation, the plant will be considered in compliance and no further action will be required. Plants found to be deficient must provide a written corrective action plan to the auditor within 2 weeks of receipt of the deficiency rating. A followup audit on the information in paragraphs (a)(1) and (a)(2) of this section will occur within 90 days from the receipt of the corrective action plan. Slaughter plants will retain their classification and may continue to use the Plan emblem in §146.9(a) during this process. A failure on the followup audit may result in disbarment from participation according to the procedures in §146.12.

(d) On-site inspections of any participating flocks and premises will be con-

ducted if a State Inspector determines that a breach of testing has occurred for the Plan programs for which the flocks are certified.

(e) The official H5/H7 LPAI testing records of all participating flocks and slaughter plants shall be examined annually by a State Inspector. Official H5/H7 LPAI testing records shall be maintained for 3 years.

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[71 FR 56328, Sept. 26, 2006, as amended at 74 FR 14716, Apr. 1, 2009; 75 FR 10658, Mar. 9, 2010]

§ 146.12 Debarment from participation.

Participants in the Plan who, after investigation by the Official State Agency or its representative, are notified in writing of their apparent non-compliance with the Plan provisions or regulations of the Official State Agency shall be afforded a reasonable time, as specified by the Official State Agency, within which to demonstrate or achieve compliance. If compliance is not demonstrated or achieved within the specified time, the Official State Agency may debar the participant from further participation in the Plan for such period, or indefinitely, as the Official State Agency may deem appropriate. The debarred participant shall be afforded notice of the bases for the debarment and opportunity to present his or her views with respect to the debarment in accordance with procedures adopted by the Official State Agency. The Official State Agency shall thereupon decide whether the debarment order shall continue in effect. Such decision shall be final unless the debarred participant, within 30 days after the issuance of the debarment order, requests the Administrator to determine the eligibility of the debarred participant for participation in the Plan. In such an event, the Administrator shall determine the matter de novo in accordance with the rules of practice in 7 CFR part 50, which are hereby made applicable to proceedings before the Administrator under this section. The definitions in 7 CFR 50.10 and the following definitions shall apply with respect to terms used in such rules of practice:

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(a) *Administrator* means the Administrator, Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, or any officer or employee to whom authority has heretofore been delegated or to who authority may hereafter be delegated to act in his or her stead.

(b) [Reserved]

§ 146.13 Testing.

(a) *Samples*. Either egg or blood samples may be used for testing. Samples must be collected in accordance with the following requirements:

(1) *Egg samples*. Egg samples must be collected and prepared in accordance with the requirements in §147.8 of this subchapter.

(2) *Blood samples*. Blood samples obtained in the slaughter plant should be collected after the kill cut with birds remaining on the kill line. Hold an open 1.5 mL snap cap micro-centrifuge tube under the neck of the bird directly after the kill cut and collect drips of blood until the tube is half full. Keep the blood tubes at room temperature for the clot to form, which should require a minimum of 4 hours and a maximum of 12 hours. Refrigerate the tube after the clot has formed. Put tubes in a container and label it with plant name, date, shift (A.M. or Day, P.M. or Night), and flock number. After the clot is formed, the clot should be removed by the Authorized Agent in order to ensure good-quality sera. Prepare a laboratory submission form and ship samples with submission forms to the laboratory in a polystyrene foam cooler with frozen ice packs. Submission forms and the manner of submission must be approved by the Official State Agency and the authorized laboratory to ensure that there is sufficient information to identify the samples and that the samples are received in an acceptable condition for further tests to be reliably performed. Blood samples should be shipped routinely to the laboratory. Special arrangements should be developed for samples held over the weekend to ensure that the samples can be reliably tested. Blood samples for official tests shall be drawn by an Authorized Agent or State Inspector.

(b) *Avian influenza*. The official tests for avian influenza are described in paragraphs (b)(1) and (b)(2) of this section:

(1) *Antibody detection tests*—(i) *Enzyme-linked immunosorbent assay (ELISA)*. ELISA must be conducted using test kits approved by the Department and the Official State Agency and must be conducted in accordance with the recommendations of the producer or manufacturer.

(ii) *The agar gel immunodiffusion (AGID) test*. (A) The AGID test must be conducted on all ELISA-positive samples.

(B) The AGID test must be conducted using reagents approved by the Department and the Official State Agency.

(C) Standard test procedures for the AGID test for avian influenza are set forth in §147.9 of this subchapter. The test can be conducted on egg yolk or blood samples.

(D) Positive tests for the AGID must be further tested by Federal Reference Laboratories using appropriate tests for confirmation. Final judgment may be based upon further sampling and appropriate tests for confirmation.

(2) *Agent detection tests*. Agent detection tests may be used to detect influenza A matrix gene or protein but not to determine hemagglutinin or neuraminidase subtypes. Samples for this testing should be collected from naturally occurring flock mortality or clinically ill birds.

(i) *The real time reverse transcriptase/polymerase chain reaction (RRT-PCR) assay*. (A) The RRT-PCR tests must be conducted using reagents approved by the Department and the Official State Agency. The RRT-PCR must be conducted using the National Veterinary Services Laboratories (NVSL) official protocol for RRT-PCR (AVPR01510) and must be conducted by personnel who have passed an NVSL proficiency test.

(B) Positive results from the RRT-PCR must be further tested by Federal Reference Laboratories using appropriate tests for confirmation. Final judgment may be based upon further sampling and appropriate tests for confirmation.

(ii) *USDA-licensed type A influenza antigen capture immunoassay (ACIA)*. (A) The USDA-licensed type A influenza

ACIA must be conducted using test kits approved by the Department and the Official State Agency and must be conducted in accordance with the recommendations of the producer or manufacturer.

(B) Positive results from the ACIA must be further tested by Federal Reference Laboratories using appropriate tests for confirmation. Final judgment may be based upon further sampling and appropriate tests for confirmation.

(3) The official determination of a flock as positive for the H5 or H7 subtypes avian influenza may be made only by NVSL.

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56328, Sept. 26, 2006, as amended at 74 FR 14716, Apr. 1, 2009; 75 FR 10658, Mar. 9, 2010]

§ 146.14 Diagnostic surveillance program for H5/H7 low pathogenic avian influenza.

(a) The Official State Agency must develop a diagnostic surveillance program for H5/H7 low pathogenic avian influenza for all poultry in the State. The exact provisions of the program are at the discretion of the States. The Service will use the standards in paragraph (b) of this section in assessing individual State plans for adequacy, including the specific provisions that the State developed. The standards should be used by States in developing those plans.

(b) Avian influenza must be a disease reportable to the responsible State authority (State veterinarian, etc.) by all licensed veterinarians. To accomplish this, all laboratories (private, State, and university laboratories) that perform diagnostic procedures on poultry must examine all submitted cases of unexplained respiratory disease, egg production drops, and mortality for avian influenza by both an approved serological test and an approved antigen detection test. Memoranda of understanding or other means must be used to establish testing and reporting criteria (including criteria that provide for reporting H5 and H7 low pathogenic avian influenza directly to the Service) and approved testing methods. In addition, States should conduct outreach to poultry producers, especially owners

of smaller flocks, regarding the importance of prompt reporting of clinical symptoms consistent with avian influenza.

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56328, Sept. 26, 2006, as amended at 75 FR 10658, Mar. 9, 2010]

Subpart B—Special Provisions for Commercial Table-Egg Layer Flocks

§ 146.21 Definitions.

Table-egg layer. A domesticated chicken grown for the primary purpose of producing eggs for human consumption.

Table-egg layer pullet. A sexually immature domesticated chicken grown for the primary purpose of producing eggs for human consumption.

[71 FR 56328, Sept. 26, 2006, as amended at 76 FR 15796, Mar. 22, 2011]

§ 146.22 Participation.

(a) Participating commercial table-egg layer flocks shall comply with the applicable general provisions of subpart A of this part and the special provisions of subpart B of this part.

(b) Commercial table-egg laying premises with fewer than 75,000 birds are exempt from the special provisions of subpart B of this part.

§ 146.23 Terminology and classification; flocks and products.

Participating flocks which have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in §146.9 of this part:

(a) *U.S. H5/H7 Avian Influenza Monitored.* This program is intended to be the basis from which the table-egg layer industry may conduct a program to monitor for the H5/H7 subtypes of avian influenza. It is intended to determine the presence of the H5/H7 subtypes of avian influenza in table-egg layers and table-egg layer pullets through routine surveillance of each participating commercial table-egg layer and table-egg layer pullet flock.

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A flock will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) *Table-egg layer pullet flocks.* (i) It is a commercial table-egg layer pullet flock in which a minimum of 11 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in §146.13(b) within 30 days prior to movement; or

(ii) It is a commercial table-egg layer pullet flock that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of avian influenza in which the number of birds tested is equivalent to the number required in paragraph (a)(1)(i) of this section and that is approved by the Official State Agency and the Service.

(2) *Table-egg layer flocks.* (i) It is a commercial table-egg layer flock in which a minimum of 11 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in §146.13(b) within 30 days prior to disposal;

(ii) It is a commercial table-egg layer flock in which a minimum of 11 birds have been tested negative for the H5/H7 subtypes of avian influenza as provided in §146.13(b) within a 12-month period; or

(iii) It is a commercial table-egg layer flock that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of avian influenza in which the number of birds tested is equivalent to the number required in paragraph (a)(2)(i) or paragraph (a)(2)(ii) of this section and that is approved by the Official State Agency and the Service.

(b) [Reserved]

[71 FR 56328, Sept. 26, 2006, as amended at 76 FR 15796, Mar. 22, 2011]

§ 146.24 Terminology and classification; States.

(a) *U.S. H5/H7 Avian Influenza Monitored State, Layers.* (1) A State will be declared a U.S. H5/H7 Avian Influenza Monitored State, Layers when it has been determined by the Service that:

(i) All commercial table-egg layer flocks and all commercial table-egg layer pullet flocks that supply those flocks in production within the State that are not exempt from the special

provisions of this subpart B under §146.22 are classified as U.S. H5/H7 Avian Influenza Monitored under §146.23(a) of this part;

(ii) All egg-type chicken breeding flocks in production within the State are classified as U.S. Avian Influenza Clean under §145.23(h) of this subchapter;

(iii) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency, within 24 hours, the source of all table-egg layer and table-egg layer pullet specimens that were deemed positive on an official test for avian influenza, as designated in §146.13(a) of this chapter;

(iv) All table-egg layer and table-egg layer pullet specimens that were deemed positive on an official test for avian influenza, as designated in §146.13(a) of this chapter, are sent to an authorized laboratory for subtyping; and

(v) All table-egg layer and table-egg layer pullet flocks within the State that are found to be infected with the H5/H7 subtypes of avian influenza are quarantined, in accordance with an initial State response and containment plan as described in part 56 of this chapter and under the supervision of the Official State Agency.

(2) If there is a discontinuation of any of the conditions described in paragraph (a)(1) of this section, or if repeated outbreaks of the H5/H7 subtypes of avian influenza occur in commercial table-egg layer flocks as described in paragraph (a)(1)(i) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. 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 for a hearing in accordance with rules of practice adopted by the Administrator.

(b) [Reserved]

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56328, Sept. 26, 2006, as amended at 75 FR 10658, Mar. 9, 2010; 76 FR 15797, Mar. 22, 2011]

Subpart C—Special Provisions for Meat-Type Chicken Slaughter Plants

§ 146.31 Definitions.

Meat-type chicken. A domesticated chicken grown for the primary purpose of producing meat, including but not limited to broilers, roasters, fryers, and cornish.

Meat-type chicken slaughter plant. A meat-type chicken slaughter plant that is federally inspected or under State inspection that the Food Safety Inspection Service has recognized as equivalent to federal inspection.

Shift. The working period of a group of employees who are on duty at the same time.

§ 146.32 Participation.

(a) Participating meat-type chicken slaughter plants shall comply with applicable general provisions of subpart A of this part and the special provisions of this subpart C.

(b) Meat-type chicken slaughter plants that slaughter fewer than 200,000 meat-type chickens in an operating week are exempt from the special provisions of this subpart C.

§ 146.33 Terminology and classification; meat-type chicken slaughter plants.

Participating meat-type chicken slaughter plants that have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in § 146.9 of this part:

(a) *U.S. H5/H7 Avian Influenza Monitored.* This program is intended to be the basis from which the meat-type chicken industry may conduct a program to monitor for the H5/H7 subtypes of avian influenza. It is intended to determine the presence of the H5/H7 subtypes of avian influenza in meat-type chickens through routine surveillance of each participating meat-type chicken slaughter plant. A meat-type chicken slaughter plant will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a meat-type chicken slaughter plant where a minimum of 11 birds per shift are tested negative for anti-

bodies to the H5/H7 subtypes of avian influenza, as provided in § 146.13(b), at slaughter; *Provided*, that with the approval of the Official State Agency, fewer than 11 birds per shift may be tested on any given shift if the total number of birds tested during the operating month is equivalent to testing 11 birds per shift; or

(2) It is a meat-type chicken slaughter plant which accepts only meat-type chickens from flocks where a minimum of 11 birds have been tested negative for antibodies to the H5/H7 subtypes of avian influenza, as provided in § 146.13(b), no more than 21 days prior to slaughter; or

(3) It is a meat-type chicken slaughter plant that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of avian influenza in which the number of birds tested is equivalent to the number required in paragraph (a)(1) or (a)(2) and that is approved by the Official State Agency and the Service.

(b) [Reserved]

[71 FR 56328, Sept. 26, 2006, as amended at 76 FR 15797, Mar. 22, 2011]

Subpart D—Special Provisions for Meat-Type Turkey Slaughter Plants

§ 146.41 Definitions.

Meat-type turkey. A domesticated turkey grown for the primary purpose of producing meat.

Meat-type turkey slaughter plant. A meat-type turkey slaughter plant that is federally inspected or under State inspection that the Food Safety Inspection Service has recognized as equivalent to federal inspection.

§ 146.42 Participation.

(a) Participating meat-type turkey slaughter plants shall comply with applicable general provisions of subpart A of this part and the special provisions of this subpart D.

(b) Meat-type turkey slaughter plants that slaughter fewer than 2 million meat-type turkeys in a 12-month period are exempt from the special provisions of this subpart D.

§ 146.43

§ 146.43 Terminology and classification; meat-type turkey slaughter plants.

Participating meat-type turkey slaughter plants which have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in §146.9 of this part:

(a) *U.S. H5/H7 Avian Influenza Monitored.* This program is intended to be the basis from which the meat-type turkey industry may conduct a program to monitor for the H5/H7 subtypes of avian influenza. It is intended to determine the presence of avian influenza in meat-type turkeys through routine surveillance of each participating meat-type turkey slaughter plant. A participating meat-type turkey slaughter plant will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a meat-type turkey slaughter plant that accepts only meat-type turkeys from flocks where a minimum of 6 birds per flock has tested negative for antibodies to type A avian influenza, as provided in §146.13(b), with an approved test no more than 21 days prior to slaughter. 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. It is recommended that samples be collected from flocks over 10 weeks of age with respiratory signs such as coughing, sneezing, snicking, sinusitis, or rales; depression; or decreases in food or water intake.

(2) It is a meat-type turkey slaughter plant that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of avian influenza in which the number of birds tested is equivalent to the number required in paragraph (a)(1) and that is approved by the Official State Agency and the Service.

(b) [Reserved]

[71 FR 56328, Sept. 26, 2006, as amended at 74 FR 14717, Apr. 1, 2009; 76 FR 15797, Mar. 22, 2011]

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§ 146.44 Terminology and classification; States.

(a) *U.S. H5/H7 Avian Influenza Monitored State, Turkeys.* (1) A State will be declared a U.S. H5/H7 Avian Influenza Monitored State, Turkeys when it has been determined by the Service that:

(i) All meat-type turkey slaughter plants within the State that are not exempt from the special provisions of this subpart D under §146.42 are classified as U.S. H5/H7 Avian Influenza Monitored under §146.43(a) of this part;

(ii) All turkey breeding flocks in production within the State are classified as U.S. H5/H7 Avian Influenza Clean under §145.43(g) of this subchapter;

(iii) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency, within 24 hours, the source of all meat-type turkey specimens that were deemed positive on an official test for avian influenza, as designated in §146.13(a) of this chapter;

(iv) All meat-type turkey specimens that were deemed positive on an official test for avian influenza, as designated in §146.13(a) of this chapter, are sent to an authorized laboratory for subtyping; and

(v) All meat-type turkey flocks within the State that are found to be infected with the H5/H7 subtypes of avian influenza are quarantined, in accordance with an initial State response and containment plan as described in part 56 of this chapter, and under the supervision of the Official State Agency.

(2) If there is a discontinuation of any of the conditions described in paragraph (a)(1) of this section, or if repeated outbreaks of the H5/H7 subtypes of avian influenza occur in meat-type turkey flocks as described in paragraph (a)(1)(i) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. 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 for a hearing in accordance with rules of practice adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56328, Sept. 26, 2006, as amended at 75 FR 10658, Mar. 9, 2010]

Subpart E—Special Provisions for Commercial Upland Game Birds, Commercial Waterfowl, Raised-for-Release Upland Game Birds, and Raised-for-Release Waterfowl

SOURCE: 74 FR 14717, Apr. 1, 2009, unless otherwise noted.

§ 146.51 Definitions.

Commercial upland game bird slaughter plant. A commercial upland game bird slaughter plant that is federally inspected or under State inspection that the U.S. Department of Agriculture's Food Safety and Inspection Service has recognized as equivalent to Federal inspection.

Commercial upland game birds. Upland game bird pheasants, quail, or partridges grown under confinement for the primary purpose of producing meat for human consumption.

Commercial waterfowl. Domesticated ducks or geese grown under confinement for the primary purpose of producing meat for human consumption.

Commercial waterfowl slaughter plant. A commercial waterfowl slaughter plant that is federally inspected or under State inspection that the U.S. Department of Agriculture's Food Safety and Inspection Service has recognized as equivalent to Federal inspection.

Raised-for-release upland game birds. Pheasants, quail, and partridge that are raised under confinement for release in game preserves and are not breeding stock.

Raised-for-release waterfowl. Waterfowl that are raised under confinement for release in game preserves and are not breeding stock.

Shift. The working period of a group of employees who are on duty at the same time.

§ 146.52 Participation.

(a) Participating commercial upland game bird slaughter plants, commercial waterfowl slaughter plants, raised-for-release upland game bird premises, and raised-for-release waterfowl premises shall comply with the applicable general provisions of Subpart A of this part and the special provisions of this subpart E.

(b) Commercial waterfowl and commercial upland game bird slaughter plants that slaughter fewer than 50,000 birds annually are exempt from the special provisions of this subpart E.

(c) Raised-for-release upland game bird premises and raised-for-release waterfowl premises that raise fewer than 25,000 birds annually are exempt from the special provisions of this subpart E.

§ 146.53 Terminology and classification; slaughter plants and premises.

Participating flocks which have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in §146.9 of this part:

(a) *U.S. H5/H7 Avian Influenza Monitored.* This program is intended to be the basis from which the commercial waterfowl and commercial upland game bird industry may conduct a program to monitor for the H5/H7 subtypes of avian influenza. It is intended to determine the presence of the H5/H7 subtypes of avian influenza in commercial waterfowl and commercial upland game birds through routine surveillance of each participating slaughter plant. A slaughter plant will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a commercial upland game bird slaughter plant or commercial waterfowl slaughter plant where a minimum of 11 birds per shift are tested negative for the H5/H7 subtypes of avian influenza, as provided in §146.13(b), at slaughter;

(2) It is a commercial upland game bird slaughter plant or commercial waterfowl slaughter plant that only accepts commercial upland game birds or commercial waterfowl from flocks where a minimum of 11 birds per flock

have been tested negative for the H5/H7 subtypes of avian influenza, as provided in §146.13(b), no more than 21 days prior to slaughter; or

(3) It is a commercial upland game bird slaughter plant or commercial waterfowl slaughter plant that has an ongoing active and passive surveillance program for H5/H7 subtypes of avian influenza that is approved by the Official State Agency and the Service.

(b) *U.S. H5/H7 Avian Influenza Monitored.* This program is intended to be the basis from which the raised-for-release upland game bird and raised-for-release waterfowl industries may conduct a program to monitor for the H5/H7 subtypes of avian influenza through routine surveillance of each participating premises. A premises will qualify for the classification when the Official State Agency determines that a representative sample of 30 birds from the participating premises has been tested with negative results for the H5/H7 subtypes of avian influenza, as provided in §146.13(b), every 90 days.

[74 FR 14717, Apr. 1, 2009, as amended at 76 FR 15797, Mar. 22, 2011]

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

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