

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.

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[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]

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