expressed their view that the industry should continue to focus on increasing the demand for almonds rather than implementing a reserve. It was expressed that market risk can be managed by individual handlers through marketing tools such as forward contracting, rather than managing supply at the industry level. However, the majority of Board members supported the establishment of a reserve to help maintain orderly marketing conditions so that the industry can successfully manage the projected large 1999 almond crop. The Board also deliberated the merits of allocating the reserve to noncompetitive outlets or ultimately releasing part or all of the reserve as salable. The Board decided to delay this decision until next spring when additional information, including an estimate of the 2000–2001 crop, is available. However, handlers may sell reserve almonds to authorized reserve outlets at any time pursuant to an agency agreement as authorized in § 981.67 of the order, and receive credit against their withholding obligation.

This rule may impose some additional reporting, recordkeeping and other compliance requirements on both small and large handlers. Handlers who choose to divert their reserve almonds to authorized outlets would have to file certain reports with the Board. This requirement is the same as that applied during the 1991–92 and 1994–95 crop years when almond reserves were last established. Most of the industry's handlers handled almonds during those years and are thus familiar with the required reports. These reports have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0071. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Board's meetings were widely publicized throughout the almond industry and all interested persons were invited to attend and participate in Board deliberations. Like all Board meetings, the May 12 and July 12, 1999, meetings were public meetings and all entities, both large and small, were able to express their views on this issue. The Board itself is composed of 10 members, of which 5 are producers and 5 are handlers.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Reserve Committee met on April 1, May 11, and July 12, 1999, and presented its recommendations to the Board at meetings on May 12 and July 12, 1999. All of these meetings were open to the public, and both large and small entities were able to participate and express their views. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A 30-day comment period is provided to allow interested persons the opportunity to respond to this proposal. Thirty days is deemed appropriate because any salable and reserve percentages established based on this proposal should be implemented as soon as possible. The beginning of the 1999-2000 crop year is August 1. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Note: This section will not appear in the Code of Federal Regulations.

2. In Part 981, § 981.240 is added to read as follows:

§ 981.240 Salable and reserve percentages for almonds during the crop year beginning on August 1, 1999.

The salable and reserve percentages during the crop year beginning on August 1, 1999, shall be 77.64 percent and 22.36 percent, respectively.

Dated: July 29, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–20499 Filed 8–9–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 145 and 147

[Docket No. 98–096–1]

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 establishing new program classifications and 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 1998 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 invite you to comment on this docket. We will consider all comments that we receive by October 12, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98–096–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–096–1.

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 rules, 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 qualify as ''U.S. Pullorum-Typhoid Clean'' before participating in any other Plan program. 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*, require that no hatching eggs or newly hatched chicks from egg-type chicken breeding flocks may be 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 supervision.

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) amends these provisions from time to time to incorporate new scientific information and technologies within the Plan. In this document, we are proposing to amend the regulations to:

1. Establish two new classifications: ''U.S. Avian Influenza Clean'' for primary and multiplier egg- and meat-type breeding chicken flocks and ''U.S. Mycoplasma Meleagridis Clean State, Turkeys.''

2. Identify the agar gel immunodiffusion (AGID) test and the enzyme-linked immunosorbent assay (ELISA) as official tests for avian influenza in the Plan.

3. Allow the use of Food and Drug Administration (FDA) approved feed sanitizing agents or salmonella control products in certain chicken and turkey breeding flocks.

4. Eliminate references to *Salmonella typhimurium* throughout the regulations.

5. Add the colony lift assay for group D salmonella and eliminate the referral of all group D salmonella to APHIS' National Veterinary Services Laboratories (NVSL) in the laboratory protocol for isolation and identification of salmonella in breeding turkeys.

6. Make several changes to the duties of the General Conference Committee of the NPIP.

7. Establish technical protocol for culturing chick meconium.

8. Provide for the use of either chick papers or meconium as testing samples in the ''U.S. Salmonella Monitored'' program of meat-type breeding chickens.

9. Amend the procedure for determining the status of a flock reacting to tests for *Mycoplasma gallisepticum*, *M. synoviae*, and *M. meleagridis*.

10. Provide for the participation of emu, rhea, and cassowary breeding flocks in the provisions of the Plan.

11. Remove exceptions to the requirements for pullorum typhoid clean States that pertain to turkey hatcheries or supply flocks.

12. Add or amend several definitions.

These proposed amendments are consistent with the recommendations approved by the voting delegates to the National Plan Conference that was held from July 15 to 17, 1998.

Participants in the 1998 National Plan Conferences represented flockowners, breeders, hatcherymen, and Official State Agencies from all cooperating States. The proposed amendments are discussed in greater detail below.

U.S. Avian Influenza Clean

We are proposing to add a new § 145.23(h) to establish a new ''U.S. Avian Influenza Clean'' classification for egg-type chickens and meat-type chickens. This proposed program is intended to be the basis from which the breeding-hatchery industry could conduct a program for the prevention and control of avian influenza. The program would enable flockowners to determine the presence of avian influenza in breeding chickens through routine serological surveillance of each participating breeding flock. A flock and the hatching eggs and chicks produced from it would qualify for this proposed classification when the Official State Agency determined that they have met the qualifying requirements.

For primary breeding flocks, a minimum of 30 birds would have to have been tested negative for antibodies to avian influenza when the flock is more than 4 months of age to qualify for the classification. After qualifying, a sample of at least 30 birds from the flock would have to be tested negative at intervals of 90 days to retain the classification. As noted above, this routine serological surveillance would allow flockowners to monitor their flocks for the presence of avian influenza. Under the proposed classification criteria, flockowners could test samples of fewer than 30 birds at any one time if all pens were equally represented and a total of 30 birds was tested within each 90-day period. This would provide an alternative for flockowners who may find it easier to spread the necessary testing out over a period of time rather than testing all the birds at the same time.

The qualifying requirements for multiplier breeding flocks would be the same as for primary breeding flocks with one exception: Instead of having to test a sample of 30 birds every 90 days to retain the classification, the testing interval for multiplier breeding flocks would be 30 birds every 180 days. This longer testing interval for multiplier breeding flocks is used throughout the Plan in other disease classifications and is appropriate because there are many more multiplier breeding flocks than primary breeding flocks—the ratio is roughly 5½ to 1. With the much larger number of multiplier breeding flocks, it works out that multiplier breeding flocks would actually be tested nearly three times more often during the course of a year than the primary breeding flocks in a given State. Given that the multiplier breeding flocks are held in comparatively closer proximity and looser biosecurity conditions, relative to the primary breeding flocks, the health status of one multiplier flock is considered a reliable indicator of the health status of the surrounding multiplier flocks. This is especially true with regard to avian influenza, given the fact that the level of avian influenza infection in the flocks in an area where the disease is present would be very high, if not 100 percent. Given these considerations, we believe that this longer interval for testing multiplier breeding flocks would provide an appropriate level of surveillance for avian influeza.

U.S. M. Meleagridis Clean State, Turkeys

We are proposing to add a new § 145.44(e) to establish a new ''U.S. M. Meleagridis Clean State'' classification for turkeys. This proposed new classification would be given to qualifying States in which all turkey flocks have been shown to be free of *Mycoplasma meleagridis* and in which no *M. meleagridis* has been detected in

turkey flocks for at least the previous 12 months.

For a State to qualify for this proposed new classification, all turkey breeding flocks in production in the State would have to qualify as ''U.S. M. Meleagridis Clean'' or its equivalent, and all turkey hatcheries within the State would have to handle only products that are classified as ''U.S. M. Meleagridis Clean'' or its equivalent. Additionally, all shipments of products from turkey breeding flocks other than those classified as ''U.S. M. Meleagridis Clean'' or its equivalent into the State would be prohibited.

All persons performing poultry disease diagnostic services within the State would be required to report to the Official State Agency within 48 hours the source of all turkey specimens that are identified as being infected with *M. meleagridis;* such reports would have to be followed by an investigation by the Official State Agency to determine the origin of the infection. Any turkey breeding flock found to be infected with *M. meleagridis* would have to be quarantined until marketed under supervision of the Official State Agency.

If a State no longer met any of the above conditions, or if repeated outbreaks of *M. meleagridis* occurred in turkey breeding flocks, or if an infection spread from the premises on which it originated, APHIS would have grounds to revoke its determination that the State was entitled to the classification. Such action would not be taken until APHIS had conducted a thorough investigation and the Official State Agency had been given an opportunity for a hearing in accordance with rules of practice adopted by the Administrator.

Tests for Avian Influenza

We are proposing to amend § 145.14, ''Blood testing,'' to designate the agar gel immunodiffusion (AGID) test and the enzyme-linked immunosorbent assay (ELISA) as the official Plan blood tests for avian influenza. These tests would have to be conducted using antigens or test kits approved by the Department and the Official State Agency and would have to be performed in accordance with the recommendations and instructions provided by the test's producer or manufacturer. These proposed requirements would ensure that the tests are routinely conducted in a consistent and accurate manner. We would allow the use of either test because some laboratories find the ELISA a less labor-intensive test to perform, but the AGID is recognized by the Office of International Epizootics as the international standard test for avian influenza. We would require, however, that any ELISA positive tests would have to be check tested using the AGID, since the AGID test is specifically required by many of the countries to which the United States poultry industry exports its products.

The instructions for conducting the AGID and ELISA tests would be set out in a new § 147.9. Paragraph (a) of the proposed new section would provide detailed instructions regarding the use of AGID test as a screening test for avian influenza, including lists of the materials and reagents needed for the test and directions for preparing the avian influenza AGID agar, performing the AGID test, and interpreting test results. Paragraph (b) of the proposed new section would explain that the ELISA may also be used as a screening test for avian influenza and would require the use of federally licensed ELISA kits in accordance with the manufacturer's instructions. The AGID testing protocols, which are set out in § 147.9 in the rule portion of this document, were developed by NVSL and have been reviewed by avian influenza technical experts. Because proposed § 147.9 contains a footnote, we would also renumber the remaining footnotes in part 147 to accommodate its inclusion.

Feed and Salmonella Control Products

The definitions of *baby poultry* in § 145.1, *chicks* in §§ 145.21 and 145.31, and *poults* in § 145.41 all refer to newly hatched birds that have not been fed or watered. The limitation on feeding and watering can be traced back to the standard practices for shipping mail order chicks and poults that were developed when it was impractical to include food or water in the chick or poult boxes. Now, however, gels are available that can easily be placed in chick and poult boxes. The use of these gels has become widespread in the industry and has virtually eliminated primary mortality in baby poultry due to dehydration. Therefore, we are proposing to amend the definitions of *baby poultry*, *chicks*, and *poults* to remove the words ''that have not been fed or watered'' in order for the regulations in part 145 to reflect actual poultry industry practice.

We do believe, however, that it is important to ensure that the gels or other nutrients provided to the baby poultry in participating flocks and hatcheries do not expose the chicks or poults to any of the diseases addressed by Plan programs. Accordingly, we are proposing to add a paragraph to each of the subparts in part 145 to inform Plan participants that any nutritive material provided to baby poultry must be free of the avian pathogens that are officially represented in Plan disease classifications, which are listed in § 145.10. This paragraph would be added to § 145.6, ''Specific provisions for participating hatcheries,'' in subpart A and to the ''Participation'' sections (i.e., §§ 145.21, 145.31, 145.41, 145.51, and 145.61) of the other five subparts.

We are also proposing to amend §§ 145.23(d), 145.33(h), and 145.43(f) to provide for the use of FDA-approved salmonella control products on finished feed as an additional measure for reducing salmonella in breeding flocks. The Plan's provisions currently provide for the use of feed with no animal protein or require feed containing animal protein to meet specified requirements. Allowing salmonella control products that have been approved by the FDA to be used in poultry feed would provide flockowners with an alternative means of reducing the likelihood of salmonella being introduced into their breeding flocks through feed.

Addition of Emus, Rheas, and Cassowaries

We are proposing to amend parts 145 and 147 to provide for the participation of emu, rhea, and cassowary breeding flocks in the provisions of the Plan. The proposed addition to the Plan of provisions for emu, rhea, and cassowary breeding flocks was voted on and approved by the voting delegates at the Plan's 1998 National Plan Conference and follows the addition in 1998 of provisions for the participation of ostrich breeding flocks. Adding provisions to the Plan for emu, rhea, and cassowary breeding flocks would make it possible for the owners of those flocks to voluntarily participate in the Plan's programs for the prevention and control of egg-transmitted, hatchery-disseminated poultry diseases. To integrate emus, rheas, and cassowaries into the provisions of the Plan, we are proposing to amend several sections of the regulations.

First, we would add emus, rheas, and cassowaries to the definition of *poultry* in § 145.1 to ensure that the general provisions of the regulations would apply, where applicable, to emus, rheas, and cassowaries as well as to the types of poultry already covered by the Plan. With the proposed addition of emus, rheas, and cassowaries, the definition of *poultry* would read: ''Domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, and cassowaries, waterfowl, and game birds, except doves and pigeons, which are bred for the

primary purpose of producing eggs or meat.''

Under § 145.3(c), ''Participation,'' a Plan participant in any State must participate with all of his poultry hatching egg supply flocks and hatchery operations in that State. To demonstrate compliance with that requirement, the Plan participant must submit a report of each of his breeding flocks within the State to the Official State Agency before the birds in a breeding flock reach 24 weeks of age or, in the case of ostriches, before the birds reach 20 months of age. Under the provisions of this proposed rule, those participation requirements would also apply to emu, rhea, and cassowary hatching egg supply flocks and hatchery operations. Because emus, rheas, and cassowaries mature at a rate comparable to that of ostriches, a participant would have to report his or her emu, rhea, or cassowary breeding flocks to the Official State Agency before the birds in the flock reach 20 months of age, as is the case for ostriches, rather than 24 weeks of age as required for other poultry.

We would amend the introductory text of § 145.14 by adding a provision regarding the blood testing of emus, rheas, and cassowaries. That text currently states that poultry must be more than 4 months of age when blood tested for an official classification, except for turkeys, which may be blood tested at 12 weeks of age; game birds, which may be blood tested when more than 4 months of age or upon reaching sexual maturity, whichever comes first; and ostriches, which must be more than 12 months of age.

In providing for the blood testing of emus, rheas, and cassowaries, we are also proposing to amend the exception regarding ostriches. Specifically, we would provide that ostrich, emu, rhea, and cassowary candidates would be blood tested when at least 12 months of age or upon reaching sexual maturity, depending upon the species and at the discretion of the Official State Agency. (As noted in the previous paragraph, ostriches currently must be ''more than 12 months of age'' when blood tested.) We would provide for blood testing to occur when the birds are at least 12 months of age or upon reaching sexual maturity because these four species will not reach sexual maturity at the same age, although approximately a year after hatching is an appropriate general time frame. The immature birds are kept in a juvenile rearing facility for about a year after hatching, so it would not be necessary to test them for an official classification until such time as they were ready to be integrated into a breeding flock.

The special provisions for emu, rhea, and cassowary breeding flocks would be added to subpart F (§§ 145.61 through 145.63), which currently pertains only to ostriches. To include emus, rheas, and cassowaries in subpart F, we would add the words ''emu, rhea, and cassowary'' after the word ''ostrich'' in the following places:

The title of the subpart. As amended, the title would read ''Special Provisions for Ostrich, Emu, Rhea, and Cassowary Breeding Flocks.''

The introductory text of § 145.62. Emus, rheas, and cassowaries would be subject to the section's requirement that participating flocks, and the eggs and chicks produced from them, must comply with the applicable general provisions of subpart A and the special provisions of subpart F.

Paragraph (a) of § 145.62. Emus, rheas, and cassowaries would lose their identity under Plan terminology—that is, they would not be considered U.S. Pullorum-Typhoid Clean poultry—if they were not maintained under the conditions prescribed in § 145.5(a). Under § 145.5(a), poultry equipment, poultry houses, and the land in their immediate vicinity must be kept in sanitary condition, and the participating flock, its eggs, and all equipment used in connection with the flock must be kept separated from nonparticipating flocks. The sanitation and segregation described in § 145.5(a) are important factors in maintaining the health of flocks, which is why we would require that those conditions be met in order for started poultry to retain its identity under Plan terminology.

Paragraph (b) of § 145.62. The hatching eggs produced by emu, rhea, and cassowary primary breeding flocks would have to be fumigated or otherwise sanitized; that paragraph also refers the reader to § 147.22, which contains procedures for the sanitation of hatching eggs. This proposed requirement for the sanitation of hatching eggs would serve to help prevent the transmission of egg-disseminated diseases that could be spread by unsanitized eggs.

Paragraph (a) of § 145.63. Emu, rhea, and cassowary flocks would be subject to the same qualifying criteria for the U.S. Pullorum-Typhoid Clean classification as are ostrich flocks. Emu, rhea, and cassowary flocks seeking the U.S. Pullorum Typhoid Clean classification would have to demonstrate their freedom from pullorum and typhoid to the Official State Agency through annual blood testing or a bacteriological monitoring program.

The regulations in § 147.45 regarding official delegates to Plan conferences refer to the programs prescribed in subparts B, C, D, and E of part 145. Similarly, the regulations in § 147.46 refer to four committees within the Plan (egg-type chickens, meat-type chickens, turkeys, and waterfowl, exhibition poultry, and game birds) that have been established to consider possible changes to the Plan's provisions. In order to fully integrate ostrich, emu, rhea, and cassowary flocks into the Plan and provide for the full participation of their flockowners, we are proposing to amend § 147.45 so that it refers to subpart F and § 147.46 so that it refers to a committee for ostriches, emus, rheas, and cassowaries.

Mycoplasma Status of Flocks

In § 147.6, ''Procedure for determining the status of flocks reacting to tests for Mycoplasma gallisepticum, Mycoplasma synoviae, and Mycoplasma meleagridis,'' paragraph (a)(14) currently provides that a flock will be considered infected with mycoplasma based on the results of an in vivo bio-assay, polymerase chain reaction (PCR) based procedures, or cultural examinations. That paragraph does, however, provide that if only the bio-assay is positive, additional in vivo bio-assays, PCR-based procedures, or cultural examinations may be conducted by the Official State Agency before a final determination on the flock's mycoplasma status is made. In this document, we are proposing to amend that paragraph to provide the same opportunity for additional testing in instances when only the results of the PCR-based procedure are positive. This proposed change would allow Official State Agencies to corroborate the findings of the PCR-based procedures through the use of seroconversion or culture isolation of the mycoplasma organism.

Colony Lift Assay

We are proposing to amend § 147.11(b), which contains bacteriological examination procedures for use with turkey specimens and environmental specimens from turkey flocks, to provide for the use of the colony lift assay as a means for laboratories to pick group D salmonella colonies from selective and non-selective agar culture plates. Group D salmonella colonies are difficult to detect on agar culture plates, so allowing the use of a group D colony lift assay would increase the sensitivity of the culture procedure by eliminating the randomness of selecting colonies, as the

randomness could lead to group D cultures being missed on the agar plate.

We are also proposing to amend the turkey culturing provisions in § 147.11(b) to remove the requirement that all salmonella group D cultures be referred to NVSL for serotyping. Authorized laboratories are capable of conducting the serotyping themselves, so there is no need for the cultures to be referred to NVSL. These proposed changes would make the turkey culturing requirements consistent with the corresponding requirements for egg-type and meat-type chickens.

Chick Meconium Testing Procedure

We are proposing to add a new § 147.18 to provide a testing procedure for chick meconium. This procedure, which is set out in the rule portion of this document, would be added because the ''U.S. Salmonella Monitored'' classification requires the testing of chick meconium. Because the testing is required by the Plan, it is necessary to provide an official procedure for the collection of samples and laboratory testing. The testing protocol was developed by scientists from the Primary Poultry Breeders Veterinarian Roundtable who have expertise in salmonella isolation and identification.

General Conference Committee

Section 147.43 explains the membership, duties, and functions of the Plan's General Conference Committee (GCC), which is the body that provides advice and assistance to the Department in its administration of the NPIP. At the 1998 National Plan Conference, the voting delegates approved additional duties that the Plan membership wishes the GCC to undertake. Those additional duties are:

- Advise and make recommendations to the Department to the relative importance of maintaining, at all times, adequate Department funding for the NPIP to enable the Senior Coordinator and staff to fully administer the provisions of the Plan.
- Advise and make yearly recommendations to the Department with respect to the NPIP budget well in advance of the start of the budgetary process.
- Serve as a direct liaison between the NPIP and the United States Animal Health Association.
- Advise and make recommendations to the Department regarding NPIP involvement or representation at poultry industry functions and activities as deemed necessary or advisable for the purposes of the NPIP.

We are, therefore, proposing to amend § 147.43 to reflect these additional advisory and liaison duties.

Definitions

In § 145.1, we are proposing to amend the definition of *authorized laboratory* and to add a definition of *independent flock*. The definition of *authorized laboratory* currently reads: ''A laboratory designated by an Official State Agency, subject to review by the Service, to perform the blood testing and bacteriological examinations provided for in this part.'' We are proposing to add to the end of that definition the following: ''The Service's review will include, but will not necessarily be limited to, checking records, laboratory protocol, check-test proficiency, periodic duplicate samples, and peer review. A satisfactory review will result in the authorized laboratory being recognized by the Service as a nationally approved laboratory qualified to perform the blood testing and bacteriological examinations provided for in this part.'' Authorized laboratories have developed into a significant component of the Plan, and the types of tests that are conducted by authorized laboratories on behalf of the NPIP have become more varied in recent years as the Plan has become involved in the certification of essentially all of the live poultry and poultry meat products produced in the United States. The delegates at the Plan's 1998 National Plan Conference voted to add the specific review elements described above to the definition of *authorized laboratory* in order to provide for uniformity and consistency among the Plan's 125 authorized laboratories.

There are three categories of participation in the NPIP: Hatcheries, independent flocks, and dealers. Hatcheries and dealers are already addressed in § 145.1, but there is not currently a definition of the term ''independent flock.'' Therefore, we are proposing to add the following definition of *independent flock* to § 145.1: ''A flock that produces hatching eggs and that has no ownership affiliation with a specific hatchery.''

We are also proposing to amend § 145.61, which provides definitions for the specific provisions of subpart F. That section does not currently include a definition for the term ''chick,'' which is used several times in that subpart. Therefore, we are also proposing to amend § 145.61 to add a definition of *chick*, which would read ''Newly hatched ostriches, emus, rheas, or cassowaries.'' Adding this definition, which is consistent with the definition provided for the same term in the other four subparts of part 145, would clarify what is intended when the term ''chick'' is used in subpart F.

Miscellaneous

Prior to 1970, the provisions of the regulations that apply to turkeys were not part of the NPIP, but were instead part of the National Turkey Improvement Plan (NTIP). Because turkeys were not included in the NPIP, the NPIP regulations specifically excluded turkey hatcheries, hatchery supply flocks, and breeding flocks from the criteria used to determine the pullorum-typhoid status of meat-type and egg-type chicken breeding flocks and waterfowl, exhibition poultry, and game bird breeding flocks. When the NTIP was integrated into the NPIP, those exemptions should have been removed from the regulations but were not, which has resulted in a discrepancy between the U.S. Pullorum-Typhoid Clean classification criteria for turkeys and the same criteria for chickens and waterfowl, exhibition poultry, and game birds. A similar discrepancy exists between the U.S. Pullorum-Typhoid Clean classification criteria for egg- and meat-type chicken supply flocks and the requirements for waterfowl, exhibition poultry, and game bird supply flocks. In order to eliminate those discrepancies, we are proposing to amend §§ 145.23, 145.33, and 145.53 to eliminate the incorrect exemptions discussed in this paragraph.

We are also proposing to amend § 145.1 to remove the definition of *S. typhimurium infection or typhimurium* because the disease is not referred to, nor is the term itself used, in part 145. Further, because the Plan does not include any programs for the prevention or control of *Salmonella typhimurium*, the instructions provided in § 147.4, ''The tube agglutination test for S. typhimurium,'' are unnecessary. Therefore, we are proposing to remove § 147.4 from the regulations.

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 proposed changes contained in this document are based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who took part in the Plan's 1998 National Plan Conference. The proposed changes would amend the Plan and its auxiliary

provisions by establishing new program classifications and 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 1998 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.

The Plan serves as a ''seal of approval'' for egg and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. In all cases, the changes proposed in this document have been generated by the industry itself with the goal of reducing disease risk and increasing product marketability. Because participation in the Plan is voluntary, 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.

Assuming they wished to voluntarily remain in the program, the cost to comply with the proposed protocols, tests, classification schemes, etc. would be borne primarily by the approximately 12 primary breeders in NPIP. However, the net economic effect of the proposed changes on those breeders is expected to be positive over the long term. This is because the breeders' compliance costs should be more than offset by the expected benefits resulting from compliance, i.e., increased U.S. poultry exports. U.S. exports are expected to increase because, by serving to reduce disease risk, the proposed protocols and procedures should make domestic poultry more marketable in foreign markets. That the net economic effect of the proposed changes on the poultry industry is expected to be positive is evidenced by the fact the industry participants of NPIP themselves initiated the proposed changes.

The precise dollar amount of the costs that the breeders would incur to comply with the proposed changes is not available. However, those costs are not expected to be significant, especially since many of the proposed changes are no more than technical corrections to the provisions of the Plan or are intended to bring those provisions into conformity with current developments in the scientific community. In 1997, the dollar value of U.S. exports of meat and edible offal of poultry (fresh, chilled, and frozen) totaled $2.2 billion (World Trade Atlas, September 1998 edition). Even if exports increased by only 1 percent as a result of the proposed changes, the benefit would be $22 million.

In any event, the breeder participants in NPIP always have the option of withdrawing from the Plan, in which case they would not be subject to the proposed changes. As indicated above, industry participation in the NPIP is voluntary.

Economic Effects on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of its rules on small entities, i.e., small businesses, organizations, and governmental jurisdictions. The changes proposed in this document are not expected to have a significant economic effect on a substantial number of small entities, if for no other reason than few, if any, of those entities most affected by the proposed changes—i.e., NPIP-participating breeders and producers—are small in size. The U.S. Small Business Administration's small entity threshold for almost all standard industrial classification categories for poultry and egg producers is annual revenues of $0.5 million or less. We believe that most, if not all, breeders and producers participating in the Plan generate annual revenues in excess $0.5 million.

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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98–096–1. Please send a copy of your comments to: (1) Docket No. 98–096–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

The NPIP is a voluntary Federal-State-industry mechanism for controlling certain poultry diseases and for improving poultry breeding flocks and products through disease control techniques. APHIS is responsible for administering the Plan, the primary purpose of which is to protect the health of the U.S. poultry population.

This proposed rule would, among other things, amend the provisions of the Plan to provide for the participation of emu, rhea, and cassowary breeding flocks in the Plan. This would make it possible for the owners of these breeding flocks to voluntarily participate in the NPIP's programs for the prevention and control of egg-transmitted, hatchery-disseminated poultry diseases. Including emu, rhea, and cassowary in the provisions of the Plan would enhance our ability to protect the United States against certain poultry diseases.

Our proposed rule would also establish a new ''U.S. M. Meleagridis Clean State'' classification for turkeys that would be awarded to qualifying States in which all turkey flocks have been shown to be free of this disease. Achieving this classification would enhance the value of turkey products in national and international trade, and would provide flock owners with added incentive to eliminate this disease from their flocks.

Expanding the Plan to include emu, rhea, and cassowary breeding flocks and establishing a ''U.S. M. Meleagridis Clean State'' classification for turkeys will necessitate the use of two information collection activities that will (1) alert us to the disease status of turkeys in any given State and (2) alert us when any given owner of emu, rhea, or cassowary flocks opts to enroll these flocks in the Plan. We are asking OMB to approve our use of these information collection activities, which are a necessary element of the Plan's

programs to prevent the spread of contagious poultry diseases within the United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.2 hours per response.

Respondents: Flock owners, breeders, hatchery operators, and State veterinary medical officers.

Estimated annual number of respondents: 10.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 10.

Estimated total annual burden on respondents: 2 hours.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Parts 145 and 147

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

Accordingly, we are proposing to amend 9 CFR parts 145 and 147 as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

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

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 145.1 would be amended as follows:

a. The definition of *authorized laboratory* would be revised to read as set forth below.

b. The definition of *baby poultry* would be revised to read as set forth below.

c. A new definition of *independent flock* would be added, in alphabetical order, to read as set forth below.

d. The definition of *poultry* would be amended by adding the words ''emus, rheas, cassowaries,'' immediately after the word ''ostriches,''.

e. The definition of *S. typhimurium infection or typhimurium* would be removed.

§ 145.1 Definitions.

* * * * *

Authorized laboratory. A laboratory designated by an Official State Agency, subject to review by the Service, to perform the blood testing and bacteriological examinations provided for in this part. The Service's review will include, but will not necessarily be limited to, checking records, laboratory protocol, check-test proficiency, periodic duplicate samples, and peer review. A satisfactory review will result in the authorized laboratory being recognized by the Service as a nationally approved laboratory qualified to perform the blood testing and bacteriological examinations provided for in this part.

Baby poultry. Newly hatched poultry (chicks, poults, ducklings, goslings, keets, etc.).

* * * * *

Independent flock. A flock that produces hatching eggs and that has no ownership affiliation with a specific hatchery.

* * * * *

§ 145.3 [Amended]

3. In § 145.3, the introductory text of paragraph (c) would be amended by adding the words ''emus, rheas, cassowaries,'' immediately after the word ''ostriches,''.

4. In § 145.6, paragraph (e) would be redesignated as paragraph (f) and a new paragraph (e) would be added to read as follows:

§ 145.6 Specific provisions for participating hatcheries.

* * * * *

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

* * * * *

5. In § 145.10, new paragraphs (r) and (s) would be added to read as follows:

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

* * * * *

(r) *U.S. Avian Influenza Clean.* (See §§ 145.23(h) and 145.33(l).)

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Figure 19

(s) *U.S. M. Meleagridis Clean State, Turkeys.* (See § 145.44(e).)

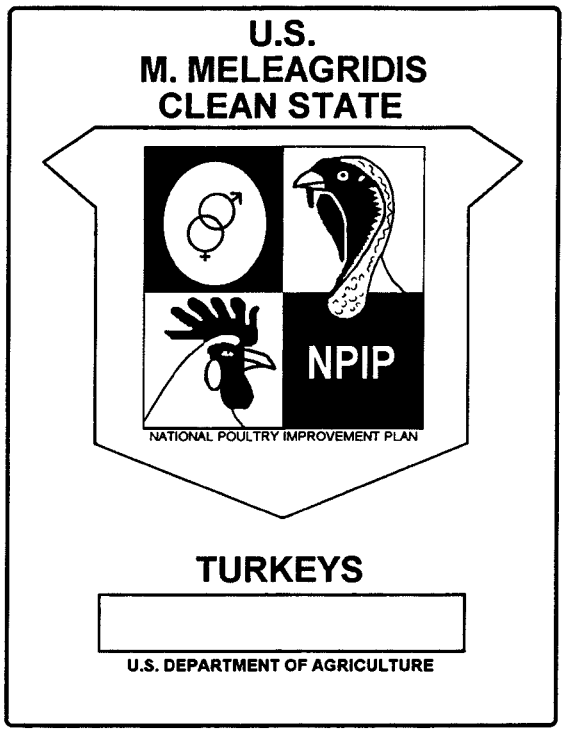

Figure 20

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6. Section 145.14 would be amended as follows:

a. In the introductory text at the end of the first sentence, the words ''and ostriches blood tested under subpart F must be more than 12 months of age'' would be removed and the words ''and ostrich, emu, rhea, and cassowary candidates must be blood tested when at least 12 months of age or upon reaching sexual maturity, depending upon the species and at the discretion of the Official State Agency'' would be added in their place.

b. A new paragraph (d) would be added to read as follows:

§ 145.14 Blood testing.

* * * * *

(d) *For avian influenza.* The official blood tests for avian influenza are the agar gel immunodiffusion (AGID) test and the enzyme-linked immunosorbent assay (ELISA).

(1) The AGID test must be conducted on all ELISA-positive samples. Positive tests by AGID or ELISA must be further tested by Federal Reference Laboratories. Final judgment may be based upon further sampling or culture results.

(2) The tests must be conducted using antigens or test kits approved by the Department or the Official State Agency and must be performed in accordance with the recommendations of the producer or manufacturer.

* * * * *

7. In § 145.21, the definition of *chicks* would be revised to read as follows:

§ 145.21 Definitions.

* * * * *

Chicks. Newly hatched chickens.

* * * * *

8. In § 145.22, a new paragraph (e) would be added to read as follows:

§ 145.22 Participation.

* * * * *

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

9. Section 145.23 would be amended as follows:

a. In paragraph (b)(3)(i), the words '', except turkey hatcheries,'' would be removed.

b. In paragraph (b)(3)(ii), the words '', except turkey flocks,'' would be removed.

c. In paragraph (b)(3)(viii), the words '', other than turkey flocks,'' would be removed.

d. In paragraph (b)(4), the words '', other than turkey, waterfowl, exhibition poultry, and game bird supply flocks,'' would be removed.

e. Paragraph (d)(1)(ii)(B) would be revised.

f. A new paragraph (h) would be added to read as follows:

§ 145.23 Terminology and classification; flocks and products.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

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

* * * * *

(h) *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 breeding chickens through routine serological surveillance of each participating breeding flock. A flock and the hatching eggs and chicks produced from it will qualify for this classification when the Official State Agency

determines that they have met one of the following requirements:

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

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; or

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

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

(i) A sample of at least 30 birds must be tested negative at intervals of 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 is tested within each 180-day period.

* * * * *

10. In § 145.31, the definition of *chicks* would be revised to read as follows:

§ 145.31 Definitions.

* * * * *

Chicks. Newly hatched chickens.

* * * * *

11. In § 145.32, a new paragraph (d) would be added to read as follows:

§ 145.32 Participation.

* * * * *

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

12. Section 145.33 would be amended as follows:

a. In paragraph (b)(3)(i), the words ‘‘, except turkey hatcheries,’’ would be removed.

b. In paragraph (b)(3)(ii), the words ‘‘, except turkey flocks,’’ would be removed.

c. In paragraph (b)(3)(viii), the words ‘‘, other than turkey flocks,’’ would be removed.

d. In paragraph (b)(4), the words ‘‘, other than turkey, waterfowl, exhibition poultry, and game bird supply flocks,’’ would be removed.

e. Paragraph (h)(1)(ii)(B) would be revised.

f. Paragraph (i)(1)(vi) would be amended by removing the words ‘‘meconium and’’ and adding the words ‘‘meconium or’’ in their place.

g. A new paragraph (l) would be added to read as follows:

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(h) * * *

(1) * * *

(ii) * * *

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

* * * * *

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

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

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; or

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

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

(i) A sample of at least 30 birds must be tested negative at intervals of 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 is tested within each 180-day period.

* * * * *

13. In § 145.41, the definition of *poults* would be revised to read as follows:

§ 145.41 Definitions.

* * * * *

Poults. Newly hatched turkeys.

14. In § 145.42, a new paragraph (d) would be added to read as follows:

§ 145.42 Participation.

* * * * *

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

15. In § 145.43, paragraphs (f)(3)(ii) and (f)(3)(iii) would be revised to read as follows:

§ 145.43 Terminology and classification; flocks and products.

* * * * *

(f) * * *

(3) * * *

(ii) Initial feed for poults to 2 weeks of age must be manufactured in pellet form. Initial feed may contain no animal protein other than animal protein products produced under the Animal Protein Products Industry (APPI) Salmonella Education/Reduction Program or the Fishmeal Inspection Program of the National Marine Fisheries Service (NMFS). Finished feed must be treated with a Food and Drug Administration (FDA) approved salmonella control product at FDA-approved levels.

(iii) Succeeding feed for turkeys 2 weeks or older must be either:

(A) Pelleted feed that meets the requirements of paragraph (f)(3)(ii) of this section; or

(B) Mash feed that contains no animal protein products; or

(C) Mash feed that contains an APPI/NMFS animal protein products supplement that has been manufactured in pellet form and crumbled. Finished feed must be treated with an FDA-approved salmonella control product at FDA-approved levels.

* * * * *

16. In § 145.44, a new paragraph (e) would be added to read as follows:

§ 145.44 Terminology and classification; States.

* * * * *

(e) *U.S. M. Meleagridis Clean State, Turkeys.* (1) A State will be declared a U.S. M. Meleagridis Clean State, Turkeys, if the Service determines that:

(i) No *Mycoplasma meleagridis* is known to exist nor to have existed in turkey breeding flocks in production within the State during the preceding 12 months;

(ii) All turkey breeding flocks in production are tested and classified as U.S. M. Meleagridis Clean or have met equivalent requirements for *M. meleagridis* control under official supervision;

(iii) All turkey hatcheries within the State only handle products that are classified as U.S. M. Meleagridis Clean

or have met equivalent requirements for *M. meleagridis* control under official supervision;

(iv) All shipments of products from turkey breeding flocks other than those classified as U.S. M. Meleagridis Clean, or equivalent, into the State are prohibited;

(v) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all turkey specimens that have been identified as being infected with *M. meleagridis*;

(vi) All reports of *M. meleagridis* infection in turkeys are promptly followed by an investigation by the Official State Agency to determine the origin of the infection; and

(vii) All turkey breeding flocks found to be infected with *M. meleagridis* are quarantined until marketed under supervision of the Official State Agency.

(2) The Service may revoke the State's classification as a U.S. M. Meleagridis Clean State, Turkeys, if any of the conditions described in paragraph (d)(1) of this section are discontinued. The Service will not revoke the State's classification as a U.S. M. Meleagridis Clean State, Turkeys, until it has conducted an investigation and the Official State Agency has been given an opportunity for a hearing in accordance with rules of practice adopted by the Administrator.

* * * * *

17. In § 145.52, a new paragraph (d) would be added to read as follows:

§ 145.52 Participation.

* * * * *

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

§ 145.53 [Amended]

18. In § 145.53, paragraph (b) would be amended as follows:

a. In paragraph (b)(3)(i), the words '', except turkey hatcheries,'' would be removed.

b. In paragraph (b)(3)(ii) the words '', except turkey flocks,'' would be removed.

c. In paragraph (b)(3)(viii), the words '', other than turkey flocks,'' would be removed.

d. In paragraph (b)(4), the words '', other than turkey flocks,'' would be removed.

19. The subpart heading for subpart F would be revised to read as follows:

Subpart F—Special Provisions for Ostrich, Emu, Rhea, and Cassowary Breeding Flocks and Products

20. In 145.61, a definition of *chicks* would be added, in alphabetical order, to read as follows:

§ 145.61 Definitions.

* * * * *

Chicks. Newly hatched ostriches, emus, rheas, or cassowaries.

* * * * *

21. In § 145.62, the introductory text would be amended by adding the words ''emus, rheas, and cassowaries,'' immediately after the word ''ostriches,'' and a new paragraph (c) would be added to read as follows:

§ 145.62 Participation.

* * * * *

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

§ 145.63 [Amended]

22. In § 145.63, paragraph (a)(2) would be amended by adding the words '', emus, rheas, or cassowaries'' immediately after the word ''ostriches''.

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

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

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.2(d).

§ 147.4 [Removed and reserved]

24. Section 147.4 would be removed and reserved.

25. In § 147.6, paragraph (a)(14) would be revised to read as follows:

§ 147.6 Procedure for determining the status of flocks reacting to tests for Mycoplasma gallisepticum, Mycoplasma synoviae, and Mycoplasma meleagridis.

* * * * *

(a) * * *

(14) If the in vivo bio-assay, PCR-based procedures, or culture procedures are positive, the flock will be considered infected. However, the following considerations may apply:

(i) In PCR-positive flocks for which there are other negative mycoplasma test results, the flock's mycoplasma status should be confirmed through either seroconversion or culture isolation of the organism, or through both methods, before final determination of the flock's status is made.

(ii) In flocks for which only the bio-assay is positive, additional in vivo bio-assay, PCR-based procedures, or cultural examinations may be conducted by the Official State Agency before final determination of the flock's status is made.

* * * * *

§§ 147.11, 147.12, 147.14, 147.15, 147.16 [Footnotes redesignated]

26. In §§ 147.11, 147.12, 147.14, 147.15, 147.16, footnotes 6 through 22 and their references would be redesignated as footnotes 7 through 23, respectively.

27. A new § 147.9 would be added to read as follows:

§ 147.9 Standard test procedures for avian influenza.

(a) The agar gel immunodiffusion (AGID) test should be considered the basic screening test for antibodies to Type A influenza viruses. The AGID test is used to detect circulating antibodies to Type A influenza group-specific antigens, namely the ribonucleoprotein (RNP) and matrix (M) proteins. Therefore, this test will detect antibodies to all influenza A viruses, regardless of subtype. The AGID test can also be used as a group-specific test to identify isolates as Type A influenza viruses. The method used is similar to that described by Beard.[6] The basis for the AGID test is the concurrent migration of antigen and antibodies toward each other through an agar gel matrix. When the antigen and specific antibodies come in contact, they combine to form a precipitate that is trapped in the gel matrix and produces a visible line. The precipitin line forms where the concentration of antigen and antibodies is optimum. Differences in the relative concentration of the antigen or antibodies will shift the location of the line towards the well with the lowest concentration or result in the absence of a precipitin line. Electrolyte concentration, pH, temperature, and other variables also affect precipitate formation.

(1) *Materials needed.*

(i) Refrigerator (4 °C).

(ii) Freezer (− 20 °C).

(iii) Incubator or airtight container for room temperature (~25 °C) incubations.

(iv) Autoclave.

(v) Hot plate/stirrer and magnetic stir bar (optional).

(vi) Vacuum pump.

(vii) Microscope illuminator or other appropriate light source for viewing results.

[6] Beard, C.W. Demonstration of type-specific influenza antibody in mammalian and avian sera by immunodifussion Bull. Wld. Hlth. Orig. 42:779–785. 1970.

(viii) Immunodiffusion template cutter, seven-well pattern (a center well surrounded by six evenly spaced wells). Wells are 5.3 mm in diameter and 2.4 mm apart.

(ix) Top loading balance (capable of measuring 0.1 gm differences).

(x) Pipetting device capable of delivering 50 µl portions.

(xi) Common laboratory supplies and glassware—Erlenmeyer flasks, graduated cylinders, pipettes, 100 × 15 mm or 60 × 15 mm petri dishes, flexible vacuum tubing, side-arm flask (500 mL or larger), and a 12-or 14-gauge blunt-ended cannula.

(2) *Reagents needed*.

(i) Phosphate buffered saline (PBS), 0.01M, pH 7.2 (NVSL media #30054 or equivalent).

(ii) Agarose (Type II Medium grade, Sigma Chemical Co. Cat.# A–6877 or equivalent).

(iii) Avian influenza AGID antigen and positive control antiserum approved by the Department and the Official State Agency.

(iv) Strong positive, weak positive, and negative control antisera approved by the Department and the Official State Agency (negative control antisera optional).

(3) *Preparing the avian influenza AGID agar*.

(i) Weigh 9 gm of agarose and 80 gm of NaCl and add to 1 liter of PBS (0.01 M, pH 7.2) in a 2 liter Erlenmeyer flask.

(ii) To mix the agar, either:

(A) Autoclave the mixture for 10 minutes and mix the contents by swirling after removing from the autoclave to ensure a homogeneous mixture of ingredients; or

(B) Dissolve the mixture by bringing to a boil on a hot plate using a magnetic stir bar to mix the contents in the flask while heating. After boiling, allow the agar to cool at room temperature (~25 °C) for 10 to 15 minutes before dispensing into petri plates.

(iii) Agar can be dispensed into small quantities (daily working volumes) and stored in airtight containers at 4 °C for several weeks, and melted and dispensed into plates as needed.

Note: Do not use agar if microbial contamination or precipitate is observed.

(4) *Performing the AGID*. (i) *Detection of serum antibodies*.

(A) Dispense 15 to 17 mL of melted agar into a 100 x 15 mm petri plate or 5 to 6 mL agar into a 60 x 15 mm petri plate using a 25 mL pipette. The agar thickness should be approximately 2.8 mm.

(B) Allow plates to cool in a relatively dust-free environment with the lids off to permit the escape of water vapor. The lids should be left off for at least 15 minutes, but not longer than 30 minutes, as electrolyte concentration of the agar may change due to evaporation and adversely affect formation of precipitin lines.

Note: Plates should be used within 24 hours after they are poured.

(C) Record the sample identification, reagent lot numbers, test date, and identification of personnel performing and reading the test.

(D) Using the template, cut the agar after it has hardened. Up to seven template patterns can be cut in a 100 x 15 mm plate and two patterns can be cut in a 60 x 15 mm plate.

(E) Remove the agar plugs by aspiration with a 12-to 14-gauge cannula connected to a side arm flask with a piece of silicone or rubber tubing that is connected to a vacuum pump with tubing. Adjust the vacuum so that the agar surrounding the wells is not disturbed when removing the plugs.

(F) To prepare the wells, either:

(*1*) Place 50 µl of avian influenza AGID antigen in the center well using a micropipette with an attached pipette tip. Place 50 µl AI AGID positive control antiserum in each of two opposite wells, and add 50 µl per well of test sera in the four remaining wells. This arrangement provides a positive control line on one side of the test serum, thus providing for the development of lines of identity (see figure 1); or

(*2*) Place 50 µl AI AGID positive control antiserum in each of three alternate peripheral wells, and add 50 µl per well of test sera in the three remaining wells. This arrangement provides a positive control line on each side of the test serum, thus providing for the development of lines of identity on both sides of each test serum (see figure 2).

Note: A pattern can be included with positive, weak positive, and negative reference serum in the test sera wells to aid in the interpretation of results (see figure 3).

(G) Cover each plate after filling all wells and allow the plates to incubate for 24 hours at room temperature (~25 °C) in a closed chamber to prevent evaporation. Humidity should be provided by placing a damp paper towel in the incubation chamber. Note: Temperature changes during migration may lead to artifacts.

(ii) *Interpretation of test results*.

(A) Remove the lid and examine reactions from above by placing the plate(s) over a black background, and illuminate the plate with a light source directed at an angle from below. A microscope illuminator works well and allows for varying intensities of light and positions.

(B) The type of reaction will vary with the concentration of antibody in the sample being tested. The positive control serum line is the basis for reading the test. If the line is not distinct, the test is not valid and must be repeated. The following types of reactions are observed (see figure 3):

(*1*) *Negative reaction*. The control lines continue into the test sample well without bending or with a slight bend away from the antigen well and toward the positive control serum well.

(*2*) *Positive reaction*. The control lines join with, and form a continuous line (line of identity) with, the line between the test serum and antigen. The location of the line will depend on the concentration of antibodies in the test serum. Weakly positive samples may not produce a complete line between the antigen and test serum but may only cause the tip or end of the control line to bend inward toward the test well.

(3) *Non-specific lines*. These lines occasionally are observed between the antigen and test serum well. The control lines will pass through the non-specific line and continue on into the test serum well. The non-specific line does not form a continuous line with positive control lines.

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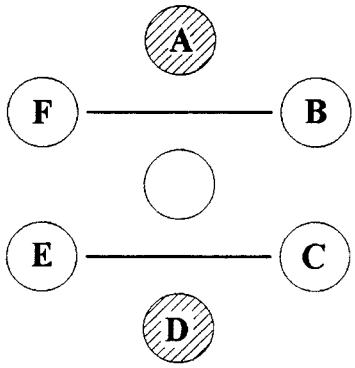

Figure 1. Immunodiffusion test that uses AI AGID antigen in the center well; AI-positive control serum in wells A and D; and AI-negative test serum in wells B, C, E, and F.

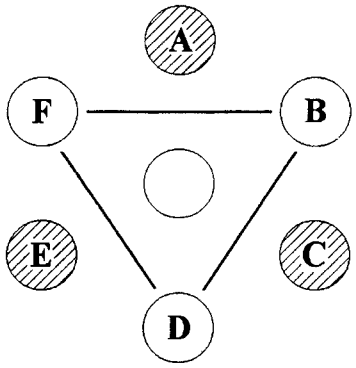

Figure 2. Immunodiffusion test that has AI AGID antigen in the center well; AI-positive control serum in wells A, C, and E; and AI-negative test serum in wells B, D, and F.

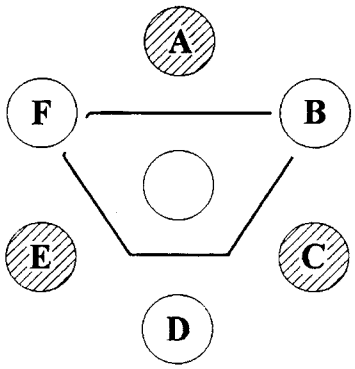

Figure 3. Immunodiffusion test that has AI AGID antigen in the center well; AI-positive control serum in wells A, C, and E; AI-negative test serum in well B; AI-positive test serum in well D; and weak positive test serum in well F.

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(b) The enzyme-linked immunosorbent assay (ELISA) may be used as a screening test for avian influenza. Use only federally licensed ELISA kits and follow the manufacturer's instructions. All ELISA-positive serum samples must be confirmed with the AGID test conducted in accordance with paragraph (a) of this section.

§ 147.11 [Amended]

28. Section 147.11 would be amended as follows:

a. In paragraph (b)(2)(iii) the words ''A group D colony lift assay may be utilized to signal the presence of the hard-to-detect group D salmonella colonies on agar culture plates.'' would be added after the final sentence.

b. In paragraph (b)(2)(v), the words ''at the National Veterinary Services Laboratory'' would be removed.

29. A new § 147.18 would be added to read as follows:

§ 147.18 Chick meconium testing procedure for salmonella.

Procedure:

(a) Record the date, source, and flock destination on the ''Meconium Worksheet.''

(b) Shake each plastic bag of meconium until a uniform consistency is achieved.

(c) Transfer a 25 gm sample of meconium to a sterile container. Add 225 mL of a preenrichment broth to each sample (this is a 1:10 dilution), mix gently, and incubate at 37 °C for 18–24 hours.

(d) Enrich the sample with selective enrichment broth for 24 hours at 42 °C.

(e) Streak the enriched sample onto brilliant green-Novobiocin (BGN) agar and xylose-lysine-tergitol 4 (XLT4) agar.

(f) Incubate both plates at 35 °C for 24 hours and process suspect salmonella colonies according to § 147.11.

30. In § 147.43, paragraphs (d)(1) through (d)(4) would be redesignated as paragraphs (d)(3) through (d)(6), respectively, and new paragraphs (d)(1), (d)(2), (d)(7), and (d)(8) would be added to read as follows:

§ 147.43 General Conference Committee.

* * * * *

(d) * * *

(1) Advise and make recommendations to the Department on the relative importance of maintaining, at all times, adequate departmental funding for the NPIP to enable the Senior Coordinator and staff to fully administer the provisions of the Plan.

(2) Advise and make yearly recommendations to the Department with respect to the NPIP budget well in advance of the start of the budgetary process.

* * * * *

(7) Serve as a direct liaison between the National Poultry Improvement Plan and the United States Animal Health Association.

(8) Advise and make recommendations to the Department regarding NPIP involvement or representation at poultry industry functions and activities as deemed necessary or advisable for the purposes of the NPIP.

§ 147.45 [Amended]

31. Section 147.45 would be amended by removing the words ''and E'' and adding the words ''E, and F'' in their place.

32. In § 145.46, the introductory text of paragraph (a) would be amended by removing the word ''four'' and adding the word ''five'' in its place, and a new paragraph (a)(5) would be added to read as follows:

§ 147.46 Committee consideration of proposed changes.

(a) * * *

(5) Ostriches, emus, rheas, and cassowaries.

* * * * *

Done in Washington, DC, this 4th day of August 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–20540 Filed 8–9–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–280–AD]

Airworthiness Directives; Raytheon (Beech) Model 400A 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 Raytheon (Beech) Model 400A airplanes. This proposal would require replacement of the fuel drain tube assembly in the aft fuselage with a new, modified assembly. This proposal is prompted by a report of chafing of the fuel tube assembly against the elevator control cable due to inadequate clearance between the components. The actions specified by the proposed AD are intended to prevent chafing of the fuel drain tube assembly, which could result in fuel leakage from the fuel drain tube assembly and consequent risk of a fire.

DATES: Comments must be received by September 9, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–280–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P. O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Scott West, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4146; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact