■ h. By adding a parenthetical containing an OMB citation at the end of the section to read as set forth below.

§ 71.20 Approval of livestock facilities.

* * *

(5) Any reactor, suspect, exposed, high-risk, or scrapie positive livestock shall be held in quarantined pens apart from all other livestock at the facility. This requirement shall not apply to scrapie-exposed sheep that are not also designated high-risk animals or to sheep or goats designated under 9 CFR part 79 as scrapie-exposed or high-risk animals that either are not pregnant based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, or a certificate issued by an accredited veterinarian stating the animals are open; or that the animals are under 12 months of age and are not visibly pregnant and are maintained in the same pen only with other animals that will be moved directly to slaughter or to a terminal feedlot in accordance with 9 CFR parts 71 and 79.

(6) No reactor, suspect, exposed, high-risk, or scrapie-positive livestock, nor any livestock that show signs of being infected with any infectious, contagious, or communicable disease, may be sold at or moved from the facility, except in accordance with 9 CFR parts 71, 75, 78, 79, and 85.

Records

(7) Documents such as weight tickets, sales slips, and records of origin, identification, and destination that relate to livestock that are in, or that have been in, the facility shall be maintained by the facility for a period of 2 years, or for a period of 5 years in the case of sheep or goats. APHIS representatives and State representatives shall be permitted to review and copy those documents during normal business hours.

* * * * *

(11) Quarantined pens shall be clearly labeled with paint or placarded with the word ''Quarantined'' or the name of the disease of concern, and shall be cleaned and disinfected in accordance with 9 CFR part 71 as well as 9 CFR 54.7(e)(2) if the disease of concern is scrapie and the quarantined animal gave birth or aborted at the facility, before being used to pen livestock that are not reactor, suspect, exposed, high-risk, or scrapie-positive animals.

* * * * *

(17) Sheep and goats:

—This facility will handle breeding sheep or goats: [*Initials of operator, date*]

—This facility will handle slaughter sheep or goats: [*Initials of operator, date*]

—This facility will handle scrapie-exposed goats or high-risk sheep or goats: [*Initials of operator, date*]

—This facility will not handle goats known to be scrapie-exposed or sheep or goats known to be high-risk animals, nor permit such animals to enter the facility: [*Initials of operator, date*]

(i) All sheep and goats must be received, handled, and released by the facility only in accordance with 9 CFR parts 71 and 79.

(ii) All sheep and goats at the facility must be officially identified and relevant records related to those identified animals must be maintained by the facility operator, as required under 9 CFR part 79.

(iii) The identity of sheep and goats from consistent States and inconsistent States must be maintained by the facility operator.

(iv) Sexually intact animals that do not meet the requirements of part 79 to be sold as breeding animals must be maintained in separated enclosures at all times from animals that may be offered for sale as breeding animals unless all animals maintained in an enclosure arrived at the facility as part of the same consignment and are separated prior to sale.

(v) Any sheep or goats that are designated, with regard to scrapie, as high-risk, suspect or scrapie-positive animals, and goats designated with regard to scrapie as exposed animals, excluding slaughter sheep or goats that are designated as exposed or high-risk animals and are not pregnant, must be held in quarantined pens while at the facility.

Approvals

(18) Request for approval:

I hereby request approval for this facility to operate as an approved livestock facility for the classes of livestock indicated in paragraphs (14) through (17) of this agreement. I acknowledge that I have received a copy of 9 CFR parts 71, 75, 78, 79, and 85, and acknowledge that I have been informed and understand that failure to abide by the provisions of this agreement and the applicable provisions of 9 CFR parts 71, 75, 78, 79, and 85 constitutes a basis for the withdrawal of this approval. [*Printed name and signature of operator, date of signature*]

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0258)

Done in Washington, DC, this 26th day of March 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–7233 Filed 3–31–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 145, 146, and 147

[Docket No. APHIS–2007–0042]

RIN 0579–AC78

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The changes were voted on and approved by the voting delegates at the Plan's 2006 National Plan Conference. These changes will 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: *Effective Date*: May 1, 2009.

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 101, 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 poultry diseases. Participation in all Plan programs is voluntary, but breeding flocks, hatcheries, and dealers must first qualify as ''U.S. Pullorum-Typhoid Clean'' as a condition for participating in the other Plan programs.

The Plan identifies States, flocks, hatcheries, dealers, and slaughter plants 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, 146, and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS, also referred to as ''the Service'') of the U.S. Department of Agriculture (USDA, also referred to as ''the Department'') amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

On May 28, 2008, we published in the **Federal Register** (73 FR 30528–20543, Docket No. APHIS–2007–0042) a proposal [1] to amend the Plan and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The proposed changes were voted on and approved by the voting delegates at the Plan's 2006 National Plan Conference. These changes were intended to keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

We solicited comments concerning our proposal for 60 days ending July 28, 2008. We received 11 comments by that date. They were from State agencies, a university, a diagnostic laboratory association, and private citizens. All 11 commenters raised specific issues regarding the proposed rule. Those issues are discussed below.

We proposed to amend §§ 145.14(d) and 146.13(b), which describe approved tests for avian influenza (AI) under the Plan, to approve the use of two agent detection tests for AI: The real time reverse transcriptase/polymerase chain reaction (RRT–PCR) assay and the USDA-licensed type A influenza antigen capture immunoassay (ACIA). In the proposed regulatory text, we stated that agent detection tests that detect influenza A matrix gene or protein would be allowed to be performed by an authorized laboratory, but tests that determine hemagglutinin (H) or neuraminidase (N) subtypes would not be allowed to be performed by an authorized laboratory.

Several commenters stated that laboratories that are not part of the National Animal Health Laboratory Network (NAHLN) should not be authorized to perform RRT–PCR assays for AI. As the commenters noted, many laboratories that are considered authorized laboratories under the Plan are operated by poultry industry groups or other parties and thus are not part of NALHN, which is composed of State and university laboratories and APHIS' National Veterinary Services Laboratories (NVSL).

NAHLN is a multifaceted network composed of sets of laboratories that focus on different diseases, using common testing methods and software platforms to process diagnostic requests and share information. The State and university laboratories in NAHLN perform routine diagnostic tests for endemic animal diseases as well as targeted surveillance and response testing for foreign animal diseases. The laboratories have the capability and capacity to conduct nationwide surveillance testing for the early detection of an animal disease outbreak, and they are able to test large numbers of samples rapidly during an outbreak and to demonstrate freedom from disease after eradication.

The commenters cited many concerns regarding allowing laboratories other than NAHLN laboratories to perform RRT–PCR assays for AI, including conflicts of interest in reporting positive results from industry-operated laboratories; loss of data or delays in reporting to State animal health officials in the event of positive results; lack of standardization of procedures between other laboratories and NALHN; NVSL's lack of resources for auditing industry laboratories; the potential for false positives or premature reporting from non-NAHLN laboratories; and biosafety and public health concerns. One of the commenters noted that only NALHN laboratories are currently authorized to perform RRT–PCR assays; this commenter stated that this system has worked well.

We agree with the commenters that RRT–PCR assays for AI should only be performed by NAHLN laboratories. We proposed that RRT–PCR assays would have to be conducted using the NVSL official protocol for RRT–PCR (AVPR01510) and be conducted by personnel who have passed an NVSL proficiency test. The protocol and the proficiency testing we proposed to require are only available to NALHN laboratories and personnel.

To resolve any confusion that may have arisen from our statement that tests that detect influenza A matrix gene or protein would be allowed to be performed by an authorized laboratory, we have modified that provision in this final rule. The regulatory text in this final rule states that agent detection tests may be used to detect influenza A matrix gene or protein but not to determine H or N subtypes. As described earlier, the specific requirements for performing RRT–PCR assays make it clear that only NAHLN laboratories can perform those assays. (As commenters noted, the ACIA may be performed by authorized laboratories as well as NAHLN laboratories.)

The proposed rule contained several other proposed changes related to AI. We proposed to add in a new § 145.15 the requirements in § 146.14 for AI diagnostic surveillance programs, which must include examination of all submitted cases of unexplained respiratory disease, egg production drops, and mortality for AI; this proposed change was intended to clearly indicate that these requirements apply to breeding poultry as well as commercial poultry. We proposed to increase the frequency at which multiplier egg-type chicken breeding flocks, multiplier meat-type chicken breeding flocks, and multiplier turkey breeding flocks that participate in the U.S. Avian Influenza Clean classifications in §§ 145.23(h)(2), 145.33(l)(2), and 145.43(g)(2), respectively, are tested, allowing 90 days rather than 180 days between tests. We proposed to establish a U.S. Avian Influenza Clean classification for ostrich, emu, rhea, and cassowary breeding flocks. We proposed to modify the sampling requirements for the U.S. H5/H7 Avian Influenza Monitored classification for meat-type turkey slaughter plants to allow testing at the flock level rather than at slaughter. Finally, we proposed to establish a U.S. H5/H7 Avian Influenza Monitored classification for commercial upland game bird slaughter plants, commercial waterfowl slaughter plants, raised-for-release upland game bird premises, and raised-for-release waterfowl premises.

One commenter stated a presumption that there is no AI being found in the U.S. chicken industry, based on the lack of such reports. Based on this information, the commenter stated, increasing sampling frequency does not appear to make sense. The commenter recommended instead that we require end-of-life testing of long-lived birds, such as breeder flocks, and symptomatic flocks, such as flocks with respiratory disease. The commenter stated that testing every meat bird flock in low-risk environments, such as conventional commercial poultry houses, appears to be an unnecessary step to placate international trading partners.

We agree with the commenter that testing of breeding flocks and symptomatic flocks is important. Our proposals to increase the frequency at which breeding flocks participating in

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0042.*

the U.S. Avian Influenza Clean classification are tested and to add diagnostic AI surveillance program provisions to 9 CFR part 145 speak to our concern on those issues. However, contrary to the commenter's assertion, occurrences of AI in U.S. poultry are rare but regular. The testing requirements for participants in the U.S. H5/H7 Avian Influenza Monitored classifications for meat-type flocks and slaughter plants are necessary to provide assurance that such flocks and slaughter plants are monitored for AI.

We proposed to establish new requirements for authorized laboratories in a new § 147.51. These included a requirement for an annual site visit and recordkeeping audit by the Official State Agency (OSA), which the regulations define as the State authority recognized by the Department to cooperate in the administration of the Plan. (In some States, the OSA is also the State animal health authority; in some States, the OSA includes representation from, but is not identical to, the State animal health authority.)

One commenter recommended that we require that the OSA and the State animal health authority of the State in which the laboratory is located be in concurrence before a laboratory is approved. The commenter also recommended that the Plan be modified where applicable to say that a representative of the State animal health authority may accompany the OSA whenever a site visit is conducted.

The OSA is the entity designated in the NPIP to carry out the administration of the Plan within a State and, in that capacity, makes the final determination on whether to authorize a laboratory. Therefore, requiring in the regulations that the State animal health authority concur with the OSA to authorize a laboratory or that the State animal health authority participate in site visits with the OSA would be inappropriate. However, we note that, in those cases when the OSA is not the State animal health authority itself, the OSA always includes representation from the State animal health authority.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This final 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.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

We are amending the Plan and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The changes were voted on and approved by the voting delegates at the Plan's 2006 National Plan Conference. These changes will 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 United States is the world's largest poultry producer, the second-largest egg producer, and the largest exporter of poultry meat. U.S. poultry meat production totals over 42 billion pounds annually; over four-fifths is broiler meat, most of the remainder is turkey meat, and a small fraction is other chicken meat. Cash receipts (*see* table 1) from sales of poultry and eggs (broilers, farm chickens, eggs, turkey, ducks, and other poultry) were about $28.9 billion in 2005 (with preliminary value for 2006 and forecasted value for 2007 being a little higher).[2] Of this total, 72 percent was from broilers, 14 percent from eggs, 11 percent from turkeys, and 3 percent from other poultry.

TABLE 1—CASH RECEIPTS FOR POULTRY AND EGGS, UNITED STATES, 2000–05; 2006, AND 2007

Commodity	2002	2003	2004	2005	2006 P	2007 F
	$1000s					
Poultry/eggs	21,138,999	23,959,134	29,540,692	28,903,545	27,700,000	29,600,000
Broilers	13,437,700	15,214,945	20,446,096	20,901,934	19,000,000	20,100,000
Farm chickens	49,850	47,508	57,260	63,963	+	+
Chicken eggs	4,232,433	5,273,099	5,239,082	4,000,142	4,400,000	5,100,000
Turkeys	2,643,273	2,631,862	2,995,802	3,157,637	3,500,000	3,500,000
Ducks	15,300	19,200	20,900	21,390	+	+
Other poultry	760,443	772,521	781,553	758,479	800,000	900,000

P = preliminary, F = Forecast, + = included in other poultry.
Source: USDA/ERS, Farm Income/Farm Cash Receipts, 1924–2005; 2006P, and 2007.F (*http://www.ers.usda.gov/data/FarmIncome/finfidmuxls.htm*).

In terms of tonnage, poultry production and trade exceeds that of beef or pork. For instance, in 2006, the United States produced 41.4 billion pounds of poultry meat, compared with 26.2 billion pounds of beef and 21 billion pounds of pork. The United States also produced 6.5 billion dozen eggs in 2006. Per capita consumption of poultry meat (103.8 pounds in 2006) exceeds per capita consumption of both beef (65.7 pounds) and pork (49.3 pounds). Furthermore, the United States exports more poultry meat (5.8 billion pounds in 2006) than beef and veal (1.2 billion pounds) or pork (3 billion pounds).[3]

Broiler production is concentrated in a group of States stretching from Delaware south along the Atlantic coast to Georgia, then westward through Alabama, Mississippi, and Arkansas. The top broiler-producing State is Georgia, followed by Arkansas, Alabama, North Carolina, Mississippi, and Texas. Operations in these States account for over 65 percent of broiler cash receipts.

Most U.S. broiler production is conducted under contract with broiler processors. The grower normally supplies the grow-out house with all the necessary heating, cooling, feeding, and watering systems. The grower also supplies the labor needed in growing the birds. The broiler processor supplies the chicks, feed, and veterinary medicines. The processor schedules transportation of the birds from the farm

[2] USDA/Economic Research Service (ERS), Farm Income/Cash receipts, 2002–2007.

[3] USDA/ERS, Livestock, Dairy, and Poultry Outlook/LDP–M–158, August 20, 2007.

to the slaughter plant. In many cases, the processor also supplies the crews who place broilers into cages for transportation to the slaughter plant.

The U.S. turkey industry produces over one-quarter of a billion birds annually, with the live weight of each bird averaging over 25 pounds. Production of turkeys is somewhat more scattered geographically than broiler production. The top five turkey-producing States are Minnesota, North Carolina, Missouri, Arkansas, and Virginia. The United States is by far the world's largest turkey producer, followed by the European Union. Even though exports are a major component of the U.S. turkey industry, the United States consumes more turkey per capita than any other country.

U.S. egg operations produce over 77 billion eggs annually. Over three-fourths of egg production is for human consumption (the table-egg market). The remainder of production is for the hatching market. These eggs are hatched to provide replacement birds for the egg-laying flocks and broiler chicks for grow-out operations. The top five egg-producing States are Iowa, Ohio, Pennsylvania, Indiana, and California.[4]

The United States is the world's largest exporter of poultry meat. Annual poultry meat exports totaled about 5.8 billion pounds in 2006, which is about 14.5 percent of U.S. production. (All trade statistics in this and the following paragraph are for 2006.) Demand for U.S. poultry meat products has fluctuated over the last several years due to changing economic conditions and currency exchange rates in major importing countries. The largest importers of U.S. broiler products are Russia, Mexico, China, Canada, Hong Kong, Turkey, Taiwan, Angola, South Korea, and Ukraine. Together, these markets accounted for over 74 percent of U.S. poultry meat exports, on a quantity basis. The United States imports only small amounts of poultry meat, accounting for less than two-tenths of 1 percent of domestic production. Over 98 percent of imports come from Canada.

As in the case of poultry meat, U.S. exports of live poultry and exports of fresh shell eggs are widely distributed and significantly outweigh imports of these products. The United States exported 1,302 million eggs and imported 65.4 million eggs in 2006. The major importers of eggs are Canada, Mexico, Jamaica, United Kingdom, Hong Kong, Brazil, Trinidad and Tobago, Dominican Republic, Guyana, and Nicaragua. These countries altogether accounted for about 80 percent of U.S. egg exports. U.S. imports are mainly from Canada, China, France, and Taiwan. These countries together accounted for 91 percent of U.S. imports of eggs. The United States exported 51 million live poultry and imported 13.7 million live poultry in 2006. Major destinations include Canada, Mexico, China, Thailand, Peru, Colombia, Guatemala, Indonesia, Egypt, and El Salvador. These countries accounted for 70 percent of U.S. total live poultry exports. All U.S. imports of live poultry came from Canada, United Kingdom, and Italy.

The decision to participate in the NPIP program is voluntary. Being a participating flock in NPIP has many benefits. These include: The flock being recognized as a participating member of NPIP; the flock having an approval number which may be used on shipping labels, certificates, invoices, and other documents for identification purposes; the flock being listed in the official *NPIP Directory of Participants*; free listing in various State fair brochures; and receiving emergency disease management updates. Furthermore, being a participant in the NPIP allows for greater ease in moving hatching eggs and live birds within a State, across State lines, and into international markets. In fact, most countries will not accept hatching eggs, live birds, table eggs, or broilers unless they can be shown to be from an NPIP participant.

Any increased cost to NPIP participants due to the proposed rule will be minor compared to the expected benefits of the changes in this final rule. Additional costs are likely to be minor because most of the participants already had been implementing these changes for several years. Even if additional tests are required, the additional number of birds tested will be very small compared to the size of flocks in the industry. Individual producers will continue to participate in the NPIP program only if the benefits they receive from participation outweigh the costs. Over 99 percent of poultry breeders and hatcheries, commercial table-egg layer flocks, and commercial meat-type chicken and turkey slaughter plants are Plan participants.

Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. According to the Small Business Administration's (SBA's) Office of Advocacy, regulations create economic disparities based on size when they have a significant economic impact on a substantial number of small entities.

Entities engaged in production of breeding stock and hatcheries will be affected by this final rule. Currently there are four major firms that produce primary breeding stock of egg-type chickens, three breeders of meat-type chickens, two breeders of turkeys, and one firm producing breeding stock of both egg-type and meat-type chickens.[5] All of these are large facilities headquartered in the United States that operate in domestic and international markets, and would not be considered small entities. Few, if any, small producers will be directly affected by this final rule.

Broiler operations (North American Industry Classification System [NAICS] code 112320), turkey operations (NAICS 112330), hatcheries (NAICS 112340), and other poultry operations (112390) could also be affected by the changes in this final rule. All of these operations are considered to be small if they have annual sales of $750,000 or less (SBA Table of Small Business Size Standards, *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf*). Commercial egg producers (NAICS 112310) are considered small if they have annual sales of not more than $11.5 million.

The broiler industry has evolved from small backyard flocks to fewer than 50 highly specialized, vertically integrated agribusiness firms. A measure of the changing structure is the number and size of chicken hatcheries. In 1973, there were 989 facilities that hatched all chickens in the United States. Those hatcheries had the capacity to incubate 436 million eggs at one time for an average capacity of 440,849 eggs per facility. In 2006, there were 313 chicken hatcheries, with an incubator capacity of 910 million eggs for an average capacity of 2.9 million eggs per facility. Similarly, there were 203 turkey hatching facilities with capacity to incubate 45 million eggs at one time, for an average capacity of 221,675 eggs per facility. In 2006, there were 55 turkey hatcheries, with an incubator capacity of 39 million eggs for an average capacity of 703,927 eggs per facility.[6]

We do not foresee any significant impact of this final rule on small

[4] USDA/ERS, Livestock, Dairy, and Poultry Outlook/LDP–M–158, August 20, 2007.

[5] Mary E. Delany, *Genetic Diversity and Conservation of Poultry*, p. 261, in W.M. Muir and S.E. Aggrey, *Poultry Genetics, Breeding and Biotechnology*, August 2003; Susanne Gura, *Livestock Genetics Companies: Concentration and Proprietary Strategies of an Emerging Power in the Global Economy* (*http://pastoralpeoples.org/docs/Livestock_genetics.pdf*).

[6] USDA, ERS, Hatchery Production, March 1975; Hatchery Production 2006 Summary, April 2007.

entities. The NPIP is a voluntary program, so poultry producers can decide if it is beneficial for them to participate.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Parts 145, 146, and 147

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

■ Accordingly, we are amending 9 CFR parts 145, 146, and 147 as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN FOR BREEDING POULTRY

■ 1. The authority citation for part 145 continues to read as follows:

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

■ 2. Section 145.1 is amended as follows:

■ a. By revising the definition of *authorized laboratory* to read as set forth below.

■ b. By adding, in alphabetical order, new definitions of *NPIP Technical Committee* and *Senior Coordinator* to read as set forth below.

■ c. In the definition of *equivalent or equivalent requirements*, by adding the words ''or exceed'' after the words ''equal to'' and the words ''they are'' after the words ''with which.''

§ 145.1 Definitions.

* * * * *

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.

* * * * *

NPIP Technical Committee. A committee made up of technical experts on poultry health, biosecurity, surveillance, and diagnostics. The committee consists of representatives from the poultry and egg industries, universities, and State and Federal governments and is appointed by the Senior Coordinator and approved by the General Conference Committee.

* * * * *

Senior Coordinator. An employee of the Service whose duties may include, but will not necessarily be limited to:

(1) Serving as executive secretary of the General Conference Committee;

(2) Serving as chairperson of the Plan Conference described in § 147.47;

(3) Planning, organizing, and conducting the Plan Conference;

(4) Reviewing NPIP authorized laboratories as described in § 147.51;

(5) Coordinating the State administration of the NPIP through periodic reviews of the administrative procedures of the Official State Agencies, according to the applicable provisions of the Plan and the Memorandum of Understanding;

(6) Coordinating rulemaking to incorporate the proposed changes of the provisions approved at the Plan conference into the regulations in parts 145, 146, and 147 of this subchapter;

(7) Directing the production of official NPIP publications;

(8) Proposing an annual budget for plan activities and the General Conference Committee; and

(9) Providing overall administration of the NPIP.

* * * * *

■ 3. In § 145.2, paragraph (a) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 145.2 Administration.

(a) * * * 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.

* * * * *

■ 4. Section 145.14 is amended as follows:

■ a. By adding a new paragraph (b)(5) to read as set forth below.

■ b. By revising paragraph (d) to read as set forth below.

§ 145.14 Blood testing.

* * * * *

(b) * * *

(5) The official molecular examination procedures for *Mycoplasma gallisepticum* and *M. synoviae* are the polymerase chain reaction (PCR) test described in § 147.30 of this subchapter and the real-time PCR test described in § 147.31 of this subchapter.

* * * * *

(d) *For avian influenza.* The official tests for avian influenza are described in paragraphs (d)(1) and (d)(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 agent detection 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 of avian influenza may be made only by NVSL.

* * * * *

■ 5. Section 145.15 is revised to read as follows:

§ 145.15 Diagnostic surveillance program for 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.

§ 145.23 [Amended]

■ 6. In § 145.23, paragraphs (h)(2)(i) and (h)(2)(ii) are amended by removing the number ''180'' and replacing it with the number ''90'' each time it occurs.

§ 145.33 [Amended]

■ 7. In § 145.33, paragraphs (l)(2)(i) and (l)(2)(ii) are amended by removing the number ''30'' and replacing it with the number ''15'' each time it occurs; and by removing the number ''180'' and replacing it with the number ''90'' each time it occurs.

§ 145.43 [Amended]

■ 8. In § 145.43, paragraphs (g)(2)(i) and (g)(2)(ii) are amended by removing the number ''180'' and replacing it with the number ''90'' each time it occurs.

■ 9. In § 145.52, paragraph (c) is revised to read as follows:

§ 145.52 Participation.

* * * * *

(c) Subject to the approval of the Service and the Official State Agencies in the importing and exporting States, participating flocks may report poultry sales to importing States by using either VS Form 9–3, ''Report of Sales of Hatching Eggs, Chicks, and Poults,'' or by using a hatchery invoice form (9–3I) approved by the Official State Agency and the Service to identify poultry sales to clients. If the selling hatchery uses the 9–3I form, the following information must be included on the form:

(1) The form number ''9–3I'', printed or stamped on the invoice;

(2) The hatchery name and address;

(3) The date of shipment;

(4) The hatchery invoice number;

(5) The purchaser name and address;

(6) The quantity of products sold;

(7) Identification of the products by bird variety or by NPIP stock code as listed in the NPIP APHIS 91–55–078 appendix; and

(8) The appropriate NPIP illustrative design in § 145.10. One of the designs in § 145.10(b) or (g) must be used. The following information must be provided in or near the NPIP design:

(i) The NPIP State number and NPIP hatchery approval number; and

(ii) The NPIP classification for which product is qualified (e.g., U.S. Pullorum-Typhoid Clean).

* * * * *

■ 10. In § 145.63, a new paragraph (b) is added to read as follows:

§ 145.63 Terminology and classification; flocks and products.

* * * * *

(b) *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 all ostrich, emu, rhea, and cassowary breeding flocks through routine serological surveillance of each participating breeding flock. Acceptable tests include antigen and antibody detection tests, as approved by the Official State Agency. A flock, and the hatching eggs and chicks produced from it, will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a primary breeding flock in which 10 percent of the flock, up to a maximum of 30 birds, has been tested negative for type A influenza virus with all pens represented equally and when the tested birds are more than 4 months of age. Positive samples shall be further tested by an authorized laboratory. 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 less than 10 percent of the birds, up to a maximum of 30 birds, may be tested and found to be negative at any one time if all pens are equally represented and a total of 30 birds are tested within each 180-day period.

(2) It is a multiplier breeding flock in which a minimum of 30 birds has been tested negative to type A influenza virus with all pens represented equally and when the tested birds are more than 4 months of age. Positive samples shall be further tested by an authorized laboratory. 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 at least 10 percent of birds from each pen with all pens being represented must be tested negative at intervals of 180 days; or

(iii) A sample of less than 10 percent of the birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 10 percent of the birds are tested within each 180-day period.

PART 146—NATIONAL POULTRY IMPROVEMENT PLAN FOR COMMERCIAL POULTRY

■ 11. The authority citation for part 146 continues to read as follows:

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

■ 12. Section 146.1 is amended as follows:

■ a. By revising the definition of *authorized laboratory* and the first sentence of the definition of *commercial meat-type flock* to read as set forth below.

■ b. In the definition of *equivalent*, by adding the words ''or exceed'' after the words ''equal to'' and the words ''they are'' after the words ''with which.''

§ 146.1 Definitions.

* * * * *

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.

* * * * *

Commercial meat-type flock. All of the meat-type chickens, meat-type turkeys, commercial upland game birds, or commercial waterfowl on one farm.

* * *

* * * * *

■ 13. In § 146.2, paragraph (a) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 146.2 Administration.

(a) * * * 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.

* * * * *

■ 14. Section 146.3 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 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.

* * * * *

(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.* * *

* * * * *

■ 15. Section 146.6 is revised to read as follows:

§ 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.

§ 146.9 [Amended]

■ 16. In § 146.9, paragraph (a) is amended by removing the word ''and'' and adding the words '', and 146.53(a) and (b)'' at the end of the second sentence, before the period.

■ 17. Section 146.11 is amended as follows:

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

■ b. By redesignating paragraphs (b) and (c) as (d) and (e), respectively.

■ c. By adding new paragraphs (b) and (c) to read as set forth below.

§ 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.

* * * * *

■ 18. In § 146.13, paragraph (b) is revised to read as follows:

§ 146.13 Testing.

* * * * *

(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.

■ 19. In § 146.43, in paragraph (a)(1), the first sentence is revised to read as follows:

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

* * * * *

(a) * * *

(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 virus with an approved test no more than 21 days prior to slaughter. * * * * * * * * *

■ 20. A new subpart E, ''Special Provisions for Commercial Upland Game Birds, Commercial Waterfowl, Raised-for-Release Upland Game Birds, and Raised-for-Release Waterfowl,'' §§ 146.51 through 146.53, is added to read as follows:

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

Sec.

146.51 Definitions.
146.52 Participation.
146.53 Terminology and classification; slaughter plants and premises.

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

§ 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 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 antibodies to the H5/H7 subtypes of avian influenza 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. It is intended to determine the presence of 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 every 90 days.

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

■ 21. The authority citation continues to read as follows:

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

■ 22. Section 147.9 is amended as follows:

■ a. By revising paragraph (a)(4)(i)(F) to read as follows.

■ b. By removing figure 1.

■ c. By redesignating figures 2 and 3 as figures 1 and 2, respectively.

§ 147.9 Standard test procedures for avian influenza.

(a) * * *

(4) * * *

(i) * * *

(F) To prepare the wells, 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 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 1).

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 2).

* * * * *

§ 147.12, 147.14–16, 147.30 [Amended]

■ 23. Sections 147.12, 147.14, 147.15, 147.16, and 147.30 are amended by redesignating footnotes 12 through 24 as footnotes 8 through 20, respectively

■ 24. A new § 147.31 is added to read as follows:

§ 147.31 Laboratory procedures recommended for the real-time polymerase chain reaction test for Mycoplasma gallisepticum (MGLP ReTi).

(a) *DNA extraction.* Use Qiagen Qiamp Mini Kit for DNA extraction or equivalent validated technique/procedure. This kit utilizes the following methods: 100 µl of swab suspension incubates with 10 µl of proteinase K and 400 µl of lysis buffer at 56 °C for 10 minutes. Following incubation, 100 µl of 100 percent ethanol is added to lysate. Wash and centrifuge following extraction kit recommendations.

(b) *Primer selection.* A forward primer mglpU26 (5′-CTA GAG GGT TGG ACA GTT ATG–3′) located at nucleotide positions 765,566 to 765,586 of the *M. gallisepticum* R strain genome sequence; a reverse primer mglp164 (5′-GCT GCA CTA AAT GAT ACG TCA AA–3′) located at nucleotide positions 765,448 to 765,470 of the *M. gallisepticum* R strain genome sequence; and a Taqman dual-labeled probe mglpprobe (5′-FAM–CAG TCA TTA ACA ACT TAC CAC CAG AAT CTG–BHQ1–3′) located at nucleotide positions 765,491 to 765,520 of the *M. gallisepticum* R strain genome should be used to amplify a 139-bp fragment of the lp gene.

(c) *MGLP ReTi.* Primers and probe should be utilized in a 25 µl reaction containing 12.5 µl of Quantitect Probe PCR 2X mix (Qiagen, Valencia, CA),[21] primers to a final concentration of 0.5 µmolar, and probe to a final concentration of 0.1 µmolar, 1µl of HK–UNG Thermolabile Uracil N-glycosylase (Epicentre, Madison, WI), 2 µl of water, and 5 µl of template. The reaction can be performed in a SmartCycler (Cepheid, Sunnyvale, CA) or other equivalent validated platform procedure for real-time thermocycler at 50 °C for 2 minutes; 95 °C for 15 minutes with optics OFF; and 40 cycles of 94 °C for 15 seconds followed by 60 °C for 60 seconds with optics ON.

(d) *Determination of positive.* For each MGLP ReTi assay reaction, the threshold cycle number (CT value) was determined to be the PCR cycle number at which the fluorescence of the reaction exceeded 30 units of fluorescence. For all samples tested, any MGLP reaction that has a recorded CT value was considered positive, while any MGLP reaction that had no recorded CT value was considered negative.

(e) *Controls.* Proper controls should be used when conducting the MGLP ReTi assay as an official test of the Plan. Positive, quantitative, extraction, and internal controls are commercially available from GTCAllison, LLC, Mocksville, NC.

■ 25. Section 147.43 is amended as follows:

■ a. By revising paragraph (d)(4) to read as set forth below.

■ b. In paragraph (d)(6), by removing the words ''a forum'' and adding the words ''an official advisory committee'' in their place.

[21] Trade names are used in these procedures solely for the purpose of providing specific information. Mention of a trade name does not constitute a guarantee or warranty of the product by the U.S. Department of Agriculture or an endorsement over other products not mentioned.

§ 147.43 General Conference Committee.

* * * * *

(d) * * *

(4) Consider each proposal submitted as provided in § 147.44 and make recommendations to subpart Committees and the Conference. Meet jointly with the NPIP Technical Committee and consider the technical aspects and accuracy of each proposal. Recommend whether new proposals (i.e., proposals that have not been submitted as provided in § 147.44) should be considered by the delegates to the Plan Conference.

* * * * *

■ 26. In § 147.45, the first sentence is revised to read as follows:

§ 147.45 Official delegates.

Each cooperating State shall be entitled to one official delegate for each of the programs prescribed in subparts B, C, D, E, F, G, and H of part 145 of this chapter and for each of the programs prescribed in subparts B, C, D, and E of part 146 of this chapter in which it has one or more participants at the time of the Conference. * * *

■ 27. In § 147.46, a new paragraph (a)(9) is added to read as follows:

§ 147.46 Committee consideration of proposed changes.

(a) * * *

(9) Commercial upland game birds and waterfowl and raised-for-release upland game birds and waterfowl.

* * * * *

■ 28. A new Subpart F, ''Authorized Laboratories and Approved Tests,'' §§ 147.51 and 147.52, is added to read as follows:

Subpart F—Authorized Laboratories and Approved Tests

Sec.

147.51 Authorized laboratory minimum requirements.

147.52 Approved tests.

Subpart F—Authorized Laboratories and Approved Tests

§ 147.51 Authorized laboratory minimum requirements.

These minimum requirements are intended to be the basis on which an authorized laboratory of the Plan can be evaluated to ensure that official Plan assays are performed and reported as described in this part A satisfactory evaluation will result in the laboratory being recognized by the NPIP office of the Service as an authorized laboratory qualified to perform the assays provided for in this part.

(a) *Check-test proficiency.* The laboratory must use a regularly

scheduled check test for each assay that it performs.

(b) *Trained technicians.* The testing procedures at the laboratory must be run or overseen by a laboratory technician who has attended and satisfactorily completed Service-approved laboratory workshops for Plan-specific diseases within the past 3 years.

(c) *Laboratory protocol.* Official Plan assays must be performed and reported as described in this part.

(d) *State site visit.* The Official State Agency will conduct a site visit and recordkeeping audit annually.

(e) *Service review.* Authorized laboratories will be reviewed by the Service (NPIP staff) every 3 years. The Service's review may include, but will not necessarily be limited to, checking records, laboratory protocol, check-test proficiency, technician training, and peer review.

(f) *Reporting.* (1) A memorandum of understanding or other means shall be used to establish testing and reporting criteria to the Official State Agency, including criteria that provide for reporting H5 and H7 low pathogenic avian influenza directly to the Service.

(2) *Salmonella pullorum* and *Mycoplasma* Plan disease reactors must be reported to the Official State Agency within 48 hours.

(g) *Verification.* Random samples may also be required to be submitted for verification as specified by the Official State Agency.

§ 147.52 Approved tests.

(a) The procedures for the bacteriological examination of poultry and poultry environments described in this part are approved tests for use in the NPIP. In addition, all tests that use veterinary biologics (e.g., antiserum and other products of biological origin) that are licensed or produced by the Service and used as described in this part are approved for use in the NPIP.

(b) Diagnostic test kits that are not licensed by the Service (e.g., bacteriological culturing kits) may be approved through the following procedure:

(1) The sensitivity of the kit will be estimated in at least three authorized laboratories selected by the Service by testing known positive samples, as determined by the official NPIP procedures found in Subparts A, B, C, and D of this part. If certain conditions or interfering substances are known to affect the performance of the kit, appropriate samples will be included so that the magnitude and significance of the effect(s) can be evaluated.

(2) The specificity of the kit will be estimated in at least three authorized laboratories selected by the Service by testing known negative samples, as determined by the official NPIP procedures found in this part. If certain conditions or interfering substances are known to affect the performance of the kit, appropriate samples will be included so that the magnitude and significance of the effect(s) can be evaluated.

(3) The kit will be provided to the cooperating laboratories in its final form and include the instructions for use. The cooperating laboratories must perform the assay exactly as stated in the supplied instructions. Each laboratory must test a panel of at least 25 known positive clinical samples supplied by the manufacturer of the test kit. In addition, each laboratory will be asked to test 50 known negative clinical samples obtained from several sources, to provide a representative sampling of the general population. The identity of the samples must be coded so that the cooperating laboratories are blinded to identity and classification. Each sample must be provided in duplicate or triplicate, so that error and repeatability data may be generated.

(4) Cooperating laboratories will submit to the kit manufacturer all raw data regarding the assay response. Each sample tested will be reported as positive or negative, and the official NPIP procedure used to classify the sample must be submitted in addition to the assay response value.

(5) The findings of the cooperating laboratories will be evaluated by the NPIP technical committee, and the technical committee will make a recommendation regarding whether to approve the test kit to the General Conference Committee. If the technical committee recommends approval, the final approval will be granted in accordance with the procedures described in §§ 147.46 and 147.47.

Done in Washington, DC, this 26th day of March 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–7240 Filed 3–31–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1206; Directorate Identifier 2008–NE–19–AD; Amendment 39–15869; AD 2009–07–10]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80A Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for General Electric Company (GE) CF6–80A series turbofan engines with a high-pressure turbine rotor (HPTR) stage 1 disk, part number (P/N) 9367M45G06, installed. This AD requires removing any HPTR stage 1 disk, P/N 9367M45G06, before exceeding 2,075 cycles-since-new (CSN). This AD results from an error by GE that incorrectly cited a cyclic life of 12,600 CSN for the HPTR stage 1 disk, P/N 9367M45G06. We are issuing this AD to prevent the HPTR stage 1 disk from exceeding its part life, which could cause fatigue cracks to start and grow. These cracks could result in a possible uncontained disk failure and damage to the airplane.

DATES: This AD becomes effective May 6, 2009.

ADDRESSES: The Docket Operations office is located at the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: robert.green@faa.gov*; telephone (781) 238–7754; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to GE CF6–80A series turbofan engines with a HPTR stage 1 disk, P/N 9367M45G06, installed. We published the proposed AD in the **Federal Register** on November 14, 2008 (73 FR 67433). That action proposed to require removing any HPTR stage 1 disk, P/N 9367M45G06, before exceeding 2,075 CSN.