

which supports the expenditure and shall be made available to the FAS upon request.

(4) Participants shall maintain all records and documents relating to TASC projects, including the original documentation which supports reimbursement claims, for a period of three calendar years following the expiration or termination date of the program agreement. Such records and documents will be subject to verification by the FAS Compliance Review Staff and shall be made available upon request to authorized officials of the U.S. Government. The FAS may deny a claim for reimbursement if the claim is not supported by acceptable documentation.

(5) In the event that a reimbursement claim is overpaid or is disallowed after payment already has been made, the participant shall return the overpayment amount or the disallowed amount to the CCC within 30 days after realizing the overpayment or receiving notification of the overpayment or disallowed amount.

(b) *Advances.* Participants may request advances of funds, not to exceed 85 percent of the funding approved in any given program year. All advanced funds must be either fully expended or the balance returned by check made payable to the CCC no later than the 90th calendar day following the date of disbursement of the advance to the participant. Upon the expenditure of advance funds, participants must submit reimbursement claims to offset the advance charged to them.

(c) *Interest.* Participants shall deposit and maintain advanced funds in insured, interest-bearing accounts. Interest earned on outstanding advances must be returned by check made payable to the CCC at the time the advance is either fully expended or itself returned.

Dated: July 11, 2003.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 03-18266 Filed 7-17-03; 8:45 am]

BILLING CODE 3410-10-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 53

[Docket No. 02-048-2]

RIN 0579-AB46

Low Pathogenic Avian Influenza; Payment of Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with several changes, an interim rule that amended our general indemnity regulations by allowing the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Virginia. As amended by this document, payments may also be made for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Texas. Also, subject to available funding, the Department may pay up to 75 percent of eligible total losses with contract growers being compensated at 100 percent of their losses and the remaining amount being paid to the owner of the flock. Additionally, this document makes eligible for compensation losses due to eggs and semen that were destroyed because of low pathogenic avian influenza associated with the disease situations in Virginia and Texas. These actions are necessary to provide appropriate compensation for losses incurred due to this disease.

EFFECTIVE DATE: July 18, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Cheryl Hall, Staff Veterinarian, National Center for Animal Health Programs, Certification and Control Team, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737-1231; (301) 734-4924.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (the Department) administers regulations at 9 CFR part 53 (referred to below as the regulations) that provide for the payment of indemnity to owners of animals and materials that are required to be destroyed because of foot-and-mouth disease, pleuropneumonia, rinderpest, exotic Newcastle disease, highly pathogenic avian influenza,

infectious salmon anemia, or any other communicable disease of livestock or poultry that, in the opinion of the Secretary of Agriculture, constitutes an emergency and threatens the U.S. livestock or poultry population. Payment for animals destroyed is to be based on the fair market value of the animals.

Payment of Indemnity

Section 53.2 of the regulations authorizes the APHIS Administrator to cooperate with a State in the control and eradication of disease. In an interim rule published in the **Federal Register** on November 4, 2002, and made effective December 9, 2002 (67 FR 67089-67096, Docket No. 02-048-1), we amended the regulations to allow the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza (LPAI) associated with a disease situation in Virginia. We provided that, subject to available funding, the Department may pay all eligible losses of contract growers and up to 50 percent of eligible losses of owners, minus any amount paid to the contract grower of a flock. Additionally, we provided that value of poultry destroyed due to the disease may be determined after destruction and disposal of the poultry, and required, except in limited situations, a waiting period of 7 days following cleaning and disinfection before premises that contained poultry affected by the disease may be restocked.

We solicited comments concerning the interim rule for 30 days ending December 4, 2002. We received 41 comments by that date. They were from poultry and egg producers, poultry federations, a farm bureau federation, a State Department of Agriculture, Federal and State congressional officials, and other members of the public. We have carefully considered all of the comments we received. They are discussed below by topic.

Recommendation That Indemnity Be Paid for a Disease Situation in Texas

In April 2002, birds in a poultry operation in Texas were identified as being affected with the LPAI H5 virus. The disease was subsequently identified in another poultry operation in Texas. All of the affected flocks were depopulated. A number of commenters recommended that indemnity be paid to producers of poultry in Texas for losses incurred from the occurrence of LPAI in that State. Some of the commenters stated that the disease situation in Texas was not as widespread as in Virginia only because Texas producers had been voluntarily taking part in a testing

program, and that those producers should not be denied indemnity for losses simply because they took part in an effective program. The commenters stated that not compensating Texas producers would serve as a disincentive to take part in ongoing surveillance programs in the future.

We recognize the proactive efforts of producers and animal health officials in Texas to contain and eradicate LPAI when it occurred in that State in 2002, and we recognize the effects on producers of the LPAI situation in Texas. In this final rule, we are amending the provisions in part 53 to allow the Administrator to pay claims for eligible losses incurred by owners and contract growers related to the 2002 disease situation in Texas associated with the H5 virus. We will apply those payment conditions that we are applying to the disease situation in Virginia to the disease situation in Texas.

Flock Owners in North Carolina

Several commenters requested similarly that compensation be paid to producers in North Carolina for losses due to LPAI.

Our interim rule provided that the Department would pay compensation for birds in States other than Virginia if those birds were depopulated because of being epidemiologically linked to the situation in Virginia. Compensation has been paid for flocks in North Carolina epidemiologically linked to the situation in Virginia.

Percentage of Value Used for Compensation

Several commenters requested that poultry owners be compensated at a rate higher than 50 percent of the value of poultry destroyed minus the amount paid to contract growers.

In this final rule, we are providing that, subject to available funding, the Department may pay up to 75 percent of eligible total losses with contract growers being compensated at 100 percent of their eligible losses and the remaining amount being paid to the owner of the flock.

Payment for Eggs and Semen

Several commenters requested that compensation be paid for destroyed eggs from affected premises, including destroyed hatching eggs that had been moved to a hatchery after the disease was detected on the premises but before the poultry from that premises were destroyed.

We agree with the commenters that such losses should be eligible for compensation. Additionally, semen

collected from or used in affected flocks poses a risk of transmitting the LPAI virus and should be destroyed as part of the eradication process. Therefore, we are providing in this final rule that compensation will be paid for eggs, as well as any poultry semen, destroyed because of LPAI associated with the disease situations in Virginia and Texas.

Miscellaneous Items

One commenter expressed concern that the interim rule did not provide for payment for certain items other than poultry on affected premises. The commenter requested indemnity for feed and containers destroyed on affected premises. Additionally, the commenter requested compensation for custom-printed supplies that would not be used again because the destruction of birds and eggs would make it impossible to resume business operations. Other commenters requested compensation for feed used to sustain poultry from the time the disease was diagnosed on a premises until the time of depopulation and for poultry litter that could not be sold and moved from a quarantined premises.

We are making no changes based on the comments. Under the interim rule, growers were compensated fully for production losses and owners were compensated in part for poultry destroyed because of LPAI. With regard to feed and other materials destroyed, it has historically not been the Department's policy to compensate for such materials that were not required to be destroyed by the Department, such as in the Virginia and Texas outbreaks, where actions to control and eradicate the disease were initiated by the States. Any decision to no longer use supplies that were not contaminated by the disease was a voluntary business decision by the entity involved. The issue of compensating for feed used to sustain poultry is further inapplicable because, for those poultry that were allowed to move to slaughtering establishments (controlled slaughter), owners recouped the cost of feed for the poultry. In cases where affected poultry did not go to controlled slaughter, the poultry were required to be destroyed within 24 hours of diagnosis. Litter in the affected area was permitted to be moved from the area after meeting requirements to ensure that it was not contaminated by the LPAI agent.

The LPAI Compensation Plan

The interim rule based payments on the age (in weeks) of birds destroyed. Several commenters requested that the indemnification value of breeder flocks be calculated as of the date that the

flock was diagnosed positive for LPAI, because, following that date, hatching eggs produced by the flock could not be moved from the premises. One commenter requested that, at the minimum, the value of a breeding bird be calculated as of the last full week of age of the bird before depopulation. For instance, it was requested that, if a flock was 44 weeks and 5 days old when depopulated, we consider the age of that flock to be only 44 weeks. One commenter recommended that the per-bird value in the LPAI compensation plan be prorated to the day of the bird's age.

We are making no changes based on the comments. We decided to be consistent with the method used to determine age, whether the birds were meat birds or breeding birds. We rounded up or down in standard fashion according to how old in days beyond a full week a bird was (e.g., a bird 1 week and 2 days old will be considered 1 week old; a bird 1 week and 5 days old will be considered 2 weeks old). Although meat birds and replacement breeders gain in value as they age, breeder birds lose value as they age. An attempt to consider birds in all cases to be only as old as the last full week would have provided overcompensation to some owners and undercompensation to others. Calculation of compensation of a large number of birds based on days of age would delay payments and increase taxpayer expense to process the claims, and, on the average, using daily values would not change the overall payment made.

Several commenters stated that, practically speaking, the LPAI compensation plan bases payments to contract growers of breeder poultry on production records from one flock, whereas payments to growers of meat birds are based on an average of three to seven flocks. The commenters requested that a three-flock average be used to determine compensation for losses of breeder poultry.

We would find it acceptable to use a three-flock average for breeder birds. If companies provide APHIS with breeder data for the past three flocks, then all three flocks can be used in estimating flock productivity.

One commenter recommended that, in calculating a broiler breeder producer's projected flock income for the purposes of compensation, the previous three-flock income average be divided by the capitalized number of hens, and that the resulting payment per unit be multiplied by the capitalized number of hens in the LPAI-affected flock.

We would find the method described by the commenter an acceptable method of calculating projected flock income, provided documentation is provided to support the numbers provided.

One commenter asked whether any payment would be due a producer of broiler breeder birds if the age of the LPAI-affected flock was older than the average age of previous flocks.

It is not clear to us what the commenter means. Payment will be calculated for contract growers based on the amount they received for previous flocks. Contract growers will be compensated at 100 percent of their eligible losses, minus any compensation they already received from the owner. One possible but unlikely scenario the commenter may be referring to would be based on the fact that producers of breeding eggs often receive payment during the production cycle. Thus, it is possible, if the depopulated flock had much greater productivity and lasted in production longer than previous flocks, for the payment already received from the owner to be greater than the average amount received from previous flocks. If such a situation occurred, then no additional compensation would be paid to the producer, because the producer would have already received payment equal to previous flocks.

Several commenters stated that, under the interim rule, compensation would not be paid for male birds in broiler breeder flocks associated with the Virginia disease situation. The commenters requested that payment be made for such male birds disposed of due to the disease.

The compensation plan for Virginia does take into account losses for male birds in broiler breeder flocks; however, that may not be immediately apparent. The per bird compensation value for breeder broilers is shown in Table 1 of that compensation plan. (The compensation plan can be accessed as an appendix to the full economic analysis of the interim rule at <http://www.aphis.usda.gov/ppd/rad/avianecon.html>.) An explanation of how to apply that value is set out in the compensation plan under the heading "Female Breeder Birds (in lay), Table Egg Birds (in lay)." See section XXVI, which states, "Per bird compensation values for broiler breeders include the cost of males, thus bird count should be of hens only." In other words, the value given the hens takes into account the value of male birds in the flock.

Growers Who Cease Business

One poultry owner stated that, in cases where a contract grower is ruled ineligible for payment because the

grower did not adhere to the cleaning and disinfection requirements of the interim rule due to cessation of the business, the poultry owner should nonetheless be compensated the total amount the owner is eligible to receive.

In such a case, the owner would receive compensation for the total eligible losses. However, based on the information available to us, all growers have chosen to clean and disinfect affected premises.

Requests for Additional Compensation

Several commenters requested that compensation be paid for income and production losses associated with delays in restocking a premises or neighboring premises after an LPAI test-positive flock had been depopulated and disposed of.

We are making no changes based on the comments. It has traditionally been the policy of the Department not to pay for "downtime."

Several commenters requested that compensation be paid for the cost of cleaning and disinfecting affected premises.

We are making no changes based on the comments. We consider the amounts that will be paid in accordance with the interim rule, as amended by this final rule, to be equitable compensation for losses incurred.

Several commenters requested that compensation be paid for reduced income to producers whose flocks tested negative, but who, as a precautionary measure due to detection of the disease in premises in the area, sent the flocks to slaughter earlier and at less value than they would have normally.

We recognize that some producers whose flocks were not affected chose to send their birds to slaughter due to detection of the disease in the area. However, APHIS, by law, may compensate only for birds and materials destroyed because they are considered to be infected with or exposed to the disease.

Payment for Poultry Linked to the Situation

One commenter requested confirmation that compensation would be paid for losses incurred from the destruction of poultry in States other than Virginia that were epidemiologically linked to the Virginia situation.

The commenter is correct in concluding that compensation will be paid for poultry in States other than Virginia that were destroyed because of an epidemiological link to the situation in Virginia.

Opposition to the Interim Rule

One commenter opposed the payment of indemnity under the interim rule, stating that losses due to disease are normal costs of doing business for any livestock industry.

We are making no changes based on this comment. In the event of a potentially serious disease situation, it is important to have a rapid, coordinated response by the public and private sectors in the early stages of the situation. The purpose of compensation is to remove possible sources of delay in eradicating the disease, such as grower and owner reluctance to report incidences of the diseases because of uncertainty about whether they will be compensated for losses.

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

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule are under review by the Office of Management and Budget under OMB control number 0579-0208.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. The interim rule adopted as final by this rule was effective on December 9, 2002. This rule expands and increases the compensation to be paid for losses associated with an LPAI situation in Virginia and allows compensation to be paid for losses associated with an LPAI

situation in Texas. Immediate action is warranted to expedite compensation of persons who incurred eligible losses due to the disease situations.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

Below is the economic analysis of the changes in indemnity contained in this document with regard to LPAI in Virginia and Texas. Our November 4, 2002, interim rule included a summary of an initial regulatory flexibility analysis and cost-benefit analysis of the potential economic effects of the interim rule regarding the LPAI situation in Virginia. The full economic analysis for the interim rule, along with addendum for this final rule (the compensation plan for Texas), are available for review at <http://www.aphis.usda.gov/ppd/rad/avianecon.html>. This final economic analysis affirms the information contained in the economic analysis for the interim rule, with the changes discussed below.

As amended by this document, subject to available funding, the Department may pay up to 75 percent of eligible total losses associated with LPAI outbreaks in Virginia and Texas,

with contract growers being compensated at 100 percent of their eligible losses and the remaining amount being paid to the owner of the flock. However, total payments may not exceed 75 percent of all eligible costs. Additionally, this document makes eligible for compensation those losses incurred because of eggs and semen that were destroyed because of low pathogenic avian influenza associated with the disease situations in Virginia and Texas. These actions are necessary to provide appropriate compensation for losses incurred due to this disease.

The interim rule provided for compensation of all eligible losses of contract growers and eligible losses of owners related to the LPAI situation in Virginia, up to 50 percent of the value of affected poultry. However, the interim rule, as does this final rule, provided that payments to owners would be net payments after payments to growers were subtracted. Changes in this final rule will have the effect of more fully compensating poultry owners for losses associated with the LPAI situations in Virginia and Texas.

Disease Situation in Virginia

The economic analysis accompanying the interim rule estimated a total of \$50.99 million in compensation due to the LPAI situation in Virginia, with \$37.1 million going to owners and \$13.9

million going to growers, based on the assumption that compensation would be paid for 4.7 million birds depopulated. Fewer birds (3.7 million) were actually depopulated and eligible for compensation than had originally been predicted. Additionally, although the interim rule provided that total Federal payments would be reduced by any amounts paid by slaughtering establishments for birds sent to slaughter, the original compensation estimate did not assume that any such payments would occur. However, approximately \$9 million was realized by the companies at controlled slaughter. Consequently, eligible losses were reduced by this amount and this reduction is reflected in the final rule.

The numbers in Table 1, below, reflect more up-to-date and accurate information on numbers of birds depopulated and average payout per bird. Total payments due to the disease situation in Virginia are expected to be close to \$52.4 million—which includes compensation for destroyed eggs (\$1.6 million) and disposal costs (\$7.7 million)—with approximately \$47.8 million of the total going to owners and approximately \$4.6 million going to growers. This information was current as of January 28, 2003. No substantial changes were expected after this date, although a few small claims could still be presented for payment.

TABLE 1.—DISEASE SITUATION RELATED TO VIRGINIA

| | Number of birds depopulated | Number of birds sent to controlled slaughter | Average per bird compensation value (based on average payout values to date)** | Total compensation |
|-------------------------------------|-----------------------------|--|--|--------------------|
| Chicken broilers (meat birds) | 586,363 | 210,000 | \$1.12 | \$656,727 |
| Chicken broiler breeders | 533,715 | 0 | 12.00 | 6,404,580 |
| Table egg layers | 83,600 | 0 | 4.61 | 385,396 |
| Turkey breeders* | 171,990 | 140,300 | 58.70 | 22,836,456 |
| Turkey meat birds | 2,328,321 | 625,680 | 5.50 | 12,805,766 |
| Total birds | 3,703,989 | 975,980 | ..... | 43,088,924 |
| Eggs destroyed ..... | ..... | ..... | ..... | 1,634,372 |
| Disposal ..... | ..... | ..... | ..... | 7,656,597 |
| Total ..... | ..... | ..... | ..... | 52,379,893 |

*The only birds sent to controlled slaughter for which compensation was paid were turkey breeders. For breeder birds, USDA pays the difference between slaughter price and estimated bird value. Compensation is not paid for turkey or chicken meat birds sent to controlled slaughter.

** Dollar amounts are based on a 75 percent compensation rate.

Under the final rule, growers continue to be compensated for 100 percent of their losses. However, the total dollar amount expected to be paid to growers is less than had originally been anticipated. A number of factors are responsible for the lower total payment to growers.

First, fewer grower farms were eligible for compensation. A significant number of meat birds went to controlled slaughter, plus fewer farms had contract growers than were initially assumed. In the original analysis, we assumed that every farm had a contract grower, but, in reality, this assumption holds true only for meat flocks. Breeder flocks,

especially the more valuable turkey breeders, tend to be raised on company farms. Only 20 percent of turkey breeders were raised on grower farms.

Second, the average actual per-bird payout to growers was less than estimated. Actual per-bird payout to growers depends on the age of the flock

in weeks and also historical payout records.

Third, a few contract growers refused, for religious reasons, to accept payments from the Federal Government.

Disease Situation in Texas

The LPAI situation in Texas differed from that in Virginia. Only two operations were affected in Texas. One was a single-site table egg producer; the other was a collection site for spent breeding hens obtained from

commercial broiler breeders for subsequent sale to urban live bird markets. Birds owned by two poultry owners from the second operation were depopulated. Therefore, a total of three owners were directly affected in the Texas situation.

As shown in Table 2, below, 238,838 birds were destroyed from the table egg operation. Using a compensation rate of 75 percent, compensation for those birds will total close to \$430,000. With the addition of payment for disposal

costs at a 75 percent rate, payments for this operation will total approximately \$443,000. From the operation with the spent birds, the first party had 5,770 birds depopulated. The second party had 1,429 birds depopulated. Neither party incurred disposal costs. Total compensation for the spent bird operation will be approximately \$10,800. Total compensation due to the LPAI situation in Texas will be approximately \$453,800.

TABLE 2.—DISEASE SITUATION IN TEXAS

| | Number of birds depopulated | Number of birds sent to controlled slaughter | Average per bird compensation value* | Total compensation |
|----------------------------------|-----------------------------|--|--------------------------------------|--------------------|
| First Operation: | | | | |
| Table egg layers | 238,838 | 0 | \$1.80 | \$429,658 |
| Disposal | | | | 13,365 |
| Second Operation: | | | | |
| First party (Spent birds) | 5,770 | 0 | 1.50 | 8,665 |
| Second party (Spent birds) | 1,429 | 0 | 1.50 | 2,144 |
| Total | | | | 453,822 |

*Dollar amounts are based on a 75 percent compensation rate.

Regulatory Flexibility Analysis—Potential Effect on Small Entities

To the extent that the interim and final rules contribute to the elimination of LPAI in Virginia and Texas, all affected entities should benefit over the long term. In the short term, however, the economic effects will vary.

In Virginia, five or six poultry companies/integrators who owned the affected poultry and 197 contract grower farm/flocks in the Shenandoah Valley of Virginia will be affected by the November 2002 interim rule and this final rule. Three contract grower operations outside the Shenandoah Valley will also be affected. In addition, other entities not yet identified may be directly or indirectly affected by the disease event and/or the final rule. The poultry companies/integrators that own the birds are all large, vertically integrated concerns that do not meet the Small Business Administration (SBA) small-entity criteria. It is unclear at this time exactly how many contract growers will qualify for consideration as small entities. The SBA defines small poultry operations as those earning gross per-farm receipts of no more than \$750,000 annually.¹

In Texas, the two owners of spent birds are most likely small entities. It is unclear whether the table egg producer

is a small entity. In any case, all three parties will benefit from the compensation payments provided by this rule.

List of Subjects in 9 CFR Part 53

Animal diseases, Indemnity payments, Livestock, Poultry and poultry products.

■ Accordingly, the interim rule amending 9 CFR part 53 that was published at 67 FR 67089–67096 on November 4, 2002, is adopted as a final rule with the following changes:

PART 53—FOOT-AND-MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

■ 1. The authority citation for part 53 continues to read as follows:

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

■ 2. In § 53.4, paragraphs (a) and (b) are revised to read as follows:

§ 53.4 Destruction of animals.

(a) Except as provided in paragraph (b) of this section, animals infected with or exposed to disease shall be killed promptly after appraisal and disposed of by burial or burning, unless otherwise specifically provided by the Administrator, at his or her discretion. In the case of animals depopulated due to infectious salmon anemia, salvageable fish may be sold for

rendering, processing, or any other purpose approved by the Administrator. In the case of poultry depopulated because of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, poultry may be slaughtered and sold. The proceeds gained from the sale of the fish or poultry will be subtracted from any payment from APHIS for which the producer or owner is eligible under § 53.2(b) or § 53.11.

(b) In the case of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, the value of poultry depopulated because of the disease may be calculated following destruction and disposal of the poultry, based on the number, type, and age of the animals destroyed.

* * * * *

■ 3. Section 53.7 is revised to read as follows:

§ 53.7 Disinfection of premises, conveyances, and materials.

All premises, including barns, corrals, stockyards and pens, and all cars, vessels, aircraft, and other conveyances, and the materials thereon, shall be cleaned and disinfected under supervision of an APHIS employee whenever necessary for the control and eradication of disease. Expenses incurred in connection with such cleaning and disinfection shall be shared according to the agreement

¹ Small Business Administration, <http://www.SBA.gov/size>. This includes small broiler operations (112320), small turkey operations (112330), small hatchery operations (112340), and other small poultry operations (112390).

reached under § 53.2 with the State in which the work is done. In the case of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, premises may not be restocked with poultry until at least 7 days following such cleaning and disinfection, unless the Administrator determines that a shorter or longer period of time is adequate or necessary to protect new poultry against infection.

■ 4. In § 53.8, paragraphs (b) and (c) are revised to read as follows:

§ 53.8 Presentation of claims.

* * * * *

(b) In the case of claims made under § 53.11, claims for compensation for losses from poultry, eggs, and poultry semen destroyed or to be destroyed must be presented to APHIS, through the inspector in charge, on a form approved by the Administrator. The claim must specify the number, type, and age of the poultry; the number and type of eggs; and the type and amount of semen, as applicable.

(c) To be considered by the Department, claims made under § 53.11 must be submitted to APHIS within 90 days after December 9, 2002, or the destruction of poultry, whichever is later, except that claims made for eggs or poultry semen, and claims made for other eligible losses associated with the disease situation in Texas, must be submitted to APHIS within 90 days after July 18, 2003 or the destruction of the eggs, semen, or poultry, whichever is later.

* * * * *

■ 5. Section 53.11 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 53.11 Payments arising from low pathogenic avian influenza; conditions for payment.

In the case of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, the Administrator may pay claims, subject to available funding, as follows:

* * * * *

(b) *For owners.* The Administrator, in accordance with § 53.4, may pay an owner up to 75 percent of the value of the poultry, eggs, and semen destroyed plus 75 percent of the costs of destruction and disposal of the poultry, eggs, and semen, in accordance with the LPAI compensation plan, minus the amount paid in accordance with paragraph (a) of this section to the contract grower of the poultry.

* * * * *

Done in Washington, DC, this 14th day of July, 2003.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 03-18253 Filed 7-17-03; 8:45 am]

BILLING CODE 3410-34-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AH20

List of Approved Spent Fuel Storage Casks: NAC-MPC Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC International, Inc., Multipurpose Canister cask system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 3 to Certificate of Compliance (CoC) Number 1025. This amendment incorporates changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and makes corrections to the Connecticut Yankee technical specifications. Specifically, the amendment incorporates fuel enrichment tolerances; incorporates fuel assemblies with up to 20 damaged fuel rods, recaged assemblies, the Yankee Rowe damaged fuel can, and assembly weights up to 432 kilograms (kg) [950 pounds (lb)]; revises the average surface dose rate limits for the concrete cask; incorporates administrative changes in the American Society of Mechanical Engineers (ASME) Code Alternatives; corrects the Connecticut Yankee tables for fuel assembly limits and intact fuel assembly characteristics; and incorporates editorial and administrative changes in the CoC.

DATES: The final rule is effective October 1, 2003, unless significant adverse comments are received by August 18, 2003. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH20) in the subject line of

your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public, in their entirety, on the NRC rulemaking website. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. Address questions about our rulemaking website to Carol Gallagher (301) 415-5905; email cag@nrc.gov.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays (telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking website at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to pdr@nrc.gov. An electronic copy of the proposed CoC and Technical Specifications (TS) and the preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML031330790, ML031340571, and ML031330792, respectively.

CoC No. 1025, the revised TS, the underlying SER for Amendment No. 3, and the Environmental Assessment, are available for inspection at the NRC Public Document Room, 11555