Rules and Regulations

Federal Register
Vol. 76, No. 55
Tuesday, March 22, 2011

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 56, 145, 146, and 147

[Docket No. APHIS–2009–0031]

RIN 0579–AD21

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 2008 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:* April 21, 2011.

FOR FURTHER INFORMATION CONTACT: Dr. C. Stephen Roney, DVM, Senior Staff Officer, NPIP, VS, APHIS, USDA, 1506 Klondike Road, Suite 300, 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) of the U.S. Department of Agriculture (USDA) amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

On September 20, 2010, we published in the **Federal Register** (75 FR 57200–57215, Docket No. APHIS–2009–0031) 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 2008 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 November 19, 2010. We received three comments by that date. They were from a producer and two citizens. One commenter supported the proposed rule, and one did not raise any issues related to the proposed rule.

One commenter generally objected to our proposed addition of provisions under which a flock could be designated "*Salmonella* negative" to the regulations in § 145.83(f) for the U.S. Salmonella Monitored classification for primary meat-type chicken breeding flocks. However, this commenter did not raise any specific concerns.

We continue to believe that the *Salmonella* negative designation will provide an effective means for flock owners to demonstrate their flocks' freedom from *Salmonella* based on regular testing. We are not making any changes to the proposed rule in response to this comment.

We are, however, amending the proposed provisions in paragraph (f) of § 145.83 to capitalize the word *Salmonella* each time it is used.

In addition, our proposed changes to paragraph (b) of § 145.14 indicated that the polymerase chain reaction (PCR)-based test is an official blood test for *Mycoplasma gallisepticum, M. meleagridis,* and *M. synoviae.* As the PCR-based test is not a blood test, we are changing proposed paragraph (b) to refer simply to official tests.

Finally, we are updating the footnote to the shoe cover sampling technique we proposed to add in § 147.12 to give the NPIP's current address. It has changed since the publication of the proposal. We are also updating the NPIP's address in the other footnotes to § 147.12 and the footnote to § 147.5.

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 changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This final 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. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This rule will introduce a set of minor changes to the NPIP and will not involve significant changes in program operations. These changes are in line with the industry's best practices and would likely involve no additional costs in order to meet these requirements. Additionally, the NPIP is a voluntary program established between the industry and State and Federal governments. Any person producing or dealing in products may participate in the NPIP when he or she has demonstrated that his or her facilities,

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0031.*

personnel, and practices are adequate for carrying out the applicable provisions of the NPIP. NPIP participation allows for greater ease in moving hatching eggs/live birds within a State, across State lines, and into other countries. Most countries will not accept hatching eggs/live birds and commercial poultry from a U.S. operation unless it can be shown to be a NPIP participant. The poultry industry plays a very important role in the U.S. economy, and these amendments will help to ensure the safety of the industry and benefit the economy.

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) Has no retroactive effect; and (2) 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

9 CFR Part 56

Animal diseases, Indemnity payments, Low pathogenic avian influenza, Poultry.

9 CFR Parts 145, 146, and 147

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

Accordingly, we are amending 9 CFR parts 56, 145, 146, and 147 as follows:

PART 56—CONTROL OF H5/H7 LOW PATHOGENIC AVIAN INFLUENZA

■ 1. The authority citation for 9 CFR part 56 continues to read as follows:

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

■ 2. Section 56.1 is amended as follows:

■ a. By removing the definitions of *commercial meat-type flock, commercial table-egg layer flock, commercial table-egg layer premises, meat-type chicken,* and *meat-type turkey.*

■ b. By adding a definition of *commercial flock or slaughter plant,* in alphabetical order, to read as set forth below.

§ 56.1 Definitions.

* * * * *

Commercial flock or slaughter plant. A commercial poultry flock or slaughter plant that is required because of its size to participate in the special provisions in part 146 of this chapter in order to participate in the Plan.

* * * * *

■ 3. Section 56.3 is amended as follows:

■ a. In paragraph (b) introductory text, by removing the word "(b)(7)" each time it occurs and adding the word "(b)(3)" in its place.

■ b. By revising paragraphs (b)(1) and (b)(2) to read as set forth below.

■ c. By removing paragraphs (b)(4) through (b)(6).

■ d. By redesignating paragraph (b)(7) as paragraph (b)(3).

§ 56.3 Payment of indemnity.

* * * * *

(b) * * *

(1) The poultry are from a breeding flock that participates in any Plan program in part 145 of this chapter but that does not participate in the U.S. Avian Influenza Clean or the U.S. H5/H7 Avian Influenza Clean program of the Plan available to the flock in part 145 of this chapter; or

(2) The poultry are from a commercial flock or slaughter plant, but the flock or slaughter plant does not participate in the U.S. Avian Influenza Monitored program available to the commercial flock or slaughter plant in part 146 of this chapter; or

* * * * *

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN FOR BREEDING POULTRY

■ 4. 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.

■ 5. Section 145.1 is amended by adding, in alphabetical order, a new definition of *avian influenza* to read as follows:

§ 145.1 Definitions.

* * * * *

Avian influenza. An infection or disease of poultry caused by viruses in the family *Orthomyxoviridae,* genus *Influenzavirus* A.

* * * * *

■ 6. Section 145.10 is amended as follows:

■ a. By revising the introductory text to read as set forth below.

■ b. In paragraph (r), by removing the words "and 145.53(e)" and adding the words "145.63(b), 145.73(f), and 145.83(g)" in their place.

■ c. In paragraph (t), by removing the citation "§ 145.43(g)" and adding the words "§§ 145.43(g), 145.53(e), and 145.93(b)" in its place.

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

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

* * * * *

■ 7. Section 145.14 is amended as follows:

■ a. In the introductory text, in the first sentence, by removing the word "blood" each time it occurs.

■ b. In the introductory text, in the second sentence, by removing the words "Blood samples" and adding the word "Samples" in its place; and by removing the word "drawn" and adding the word "collected" in its place.

■ c. By revising the heading of paragraph (b) and paragraph (b)(1) to read as set forth below.

■ d. In paragraph (b)(2), by adding the word "serological" before the word "tests"; and by adding the words ", *M. meleagridis,*" after the word "*gallisepticum*".

■ e. By revising paragraph (b)(5) to read as set forth below.

■ f. By removing and reserving paragraph (c).

§ 145.14 Testing.

* * * * *

(b) *For Mycoplasma gallisepticum, M. meleagridis, and M. synoviae.* (1) The official tests for *M. gallisepticum, M. meleagridis,* and *M. synoviae* shall be the serum plate agglutination test, the tube agglutination test, the hemagglutination inhibition (HI) test, the microhemagglutination inhibition test, the enzyme-linked immunosorbent assay (ELISA) test,[3] a polymerase chain

[3] Procedures for the enzyme-linked immunosorbent assay (ELISA) test are set forth in the following publications:

A.A. Ansari, R.F. Taylor, T.S. Chang, "Application of Enzyme-Linked Immunosorbent Assay for Detecting Antibody to Mycoplasma gallisepticum Infections in Poultry," *Avian Diseases,* Vol. 27, No. 1, pp. 21–35, January–March 1983; and

reaction (PCR)-based test, or a combination of two or more of these tests. The HI test or the microhemagglutination inhibition test shall be used to confirm the positive results of other serological tests. HI titers of 1:40 or more may be interpreted as suspicious, and final judgment must be based on further samplings and/or culture of reactors.

* * * * *

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

* * * * *

■ 8. Section 145.23 is amended as follows:

■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.

■ b. In paragraph (h) introductory text, by removing the words "serological" and "one of".

■ c. By adding a new paragraph (h)(1) and revising paragraph (h)(2) to read as set forth below.

§ 145.23 Terminology and classification; flocks and products.

* * * * *

(h) * * *

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

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

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

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 30 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all multiplier spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

* * * * *

§ 145.24 [Amended]

■ 9. In § 145.24, paragraph (a)(1)(i) is amended by removing the word "and" and by adding the words ", and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

■ 10. Section 145.33 is amended as follows:

■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.

■ b. In paragraph (l) introductory text, by removing the words "serological" and "one of".

■ c. By adding a new paragraph (l)(1) and revising paragraph (l)(2) to read as set forth below.

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(l) * * *

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

(i) A sample of at least 15 birds must be tested negative at intervals of 90 days; or

(ii) A sample of fewer than 15 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period; or

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 15 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all multiplier spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

* * * * *

§ 145.34 [Amended]

■ 11. In § 145.34, paragraph (a)(1)(i) is amended by removing the word "and" and by adding the words ", and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

■ 12. Section 145.43 is amended as follows:

■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.

■ b. By removing and reserving paragraphs (d)(2) and (d)(3).

■ c. In paragraph (f)(5), by redesignating footnote 6 as footnote 5.

■ d. In paragraph (g) introductory text, by removing the words "H5 and H7" and adding the word "H5/H7" in their place each time they appear; and by removing the word "serological".

■ e. By revising paragraph (g)(1) introductory text and paragraph (g)(2) introductory text to read as set forth below.

■ f. In paragraphs (g)(1)(i) and (g)(2)(i), by removing the words "*Provided,* that primary spent fowl be tested within 30 days prior to movement to disposal;".

■ g. By redesignating paragraph (g)(3) as paragraph (g)(4).

■ h. By adding a new paragraph (g)(3) to read as set forth below.

§ 145.43 Terminology and classification; flocks and products.

* * * * *

(g) * * *

(1) It is a primary breeding flock in which a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 145.14(d) when more than 4 months of age and prior to the onset of egg production. To retain this classification:

* * * * *

(2) It is a multiplier breeding flock in which a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 145.14(d) when more than 4 months of age and prior to the onset of egg production. To retain this classification:

* * * * *

(3) During each 90-day period, all spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

* * * * *

§ 145.44 [Amended]

■ 13. In § 145.44, paragraph (a)(1)(i) is amended by removing the word "and"; and by adding the words ", § 145.73(b)(2)(i), § 145.83(b)(2)(i), and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

Subpart E—Special Provisions for Hobbyist and Exhibition Waterfowl, Exhibition Poultry, and Game Bird Breeding Flocks and Products

■ 14. The heading for subpart E is revised to read as set forth above.

■ 15. In § 145.52, the introductory text is revised to read as follows:

§ 145.52 Participation.

Participating flocks of hobbyist and exhibition waterfowl, exhibition poultry, and game birds, and the eggs

H.M. Opitz, J.B. Duplessis, and M.J. Cyr, "Indirect Micro-Enzyme-Linked Immunosorbent Assay for the Detection of Antibodies to Mycoplasma synoviae and M. gallisepticum," *Avian Diseases,* Vol. 27, No. 3, pp. 773–786, July–September 1983; and

H.B. Ortmayer and R. Yamamoto, "Mycoplasma Meleagridis Antibody Detection by Enzyme-Linked Immunosorbent Assay (ELISA)," *Proceedings, 30th Western Poultry Disease Conference,* pp. 63–66, March 1981.

and baby poultry produced from them shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart E. The special provisions that apply to meat-type waterfowl flocks are found in subpart I of this part.

■ 16. Section 145.53 is amended as follows:

■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.

■ b. In paragraph (b)(5), by adding the words "hobbyist or exhibition" before the word "waterfowl".

■ c. In paragraph (e) in the introductory text, second sentence, by adding the words "hobbyist or exhibition" before the word "waterfowl"; and by removing the word "serological".

■ d. In the introductory text of paragraph (e)(1), by removing the words "for antibodies"; and by removing the words "by the agar gel immunodiffusion test specified in § 147.9 of this chapter" and adding the words "as provided in § 145.14(d)" in their place.

■ e. In the introductory text of paragraph (e)(2), by removing the words "for antibodies"; and by removing the words "by the agar gel immunodiffusion test specified in § 147.9 of this chapter" and adding the words "as provided in § 145.14(d)" in their place.

■ f. By adding a new paragraph (e)(3) to read as set forth below.

§ 145.53 Terminology and classification; flocks and products.

* * * * *

(e) * * *

(3) During each 90-day period, all spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

* * * * *

§ 145.54 [Amended]

■ 17. In § 145.54, paragraph (a)(1)(i) is amended by removing the word "and"; and by adding the words ", § 145.73(b)(2)(i), § 145.83(b)(2)(i), and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

■ 18. Section 145.73 is amended as follows:

■ a. In the introductory text of paragraph (f), second sentence, by removing the word "serological."

■ b. By revising paragraph (f)(1) and adding a new paragraph (f)(2) to read as set forth below.

§ 145.73 Terminology and classification; flocks and products.

* * * * *

(f) * * *

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

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

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

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 30 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all primary spent fowl, up to a maximum of 30, must be tested serologically and found negative within 21 days prior to movement to slaughter.

■ 19. Section 145.83 is amended as follows:

■ a. In paragraph (f)(1)(vi), by removing the semicolon at the end of the paragraph and adding a period in its place; and by adding a new sentence at the end of the paragraph to read as set forth below.

■ b. In paragraph (f)(1)(vii), by adding the words "to allow for the serological testing required under paragraph (f)(1)(vi) of this section" after the word "age".

■ c. By adding a new paragraph (f)(1)(viii) to read as set forth below.

■ d. In paragraph (f)(3), by removing the words "this classification" and adding the words "paragraphs (f)(1)(i) through (f)(1)(vii) of this section" in their place.

■ e. In the introductory text of paragraph (g), second sentence, by removing the word "serological."

■ f. By revising paragraph (g)(1) and adding a new paragraph (g)(2) to read as set forth below.

§ 145.83 Terminology and classification; flocks and products.

* * * * *

(f) * * *

(1) * * *

(vi) * * * All *Salmonella* isolates from a flock shall be serogrouped and shall be reported to the Official State Agency on a monthly basis;

* * * * *

(viii) Any flock entering the production period that is in compliance with all the requirements of § 145.83(f) with no history of *Salmonella* isolations shall be considered "*Salmonella* negative" and may retain this definition as long as no environmental or bird *Salmonella* isolations are identified and confirmed from the flock or flock environment by sampling on 4 separate collection dates over a minimum of a 2-week period. Sampling and testing must be performed as described in paragraph (f)(1)(vi) of this section. An unconfirmed environmental *Salmonella* isolation shall not change this *Salmonella* negative status.

* * * * *

(g) * * *

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

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

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

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 30 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all primary spent fowl, up to a maximum of 30, must be tested serologically and found negative within 21 days prior to movement to slaughter.

■ 20. A new subpart I, consisting of §§ 145.91 through 145.94, is added to read as follows:

Subpart I—Special Provisions for Meat-Type Waterfowl Breeding Flocks and Products

Sec.

Subpart I—Special Provisions for Meat-Type Waterfowl Breeding Flocks and Products

§ 145.91 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following term shall be construed to mean:

Meat-type waterfowl breeding flocks. Flocks of domesticated duck or goose that are composed of stock that has been developed and is maintained for the primary purpose of producing baby poultry that will be raised under confinement for the primary purpose of producing meat for human consumption.

§ 145.92 Participation.

Participating flocks of meat-type waterfowl and the eggs and baby poultry

produced from them shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart I.

(a) Started poultry shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 145.5(a).

(b) Hatching eggs produced by primary breeding flocks shall be fumigated (see § 147.25 of this chapter) or otherwise sanitized.

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

§ 145.93 Terminology and classification; flocks and products.

Participating flocks, and the eggs and baby poultry produced from them, that have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in § 145.10.

(a) [Reserved]

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of the following paragraphs (b)(1) through (b)(5) of this section (*See* § 145.14 relating to the official blood test where applicable.):

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier breeding flock, or a breeding flock composed of progeny of a primary breeding flock which is intended solely for the production of multiplier breeding flocks, and meets the following specifications as determined by the Official State Agency and the Service:

(i) The flock is located in a State where all persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;

(ii) The flock is composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean breeding flocks or from flocks that met equivalent requirements under official supervision; and

(iii) The flock is located on a premises where a flock not classified as U.S. Pullorum-Typhoid Clean was located the previous year; *Provided,* that an Authorized Testing Agent must blood test up to 300 birds per flock, as described in § 145.14, if the Official State Agency determines that the flock has been exposed to pullorum-typhoid. In making determinations of exposure and setting the number of birds to be blood tested, the Official State Agency shall evaluate the results of any blood tests, described in § 145.14(a)(1), that were performed on an unclassified flock located on the premises during the previous year; the origins of the unclassified flock; and the probability of contacts between the flock for which qualification is being sought and infected wild birds, contaminated feed or waste, or birds, equipment, supplies, or personnel from flocks infected with pullorum-typhoid.

(3) It is a multiplier breeding flock that originated from U.S. Pullorum-Typhoid Clean breeding flocks or from flocks that met equivalent requirements under official supervision, and is located in a State in which it has been determined by the Service that:

(i) All hatcheries within the State are qualified as "National Plan Hatcheries" or have met equivalent requirements for pullorum-typhoid control under official supervision;

(ii) All hatchery supply flocks within the State are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided,* That if other domesticated fowl are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(iii) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(iv) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;

(v) All reports of any disease outbreak involving a disease covered under the Plan are promptly followed by an investigation by the Official State Agency to determine the origin of the infection; *Provided,* That if the origin of the infection involves another State, or if there is exposure to poultry in another State from the infected flock, then the National Poultry Improvement Plan will conduct an investigation;

(vi) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested, following the procedure for reacting flocks as contained in § 145.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection;

(vii) All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

(viii) Discontinuation of any of the conditions or procedures described in paragraphs (a)(3)(i), (ii), (iii), (iv), (v), (vi), and (vii) of this section, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks within or originating within the State shall be grounds for the Service to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity to present its views.

(4) It is a multiplier breeding flock located in a State which has been determined by the Service to be in compliance with the provisions of paragraph (a)(3) of this section, and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks within the State during the preceding 24 months.

(5) It is a primary breeding flock located in a State determined to be in compliance with the provisions of paragraph (a)(4) of this section, and in which a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided,* That when a flock is a primary breeding flock located in a State which has been deemed to be a U.S. Pullorum-Typhoid Clean State for the past 3 years, and during which time no isolation of pullorum or typhoid has been made that can be traced to a source in that State, a bacteriological examination monitoring program or a serological examination monitoring program acceptable to the Official State Agency and approved by the Service may be used in lieu of annual blood testing.

(c) *U.S. H5/H7 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 the H5/H7 subtypes of avian influenza. It is intended to determine the presence of the H5/H7 subtypes of avian influenza in meat-type waterfowl breeding flocks through routine surveillance of each participating breeding flock. A flock, and the hatching eggs and baby poultry

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 a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 145.14(d) when more than 4 months of age. To retain this classification:

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

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

(2) It is a multiplier breeding flock in which a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 145.14(d) when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 180 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds are tested within each 180-day period.

(3) During each 90-day period, all spent fowl, up to a maximum of 30, must be tested serologically and found negative within 21 days prior to movement to slaughter.

§ 145.94 Terminology and classification; States.

(a) *U.S. Pullorum-Typhoid Clean State.* (1) A State will be declared a U.S. Pullorum-Typhoid Clean State when it has been determined by the Service that:

(i) The State is in compliance with the provisions contained in §§ 145.23(b)(3)(i) through (vii), 145.33(b)(3)(i) through (vii), 145.43(b)(3)(i) through (vi), 145.53(b)(3)(i) through (vii), 145.73(b)(2)(i), 145.83(b)(2)(i), and 145.93(b)(3)(i) through (vii).

(ii) No pullorum disease or fowl typhoid is known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months: *Provided,* That pullorum disease or fowl typhoid found within the preceding 24 months in waterfowl, exhibition poultry, and game bird breeding flocks will not prevent a State that is otherwise eligible from qualifying.

(2) Discontinuation of any of the conditions described in paragraph (a)(1)(i) of this section, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks described in paragraph (a)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing in accordance with rules of practice adopted by the Administrator.

(b) [Reserved]

PART 146—NATIONAL POULTRY IMPROVEMENT PLAN FOR COMMERCIAL POULTRY

■ 21. 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.

■ 22. Section 146.1 is amended as follows:

■ a. By revising the definitions of *commercial table-egg layer flock* and *H5/H7 low pathogenic avian influenza (LPAI)* to read as set forth below.

■ b. By adding, in alphabetical order, a new definition of *commercial table-egg layer pullet flock* to read as set forth below.

§ 146.1 Definitions.

* * * * *

Commercial table-egg layer flock. All table-egg layers of common age or pullet source on one premises.

* * * * *

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

* * * * *

H5/H7 low pathogenic avian influenza (LPAI). An infection of poultry caused by an influenza A virus of H5 or H7 subtype that has an intravenous pathogenicity index in 6-week-old chickens less than 1.2 or less than 75 percent mortality in 4- to 8-week-old chickens infected intravenously, or an infection with influenza A viruses of H5 or H7 subtype with a cleavage site that is not consistent with a previously identified highly pathogenic avian influenza virus.

* * * * *

■ 23. Section 146.9 is amended by revising the introductory text to read as follows:

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

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

* * * * *

■ 24. Section 146.21 is amended by adding a new definition of *table-egg layer pullet* in alphabetical order to read as follows:

§ 146.21 Definitions.

* * * * *

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

■ 25. In § 146.23, paragraph (a) is revised to read as follows:

§ 146.23 Terminology and classification; flocks and products.

* * * * *

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

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

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

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

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

(iii) It is a commercial table-egg layer flock that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of avian influenza in

which the number of birds tested is equivalent to the number required in paragraph (a)(2)(i) or paragraph (a)(2)(ii) of this section and that is approved by the Official State Agency and the Service.

* * * * *

§ 146.24 [Amended]

■ 26. Section 146.24 is amended as follows:

■ a. In paragraph (a)(1)(i), by adding the words "and all commercial table-egg layer pullet flocks that supply those flocks" after the word "flocks".

■ b. In paragraphs (a)(1)(iii) through (a)(1)(v), by adding the words "and table-egg layer pullet" after the word "layer" each time it occurs.

§ 146.33 [Amended]

■ 27. In § 146.33, paragraphs (a)(1) and (a)(2) are amended by adding the words ", as provided in § 146.13(b)," after the word "influenza," each time it occurs.

§ 146.43 [Amended]

■ 28. In § 146.43, paragraph (a)(1) is amended by adding the words ", as provided in § 146.13(b)," after the word "influenza" and by removing the word "virus".

§ 146.53 [Amended]

■ 29. Section 146.53 is amended as follows:

■ a. In paragraph (a)(1), by adding the words ", as provided in § 146.13(b)," after the word "influenza."

■ b. In paragraph (a)(2), by removing the words "antibodies to" and by adding the words ", as provided in § 146.13(b)," after the word "influenza."

■ c. In paragraph (b), in the last sentence, by adding the words ", as provided in § 146.13(b)," after the word "influenza."

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

■ 30. The authority citation for part 147 continues to read as follows:

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

§ 147.5 [Amended]

■ 31. In § 147.5, footnote 4 to paragraph (b) is amended by removing the words "1498 Klondike Road, Suite 200" and adding the words "1506 Klondike Road, Suite 300" in their place.

■ 32. Section 147.6 is amended as follows:

■ a. By revising the introductory text and paragraphs (a)(1) through (a)(4) to read as set forth below.

■ b. By removing paragraphs (a)(5) through (a)(15).

§ 147.6 Procedures for determining the status of flocks reacting to test for Mycoplasma gallisepticum, Mycoplasma synoviae, and Mycoplasma melagridis.

Procedures for isolation and identification of Mycoplasma may be found in Isolation and Identification of Avian Pathogens, published by the American Association of Avian Pathologists; Kleven, S.H., F.T.W. Jordan, and J.M. Bradbury, *Avian Mycoplasmosis* (*Mycoplasma gallisepticum*), Manual of Diagnostic Tests and Vaccines for Terrestrial Animals, Fifth Ed., Office International des Epizooties, pp 842–855, 2004; and §§ 147.15 and 147.16.

(a) * * *

(1) If the tube agglutination test, enzyme-labeled immunosorbent assay (ELISA), official molecular examination procedure, or serum plate test is negative, the flock qualifies for the classification for which it was tested.

(2) If the tube agglutination, ELISA, or serum plate test is positive, the hemaglutination inhibition (HI) test or a molecular examination procedure shall be conducted: *Provided,* for the HI test, that if more than 50 percent of the samples are positive for *M. gallisepticum, M. meleagridis,* or *M. synoviae,* the HI test shall be conducted on 10 percent of the positive samples or 25 positive samples, whichever is greater. HI titers of 1:40 or more may be interpreted as suspicious and appropriate antigen detection samples should be taken promptly (within 7 days of the original sampling) from 30 clinically affected birds and examined by an approved cultural technique individually, or pooled (up to 5 swabs per test) and used in a molecular examination procedure or in vivo bioassay.

(3) If the in vivo bioassay, molecular examination procedure, or culture procedure is negative, the Official State Agency may qualify the flock for the classification for which it was tested. In the event of contaminated cultures, the molecular examination technique must be used to make a final determination.

(4) If the in vivo bioassay, molecular examination procedure, or culture procedure is positive, the flock will be considered infected.

* * * * *

§§ 147.12, 147.14, 147.15, 147.16, 147.30, and 147.31 [Amended]

■ 33. In §§ 147.12, 147.14, 147.15, 147.16, 147.30, and 147.31, footnotes 9 through 21 are redesignated as footnotes 10 through 22, respectively.

■ 34. Section 147.12 is amended as follows:

■ a. In footnote 8 to paragraph (a)(3), by removing the words "1498 Klondike Road, Suite 200" and adding the words "1506 Klondike Road, Suite 300" in their place.

■ b. By adding a new paragraph (a)(6) and a new footnote 9 to read as set forth below.

■ c. In newly redesignated footnote 10 to paragraph (c)(3)(ii)(A), by removing the words "1498 Klondike Road, Suite 200" and adding the words "1506 Klondike Road, Suite 300" in their place.

§ 147.12 Procedures for collection, isolation, and identification of Salmonella from environmental samples, cloacal swabs, chick box papers, and meconium samples.

* * * * *

(a) * * *

(6) *Shoe cover sampling technique.* Absorbable fabric shoe covers involve the exposure of the bottom surface of shoe covers to the surface of floor litter and slat areas. Wearing clean latex gloves, place the shoe covers over footwear that is only worn inside the poultry house. This can be footwear dedicated to the facility or disposable overshoes. Each pair of shoe covers should be worn while walking at a normal pace over a distance of 305 meters (1,000 feet). For flocks with fewer than 500 breeders, at least 1 pair of shoe covers should be worn to sample the floor of the bird area. For flocks with 500 or more breeders, at least 2 pairs of shoe covers should be worn to sample the floor of the bird area. After sampling, place each shoe cover in a sterile container with 30 ml of double strength skim milk.[9] Seal the sterile containers and promptly refrigerate them at 2 to 4 °C or place in a cooler with ice or ice packs. Do not freeze. Samples should be stored at refrigerator temperatures of 2 to 4 °C no more than 5 days prior to culturing.

* * * * *

■ 35. 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 parts 145 and 146 of this chapter in which it has one or more participants at the time of the Conference. * * *

[9] Obtain procedure for preparing double strength skim milk from USDA–APHIS "Recommended Sample Collection Methods for Environmental Samples," available from the National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1506 Klondike Road, Suite 300, Conyers, GA 30094.

■ 36. In § 147.52, a new paragraph (c) is added to read as follows:

§ 147.52 Approved tests.

* * * * *

(c) The following diagnostic test kits that are not licensed by the Service (e.g., bacteriological culturing kits) are approved for use in the NPIP:

(1) Rapid Chek©Select TMSalmonella Test Kit, Strategic Diagnostics, Inc., Newark, DE 19713.

(2) ADIAFOOD Rapid Pathogen Detection System for *Salmonella* spp., AES Chemunex Canada. Laval, QC (Canada) H7L4S3.

(3) DuPont Qualicon BAX Polymerase Chain Reaction (PCR)-based assay for *Salmonella,* DuPont Qualicon, Wilmington, DE 19810.

Done in Washington, DC, this 16th day of March 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–6539 Filed 3–21–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM428; Special Condition No. 25–417–SC]

Special Conditions: Boeing 747–468, Installation of a Medical Lift

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing 747–468 airplane. This airplane, as modified by Jet Aviation, will have a novel or unusual design feature associated with the installation of a medical lift. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* March 22, 2011.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2194; fax (425) 227–1149; e-mail *jayson.claar@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On March 2, 2007, Jet Aviation Engineering Services L.P. (JAES), of Teterboro, New Jersey, applied for a supplemental type certificate for a reconfiguration of an aircraft interior in a 747–468. The Boeing Model 747–468 airplane is FAA approved under Type Certificate A20WE as a large transport-category airplane that is limited to 660 passengers or fewer, depending on the interior configuration.

This modification includes the installation of a medical lift between the main deck and upper deck. The lift allows the transport of a single occupant between the decks during cruise or ramp operations. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, JAES must show that the 747–468, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate A20WE, or of the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type-certification basis." The regulations incorporated by reference in Type Certificate A20WE are as follows:

- Part 36, as amended by Amendments 36–1 through 36–15, and any later amendments in existence at the time of certification.
- Special Federal Aviation Regulation (SFAR) 27, as amended by Amendments 27–1 through 27–6 and any later amendments in existence at the time of type certification.
- Part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–59, and the part 25 section-number exceptions itemized in Type Certificate A20WE.

The following special conditions, exemptions, and equivalent safety findings, which are part of the Model 747–300 certification basis, are also part of the certification basis for the Model 747–400.

The special conditions include those enclosed with an FAA letter to The Boeing Company dated February 20, 1970, and the following:

1. Special Condition 4A, revised to apply to airplanes with the landing-gear load-evener system deleted, was recorded as an enclosure to an FAA letter to The Boeing Company dated May 12, 1971.

2. Special Condition No. 25–61–NW–1, for occupancy not to exceed 32 passengers on the upper deck of airplanes with a spiral staircase, was transmitted to The Boeing Company by FAA letter dated February 26, 1975.

3. Special Condition No. 25–71–NW–3, for occupancy not to exceed 45 passengers on the upper deck of airplanes with a straight-segmented stairway, was transmitted to The Boeing Company by FAA letter dated September 8, 1976.

4. Modification of Special Condition No. 25–71–NW–3, for occupancy not to exceed 110 passengers on the upper deck of airplanes with a straight-segmented stairway, was transmitted to The Boeing Company by FAA letter dated August 3, 1981.

5. Special Condition No. 25–77–NW–4, modification of the autopilot system to approve the airplane for use of the system under Category IIIb landing conditions, was transmitted to The Boeing Company by FAA letter dated July 8, 1977.

6. Special Condition No. 25–ANM–16, for use of an overhead crew-rest area, occupancy not to exceed ten crewmembers, was transmitted to The Boeing Company by FAA letter dated November 19, 1987. The FAA-approved procedures required for compliance with paragraph 13 of the special condition are located in Boeing Document D926U303, Appendix D.

7. Special Condition no. 25–ANM–24, applicable to flight-deck displays and propulsion-control systems, was provided to Boeing on December 22, 1988.

8. Special Condition No. 25–ANM–25, which established lightning- and radio-frequency-energy protection requirements, was provided to Boeing on December 22, 1988.

Exemptions From Part 25

Exemption no. 1013A, dated December 24, 1969: Exemption from Section 25.471(b) to allow lateral displacement of the center of gravity from the airplane centerline.

The following optional requirements, which are part of the Model 747–300 certification basis, apply also to the 747–400:

TABLE 1—OPTIONAL REQUIREMENTS

Requirement	Section
Ditching provisions	25.801
Ice-protection provisions	25.1419

The following equivalent-safety findings, previously made for earlier models under the provisions of