

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 145 and 147

[Docket No. 00-075-1]

#### National Poultry Improvement Plan and Auxiliary Provisions

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by 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 2000 Millennial Plan Conference. These changes would keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

**DATES:** We invite you to comment on this docket. We will consider all comments that we receive by September 18, 2001.

**ADDRESSES:** Please send four copies of your comment (an original and three copies) to: Docket No. 00-075-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-075-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related

information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 200, Conyers, GA 30094-5104; (770) 922-3496.

#### SUPPLEMENTARY INFORMATION:

##### Background

The National Poultry Improvement Plan (NPIP, also referred to below as "the Plan") is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-disseminated poultry diseases. Participation in all plan programs is voluntary, but flocks, hatcheries, and dealers must qualify as "U.S. Pullorum-Typhoid Clean" before participating in any other Plan program. Also, the regulations in 9 CFR part 82, subpart C, which provide for certain testing, restrictions on movement, and other restrictions on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis*, prohibit hatching eggs or newly hatched chicks from egg-type chicken breeding flocks from being moved interstate unless they are classified "U.S. S. Enteritidis Monitored" under the Plan or have met equivalent requirements for *S. enteritidis* control, in accordance with 9 CFR 145.23(d), under official supervision.

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 145 and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS or the Service) of the U.S. Department of Agriculture (USDA or the Department) amends these provisions from time to time to incorporate new scientific

information and technologies within the Plan.

The proposed amendments discussed in this document are consistent with the recommendations approved by the voting delegates to the National Plan Conference that was held from June 29 to July 1, 2000. Participants in the 2000 National Plan Conferences represented flockowners, breeders, hatcherymen, and Official State Agencies from all cooperating States. The proposed amendments are discussed in greater detail below.

#### Discussion

##### Definitions

We are proposing to add a new definition to § 145.1. We would define *public exhibition* as "a public show of poultry." The regulations in §§ 145.23(b)(3)(vii), 145.33(b)(3)(vii), and 145.53(b)(3)(vii) require that all poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition either come from U.S. Pullorum-Typhoid Clean or equivalent flocks or have a negative pullorum-typhoid test within 90 days prior to going to public exhibition. Given the presence of that requirement in the regulations, the voting delegates at the 2000 Plan Conference believed it would be useful to define what is meant by the term "public exhibition."

##### Debarment Procedures

We are proposing to make two changes to § 145.13, "Debarment from participation." First, we would amend the first sentence of the section to provide that the notice given by the Official State Agency to a Plan participant of apparent noncompliance would be in writing. The section currently calls for participants to be notified of their apparent noncompliance; requiring that notice to be in writing would serve to establish a record that the notification had indeed been provided. Second, § 145.13 currently refers to "§§ 50.21 through 50.28-14 and §§ 50.30 through 50.33 of the rules of practice in 7 CFR part 50." In 1995, 7 CFR part 50 was revised and the sections cited in § 145.13 were redesignated; therefore, we are proposing to remove the specific section citations mentioned in the previous sentence and replace them with a reference to 7 CFR part 50.

### Authorized Laboratories

We are also proposing to add a new paragraph (e) to § 145.2 to make it clear that the Plan's authorized laboratories will follow the laboratory protocols outlined in part 147 when determining the status of a participating flock with respect to an official Plan classification. While there may be alternative tests available in some cases for Plan diseases, we believe that it is necessary for the purposes of consistency within the Plan, and to maintain the credibility of the Plan's programs, to explicitly require the use of the official tests described in part 147 when determining the status of a flock with respect to an official Plan classification.

### Hatcheries

Paragraph (a) of § 145.6 contains minimum requirements with respect to sanitation practices in participating hatcheries. Those provisions were established in 1971 and have been amended once, in 1984. To bring the provisions of § 145.6 up to date, we are proposing to revise that paragraph as follows:

- Egg room walls, ceilings, floors, air filters, drains, and humidifiers should be cleaned and disinfected at least two times per week. Cleaning and disinfection procedures should be as outlined in § 147.24.
- Incubator room walls, ceilings, floors, doors, fan grills, vents, and ducts should be cleaned and disinfected after each set or transfer. Incubator rooms should not be used for storage. Plenums should be cleaned at least weekly. Egg trays and buggies should be cleaned and disinfected after each transfer. Cleaning and disinfection procedures should be as outlined in § 147.24.
- Hatcher walls, ceilings, floors, doors, fans, vents, and ducts should be cleaned and disinfected after each hatch. Hatcher rooms should be cleaned and disinfected after each hatch and should not be used for storage. Plenums should be cleaned after each hatch. Cleaning and disinfection procedures should be as outlined in § 147.24.
- Chick/poult processing equipment and rooms should be thoroughly cleaned and disinfected after each hatch. Chick/poult boxes should be cleaned and disinfected before being reused. Vaccination equipment should be cleaned and disinfected after each use. Cleaning and disinfection procedures should be as outlined in § 147.24.
- Hatchery residue, such as chick/poult down, eggshells, infertile eggs, and dead germs, should be disposed of promptly and in a manner satisfactory to the Official State Agency.

- The entire hatchery should be kept in a neat, orderly condition and cleaned and disinfected after each hatch.

- Effective insect and rodent control programs should be implemented.

The procedures and practices described above are routinely observed in the industry today and are considered to be essential to the maintenance of proper hatchery sanitation. Our proposed changes, therefore, would bring the provisions of the Plan in line with the current practices observed throughout the industry.

### Blood Testing

Section 145.14, "Blood testing," currently states, among other things, that ostrich, emu, rhea, and cassowary candidates for official Plan classifications must be blood tested when at least 12 months of age or upon reaching sexual maturity, depending on the species and at the discretion of the Official State Agency. In this document, we are proposing to amend that provision to state that ostrich, emu, rhea, and cassowary candidates are to be blood tested when more than 12 months of age. This proposed change would make the blood testing provisions for ostrich, emu, rhea, and cassowary candidates consistent with the provisions for other species of birds in § 145.14 by simply providing the minimum age at which the birds may be tested. As ostriches, emus, rheas, and cassowaries typically reach sexual maturity somewhere between 18 months to 3 years of age, depending on the species, this proposed change would not prevent an Official State Agency from taking sexual maturity into account when determining the appropriate testing age.

Also in § 145.14, we would amend footnote 1 in § 145.14(a) to provide the current address of the APHIS staff that can provide the criteria and procedures for Department approval of antigens and reagents. That staff has been relocated from Riverdale, MD, to Ames, IA.

Paragraph (a)(9)(ii) of § 145.14 requires that serum samples that produce positive reactions for pullorum-typhoid on the microagglutination test be retested at an authorized laboratory in accordance with the microagglutination test procedures set forth in § 147.5. If the reaction to the retest is positive in dilutions of 1:40 or greater, additional examination must be performed on the bird from which the serum sample was drawn and its flock. The procedures for the microagglutination test found in § 147.5, however, refer to the use of a 1:20 dilution for the microagglutination test, not the 1:40 dilution cited in § 145.14.

It is the 1:40 dilution that is correct; therefore, we are proposing to amend paragraphs (c) and (d) of § 147.5 so that they refer to the correct dilution. This proposed change would also necessitate amending § 147.5(d)(2) to replace a reference to 10-microliter serum sample with a reference to a 5-microliter serum sample.

### U.S. S. Enteritidis Clean, Egg-Type Chickens

We are proposing to amend § 145.23(d) to change the name of the program described in that paragraph from "U.S. S. Enteritidis Monitored" to "U.S. S. Enteritidis Clean." Virtually all of the egg-type chicken breeders in the Plan participate in the current U.S. S. Enteritidis Monitored program, and the incidence of *Salmonella enteritidis* (SE) in their flocks is extremely low. Because the monitoring and prevention elements of this program have been so effective, the program has become oriented more toward maintaining the freedom of flocks from SE. Our proposed change to the name of the program would reflect this new focus and provide a measure of credit to the flockowners who have been integral to the program's success. As part of this proposed change, we would remove the illustrative design for the U.S. S. Enteritidis Monitored classification in § 145.10(1), as that design would no longer be necessary. A reference to § 145.23(d) would be added to § 145.10(m), which contains the illustrative design for the current U.S. S. Enteritidis Clean classification for meat-type chickens.

Within § 145.23(d), paragraph (d)(iv) calls for participating flocks to be maintained in compliance with §§ 147.21, 147.24(a), and 147.26, which relate to flock sanitation and good management practices. In this document, we are proposing to amend § 145.23(d)(iv) to also state that rodents and other pests should be effectively controlled. Rodents have been found to be a reservoir of *Salmonella*, particularly SE, so reducing or eliminating the presence of rodents and other pests from areas where flocks are kept would help to maintain the flocks' freedom from *Salmonella*.

Paragraph (d)(vi) of § 145.23 currently provides that a federally licensed SE bacterin may be used in multiplier breeding flocks that have been bacteriologically examined and found negative for SE. Because some *Salmonella* vaccines may cause positive reactions to pullorum-typhoid tests administered to a flock, we are proposing to amend § 145.23(d)(vi) to allow flockowners to delay vaccination until after the flock has been tested for

pullorum-typhoid testing as described in § 145.23(d)(1)(vii). We would retain the current option of keeping a sample of 350 birds unvaccinated until the flock reaches 4 months of age and has been tested in accordance with § 145.23(d)(1)(vii) and found negative. We would, however, amend that option to specify that the birds in the flock must have been vaccinated using an injectable bacterin or live vaccine that does not spread. Currently, the regulations in § 145.23(d)(vi) do not differentiate between the use of vaccines or bacterins that may spread to other birds and those that do not.

#### *U.S. M. Gallisepticum Clean, Meat-Type Chickens*

The regulations in § 145.33(c)(2) currently require participants handling U.S. M. Gallisepticum Clean products (i.e., poultry breeding stock, hatching eggs, baby poultry, and started poultry) to keep those products separate from other products that are not classified U.S. M. Gallisepticum Clean. While that paragraph directs that the products be kept separate, it offers no specific guidance as to how that should be accomplished. In this document, we are proposing to amend § 145.33(c)(2) to state that the necessary separation can be achieved through the use of separate hatchers and incubators, separate hatch days, and the hatchery sanitation and biosecurity procedures detailed in §§ 147.22, 147.23, and 147.24. The steps taken by the Plan participant would be subject to the review and approval of the Official State Agency to ensure that they are being implemented in a manner that adequately protects the integrity of the M. Gallisepticum Clean products.

#### *U.S. S. Enteritidis Clean, Meat-Type Chickens*

Paragraph (h)(1)(i) of § 145.33 provides, in part, that a meat-type chicken breeding flock may be eligible for the U.S. S. Enteritidis Clean classification if the flock originated from a U.S. S. Enteritidis Clean flock or if meconium from the chicks in the flock and a sample of chicks that died within 7 days after hatching have been examined bacteriologically for SE at an authorized laboratory and any group D *Salmonella* samples have been serotyped. We are proposing to amend those criteria that pertain to eligibility based on testing to state that a flock may be eligible if any one of the following samples has been examined bacteriologically for SE at an authorized laboratory and any group D *Salmonella* samples have been serotyped:

- A 25-gram sample of meconium from the chicks in the flock collected

and cultured as described in proposed § 147.12(a)(5) (current § 147.18—the proposed redesignation of this section is discussed later in this document); or

- A sample of chick papers collected and cultured as described in § 147.12(c); or
- A sample of 10 chicks that died within 7 days after hatching.

These proposed changes would clarify the provisions of § 145.33 (h)(1)(i) by specifying the size of the meconium sample that must be collected and cultured and the number of dead chicks that must be examined and by providing a reference to the applicable meconium collection and culturing procedures found in existing § 147.18 (which, as noted above and discussed later in this document, we would redesignate as § 147.12(a)(5)). This proposed change would also provide for the use of chick paper culturing conducted in accordance with existing § 147.12(c) as an additional means of qualifying a flock for the U.S. S. Enteritidis Clean classification. We believe that any one of these three methods would provide an accurate assessment of the SE status of a flock seeking to qualify for this classification.

In addition to the proposed changes described above, we are also proposing to make several other changes to the provisions regarding the U.S. S. Enteritidis Clean classification for meat-type chickens. First, the introductory text of § 145.33(h) currently states, in part, that the classification is intended for primary meat-type breeders. (A *primary breeding flock* is currently defined in § 145.1 as “[a] flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.”) As we believe that this classification could be beneficial and feasible in any meat-type chicken breeding flock, and not just primary breeding flocks, we would remove the word “primary” from the introductory text of § 145.33(h).

Second, § 145.33(h)(1)(iv) currently provides that environmental samples must be collected by an Authorized Agent (i.e., a person designated by the Official State Agency). In order to allow others to assist the Authorized Agent and thus reduce the time required for the collection of samples in some cases, we are proposing to amend § 145.33(h)(1)(iv) to provide that the environmental samples may also be collected under the supervision of an Authorized Agent.

Third, § 145.33(h)(1)(vi) currently provides that hatching eggs produced by a flock must be collected as quickly as possible, handled as described in

§ 147.22, and sanitized or fumigated. In this document, we are proposing to remove the reference to sanitizing and fumigation, as § 147.22 already describes hatching egg sanitation procedures and standard industry practice no longer includes fumigation of hatching eggs.

Finally, § 145.33(h)(3) currently provides that 25 randomly selected live birds from the flock must be bacteriologically examined for SE as described in § 147.11 if SE is isolated from an environmental sample collected from the flock. In this document, we are proposing to add the option of examining 500 cloacal swabs collected in accordance with existing § 147.12(a)(2) in addition to, or in place of, the examination of 25 live birds. The regulations currently provide for the use of cloacal swab examination in other situations, and we believe that this procedure would provide Plan participants with an effective primary or supplemental means of assessing the SE status of a flock following the isolation of SE in an environmental sample.

#### *Rules of Practice*

Sections 145.24, 145.34, 145.44, and 145.54 all currently provide conditions that must be met for a State to attain “clean State” status under specific Plan disease classifications. There are currently a total of nine separate “clean State” classifications (one in § 145.24, two in § 145.34, five in § 145.44, and one in § 145.54). In each case, the regulations provide that the Service will revoke a State’s “clean State” classification if any of the prescribed conditions are discontinued, but will not do so until it has conducted an investigation and the Official State Agency has been given an opportunity for a hearing. In only two of the nine cases—i.e., § 145.44(d)(2) and (e)(2)—do the regulations specify that the hearing will be held in accordance with rules of practice adopted by the Administrator. Because the adoption of rules of practice by the Administrator is necessary in all cases prior to such administrative hearings, we are proposing to amend §§ 145.24, 145.34, 145.44, and 145.54 to specify that hearings regarding the revocation of a State’s “clean State” classification will be held in accordance with rules of practice adopted by the Administrator.

#### *U.S. Approved*

Under § 145.53(a), a breeding flock may be classified as U.S. Approved if all birds in the flock observed by Authorized Agents or State Inspectors are found to conform with the criteria for the breed represented, as contained

in the Standard of Perfection published by the American Poultry Association, Inc. (APA) or the breeder's specifications for the stock represented in the flock, and such specifications are on file with the Official State Agency. It takes a great deal of training to become an official APA judge for the various waterfowl, exhibition poultry, and game bird breeds represented in the Plan, and most State NPIP organizations do not have people trained in those standards of perfection. The U.S. Approved classification has already been removed from provisions regarding the classification of egg-type chicken breeding flocks (§ 145.23), meat-type chicken breeding flocks (§ 145.33), and turkey breeding flocks (§ 145.43). Given that it appears that there is no longer the necessary support in place to maintain the U.S. Approved classification for waterfowl, exhibition poultry, and game bird breeding flocks, we are proposing to remove the U.S. Approved classification from § 145.53. As part of this proposed change, we would also remove the illustrative design for the U.S. Approved classification from § 145.10(a), as there would no longer be a corresponding classification for the design in the provisions of the Plan.

#### *Testing for Antibodies to Avian Mycoplasma*

Paragraph (e)(2) of § 147.7 provides a procedure to test for antibodies to avian mycoplasma by hemagglutination inhibition (HI). The test uses the constant antigen, titered-sera method for measuring antibodies to *M. gallisepticum*, *M. synoviae*, or *M. meleagridis*. The second-to-last and last sentences of § 147.7(e)(2)(ii)(B) currently state "[t]he desired endpoint is 4 HA [i.e., hemagglutination] units. The well containing the 1:4 dilution should give a complete HA while the 1:8 dilution should show less than complete HA." These two sentences appear to have been included in error, as they apply to the HA titer of the diluted antigen used in the test, and not to the HA titer of the stock antigen, which is the focus of the step being described. The dilution of the stock antigen is described in the paragraph that follows, i.e., § 147.7(e)(2)(ii)(C). Therefore, because they do not apply to the step being described, we are proposing to remove the final two sentences of § 147.7(e)(2)(ii)(B).

#### *Bacteriological Examination of Salmonella*

Paragraph (a) of § 147.11 describes the laboratory procedure recommended for the bacteriological examination of *Salmonella* in egg- and meat-type

chickens, waterfowl, exhibition poultry, and game birds. In this document, we are proposing to amend those procedures by:

- Restricting the scope of the paragraph to the examination of cultures collected from birds (and modifying illustration 1 accordingly) and moving the provisions of current § 147.11(a) relating to the examination of environmental cultures, including illustration 2, to § 147.12;
- Removing the recommended non-selective enrichment step;
- Increasing the sample size of pullorum-typhoid reactor birds from "at least four birds" to "up to 25 birds;"
- Modifying sample collection and pooling recommendations;
- Offering specific suggestions for plating media; and
- Recommending delayed secondary enrichment in cases where the initial selective enrichment procedure yields negative results.

These proposed changes, which have been incorporated into the revised procedure set forth in revised § 147.11(a) at the end of this document, were recommended by the NPIP's *Salmonella* Technical Committee and are intended to provide a more effective and scientifically valid procedure for the identification of *Salmonella* in egg- and meat-type chickens, waterfowl, exhibition poultry, and game birds. As part of this proposed change, we would also update the literature citation contained in footnote 7 to § 147.11(a)(1) so that it refers to the most recent edition of the publication cited.

#### *Collection, Isolation, and Identification of Salmonella*

Section 147.12 currently describes procedures for collecting environmental samples and cloacal swabs for bacteriological examination. In this document, we are proposing to expand the scope of that section to include procedures for collection, isolation, and identification of *Salmonella* from environmental samples, cloacal swabs, chick box papers, and meconium samples, and we would revise the title of the section to reflect this broader scope.

The procedure for sampling in broth found in § 147.12(a)(1)(i) currently states that authorized laboratories will provide capped tubes containing Hajna or Mueller-Kauffmann tetrathionate brilliant green sterile enrichment broth for each sample. Because other types of sterile enrichment broth are now available, we are proposing to remove the reference to Hajna or Mueller-Kauffmann tetrathionate brilliant green enrichment broths in order to provide

for the use by authorized laboratories of other appropriate sterile enrichment broths.

The provisions regarding the use of drag swabs found in § 147.12(a)(3) currently refer to exposing gauze pads to the surface of floor litter and nest box areas and provide instructions for the assembly of drag swabs using gauze pads. Commercially made sponges designed for use in drag swabs are now available, so we are proposing to amend the introductory text of § 147.12(a)(3) to provide for the use of either gauze pads or commercially available sponges as a component of a drag swab sampler.

Paragraph (a)(3)(iv) of § 147.12 describes the procedure for collecting samples from nest boxes. The sampling procedure described in that paragraph entails wiping down assorted locations in about 10 percent of the total nesting area, then sealing the sample in a sterile bag for submission to an authorized laboratory. We have determined that this procedure could also be used for collecting samples from an egg belt, which is another environment from which *Salmonella* could be isolated. Therefore, we are proposing to amend § 147.12(a)(3)(iv) to provide for the use of the described sampling technique on both nest boxes and egg belts.

Paragraph (c) of § 147.12 provides instructions for collecting samples from chick box papers. We are proposing to move the provisions of § 147.12(c) to § 147.12(a)(4) in order to place it among the other provisions of § 147.12 regarding the collection of samples. In moving those provisions, we would also add to the introductory text of the paragraph a reminder to Plan participants that it is important that the paper be removed from the chick box before the box is placed in the brooding house. This would help to maintain the integrity of the sample taken from the chick box papers by preventing the potential introduction of contaminants from the brooding house. We would also add a new paragraph (a)(4)(iii) that would provide that the laboratory to which the collected samples or chick box papers are sent must follow the procedure set forth in proposed § 147.12(a)(5) (current § 147.18) for testing chick meconium for *Salmonella*.

As noted earlier in this document in the discussion of the proposed changes to § 147.11, we are proposing to move the provisions of § 147.11(a) regarding the examination of environmental cultures, including illustration 2, into § 147.12; those provisions would become new § 147.12(b). In addition, we are also proposing to move the provisions of current § 147.18, which provides a procedure for testing chick

meconium for *Salmonella*, into § 147.12 as new paragraph (a)(5). We believe that this proposed relocation of those provisions would result in the regulations becoming more focused, with § 147.11 concentrating on procedures for culturing pullorum-typhoid reactors and birds from SE-positive environments and § 147.12 concentrating on procedures for culturing environmental samples, chick papers, and meconium. As a result of these proposed moves, it would be necessary for § 147.12(a)(5)(vi) (current § 147.18(f)) to direct that the processing of suspect *Salmonella* colonies from chick meconium samples be conducted in accordance with § 147.12(b), rather than § 147.11.

Proposed new § 147.12(b) would provide two different enrichment procedures, i.e., tetrathionate enrichment with delayed secondary enrichment and pre-enrichment followed by selective enrichment. These culturing procedures for environmental and other samples, which have been drawn from the combined bird/environment culturing procedures found in current § 147.11(a), are set forth in proposed § 147.12(b) at the end of this document. Illustration 2, which would be revised to reflect the more specific procedures, would be placed at the end of the new paragraph.

#### *Hatching Egg and Hatchery Sanitation*

We are proposing to revise § 147.22, "Hatching egg sanitation," to reflect changes in industry practice and update the language used in the section. The revised section would reflect the discontinuance of egg fumigation as a routine measure and would include a recommendation for cleaning and disinfecting vehicles used for transporting eggs and chicks or poults, but would otherwise not differ substantively from existing § 147.22.

Similarly, we are also proposing to revise § 147.23, "Hatchery sanitation," to reflect changes in industry practice and update the language used in the section. As is the case with our proposed revision of § 147.22, revised § 147.23 would reflect the discontinuance of egg fumigation as a routine measure. This revised section would also recommend the use of new chick papers, in addition to clean or new boxes, for the distribution of day-old chicks, poults, or other newly hatched poultry. Otherwise, revised § 147.23 would not differ substantively from existing § 147.23.

#### *Cleaning and Disinfecting*

We are proposing to update § 147.24, which describes recommended

procedures for cleaning and disinfecting structures and equipment used by Plan participants. We would reorganize the provisions of the section so that paragraph (a) would deal with poultry houses, paragraph (b) with hatchers and hatchery rooms, and paragraph (c) with delivery trucks and their drivers and helpers. In each paragraph, we would expand upon the recommendations provided in current § 147.24 in order to provide more specific guidance regarding cleaning and disinfection procedures. Specifically, in § 147.24(a), we would revise paragraph (a)(1) to recommend the following:

- Remove all live "escaped" and dead birds from the building;
- Blow dust from equipment and other exposed surfaces;
- Empty the residual feed from the feed system and feed pans and remove it from the building;
- Disassemble feeding equipment and dump and scrape as needed to remove any and all feed cake and residue. Clean up spilled feed around the tank and clean out the tank; and
- Rinse down and wash out the inside of the feed tank to decontaminate the surfaces and allow to dry.

We would also amend paragraph (a)(3) to include recommendations for washing down the entire inside surfaces of the building and all the installed equipment such as curtains, ventilation ducts and openings, fans, fan housings and shutters, feeding equipment, watering equipment, etc., and using high pressure and high volume water spray to soak into and remove the dirt to decontaminate the building.

We would amend paragraph (b) to recommend the use of cleaning agents and sanitizers that are registered by the U.S. Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, and tuberculocidal. We would also recommend:

- Removing loose organic debris by sweeping, scraping, vacuuming, brushing, or scrubbing, or by hosing surfaces with high pressure water;
- Using hot water (at least 140 °F) for cleaning hatching trays and chick separator equipment;
- Using a cleaner/sanitizer that can penetrate protein and fatty deposits and allowing the chemical to cling to treated surfaces at least 10 minutes before rinsing off, then manually scrubbing any remaining deposits of organic material until they are removed; and
- Applying disinfectant to the cleaned walls and using a clean and sanitized squeegee to remove excess water, working down from ceilings to walls to floors and being careful not to recontaminate cleaned areas.

Because current paragraph (c) applies to the cleaning of hatchery equipment, we would move that paragraph into paragraph (b), which, as noted above, applies to the cleaning and disinfection of hatchers and hatchery rooms.

Finally, we would establish a new paragraph (c), which would provide recommendations regarding the disinfection of delivery trucks and biosecurity practices for truck drivers and their helpers. Specifically, we would recommend that truck tires be thoroughly sprayed with disinfectant before the truck leaves the main road and enters the farm driveway, and that drivers and helpers observe the following practices:

- Put on sturdy, disposable plastic boots or clean rubber boots before getting out of the truck cab. Put on a clean smock or coveralls and a hairnet before entering the poultry house.
- After loading eggs or unloading chicks/poults, remove the dirty smock/coveralls and place in a plastic garbage bag before loading in the truck. Be sure to keep clean coveralls separate from dirty ones.
- Reenter the cab of the truck and remove boots before placing feet onto floorboards. Remove hairnet and leave with disposable boots on farm.
- Sanitize hands using appropriate hand sanitizer.
- Return to the hatchery or go to the next farm and repeat the process.

These proposed amendments to § 147.24, which were recommended by the NPIP Cleaning and Disinfection Technical Committee, would serve to reinforce the existing provisions of the section and thus increase the effectiveness of the cleaning and disinfection measures applied to poultry houses, hatchers and hatchery rooms, and delivery trucks and the biosecurity practices observed by personnel entering the farm, thus reducing the risk that participating flocks and products would be exposed to disease.

#### *Fumigation*

Section 147.25 currently refers to fumigation as "an essential part of a sanitation program." As noted previously, fumigation is no longer used routinely within the poultry industry. Therefore, we are proposing to amend § 147.25 so that the section simply states that fumigation may be used for sanitizing eggs and hatchery equipment or rooms as part of a sanitation program, thus deemphasizing the role of fumigation.

### *Isolation, Sanitation, and Good Management Practices*

Section 147.26 describes procedures for establishing isolation and maintaining sanitation and good management practices for the control of *Salmonella* and *Mycoplasma* infections. In this document, we are proposing to amend § 147.26 as follows:

- We would amend paragraph (a)(1) to specify that the conditions under which visitors may be allowed must minimize the introduction of *Salmonella* and *Mycoplasma*, and not simply “insure sanitation” as currently provided.

- We would combine paragraphs (a)(2) and (a)(3), which require breeder farms to be kept free of market birds and other domesticated fowl, respectively.

- We would amend the requirement in paragraph (a)(4) that requires dead birds to be disposed of by burning, deep burial, or burial in special disposal pits. Because some of those methods may be prohibited in some areas, we would amend that requirement to simply state that dead birds are to be disposed of by locally approved methods.

- We would amend paragraph (b)(5) to require that a rodent control program be established. That paragraph currently requires only that the rodent population and other pests be kept in control without requiring an active program for that purpose.

These proposed changes were recommended by a committee of scientists appointed to review § 147.26 by the Plan's General Conference Committee and would serve to update the provisions of that section.

### *General Conference Committee*

Paragraph (b) of § 147.43 describes the procedures for the nomination and election of regional committee members to serve on the General Conference Committee (GCC). In order to broaden the pool of potential nominees, we are proposing to amend § 147.43(b) to add provisions for the solicitation of nominees. Under these proposed provisions, the process for soliciting nominations for regional committee members would include, but not be limited to:

- Advertisements in at least two industry journals, such as the newsletters of the American Association of Avian Pathologists, the National Chicken Council, the United Egg Producers, and the National Turkey Federation;
- A **Federal Register** announcement; and
- Special inquiries for nominations from universities or colleges with

minority/disability enrollments and faculty members in poultry science or veterinary science.

Further, in order to promote a more diverse pool of nominees, we would require that at least one nominee from each region be from an underrepresented group, e.g., minorities, women, or persons with disabilities. These proposed changes are intended to increase awareness of GCC membership opportunities by providing for the active solicitation of nominations from industry, scientific, and university or college groups.

### *Miscellaneous*

In addition to the proposed changes described above, we are also proposing to make several nonsubstantive editorial changes to improve clarity and correct erroneous citations to several sections within the regulations.

### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The proposed changes contained in this document are based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who took part in the Plan's 2000 National Plan Conference. The proposed changes would 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 2000 National Plan Conference. These changes would keep the provisions of the plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

The plan serves as a “seal of approval” for eggs and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. In all cases, the changes proposed in this document have been generated by the industry itself with the goal of reducing disease risk and increasing product marketability. Because participation in the plan is voluntary, individuals are likely to remain in the program as long as the costs of implementing the program are lower than the added benefits they receive from the program.

The proposed changes contained in this document generally either update testing procedures and sanitation guidelines or revise NPIP's administrative operations, with the aim of better safeguarding the health of the Nation's poultry industry. The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. We do not expect that the changes proposed in this document would result in significant economic effects on small entities.

The Small Business Administration defines size standards for industries using the North American Industry Classification System (NAICS). Under this system, a firm classified within “Chicken Egg Production” (NAICS code 112310) is considered small if its annual receipts are \$9 million or less. For firms classified within “Broilers and Other Meat Type Chicken Production” (NAICS code 112320), the small-entity criterion is annual receipts of \$750,000 or less.

The egg and poultry industries are highly integrated vertically, with most production owned or under contract to large-scale processing and marketing firms.<sup>1</sup> For example, broilers for Tyson Foods, the world's largest producer, came in 1999 from 6,060 farms (98 percent under contract), and its eggs came from breeder flocks on 1,388 farms.<sup>2</sup>

In 1997, an average of 303,604,000 egg-producing layers produced 77,532 million eggs.<sup>3</sup> The number of egg-producing farms and their size distribution is not known, but it is reasonable to assume that some of them may be small entities, operating either independently or under contract.

Also in 1997, there were 13,458 farms that sold layers, pullets, and pullet chicks, and 23,937 farms that sold broilers and other meat-type chickens.<sup>4</sup> Regarding the latter, a farm would need to produce about 275,000 broilers a year in order to reach annual sales of at least \$500,000, according to Census of Agriculture and other National Agricultural Statistics Service (NASS)

<sup>1</sup> The broiler industry, in particular, is heavily concentrated. Tyson Foods had weekly sales of ready-to-cook chicken that averaged 154.3 million pounds in 1999. The 10 largest broiler companies accounted for 429.6 million pounds per week in 1999, approximately half of the Nation's production (WATT PoultryUSA, January 2000).

<sup>2</sup> WATT Poultry USA, January 2000.

<sup>3</sup> “Chickens and Eggs, Final Estimates 1994–97,” USDA/NASS, December 1998.”

<sup>4</sup> 1997 Census of Agriculture.

data.<sup>5</sup> By this measure, about one-half of broiler farms can be considered small.<sup>6</sup>

Clearly, some of the poultry and egg-producing farms that would be affected by this proposed rule are small. However, the procedural and administrative changes proposed are not expected to have a significant economic impact on any entities, either large or small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed 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 and 147

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

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

### PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

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

**Authority:** 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.4.

2. In § 145.1, a definition of *public exhibition* would be added, in alphabetical order, to read as follows:

<sup>5</sup> In 1997, the average liveweight equivalent price of broiler was \$0.377 per pound, and the average weight was 4.835 pounds. Thus, the average price received per broiler was \$1.82.

<sup>6</sup> The 1997 Censur of Agriculture indicates that 52 percent of broiler-producing farms sold at least 200,000 broilers.

#### § 145.1 Definitions.

\* \* \* \* \*

*Public exhibition.* A public show of poultry.

\* \* \* \* \*

3. In § 145.2, a new paragraph (e) would be added to read as follows:

#### § 145.2 Administration.

\* \* \* \* \*

(e) An authorized laboratory of the National Poultry Improvement Plan will follow the laboratory protocols outlined in part 147 of this chapter when determining the status of a participating flock with respect to an official Plan classification.

\* \* \* \* \*

4. Section 145.6 would be amended as follows:

a. By revising paragraph (a).

b. In paragraph (b), by removing the word “which” and adding the word “that” in its place.

c. In paragraph (c), by removing the word “shall” and adding the word “should” in its place.

d. In paragraph (d), in both the first and second sentences, by removing the word “shall” and adding the word “should” in its place.

#### § 145.6 Specific provisions for participating hatcheries.

(a) Hatcheries must be kept in sanitary condition, acceptable to the Official State Agency. The procedures outlined in §§ 147.22 through 147.25 of this chapter will be considered as a guide in determining compliance with this provision. The minimum requirements with respect to sanitation include the following:

(1) Egg room walls, ceilings, floors, air filters, drains, and humidifiers should be cleaned and disinfected at least two times per week. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(2) Incubator room walls, ceilings, floors, doors, fan grills, vents, and ducts should be cleaned and disinfected after each set or transfer. Incubator rooms should not be used for storage. Plenums should be cleaned at least weekly. Egg trays and buggies should be cleaned and disinfected after each transfer. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(3) Hatcher walls, ceilings, floors, doors, fans, vents, and ducts should be cleaned and disinfected after each hatch. Hatcher rooms should be cleaned and disinfected after each hatch and should not be used for storage. Plenums should be cleaned after each hatch. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(4) Chick/poult processing equipment and rooms should be thoroughly cleaned and disinfected after each hatch. Chick/poult boxes should be cleaned and disinfected before being reused. Vaccination equipment should be cleaned and disinfected after each use. Cleaning and disinfection procedures should be as outlined in § 147.24 of this chapter.

(5) Hatchery residue, such as chick/poult down, eggshells, infertile eggs, and dead germs, should be disposed of promptly and in a manner satisfactory to the Official State Agency.

(6) The entire hatchery should be kept in a neat, orderly condition and cleaned and disinfected after each hatch.

(7) Effective insect and rodent control programs should be implemented.

\* \* \* \* \*

#### § 145.10 [Amended]

5. In § 145.10, paragraphs (a) and (l) would be removed and reserved and paragraph (m) would be amended by adding the words “§ 145.23(d) and” immediately after the word “See”.

#### § 145.13 [Amended]

6. In § 145.13, the introductory text of the section would be amended as follows:

a. In the first sentence, by adding the words “in writing” immediately after the words “are notified”.

b. In the sixth sentence, by removing the words “§§ 50.21 through 50.28–14 and §§ 50.30 through 50.33 of”.

c. In the seventh sentence, by removing the citation “7 CFR 50.2(e),(g),(h), and (l)” and adding the citation “7 CFR 50.10” in its place.

7. Section 145.14 would be amended as follows:

a. In the introductory text of the section, by revising the first sentence.

b. In paragraph (a)(1), footnote 1, by removing the words “Veterinary Biologics, 4700 River Road, Unit 148, Riverdale, Maryland 20737–1237” and adding the words “Center for Veterinary Biologics, 510 South 17th Street, Suite 104, Ames IA 50010–8197” in their place.

#### § 145.14 Blood testing.

Poultry must be more than 4 months of age when blood tested for an official classification: *Provided*, That turkey candidates under subpart D of this part may be blood tested at more than 12 weeks of age; game bird candidates under subpart E of this part may be blood tested when more than 4 months of age or upon reaching sexual maturity, whichever comes first; and ostrich, emu, rhea, and cassowary candidates under subpart F of this part may be blood



tested when more than 12 months of age. \* \* \*

\* \* \* \* \*

8. Section 145.23, would be amended as follows:

a. In paragraph (d), by revising the introductory text.

b. In paragraph (d)(1)(i), by removing the word "Monitored" and adding the word "Clean" in its place.

c. By revising paragraphs (d)(1)(iv) and (d)(1)(vi).

**§ 145.23 Terminology and classification; flocks and products.**

\* \* \* \* \*

(d) *U.S. S. Enteritidis Clean*. This classification is intended for egg-type breeders wishing to assure their customers that the hatching eggs and chicks produced are certified free of *Salmonella enteritidis*.

(1) \* \* \*

\* \* \* \* \*

(iv) The flock is maintained in compliance with §§ 147.21, 147.24(a), and 147.26 of this chapter. Rodents and other pests should be effectively controlled;

\* \* \* \* \*

(vi) If a *Salmonella* vaccine is used that causes positive reactions with pullorum-typhoid antigen, one of the following options must be utilized:

(A) Administer the vaccine after the pullorum-typhoid testing is done as described in paragraph (d)(1)(vii) of this section.

(B) If an injectable bacterin or live vaccine that does not spread is used, keep a sample of 350 birds unvaccinated and banded for identification until the flock reaches at least 4 months of age. Following negative serological and bacteriological examinations as described in paragraph (d)(1)(vii) of this section, vaccinate the banded, non-vaccinated birds.

\* \* \* \* \*

**§ 145.24 [Amended]**

9. In § 145.24, paragraph (a)(2), at the end of the last sentence, the words "in accordance with rules of practice adopted by the Administrator" would be added immediately after the word "hearing".

10. Section 145.33 would be amended as follows:

a. By revising paragraph (c)(2).

b. In paragraph (h), the introductory text, by removing the word "primary".

c. By revising paragraph (h)(1)(i).

d. In paragraph (h)(1)(iv), by adding the words "or under the supervision of" immediately after the word "by".

e. By revising paragraph (h)(1)(vi).

f. In paragraph (h)(3), the first sentence, by removing the word "in"

immediately before the words "paragraph (h)(1)(iv)" and by adding the words "and/or 500 cloacal swabs collected in accordance with § 147.12(a)(2) of this chapter" immediately before the word "must".

**§ 145.33 Terminology and classification; flocks and products.**

\* \* \* \* \*

(c) \* \* \*

(2) A participant handling U.S. M. Gallisepticum Clean products must keep these products separate from other products through the use of separate hatchers and incubators, separate hatch days, and proper hatchery sanitation and biosecurity (see §§ 147.22, 147.23, and 147.24) in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Clean chicks from primary breeding flocks must be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (c)(1)(i) of this section are set.

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

(i) The flock originated from a U.S. S. Enteritidis Clean flock, or one of the following samples has been examined bacteriologically for *S. enteritidis* at an authorized laboratory and any group D *Salmonella* samples have been serotyped:

(A) A 25-gram sample of meconium from the chicks in the flock collected and cultured as described in § 147.12(a)(5) of this chapter; or

(B) A sample of chick papers collected and cultured as described in § 147.12(c) of this chapter; or

(C) A sample of 10 chicks that died within 7 days after hatching.

\* \* \* \* \*

(vi) Hatching eggs produced by the flock are collected as quickly as possible and are handled as described in § 147.22 of this chapter.

\* \* \* \* \*

**§ 145.34 [Amended]**

11. In § 145.34, paragraphs (a)(2) and (b)(2) would each be amended by adding the words "in accordance with rules of practice adopted by the Administrator" immediately after the word "hearing".

**§ 145.44 [Amended]**

12. In § 145.44, paragraphs (a)(2), (b)(2), and (c)(2) would be each amended by adding the words "in accordance with rules of practice adopted by the Administrator" immediately after the word "hearing".

**§ 145.53 [Amended]**

13. In § 145.53, paragraph (a) would be removed and reserved.

**§ 145.54 [Amended]**

14. In § 145.54, paragraph (a)(2) would be amended by adding the words "in accordance with rules of practice adopted by the Administrator" immediately after the word "hearing".

**PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN**

15. The authority citation for part 147 would be revised to read as follows:

**Authority:** 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.4.

**§ 147.5 [Amended]**

16. Section 147.5 would be amended as follows:

a. In paragraph (c), by removing the numbers "1:20" and adding the numbers "1:40" in their place.

b. In paragraph (d), the introductory text, by removing the numbers "1:20" and adding the numbers "1:40" in their place.

c. In paragraph (d)(2), by removing the words "10 microliters (0.01 cc.)" and adding the words "5 microliters (0.005 cc.)" in their place.

**§ 147.7 [Amended]**

17. In § 147.7, paragraph (e)(2)(ii)(B) would be amended by removing the third and fourth sentences.

18. In § 147.11, paragraph (a) would be revised to read as follows:

**§ 147.11 Laboratory procedure recommended for the bacteriological examination of *Salmonella*.**

(a) *For egg-and meat-type chickens, waterfowl, exhibition poultry, and game birds.* All reactors to the Pullorum-Typhoid tests, up to 25 birds, and birds from *Salmonella enteritidis* (SE) positive environments should be cultured in accordance with both the direct (paragraph (a)(1) of this section) and selective enrichment (paragraph (a)(2) of this section) procedures described in this section. Careful aseptic technique should be used when collecting all tissue samples.

(1) Direct culture (refer to illustration 1 to this section). Grossly normal or diseased liver, heart, pericardial sac, spleen, lung, kidney, peritoneum, gallbladder, oviduct, misshapen ova or testes, inflamed or unabsorbed yolk sac, and other visibly pathological tissues where purulent, necrotic, or proliferative lesions are seen (including cysts, abscesses, hypopyon, and inflamed serosal surfaces) should be sampled for direct culture using either



flamed wire loops or sterile swabs. Since some strains may not dependably survive and grow in certain selective media, inoculate non-selective plates (such as blood or nutrient agar) and selective plates (such as MacConkey [MAC] and brilliant green novobiocin [BGN] for pullorum-typhoid and MAC, BGN, and xylose-lysine-tergitol 4 [XLT 4] for SE). After inoculating the plates, pool the swabs from the various organs into a tube of non-selective broth (such as nutrient or brain-heart infusion). Refer to illustration 1 for recommended bacteriological recovery and identification procedures.<sup>7</sup> Proceed immediately with collection of organs and tissues for selective enrichment culture.

(2) Selective enrichment culture (refer to illustration 1 to this section). Collect and culture organ samples separately from intestinal samples, with intestinal tissues collected last to prevent cross-contamination. Samples from the following organs or sites should be collected for culture in selective enrichment broth:

(i) Heart (apex, pericardial sac, and contents if present);

(ii) Liver (portions exhibiting lesions or, in grossly normal organs, the drained gallbladder and adjacent liver tissues);

(iii) Ovary-Testes (entire inactive ovary or testes, but if ovary is active, include any atypical ova);

(iv) Oviduct (if active, include any debris and dehydrated ova);

(v) Kidneys and spleen; and

(vi) Other visibly pathological sites where purulent, necrotic, or proliferative lesions are seen.

(3) From each bird, aseptically collect 10 to 15 grams of each organ or site listed in paragraph (a)(2) of this section. Mince, grind, or blend and place in a sterile plastic bag. All the organs or sites listed in paragraph (a)(2) of this section from the same bird may be pooled into one bag. Do not pool samples from more than one bird. Add sufficient tetrathionate enrichment broth to give a 1:10 (sample to enrichment) ratio. Follow the procedure outlined in illustration 1 for the isolation and identification of *Salmonella*.

(4) From each bird, aseptically collect 10 to 15 grams of each of the following parts of the digestive tract: Crop wall, duodenum, jejunum (including remnant of yolk sac), both ceca, cecal tonsils, and rectum-cloaca. Mince, grind, or blend tissues and pool them into a sterile plastic bag. Do not pool tissues from different birds into the same sample. Add sufficient tetrathionate enrichment broth to give a 1:10 (sample to

enrichment) ratio. Follow the procedure outlined in illustration 1 for the isolation and identification of *Salmonella*.

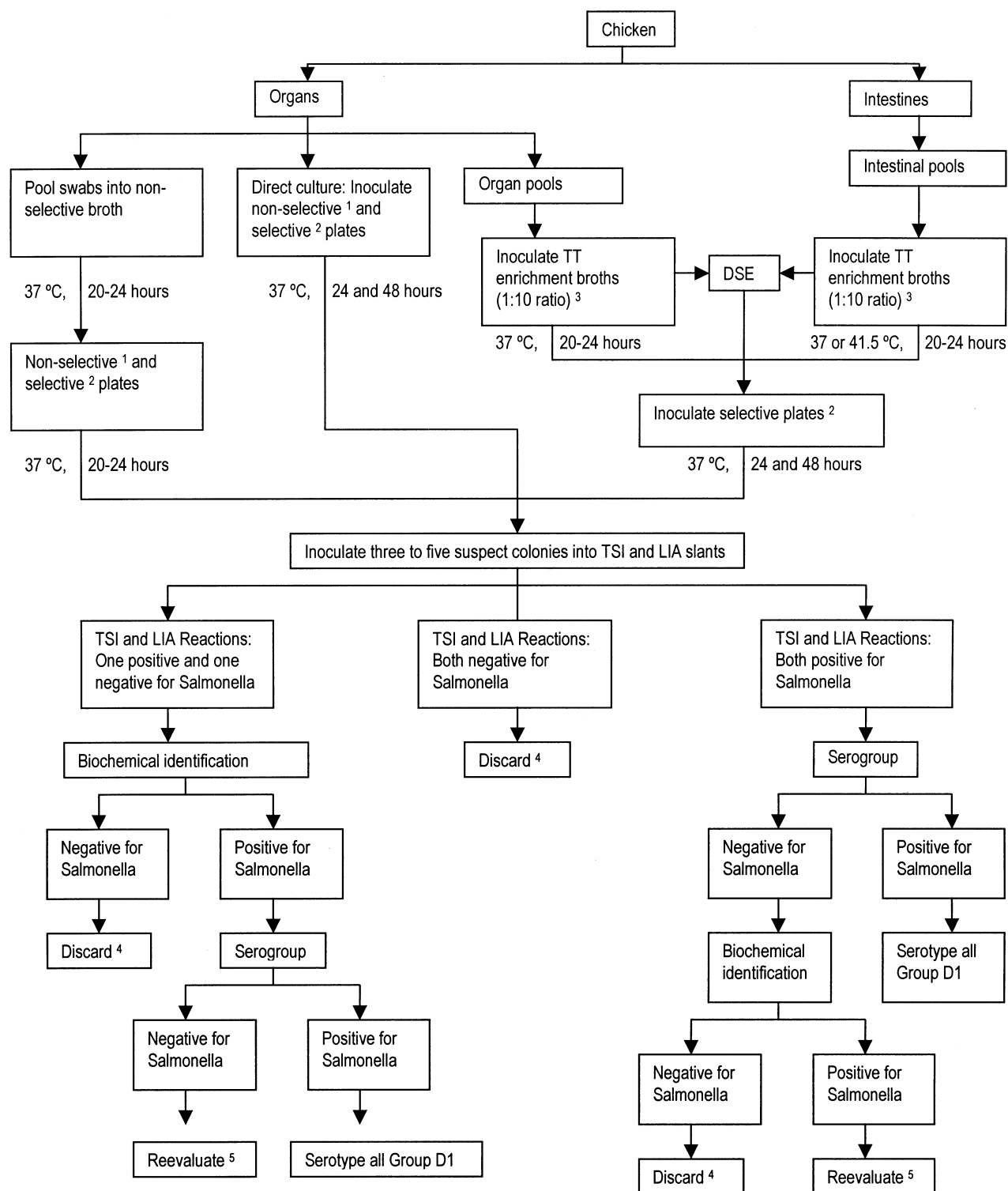
(5) After selective enrichment, inoculate selective plates (such as MAC and BGN for pullorum-typhoid and MAC, BGN, and XLT 4) for SE. Inoculate three to five *Salmonella*-suspect colonies from plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Screen colonies by serological (i.e., serogroup) and biochemical procedures (e.g., the Analytical Profile Index for Enterobacteriaceae [API]) as shown in illustration 1. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

(6) If the initial selective enrichment is negative for *Salmonella*, a delayed secondary enrichment (DSE) procedure is used. Leave the tetrathionate-enriched sample at room temperature for 5 to 7 days. Transfer 1 mL of the culture into 10 mL of fresh tetrathionate enrichment broth, incubate at 37 °C for 20 to 24 hours, and plate as before.

(7) Serogroup all isolates identified as salmonellae and serotype all serogroup D1 isolates. Phage-type all SE isolates.

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<sup>7</sup> Biochemical identification charts may be obtained from "A Laboratory Manual for the Isolation and Identification of Avian Pathogens," chapter 2, Salmonellosis. Fourth edition, 1998, American Association of Avian Pathologists, Inc., Kennett Square, PA 19348.

**Illustration 1.—Procedure for culturing Pullorum-Typhoid reactors and birds from SE-positive environments.**

1. Non-selective plates such as blood or nutrient agar.

2. Selective plates such as MacConkey, Brilliant Green Novobiocin (BGN) for pullorum-typhoid reactors and MacConkey, BGN, and xylose-lysine tergitol 4 (XLT 4) for SE.

3. Tetrathionate enrichment broth.

4. Reevaluate if epidemiologic, necropsy, or other information indicates the presence of an unusual strain of *Salmonella*.

5. If biochemical identification and serogroup procedures are inconclusive, restreak original colony onto non-selective plating media to check for purity. Repeat biochemical and serology tests.

\* \* \* \* \*

19. Section 147.12 would be amended as follows:

- a. By revising the section heading.
- b. In paragraph (a), the introductory text, by removing the word "shall" and adding the word "should" in its place.
- c. In paragraph (a)(1)(i), by removing the words "(Hajna or Mueller-Kauffmann Tetrathionate Brilliant Green)".
- d. In paragraph (a)(3), the introductory text, by adding the words "(or commercially available sponges designed for this purpose)" immediately before the words ", a key component".
- e. In paragraph (a)(3)(ii), by removing the words "paragraph (a)(1)" and adding the words "paragraph (a)(3)(i)" in their place.
- f. In paragraph (a)(3)(iv), by revising the first two sentences.
- g. By adding new paragraphs (a)(4) and (a)(5).
- h. By removing paragraph (c), redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b).

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

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(iv) Nest box or egg belt sampling technique. Collect nest box or egg belt samples by using two 3-by-3 inch sterile gauze pads premoistened with double-strength skim milk and wiping the pads over assorted locations in about 10 percent of the total nesting area or the egg belt. \* \* \*

\* \* \* \* \*

(4) *Chick box papers.* Samples from chick box papers may be bacteriologically examined for the presence of *Salmonella*. The Plan participant may collect the samples in accordance with paragraph (a)(4)(i) of this section or submit chick box papers directly to a laboratory in accordance with paragraph (a)(4)(ii) of this section. It is important that the paper be removed from the chick box before the box is placed in the brooding house.

(i) Instructions for collecting samples from chick box papers:

(A) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and lay the papers on a clean surface.

(B) Clean your hands and put on latex gloves. Do not apply disinfectant to the gloves. Change gloves after collecting samples from 10 chick box papers or any time a glove is torn.

(C) Saturate a sterile 3-by-3 inch gauze pad with double-strength skim milk (see footnote 12 to this section) and rub the pad across the surface of five chick box papers. Rub the pad over at least 75 percent of each paper and use sufficient pressure to rub any dry meconium off the paper. Pouring a small amount of double-strength skim milk (1 to 2 tablespoons) on each paper will make it easier to collect samples.

(D) After collecting samples from 10 chick box papers, place the two gauze pads used to collect the samples (i.e., one pad per 5 chick box papers) into an 18 oz. Whirl-Pak bag and add 1 to 2 tablespoons of double-strength skim milk.

(E) Promptly refrigerate the Whirl-Pak bags containing the samples and transport them, on ice or otherwise refrigerated, to a laboratory within 48 hours of collection. The samples may be frozen for longer storage if the Plan participant is unable to transport them to a laboratory within 48 hours.

(ii) The Plan participant may send chick box papers directly to a laboratory, where samples may be collected as described in paragraph (a)(4)(i) of this section. To send chick box papers directly to a laboratory:

(A) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and place the chick papers immediately into large plastic bags and seal the bags.

(B) Place the plastic bags containing the chick box papers in a clean box and transport them within 48 hours to a laboratory. The plastic bags do not require refrigeration.

(iii) The laboratory must follow the procedure set forth in paragraph (a)(5) of this section for testing chick meconium for *Salmonella*.

(5) *Chick meconium testing procedure for Salmonella.*

(i) Record the date, source, and flock destination on the "Meconium Worksheet."

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

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

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

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

(vi) Incubate both plates at 37 °C for 24 hours and process suspect *Salmonella* colonies according to paragraph (b) of this section.

(b) *Isolation and identification of Salmonella.* Either of the two enrichment procedures in this paragraph may be used.

(1) Tetrathionate enrichment with delayed secondary enrichment (DSE):

(i) Add tetrathionate enrichment broth to the sample to give a 1:10 (sample to enrichment) ratio. Incubate the sample at 37 or 41.5 °C for 20 to 24 hours as shown in illustration 2.

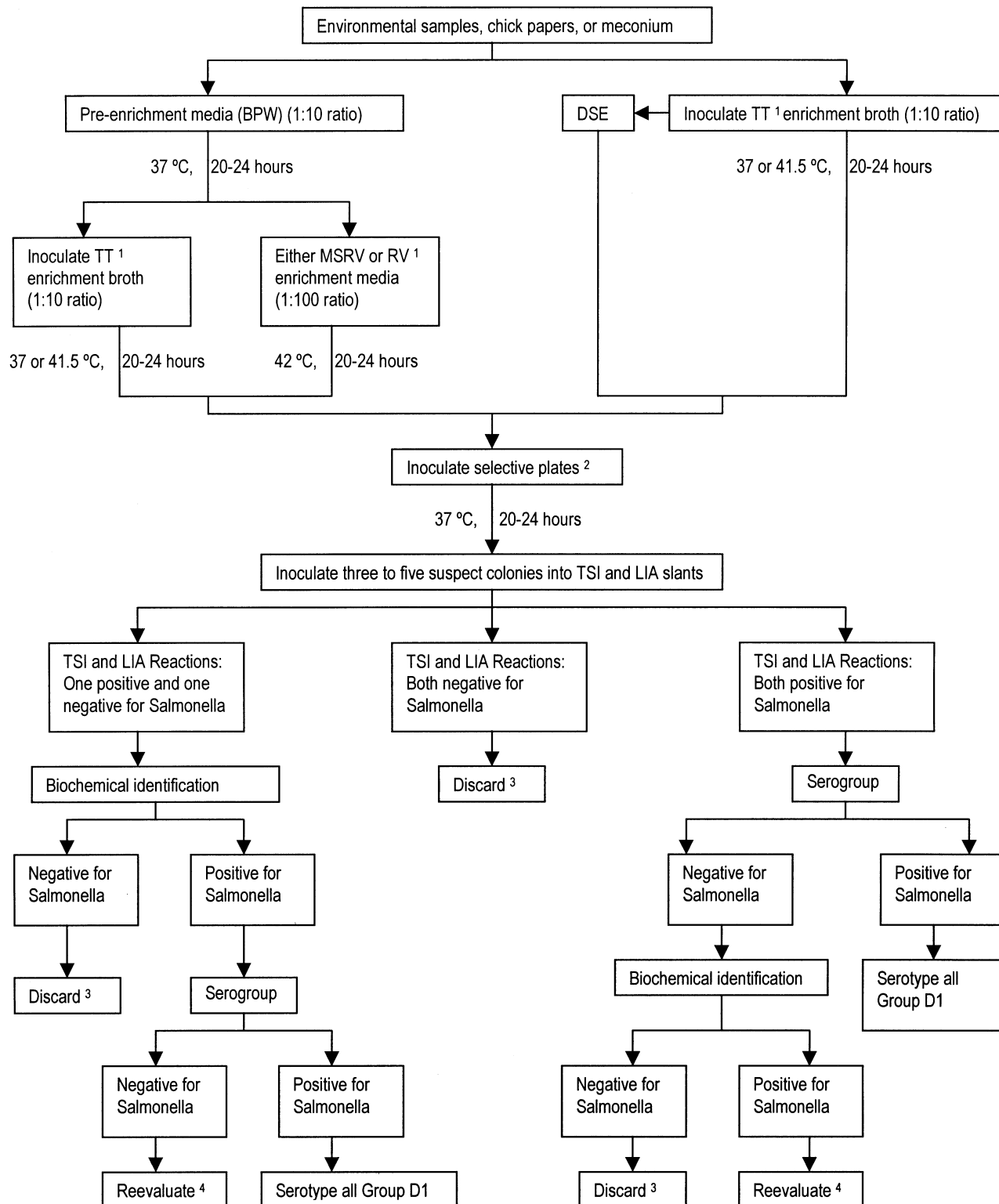
(ii) After selective enrichment, inoculate selective plates (such as BGN and XLT4). Incubate the plates at 37 °C for 20 to 24 hours. Inoculate three to five *Salmonella*-suspect colonies from the plates into triple sugar iron (TSI) and lysine iron agar (LIA) slants. Incubate the slants at 37 °C for 20 to 24 hours. Screen colonies by serological (i.e., serogroup) and biochemical (e.g., API) procedures as shown in illustration 2. As a supplement to screening three to five *Salmonella*-suspect colonies on TSI and LIA slants, a group D colony lift assay may be utilized to signal the presence of hard-to-detect group D *Salmonella* colonies on agar plates.

(iii) If the initial selective enrichment is negative for *Salmonella*, use a DSE procedure. Leave the original tetrathionate-enriched sample at room temperature for 5 to 7 days. Transfer 1 mL of the culture into 10mL of fresh tetrathionate enrichment broth, incubate at 37 °C for 20 to 24 hours, and plate as in paragraph (b)(1)(ii) of this section.

(iv) Serogroup all isolates identified as *Salmonella* and serotype all serogroup D isolates. Phage-type all *Salmonella enteritidis* isolates.

(2) Pre-enrichment followed by selective enrichment. (See illustration 2.)

Illustration 2.—Culture procedures for environmental samples, chick papers, or meconium.



1. Tetrathionate enrichment broth, e.g., Rappaport-Vassiliades (RV) or modified semisolid RV (MSRV).

2. Selective plates such as brilliant Green Novobiocin (BGN) or xylose-lysine tergitol 4 (XLT4).

3. Reevaluate if epidemiologic, necropsy, or other information indicates the presence of an unusual strain of *Salmonella*.

4. If biochemical identification and serogroup procedures are inconclusive, restreak original colony onto non-selective plating media to check for purity. Repeat biochemical and serology tests.

\* \* \* \* \*

#### § 147.18 [Removed]

20. Section 147.18 would be removed.

21. Section 147.22 would be revised to read as follows:

#### § 147.22 Hatching egg sanitation.

Hatching eggs should be collected from the nests at frequent intervals and, to aid in the prevention of contamination with disease-causing organisms, the following practices should be observed:

(a) Cleaned and disinfected containers, such as egg flats, should be used in collecting the nest eggs for hatching. Egg handlers should thoroughly wash their hands with soap and water prior to and after egg collection. Clean outer garments should be worn.

(b) Dirty eggs should not be used for hatching purposes and should be collected in a separate container from the nest eggs. Slightly soiled nest eggs may be gently dry cleaned by hand.

(c) Hatching eggs should be stored in a designated egg room under conditions that will minimize egg sweating. The egg room walls, ceiling, floor, door, heater, and humidifier should be cleaned and disinfected after every egg pickup. Cleaning and disinfection procedures should be as outlined in § 147.24.

(d) The egg processing area should be cleaned and disinfected daily.

(e) Effective rodent and insect control programs should be implemented.

(f) The egg processing building or area should be designed, located, and constructed of such materials as to assure that proper egg sanitation procedures can be carried out, and that the building itself can be easily, effectively, and routinely sanitized.

(g) All vehicles used for transporting eggs or chicks/poults should be cleaned and disinfected after use. Cleaning and disinfection procedures should be as outlined in § 147.24.

22. Section 147.23 would be revised to read as follows:

#### § 147.23 Hatchery sanitation.

An effective program for the prevention and control of Salmonella and other infections should include the following measures:

(a) An effective hatchery sanitation program should be designed and implemented.

(b) The hatchery building should be arranged so that separate rooms are provided for each of the four operations: Egg receiving, incubation and hatching, chick/poult processing, and egg tray and hatching basket washing. Traffic and

airflow patterns in the hatchery should be from clean areas to dirty areas (i.e., from egg room to chick/poult processing rooms) and should avoid tracking from dirty areas back into clean areas.

(c) The hatchery rooms, and tables, racks, and other equipment in them should be thoroughly cleaned and disinfected frequently. All hatchery wastes and offal should be burned or otherwise properly disposed of, and the containers used to remove such materials should be cleaned and sanitized after each use.

(d) The hatching compartments of incubators, including the hatching trays, should be thoroughly cleaned and disinfected after each hatch.

(e) Only clean eggs should be used for hatching purposes.

(f) Only new or cleaned and disinfected egg cases should be used for transportation of hatching eggs. Soiled egg case fillers should be destroyed.

(g) Day-old chicks, poults, or other newly hatched poultry should be distributed in clean, new boxes and new chick papers. All crates and vehicles used for transporting birds should be cleaned and disinfected after each use.

23. Section 147.24 would be amended as follows:

a. In paragraph (a), the introductory text, by removing the words “, hatchery rooms and delivery trucks”.

b. By revising paragraphs (a)(1) and (a)(3).

c. In paragraph (b), the introductory text, by adding the words “and hatchery rooms” immediately after the word “hatchers”.

d. By revising paragraph (b)(1).

e. In paragraph (b)(3), by removing the word “sanitized” and adding the word “disinfected” in its place.

f. By redesignating paragraph (c) as paragraph (b)(4) and adding a new paragraph (c).

#### § 147.24 Cleaning and disinfecting.

\* \* \* \* \*

(a) \* \* \*

(1) Remove all live “escaped” and dead birds from the building. Blow dust from equipment and other exposed surfaces. Empty the residual feed from the feed system and feed pans and remove it from the building. Disassemble feeding equipment and dump and scrape as needed to remove any and all feed cake and residue. Clean up spilled feed around the tank and clean out the tank. Rinse down and wash out the inside of the feed tank to decontaminate the surfaces and allow to dry.

\* \* \* \* \*

(3) Wash down the entire inside surfaces of the building and all the

installed equipment such as curtains, ventilation ducts and openings, fans, fan housings and shutters, feeding equipment, watering equipment, etc. Use high pressure and high volume water spray (for example 200 pounds per square inch and 10 gallons per minute or more) to soak into and remove the dirt to decontaminate the building. Scrub the walls, floors, and equipment with a hot soapy water solution. Rinse to remove soap.

\* \* \* \* \*

(b) \* \* \*

(1) Use cleaning agents and sanitizers that are registered by the U.S. Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, and tuberculocidal. Use manufacturer's recommended dilution. Remove loose organic debris by sweeping, scraping, vacuuming, brushing, or scrubbing, or by hosing surface with high pressure water (for example 200 pounds per square inch and 10 gallons per minute or more). Remove trays and all controls and fans for separate cleaning. Use hot water (minimum water temperature of 140 °F) for cleaning hatching trays and chick separator equipment. Thoroughly wet the ceiling, walls, and floors with a stream of water, then scrub with a hard bristle brush. Use a cleaner/sanitizer that can penetrate protein and fatty deposits. Allow the chemical to cling to treated surfaces at least 10 minutes before rinsing off. Manually scrub any remaining deposits of organic material until they are removed. Rinse until there is no longer any deposit on the walls, particularly near the fan opening, and apply disinfectant. Use a clean and sanitized squeegee to remove excess water, working down from ceilings to walls to floors and being careful not to recontaminate cleaned areas.

\* \* \* \* \*

(c) The egg and chick/poult delivery truck drivers and helpers should use the following good biosecurity practices while picking up eggs or delivering chicks/poults:

(1) Spray truck tires thoroughly with disinfectant before leaving the main road and entering the farm driveway.

(2) Put on sturdy, disposable plastic boots or clean rubber boots before getting out of the truck cab. Put on a clean smock or coveralls and a hairnet before entering the poultry house.

(3) After loading eggs or unloading chicks/poults, remove the dirty smock/coveralls and place into plastic garbage bag before loading in the truck. Be sure to keep clean coveralls separate from dirty ones.

(4) Reenter the cab of the truck and remove boots before placing feet onto floorboards. Remove hairnet and leave with disposable boots on farm.

(5) Sanitize hands using appropriate hand sanitizer.

(6) Return to the hatchery or go to the next farm and repeat the process.

#### § 147.25 [Amended]

24. Section 147.25 would be amended by removing the words “as an essential” and adding the words “or rooms as a” in their place.

25. Section 147.26 would be amended as follows:

a. By revising paragraph (a).

b. In paragraph (b)(5), by removing the word “Keep” and adding the words “Establish a rodent control program to keep” in its place.

c. By removing paragraph (b)(10) and redesignating paragraphs (b)(11) through (b)(15) as paragraphs (b)(10) through (b)(14), respectively.

#### § 147.26 Procedures for establishing isolation and maintaining sanitation and good management practices for the control of *Salmonella* and *Mycoplasma* infections.

(a) The following procedures are required for participation under the U.S. Sanitation Monitored, U.S. M. Gallisepticum Clean, U.S. M. Synoviae Clean, U.S. S. Enteritidis Monitored, and U.S. S. Enteritidis Clean classifications:

(1) Allow no visitors except under controlled conditions to minimize the introduction of *Salmonella* and *Mycoplasma*. Such conditions must be approved by the Official State Agency and the Service;

(2) Maintain breeder flocks on farms free from market birds and other domesticated fowl. Follow proper isolation procedures as approved by the Official State Agency;

(3) Dispose of all dead birds by locally approved methods.

\* \* \* \* \*

26. In § 147.43, paragraph (b) would be revised to read as follows:

#### § 147.43 General Conference Committee.

\* \* \* \* \*

(b) The regional committee members and their alternates will be elected by the official delegates of their respective regions, and the member-at-large will be elected by all official delegates. There must be at least two nominees for each position, the voting will be by secret ballot, and the results will be recorded. At least one nominee from each region must be from an underrepresented group (minorities, women, or persons with disabilities). The process for soliciting nominations for regional

committee members will include, but not be limited to: Advertisements in at least two industry journals, such as the newsletters of the American Association of Avian Pathologists, the National Chicken Council, the United Egg Producers, and the National Turkey Federation; a **Federal Register** announcement; and special inquiries for nominations from universities or colleges with minority/disability enrollments and faculty members in poultry science or veterinary science.

\* \* \* \* \*

Done in Washington, DC, this 11th day of July 2001.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01-17805 Filed 7-19-01; 8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 41

RIN 3038-AB73

### Listing Standards and Conditions for Trading Security Futures Products

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rules.

**SUMMARY:** The Commodity Futures Trading Commission (“CFTC” or “Commission”) proposes Rules 41.21 through 41.25 under the Commodity Exchange Act (“CEA”).<sup>1</sup> These proposed rules relate to new statutory provisions enacted by the Commodity Futures Modernization Act of 2000 (“CFMA”) <sup>2</sup> that specify listing standards and conditions for trading of security futures products. These proposed rules also establish requirements related to the reporting of data, trading halts, position limits, and special provisions relating to contract design of cash-settled security futures products and the physical delivery of security futures products.

**DATES:** Comments must be received on or before August 20, 2001.

**ADDRESSES:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to 202-418-5521, or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov).

<sup>1</sup> 7 U.S.C. 1 *et seq.*

<sup>2</sup> Pub. L. 106-554, 114 Stat. 2763. The text of the CFMA may be accessed on the Internet at <http://agriculture.house.gov/txt5660.pdf>.

Reference should be made to “Listing Standards and Conditions for Security Futures.”

#### FOR FURTHER INFORMATION CONTACT:

Richard A. Shilts, Acting Director, Division of Economic Analysis; Thomas M. Leahy, Jr., Financial Instruments Unit Chief, Division of Economic Analysis; or Gabrielle A. Sudik, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, D.C. 20581. Telephone: 202-418-5000. E-mail: ([RShilts@cftc.gov](mailto:RShilts@cftc.gov)), ([TLeahy@cftc.gov](mailto:TLeahy@cftc.gov)), or ([GSudik@cftc.gov](mailto:GSudik@cftc.gov)).

**SUPPLEMENTARY INFORMATION:** The Commodity Futures Trading Commission today proposes for public comment new rules 41.21 through 41.25 under part 41, 17 CFR part 41, under the Commodity Exchange Act as amended by the Commodity Futures Modernization Act of 2000 (7 U.S.C. 1 *et seq.*, as amended by Appendix E of Pub. L. 106-554, 114 Stat. 2763).

#### Table of Contents

|                                              |
|----------------------------------------------|
| I. Background                                |
| II. Section-By-Section Analysis              |
| III. Request For Comments                    |
| IV. Costs And Benefits Of The Proposed Rules |
| V. Related Matters                           |
| A. Paperwork Reduction Act                   |
| B. Regulatory Flexibility Act                |
| VI. Statutory Authority                      |
| Text of Proposed Rules                       |

### I. Background

On December 21, 2000, the CFMA was signed into law. Among other things, the CFMA lifted the ban on single stock and narrow-based stock index futures (“security futures”).<sup>3</sup> In addition, the CFMA established a framework for the joint regulation of security futures products<sup>4</sup> by the CFTC and the Securities and Exchange Commission (“SEC”).<sup>5</sup>

<sup>3</sup> See section 251(a) of the CFMA. This trading previously had been prohibited by section 2(a)(1)(B)(v) of the CEA.

<sup>4</sup> The term “security futures product” is defined in section 1a(32) of the CEA and section 3(a)(56) of the Exchange Act to mean “a security future or any put, call, straddle, option, or privilege on any security future.” The term “security future” is defined in section 1a(31) of the CEA and section 3(a)(55)(A) of the Exchange Act to include futures contracts on individual securities and on narrow-based security indexes: The term “narrow-based security index” is defined in section 1a(25) of the CEA and section 3(a)(55)(B) of the Exchange Act. Because the CFMA also provides that options on security futures cannot be traded until at least December 21, 2003, security futures are the only security futures product that may be available for trading until that date.

<sup>5</sup> The CFMA also prescribes the dates on which security futures trading can commence.