



This document is scheduled to be published in the Federal Register on 12/03/2014 and available online at <http://federalregister.gov/a/2014-28439>, and on [FDsys.gov](http://FDsys.gov)

BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 145 and 146

[Docket No. APHIS-2011-0101]

RIN 0579-AD83

National Poultry Improvement Plan and Auxiliary Provisions; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule that was published in the Federal Register on July 9, 2014, and effective on August 8, 2014, we amended the provisions of the National Poultry Improvement Plan by, among other things, amending the standards for the U.S. H5/H7 Avian Influenza Monitored classification. In that amendment, we incorrectly indicated that table-egg layer flocks may qualify for U.S. H5/H7 Avian Influenza Monitored status if they meet one of three testing and surveillance requirements, when we should have indicated such flocks must meet all applicable listed testing and surveillance requirements to qualify. This document corrects that error. We are also making several other minor edits for clarity.

DATES: Effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Dr. Denise Brinson, DVM, Director, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094-5104; (770) 922-3496.

## SUPPLEMENTARY INFORMATION:

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 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.

In a final rule<sup>1</sup> published in the Federal Register on July 9, 2014 (79 FR 38752-38768, Docket No. APHIS-2011-0101), with an effective date of August 8, 2014, we amended the regulations by, among other things, amending the standards for the U.S. H5/H7 Avian Influenza Monitored classification. Section 146.23(a) provides the U.S. H5/H7 Avian Influenza Monitored classification for table-egg layer pullet flocks and table-egg layer flocks. Prior to the final rule, the introductory text for paragraph (a) addressed the table-egg layer industry generally, including both table-egg layer pullet flocks and table-egg layer flocks. Separate testing requirements were set out for each type of flock in paragraphs (a)(1) and (a)(2), respectively. However, this caused some confusion. Therefore, in the final rule, we reformatted paragraph (a) so that it includes introductory text in paragraphs (a)(1) and (a)(2) that is specific to each type of flock. The testing requirements, which remain the same, were set out for each type of flock using the phrase "A flock will qualify for this classification when the Official State Agency determines that it has met

---

<sup>1</sup> To view the final rule and related documents, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0101>.

one of the following requirements.” While the use of “one of” is appropriate for paragraph (a)(1) as there are only two testing and surveillance options that satisfy the U.S. H5/H7 Avian Influenza Monitored classification, in order for flocks in paragraph (a)(2) to attain U.S. H5/H7 Avian Influenza Monitored classification they must meet the requirements of paragraph (a)(2)(i) and either paragraph (a)(2)(ii) or (a)(2)(iii). Therefore, using “one of” in this case inadvertently removes necessary testing requirements.

To clarify the requirements that must be followed for table-egg layer flocks to qualify as U.S. H5/H7 Avian Influenza Monitored classified, we are amending the introductory text in paragraph (a)(2) to make it clear that table-egg layer flocks must meet the requirements of paragraph (a)(2)(i) and the requirements of either paragraph (a)(2)(ii) or (a)(2)(iii).

Section 145.23(h) sets out requirements for the U.S. Avian Influenza Clean classification for multiplier breeding flocks. The regulations currently state that a flock and the hatching eggs and chicks produced from it will obtain this classification if, along with other requirements, during each 90-day period, all multiplier spent fowl within the flock, up to a maximum of 30, are tested and found negative for avian influenza within 21 days prior to movement to slaughter. In the final rule, we intended to change this requirement to state that such a classification may be obtained when, in addition to other requirements, a sample of at least 11 birds is tested and found negative to avian influenza within 21 days prior to slaughter. We are correcting this unintended omission in this technical amendment.

We are also making several other changes to improve the clarity of the regulations. Section 145.33(l) sets out requirements for the U.S. Avian Influenza Clean classification for multiplier meat-type chicken breeding flocks. However, the introductory text in paragraph (l) inadvertently refers to members of such flocks as “primary breeding chickens.” Therefore, we

are amending the introductory text in paragraph (1) to replace the word “primary” with the word “multiplier.” In paragraph (1)(2) we are also adding the word “serologically” after the word “tested” and the words “for antibodies for avian influenza” after the word “negative.” Finally, we are adding the words “for antibodies for avian influenza” after the word “negative” in § 145.83(g)(2). We are making these changes to clarify the nature of the required testing.

List of Subjects in 9 CFR Parts 145 and 146

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

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

PART 145–NATIONAL POULTRY IMPROVEMENT PLAN FOR BREEDING POULTRY

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

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

2. In § 145.23, paragraph (h)(2) is revised to read as follows:

§ 145.23 Terminology and classification; flocks and products.

\* \* \* \* \*

(h) \* \* \*

(2) A sample of at least 11 birds must be tested and found negative to avian influenza within 21 days prior to slaughter.

\* \* \* \* \*

3. Section 145.33 is amended in paragraph (1) introductory text, by revising the second sentence after the heading and by revising paragraph (1)(2) to read as follows:

§ 145.33 Terminology and classification; flocks and products.

\* \* \* \* \*

(1) \* \* \* It is intended to determine the presence of avian influenza in multiplier breeding chickens through routine surveillance of each participating breeding flock. \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

§ 145.83 [Amended]

4. In § 145.83, paragraph (g)(2) is amended by adding the words “for antibodies for avian influenza” after the word “negative”.

PART 146–NATIONAL POULTRY IMPROVEMENT PLAN FOR COMMERCIAL POULTRY

5. 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.

§ 146.23 [Amended]

6. Section 146.23 is amended as follows:

- a. In paragraph (a)(2) introductory text, by removing the words “one of”.
- b. In paragraph (a)(2)(i), by adding the words “and either” after the word “disposal;”.

Done in Washington, DC, this 26th day of November 2014 .

Kevin Shea

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014-28439 Filed 12/02/2014 at 8:45 am; Publication Date: 12/03/2014]