

Periodically, provisions of the Plan are amended to keep current with the development of the poultry industry and the utilization of new information as it becomes available, based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who take part in the Plan's National Plan Conference meetings. Accordingly, this proposed rule would change some of the Plan's provisions to keep the provisions of the Plan current with changes in the poultry industry, establish new certification programs, modify current disease control practices, and provide for the use of new sampling and testing procedures. The proposed changes were voted on and approved by the voting delegates at the Plan's 2002 National Plan Conference. The proposed changes have been generated by industry representatives, Official State Agencies, or Federal representatives with the goal of reducing disease risk and increasing product marketability.

The United States is the world's largest producer and exporter of poultry meat and the second-largest egg producer. In 2001, U.S. producers held a total of 441.1 million chickens, excluding commercial broilers, whose estimated value was \$1.068 billion. Broiler production, which primarily comes from chickens raised under contract with a broiler processor, totaled 8.262 billion broilers with a combined live weight of 41.5 billion pounds. The value of broiler production for that year was \$13.9 billion. The United States is also the world's largest turkey producer. In 2001, turkey production totaled 269 million birds with a combined live weight of 6.98 billion pounds and value of \$2.8 billion. Finally, in 2000, the United States produced approximately 84.4 million eggs worth an estimated \$4.3 billion.<sup>1</sup>

The U.S. poultry industry plays a significant role in international trade. In fact, the United States is the world's largest exporter of both broilers and turkey products. In 2001, broiler exports totaled 5.5 billion pounds, valued at \$1.8 billion. Turkey exports for the same year totaled 487 million pounds and were valued at \$257 million. In addition, 191 million dozen eggs and egg products were exported in 2001.<sup>2</sup>

Participation in 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.

As such, while participation in the Plan is voluntary, many foreign nations, such as Russia, do not accept poultry products unless they have originated from flocks participating in the Plan.<sup>3</sup> Consequently, participation in the Plan increases product marketability both domestically and internationally, which in turn increases the economic benefits received by the poultry industry from participation in the Plan.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their regulations on small entities. Under the North American Industry Classification System (NAICS) used by the Small Business Administration, chicken egg operations are considered small entities if they have \$10.5 million or less in annual receipts (NAICS code 112310). All other poultry products and meat operations are considered small entities if they have \$750,000 or less in annual receipts (NAICS code 112320).<sup>4</sup> As this regulation only seeks to make minor changes in a continuing program in an effort to better safeguard poultry health, the economic effects on poultry producers are not expected to be significant.

The last agricultural census estimated there were 63,246 domestic poultry and poultry products farms.<sup>5</sup> Unfortunately, the size distribution of these farms is not known. However, because most poultry production is carried out by small farms working under contract with larger processors or marketing firms, we can assume a fair amount of poultry production is carried out by small operations.

However, only those producers that voluntarily participate in the Plan will be affected. As is the case in the majority of voluntary control programs, 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. In any event, the proposed changes would not have a significant economic effect on Plan participants.

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.

<sup>3</sup> USDA, *Export Requirements for Russia*. Washington, DC: Food Safety and Inspection Service, 2003.

<sup>4</sup> Table of Size Standards based on NAICS 2002. Washington, DC: U.S. Small Business Administration, 2002.

<sup>5</sup> USDA, *1997 Census of Agriculture*. Washington, DC: National Agricultural Statistics Service.

#### *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**

##### *9 CFR Part 82*

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

##### *9 CFR Parts 145 and 147*

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

Accordingly, we propose to amend 9 CFR parts 82, 145, and 147 as follows:

#### **PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS**

1. The authority citation for part 82 would continue to read as follows:

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

##### **§ 82.34 [Amended]**

2. Section 82.34 would be amended by removing the word "Monitored" and adding the word "Clean" in its place.

#### **PART 145—NATIONAL POULTRY IMPROVEMENT PLAN**

3. The authority citation for part 145 would continue to read as follows:

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

4. Section 145.10 would be amended as follows:

a. In paragraph (r), by removing the word "and" and adding a comma in its

<sup>1</sup> USDA, *Agricultural Statistics 2002*. Washington, DC: National Agricultural Statistics Service, 2002.

<sup>2</sup> USDA, *Poultry and Eggs: Trade*. Washington, DC: Economic Research Service, 2002.