

in weeks and also historical payout records.

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

Disease Situation in Texas

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

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

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

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

TABLE 2.—DISEASE SITUATION IN TEXAS

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

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

Regulatory Flexibility Analysis—Potential Effect on Small Entities

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

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

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

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

List of Subjects in 9 CFR Part 53

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

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

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

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

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

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

§ 53.4 Destruction of animals.

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

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

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

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

§ 53.7 Disinfection of premises, conveyances, and materials.

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

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