

commercial poultry production, particularly animal protection groups, should have been invited to observe and contribute to the development of the Plan. Without adequate oversight from other groups, this commenter asserted, decisions could be made that would have a deleterious effect on poultry health and welfare.

On May 2, 2002, we published in the **Federal Register** (67 FR 22038–22039, Docket No. 02–039–1) a notice of the meetings of the General Conference Committee of the Plan, which was held on May 30, 2002, and the 2002 National Plan Conference, which was held on May 31 and June 1, 2002. The notice indicated that the meetings would be open to the public and listed the topics that would be addressed at these meetings. The decisions made at the meetings on how to address these topics became the basis of the proposed rule. Due to time constraints, the public was not allowed to participate in discussions during either of the meetings; however, the notice indicated that written statements on the meeting topics would be accepted either at the meetings or before or after the meetings. In addition, all interested parties had an opportunity to comment on the proposed rule during the 60-day comment period. We believe interested parties had adequate access to the deliberations of the General Conference Committee and the proceedings of the National Plan Conference and have had adequate opportunity to comment on the proposed changes.

The commenter objected to our proposed changes to the U.S. S. Enteritidis Clean and U.S. Salmonella Monitored programs for meat type chicken breeding flocks and products and the U.S. Sanitation Monitored program for turkey breeding flocks and products on the basis that animal protein should not be fed to chickens or turkeys. The commenter asserted that feeding animal protein to chickens and turkeys could spread illness to the chickens and turkeys or to other poultry.

The programs cited in the previous paragraph are intended to reduce the incidence of *S. enteritidis* and *Salmonella* in chickens and *Salmonella* in turkeys. These bacteria primarily pose a risk to human health, and as such are under the purview of the USDA's Food Safety and Inspection Service and the U.S. Food and Drug Administration. The Plan's programs are voluntary and provide flockowners with guidelines to reduce or eliminate the incidence of these bacteria in their flocks. If it became necessary to restrict or prohibit feeding animal protein to poultry due to

a risk of animal disease transmission, such feeding would be restricted or prohibited elsewhere in APHIS's regulations. We have no evidence indicating that chickens and turkeys that are fed animal protein that meets the guidelines of these programs are at risk for animal disease transmission, and the commenter did not provide any such evidence. We are making no changes in response to this comment.

The commenter asserted that laboratories that perform the tests provided for by the Plan should be tested to ensure that they are providing accurate, unbiased results. All laboratories that perform tests provided for by the Plan must be authorized laboratories. An *authorized laboratory*, as defined in § 145.1 of the regulations, is a laboratory designated by an Official State Agency and subject to review by APHIS. The APHIS review may include, but will not necessarily be limited to, checking records, laboratory protocol, check-test proficiency, periodic duplicate samples, and peer review. Only after this review is a laboratory authorized to perform the tests provided for by the Plan. We believe that such a review adequately addresses the commenter's concerns in this regard.

We proposed to add a reinstatement process to the U.S. S. Enteritidis Clean program. The commenter argued that flockowners who would seek to have their flocks reinstated under such a program should be required to pay for all testing themselves. The authorized laboratories that would perform such testing are operated by State, educational, or commercial entities, and it is beyond the scope of the regulations to require that these entities charge user fees for testing. We are making no changes in response to this comment.

However, we are making one change to the proposed rule that has been necessitated by a regulatory action taken since the proposed rule's publication. On June 20, 2003, we published in the **Federal Register** (68 FR 36898–36900, Docket No. 00–107–2) a final rule that, among other things, removed the regulations governing *Salmonella enteritidis* serotype *enteritidis* in 9 CFR part 82, subpart C (§§ 82.30 through 82.38). In the proposed rule, we had proposed to update a reference to the U.S. Salmonella Monitored program in § 82.34 by replacing it with a reference to the U.S. Salmonella Clean program to reflect a previous change in the name of that program. Since § 82.34 has been removed, it is not necessary to include that proposed change in this final rule.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final

rule, with the change discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This 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 objective of the NPIP is to provide a cooperative Federal-State-industry program through which new technology can be effectively applied to the improvement of poultry and poultry products throughout the country. The provisions of the Plan, developed jointly by industry members and State and Federal officials, establish standards for the evaluation of poultry breeding stock and hatchery products with respect to freedom from hatchery-disseminated diseases. Participation in the program is voluntary. Currently, the NPIP has active control programs for pullorum, fowl typhoid, avian mycoplasmas, *Salmonella enteritidis*, and avian influenza.

Periodically, the 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. Accordingly, this final rule changes 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 changes were voted on and approved by the voting delegates at the Plan's 2002 National Plan Conference. The 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.