

Rules and Regulations

Federal Register

Vol. 61, No. 215

Tuesday, November 5, 1996

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 53, 71, 82, 92, 94, and 161

[Docket No. 87-090-3]

RIN 0579-AA22

Exotic Newcastle Disease in Birds and Poultry; Chlamydiosis in Poultry

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising completely the regulations concerning exotic Newcastle disease in birds and poultry, and psittacosis or ornithosis in poultry. We reviewed part 82 as part of our ongoing review of existing regulations, and have determined that a complete revision of subpart A is necessary. Revising the regulations will make them easier to understand, thereby increasing compliance with the regulations, and will make them more effective in preventing the interstate spread of these diseases. We are also amending other parts to reflect the amendments we are making to part 82.

EFFECTIVE DATE: December 5, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Keith Hand, Senior Staff Veterinarian, Import/Export Animals Staff, National Center for Import-Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737-1231, (301) 734-5097.

SUPPLEMENTARY INFORMATION:

Background

Part 82

The regulations in 9 CFR part 82, subpart A, restrict the interstate movement of certain poultry, birds, and other items from premises and areas quarantined because of exotic Newcastle

disease, and psittacosis or ornithosis.¹ These regulations are designed to prevent the interstate spread of these contagious, infectious, and communicable diseases of birds and poultry, which could devastate the United States poultry industry.

On June 28, 1994, the Animal and Plant Health Inspection Service (APHIS) published in the Federal Register (59 FR 33214-33233, Docket No. 87-090-1) a proposal to amend the regulations by revising completely the regulations in subpart A. The proposal to revise subpart A was the result of a review of the exotic Newcastle disease and psittacosis/ornithosis regulations we conducted in accordance with our regulatory review plan, which provides for ongoing review of existing regulations.

We solicited comments concerning our proposal for 60 days ending August 29, 1994. Among the comments we received was a request for an extension of the comment period. In response to this request, we published a notice in the Federal Register on September 30, 1994 (59 FR 49865, Docket No. 87-090-2) reopening and extending the comment period until November 29, 1994. We received a total of seven comments by November 29, 1994. They were from representatives of a poultry industry council, an exhibitor association, academia, a conservation society, an industry advisory association, a veterinary medical association, and a State department of agriculture. We discuss below each of the issues the commenters raised. In discussing the comment issues, we have divided them into those that address only exotic Newcastle disease (END), those that address only chlamydiosis, and those that address part 82 as a whole.

Comments Addressing Exotic Newcastle Disease (END)

In the current regulations, *exotic Newcastle disease* is defined as "the exotic viscerotropic type of Newcastle disease, a contagious, infectious, and communicable disease of poultry." In our proposed rule, we proposed to amend the definition of *exotic Newcastle disease* to mean "any

¹ Psittacosis and ornithosis are two different names for the same disease. However, "psittacosis" commonly refers to the disease in humans and birds and "ornithosis" refers to the disease in poultry.

velogenic Newcastle disease." One commenter requested further clarification of the reason for the proposed change. Another commenter asked us to reconsider this proposed change, expressing concern that the revised definition would apply to neurotropic velogenic Newcastle disease, and stating that neurotropic velogenic Newcastle disease is not exotic and may be less transmissible than velogenic viscerotropic Newcastle disease.

We are making no changes to the proposed regulations as a result of these comments. As we discussed in our proposal, "velogenic" refers to the severity of the strain of the virus in question. If there were an outbreak of any velogenic Newcastle disease in the United States, it would be treated in the same way as velogenic viscerotropic Newcastle disease. This would include neurotropic velogenic Newcastle disease. We disagree that neurotropic velogenic Newcastle disease should not be considered an exotic disease. There are currently no known incidences of this disease in the field in the United States, and there have been a very limited number of incidences in the past. We believe that any case of a velogenic Newcastle disease has the potential of causing a serious outbreak with severe economic losses, and must be dealt with in the same way as velogenic viscerotropic Newcastle disease.

One commenter expressed concern with § 82.2 of our proposal, which provided in part that clinical evidence would be one of the factors considered in determining whether birds or poultry are infected with END. The commenter stated that because the clinical signs of END can mimic those of avian influenza, END should not be considered to exist until at least one signal case has been diagnosed in the immediate area and has been confirmed with diagnostic tests.

We are making no changes based on this comment. According to standard protocol, END is considered to exist in an area after an initial case has been confirmed through laboratory diagnosis. However, once such a confirmation has been made, it is possible, and often necessary in effectively controlling an outbreak, to rely on disease diagnosis through clinical and/or exposure factors.

Several commenters expressed concern that although the proposed regulations included special provisions for the interstate movement of pet birds in the event of an outbreak of END, there were no similar provisions for the movement of zoological or avicultural birds. As proposed, birds and poultry other than pet birds could move interstate only to slaughter. We agree that special provisions need to be made for birds that are not pet birds and that are not known to be infected with or exposed to END, and we are including such provisions in § 82.5(b) of this final rule. Under these provisions, birds other than pet birds that are moved interstate from an area quarantined due to END would be subject to the same restrictions as poultry, except that they would not be required to be moved to slaughter.

Several commenters expressed concern with the provision in proposed § 82.3 that stated that less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as the APHIS regulations. One commenter stated that such a quarantine of an entire State would affect all zoos and aviculturists within the State. Another commenter recommended that, instead of quarantining an entire State when that State's requirements are not as stringent as APHIS's, the regulations should prohibit interstate or intrastate movement from a quarantined area unless the Federal requirements in part 82 of the regulations are met.

We are making no changes based on these comments. As discussed above, we are making provision for the interstate movement of zoological and avicultural birds, which would allow for movement of such birds even from a State that has been quarantined in its entirety. Further, APHIS's regulatory authority does not extend to intrastate movement unless the Secretary has declared an "extraordinary emergency" in a particular State. Extraordinary emergencies historically have been declared only rarely, in those cases where the Secretary, in consultation with the governor of the State, has determined that the State is unable to take adequate measures to control a disease outbreak. In most cases, it has not been necessary for the Secretary to declare an extraordinary emergency because the State in question has implemented control measures at least as stringent as those established by APHIS.

One commenter recommended that the regulations contain a provision

exempting the eggs of zoological and avicultural birds from cleaning and sanitizing requirements for interstate movement. We are making no changes based on this comment. The provisions in § 82.9 of the proposal for hatching eggs contained no requirements for cleaning and sanitization. Such requirements applied only to eggs other than hatching eggs.

One commenter asked whether the sanitization of eggs other than hatching eggs required by proposed § 82.8 would include sanitization by spraying. As proposed and made final in this document, § 82.8(a)(1) requires that eggs other than hatching eggs to be moved interstate from a quarantined area be cleaned and sanitized in accordance with 7 CFR part 59, which consists of regulations promulgated by the Agricultural Marketing Service, USDA. In § 59.16 of those regulations, a procedure for sanitization by spraying with a mixture of chlorine or its equivalent and potable water is described.

Section 82.10 of the proposed rule provided that equipment used in a quarantined area in the handling of birds or poultry or their eggs, or in the handling of manure generated by or litter used by the birds or poultry, must be made of hard plastic or metal to be moved interstate, and must be cleaned and disinfected after such movement. One commenter recommended that the regulations allow for the use of equipment made from materials such as cardboard, fiber, and waxed cardboard, provided such equipment is disposed of after use, preferably by incineration. We agree with the commenter that if such equipment has been previously unused, and is disposed of by incineration without being reused after interstate movement, it will not pose a risk of spreading the END virus. Therefore, we are providing for such use under § 82.10(b)(2) of this rule.

Section 82.14 of the proposed rule, among other things, described ways manure and litter could be disposed of in order for an area to qualify for removal from quarantine. The methods of disposal included burial, composting, and spreading and turning under. One commenter stated that the proposed conditions for spreading and turning under were less stringent than those for burial and composting, and expressed concern that disposing of manure and litter through spreading and turning under could allow for transmission of END. We consider the spreading and turning under of manure or litter as prescribed in the proposed rule to be adequate to prevent the dissemination of END. Properly carried out, spreading

manure or litter dilutes the manure or litter to such an extent that pockets of END contamination are eliminated. The procedures for burying and composting litter and manure are more stringent than those for spreading and turning under, because burial or composting is generally done when the manure or litter contains dead birds or poultry. As we noted above, however, spreading and turning must be properly carried out to be effective. Therefore, we are adding a provision to § 82.14(e)(3) that manure and litter may be disposed of by spreading and turning under only if carried out under the direct supervision of a Federal representative or a State representative.

One commenter requested clarification of the criteria we would use in quarantining an area for END. Proposed § 82.3(a) reads in part that "(a)ny area where birds or poultry infected with END are located will be designated as a quarantined area. A quarantined area is any geographical area . . . deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END." The commenter recommended that the regulations make clear that exposed birds and poultry would be included in a quarantined area. We believe the proposal as written conveys our intent, and we are making no changes based on the comment. As stated in the proposed regulations, in the event of an END outbreak, we will establish a quarantined area based on the existence of infected birds or poultry in the area. However, once infected birds or poultry are determined to exist in an area, the boundaries of the quarantined area will be drawn to encompass any birds or poultry that are considered to have been exposed to the disease agent.

In several different sections of the proposed rule, the regulations regarding the interstate movement from a quarantined area of regulated articles require that a copy of the permit necessary for such movement be submitted so that it is received by both the State animal health official and the veterinarian in charge in the State of destination within 72 hours of arrival. One commenter stated that the availability of technology such as facsimile machines allows for quicker notification, and that a period shorter than 72 hours should be required for submission of a permit. We are making no changes based on this comment. Although we agree that timely notification of the interstate movement of regulated articles is important, and that such notification can be made in less than 72 hours in most cases, we

consider it incorrect to assume that all persons moving regulated articles interstate have the capability to do so in significantly less than 72 hours. We continue to consider 72 hours adequate time for notification.

Proposed § 82.9(c) included the requirement that hatching eggs moved interstate from a quarantined area be held at a designated premises, and that birds and poultry hatched from the eggs be held at the premises for at least 30 days after hatch. One commenter objected to the additional proposed provision that, during the holding period, the eggs and any birds or poultry hatched from the eggs would be subject to any inspections, disinfections, and tests as may be required by the Administrator to determine their freedom from END. The commenter stated that affected entities should know in advance what may be required. We are making no changes based on this comment. The provision in question was included in the regulations because, although we anticipate that such inspections, disinfections, and tests will in most cases not be necessary, we consider it important to provide the Administrator with the discretion to respond to currently unforeseen situations.

One commenter recommended that the provisions in proposed § 82.5 state that owners moving pet birds interstate from a quarantined area will be provided with the names and addresses of Federal and State officials in the State where they are taking their pet birds. Currently, a footnote to § 82.4 of the existing regulations indicates that such information will be provided to owners of pet birds. We are making no changes based on this comment. The regulations as proposed contain a footnote that indicates where owners of pet birds can obtain the names of appropriate Federal and State officials. While this information does not preclude APHIS otherwise supplying the necessary information to owners, it provides owners with several options for securing the information.

Comments Addressing Chlamydiosis (Psittacosis or Ornithosis)

One commenter stated that chlamydiosis should not be a matter for Federal regulation. The commenter expressed the belief that the uncommon and sporadic appearance of the clinical disease among poultry species reflects far more significantly the wide range of toxigenesis among strains of the agent than the presence or absence of the agent. The commenter stated that endemic infection with the chlamydiosis agent is widespread

among both mammalian and avian species, and that epidemiologic investigation of disease in poultry has not implicated exotic pet birds, interstate movement of poultry, or spread between ranches.

We are making no changes based on this comment. We disagree that chlamydiosis should not be a matter for Federal regulation. Under 21 U.S.C. 111, 114, and 114a, the Secretary of Agriculture is authorized to establish such regulations and take such measures as he or she deems necessary to prevent the introduction or dissemination of any contagious, infectious, or communicable disease of animals and/or poultry from a foreign country into the United States or from one State or Territory to another. Historically, the Department has taken regulatory action when the disease manifested itself in commercial poultry flocks.

One commenter recommended that, as a safeguard against chlamydiosis, the regulations should require that imported psittacine birds be treated for 45 days with antibiotics. We are making no changes based on this comment. Currently, birds imported into the United States are required to be quarantined for 30 days. During the 30-day quarantine, the birds are treated with antibiotics, and we recommend to their owners that the treatment be continued for an additional 15 days. We consider this practice a practicable alternative to extending the quarantine beyond 30 days.

One commenter recommended that, in order to control chlamydiosis more effectively, the regulations should require psittacine birds to be identified with legbands to facilitate traceback and reduce smuggling. We are making no changes based on this comment. Our regulations for importing birds, contained in 9 CFR part 92, already require that imported birds be legbanded while in quarantine (see § 92.106(c)(3)(ii)(E)). We do not consider it practicable or enforceable to require legbanding of birds that are to be moved interstate.

Other Comments

In the explanatory information of our proposal, we indicated that we were proposing to reorganize part 82 by dividing it into three subparts, rather than the existing two. In our proposal, we discussed two of the proposed three subparts—those pertaining to exotic Newcastle disease and chlamydiosis. One commenter requested that we also discuss the third subpart. As we explained in our proposal, the third subpart, subpart C, would contain the

Salmonella enteritidis serotype *enteritidis* regulations. Because we proposed no changes to those regulations, we did not consider it necessary to discuss them in the proposed rule.

Several commenters addressed issues outside the scope of the proposal, including whether APHIS personnel resources would be sufficient to carry out the regulations. Although we are making no changes based on these comments, we have carefully reviewed all comments.

Part 53—Definitions

Part 53 of title 9, Code of Federal Regulations, concerns, among other things, the payment of indemnity for poultry and materials destroyed because of contamination by or exposure to END.

In our proposal rule, we proposed to revise the definition of *disease* in part 53 to remove outdated references and to add a description, within that definition, of “highly pathogenic avian influenza.” In this final rule, we are removing the description of “highly pathogenic avian influenza” from the definition of *disease* and, instead, separately defining the term “highly pathogenic avian influenza” to reflect the latest technical information about this disease. Under this final rule, “highly pathogenic avian influenza” is defined as (1) any influenza virus that kills at least 75 percent of eight 4- to 6-week-old susceptible chickens within 10 days following intravenous inoculation with 0.2 ml of a 1:10 dilution of a bacteria-free, infectious allantoic fluid; or (2) any H5 or H7 virus that does not meet the criteria in paragraph (1) of this definition, but has an amino acid sequence at the hemagglutinin cleavage site that is compatible with highly pathogenic avian influenza viruses; or (3) any influenza virus that is not an H5 or H7 subtype and that kills one to five chickens and grows in cell culture in the absence of trypsin.

Additionally, to maintain consistency with the terminology used in the definition of *disease* in § 53.1, we are removing a reference to “lethal avian influenza” in § 53.2(b) and replacing it with the term that is defined, “highly pathogenic avian influenza.”

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the proposed rule with the changes discussed above.

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 purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis regarding the impact of this rule on small entities.

Regulatory Authority

In accordance with 21 U.S.C. 111–113, 114a, 115, 117, 120, 123, and 134a, the Secretary of Agriculture has the authority to promulgate regulations and take measures to prevent the introduction into the United States and the interstate dissemination within the United States of communicable diseases of livestock and poultry, and to pay claims growing out of the destruction of animals. Animal health regulations promulgated by the Department under this authority include those regarding END and chlamydiosis in 9 CFR part 82, and those regarding payment of claims in 9 CFR part 53.

Background

Chlamydiosis

Sporadic outbreaks of chlamydiosis in commercial poultry flocks have occurred in the United States over the past decade. APHIS, working with State cooperators, has successfully eliminated chlamydiosis on each occasion. This rule includes only minor changes related to chlamydiosis, specifically the addition of a requirement for a permit or special permit to move certain items interstate. We consider these documents necessary to allow the Department to better monitor the interstate movement of the items moved. However, the economic impact from these requirements will be negligible.

Statement of Need for Regulatory Changes Regarding END

Beginning with the successful conclusion of the southern California END emergency eradication program in 1974 (see discussion below), the U.S. poultry and egg industries have become increasingly vertically integrated. This vertical integration has led to further concentration of poultry and egg production in specific geographic regions of the United States. With large numbers of poultry facilities operating in close proximity to each other, there is an increased opportunity for another major END outbreak. The existing END regulations were drafted prior to the increased level of industry concentration, and they require revisions to reflect the changes that have taken place. APHIS considers the revisions in this final rule to be

necessary despite the widespread adoption of vaccination and biosecurity practices by commercial poultry producers since the 1971–1974 END outbreak. The current value of the domestic poultry and egg industry is estimated to be about \$18.6 billion. Broiler production accounts for 63 percent of total production, followed by eggs (21 percent), turkeys (15 percent), and other chicken production (1 percent). Therefore, we consider the changes to the existing END regulations necessary due to the dynamic nature of the disease and its continued potential to devastate an important sector of U.S. agriculture.

Exotic birds are capable of transmitting the END virus to commercial poultry and egg flocks. Under the existing provisions, APHIS routinely refuses entry of entire shipments of imported birds when the END virus is detected. The importer is given a disposal order and has 72 hours to remove the birds from the United States or have them euthanized. In the past two decades, the domestic exotic bird industry has changed. Domestic production has intensified for those exotic species that can be readily bred in captivity. The Wild Bird Conservation Act of 1992 drastically reduced the number of exotic birds imported into the United States, from slightly under 1 million birds a year to less than 100,000 a year. Only those species of birds exempt from this Act may be imported. Illegal importation of exotic bird species continues to be an avenue for the introduction of END into the United States.

Changes to END Regulations

In the absence of an END outbreak, the regulatory changes will have a negligible impact on the domestic poultry and exotic bird industries. The END revisions will strengthen APHIS's ability to prevent the interstate spread of END in the event of a domestic outbreak, and in some cases relieve certain restrictions. The changes include new requirements for removing an area from quarantine; specific provisions for moving birds that are not known to be infected with or exposed to END out of a quarantined area; new provisions regarding the interstate movement of manure and litter from a quarantined area; and new provisions regarding the interstate movement of cages, coops, and equipment from a quarantined area. A brief overview of these new END regulations is as follows:

1. Interstate movement from a quarantined area is prohibited for each of the following: (1) Live birds and poultry infected with or exposed to

END; (2) eggs from birds or poultry infected with END; (3) hatching eggs from birds or poultry exposed to END; (4) litter used by or manure generated by birds and poultry infected with END; and (5) dead birds and poultry, including any parts of the birds and poultry, infected with END.

2. An area will be removed from quarantine when all: (1) Birds and poultry infected with END in the quarantined area have been euthanized and all dead birds and poultry within the quarantined area have been buried, reduced to ashes by incineration, reduced to dust by composting, or rendered; (2) birds and poultry exposed to END have been found to be free of END; (3) eggs produced by birds or poultry infected with or exposed to END in the quarantined area have been buried, reduced to ashes by incineration, or rendered; (4) manure produced by or litter used by birds or poultry infected with or exposed to END in the quarantined area has been reduced to ashes by incineration, or has been buried, composted, or spread on a field and turned under; (5) vehicles with which birds and poultry infected with or exposed to END or their excrement or litter have had physical contact have been cleaned and disinfected; (6) cages, coops, containers, troughs, and other equipment used for birds or poultry infected with or exposed to END, or their excrement or litter, have been reduced to ashes by incineration or have been cleaned and disinfected in accordance with 9 CFR part 71; and (7) the premises where birds or poultry infected with or exposed to END were located have been cleaned and disinfected in accordance with 9 CFR part 71.

3. Replacement birds and poultry will not be allowed to be placed in quarantined areas until the Administrator decides that END has been eradicated and that replacement birds and poultry would not become infected with END.

4. Eggs, other than hatching eggs, from birds and poultry not known to be infected with END may be moved interstate from a quarantined area under the following conditions: (1) A permit has been obtained and the eggs are accompanied by the permit; (2) the eggs have been cleaned and sanitized in accordance with 7 CFR part 59; (3) the eggs are packed either in flats or cases that have not been used before, or in used plastic flats or cases that were first cleaned and sanitized in accordance with 9 CFR part 71, and any of the flats and cases intended for reuse are cleaned and sanitized in accordance with 9 CFR part 71 before being moved to a

premises where birds or poultry are kept; (4) the eggs are moved interstate to a processing facility where they are inspected to ensure they are cleaned and sanitized; and (5) a copy of the permit is submitted to the State animal health official and the veterinarian in charge for the State of destination.

5. Hatching eggs from birds and poultry not known to be infected with or exposed to END may be moved interstate from a quarantined area under the following conditions: (1) A permit is obtained and the hatching eggs are accompanied by the permit; (2) birds or poultry from the eggs are held in the State of destination for not less than 30 days after hatching, at a premises designated jointly by the veterinarian in charge and the State animal health official; and (3) a copy of the permit accompanying the hatching eggs is submitted so that it is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the hatching eggs at the premises where they are to be held.

6. Pet birds may be moved interstate from a quarantined area provided that, among other provisions: (1) An APHIS permit has been issued; and (2) the pet birds are not known to be infected with or exposed to END.

7. Interstate movement from a quarantined area will be permitted for each of the following only if specified requirements are met: (1) Live birds and poultry, other than pet birds, that are not known to be infected with or exposed to END; (2) manure and litter from birds and poultry exposed to END; (3) manure and litter from birds and poultry not known to be infected with or exposed to END; (4) new or properly disinfected cages, coops, containers, troughs, vehicles, or other equipment used to handle infected or exposed birds and poultry, and their eggs; (5) dead birds and poultry, including any parts of the birds and poultry, that are not known to be infected with END.

Potential Economic Impacts

The regulations will enhance APHIS's ability to monitor interstate movement of birds and poultry from areas quarantined because of END. Domestic poultry, egg, and exotic bird operations will be impacted only in the event of an END outbreak. There has not been a major domestic outbreak of END since an epidemic in southern California in 1971-74. However, END is periodically detected in isolated pet bird populations. Smuggled shipments of exotic species are the source of most outbreaks of END. Historically, APHIS has euthanized all pet birds that are

found within a store in which birds are infected with END. The rule changes will enable APHIS to be more selective and destroy only those birds and poultry that have been diagnosed as being infected with END. We expect that the savings to the industry from this more selective euthanization will outweigh any additional restrictions that will be imposed by the rule changes. Domestic entities will not be severely impacted by this rule unless an END outbreak occurs.

Estimated Economic Impact of a Major END Outbreak

Eliminating END requires the detection of the virus in a flock, appraisal, and rapid, humane destruction of the infected flocks. It also requires that all premises that contained infected or exposed flocks be cleaned and disinfected. Depopulation will not occur until an appraised value is determined and the owners have signed the appropriate forms.

At the time of the 1971 END outbreak in southern California, there were approximately 1,115 commercial poultry and bird flocks in that part of the State. Commercial flock populations ranged in size from approximately 1,000 to more than 3.4 million birds and poultry. The estimated population of birds and poultry in southern California's commercial operations totaled more than 38.9 million. The average poultry operation contained approximately 55,000 birds. In southern California, the poultry industry was dominated by layer operations that produced table eggs for markets in California and neighboring States. In addition to commercial flocks, there were approximately 39,960 backyard poultry flocks with a total population of approximately 1 million.

A national animal disease emergency was declared by the Secretary of Agriculture in March 1972, which placed the eight southernmost counties in California under quarantine. The last case of END was diagnosed in June 1973, and surveillance programs continued until July 1974. Eradicating END from the area required the destruction of nearly 12 million infected and exposed birds and poultry. Most of the birds and poultry depopulated were laying hens. The effort cost approximately \$55 million. Approximately half (\$27.5 million) was for indemnities paid to flock owners for poultry, birds, eggs, and supplies destroyed. Approximately 91 percent of the depopulated birds and poultry were commercial layers, followed by 6 percent for pullets and broilers, 1 percent each for turkeys and breeding

poultry, and less than 1 percent each for pigeons, backyard aviaries, game birds, and exotic birds.

Between March 1972 and December 1992, the poultry and bird population in the original quarantined area decreased from approximately 38.9 million to 19.1 million. Conversely, the number of commercial flocks in the 1972 END quarantined area increased from approximately 1,115 to 1,856 by 1992. The increased number of bird and poultry flocks since 1972 can be attributed to expansion of the exotic bird industry. Importers and producers of exotic birds are not as vertically integrated as poultry producers. More exotic bird operations also helped to account for decreases in average flock size since 1972. Additionally, increased urbanization in traditional poultry producing sections of southern California have forced many poultry operations to close or relocate.

APHIS estimates that if a similar END outbreak were to occur in southern California today, up to 5.3 million birds and poultry could be required to be depopulated, and indemnities totaling \$15.1 million dollars would be paid to producers. Adoption of vaccination and biosecurity practices by commercial poultry producers in Southern California since the 1971-1974 END outbreak would likely mitigate total losses. Newly developed diagnostic techniques should enable APHIS to be more selective when euthanizing birds and poultry in areas quarantined because of END. Although this should result in the destruction of fewer birds and poultry, the actual potential impact of the regulations is unknown.

Estimated Economic Impact of an Isolated END Outbreak

Under APHIS regulations, all imported birds are quarantined for a minimum of 30 days to prevent the introduction of foreign animal diseases, particularly END.

Exotic bird species have been imported into the United States primarily for use as pets for several decades. During fiscal year 1995, approximately 85,207 exotic birds were legally imported into the United States. Only 882 birds were confiscated for illegal entry or animal health reasons. APHIS estimates the value of the confiscated birds totaled approximately \$8,535 during fiscal year 1995. In addition to legal importation, exotic bird species are also smuggled into the United States. Birds are smuggled for a variety of reasons, such as the avoidance of quarantine costs and illegal importation of prohibited species. The inherent nature of smuggling makes

reliable data impossible to obtain. However, APHIS estimates that the number of smuggled birds entering the United States ranges from 25,000 to 150,000 annually. Smuggling increases the likelihood that domestic birds and poultry could be exposed to END.

Under this rule, APHIS will use updated diagnostic techniques to determine which birds have actually been infected with END. This should permit APHIS to be more selective when euthanasia is necessary. However, the actual potential effect of the regulations on domestic exotic bird producers is unknown.

Summary

APHIS estimates that the rule changes for END will, short of a major END outbreak, have a negligible impact on the daily activities of domestic poultry and egg producers, and on domestic producers and importers of exotic birds. If a major outbreak occurs and an eradication program is initiated, the rule changes will enable APHIS to effectively prevent the interstate spread of END and to eradicate END. Modern diagnostic techniques will enable APHIS to determine which birds have been infected by the END virus. This will likely result in smaller quantities of euthanized birds and poultry in areas quarantined because of END. We consider revisions to the END regulations necessary to ensure that domestic poultry, egg, and exotic bird producers are protected against any potential END outbreak. APHIS considers these regulations adequate to deal effectively with a disease outbreak, while at the same time imposing the minimum possible costs on affected 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have

been prepared for this rule. The assessment provides a basis for the conclusion that the actions required or authorized by this rule will not present a risk of introducing or disseminating disease agents and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C., 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0116.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects

9 CFR Part 53

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

9 CFR Part 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine,

Reporting and recordkeeping requirements, Transportation.

9 CFR Part 82

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

9 CFR Part 92

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

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 161

Reporting and recordkeeping requirements, Veterinarians.

Accordingly, we are amending 9 CFR parts 53, 71, 82, 92, 94, and 161 as follows:

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: 21 U.S.C. 111, 114, 114a; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 53.1 is revised to read as follows:

§ 53.1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

Animals. Livestock, poultry, and all other members of the animal kingdom, including birds whether domesticated or wild, but not including man.

APHIS employee. Any individual employed by the Animal and Plant Health Inspection Service who is authorized by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

Bird. Any member of the class *aves* other than poultry.

Department. The United States Department of Agriculture.

Disease. Foot-and-mouth disease, rinderpest, contagious pleuropneumonia, exotic Newcastle disease, highly pathogenic avian

influenza, or any other communicable disease of livestock or poultry that in the opinion of the Secretary constitutes an emergency and threatens the livestock or poultry of the United States.

Exotic Newcastle Disease (END). Any velogenic Newcastle disease. Exotic Newcastle disease is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

Highly pathogenic avian influenza. (1) Any influenza virus that kills at least 75 percent of eight 4- to 6-week-old susceptible chickens within 10 days following intravenous inoculation with 0.2 ml of a 1:10 dilution of a bacteria-free, infectious allantoic fluid;

(2) Any H5 or H7 virus that does not meet the criteria in paragraph (1) of this definition, but has an amino acid sequence at the hemagglutinin cleavage site that is compatible with highly pathogenic avian influenza viruses; or

(3) Any influenza virus that is not an H5 or H7 subtype and that kills one to five chickens and grows in cell culture in the absence of trypsin.

Inspector in charge. An APHIS employee who is designated by the Administrator to take charge of work in connection with the control and eradication of disease.

Materials. Parts of barns or other structures, straw, hay, and other feed for animals, farm products or equipment, clothing, and articles stored in or adjacent to barns or other structures.

Mortgage. Any mortgage, lien, or other security or beneficial interest held by any person other than the one claiming indemnity.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

Pet bird. Any bird that is kept for personal pleasure and is not for sale.

Poultry. Chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and pea fowl.

Secretary. The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has been or may be delegated to act in the Secretary's stead.

State. Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

3. In § 53.2, paragraph (b), the words "lethal avian influenza" are removed and the words "highly pathogenic avian influenza" are added in their place, and the words "as referred to in § 82.2(a) of this chapter, and" are removed.

PART 71—GENERAL PROVISIONS

4. The authority citation for part 71 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 71.3 [Amended]

5. In section 71.3, paragraph (a), the phrase "psittacosis or ornithosis" is removed and "chlamydiosis" is added in its place.

§ 71.7 [Amended]

6. In § 71.7, the heading is revised to read "*Means of conveyance, facilities, premises, and cages and other equipment; methods of cleaning and disinfecting.*"

7. In § 71.7, paragraph (c), the words "and alleys" are removed and the words "alleys, cages, and other equipment" are added in their place.

8. In § 71.10, the section heading and paragraph (a) introductory text are revised to read as follows:

§ 71.10 Permitted disinfectants.

(a) Disinfectants permitted for use on cars, boats, and other vehicles, premises, and cages and other equipment are as follows:

* * * * *

PART 82—[AMENDED]

9. The authority citation for part 82 continues to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134a, 134b, 134f; 7 CFR 2.22, 2.80, and 371.2(d).

10. Part 82 is amended by revising the part heading, removing subpart A, redesignating subpart B as subpart C, and adding new subparts A and B to read as follows:

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

Subpart A—Exotic Newcastle Disease (END)

82.1 Definitions.

82.2 Criteria for determining birds or poultry to be infected with, exposed to, or free from END.

82.3 Quarantined areas.

82.4 General provisions.

82.5 Interstate movement of live birds and live poultry from a quarantined area.

82.6 Interstate movement of dead birds and dead poultry from a quarantined area.

82.7 Interstate movement of manure and litter from a quarantined area.

82.8 Interstate movement of eggs, other than hatching eggs, from a quarantined area.

82.9 Interstate movement of hatching eggs from a quarantined area.

82.10 Interstate movement of vehicles, cages, coops, containers, troughs, and other equipment from a quarantined area.

82.11 Issuance of permits.

82.12 Other interstate movements and special permits.

82.13 Denial and withdrawal of permits and special permits.

82.14 Removal of quarantine.

82.15 Replacement birds and poultry.

Subpart B—Chlamydiosis in Poultry

82.19 Definitions

82.20 General restrictions.

82.21 Vehicles, cages, coops, containers, troughs, and other equipment used for infected poultry.

82.22 Cleaning and disinfecting premises.

82.23 Issuance of permits.

82.24 Other interstate movements and special permits.

82.25 Denial and withdrawal of permits and special permits.

Subpart A—Exotic Newcastle Disease (END)

§ 82.1 Definitions.

As used in connection with this subpart, the following terms shall have the meaning set forth in this section.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Bird. Any member of the class *aves* other than poultry.

Dressed carcasses. Carcasses of birds or poultry that have been eviscerated, with heads and feet removed.

END. Any velogenic Newcastle disease. END is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

Exposed. At risk of developing END because of association with birds or poultry infected with END, excrement from birds or poultry infected with END, or other material touched by birds or poultry infected with END, or because there is reason to believe that association has occurred with END or vectors of END, as determined by either a Federal veterinarian or a State veterinarian.

Federal representative. An individual employed and authorized by the Federal government to perform the tasks required by this subpart.

Federal veterinarian. A veterinarian employed and authorized by the Federal government to perform the tasks required by this subpart.

Hatching eggs. Eggs in which birds or poultry are allowed to develop.

Infected. Affected by the virus or bacterium that causes the specified disease.

Interstate. From one State into or through any other State.

Known to be exposed. Determined by either a Federal veterinarian or a State veterinarian to be at risk of developing END because of association with birds or poultry infected with END, excrement from birds or poultry infected with END, or other material touched by birds or poultry infected with END, or because there is reason to believe that association has occurred with END or vectors of END, as determined by either a Federal veterinarian or a State veterinarian.

Known to be infected. Determined by either a Federal veterinarian or a State veterinarian to be affected by the virus or bacterium that causes the specified disease.

Litter. Material that is used to collect and absorb bodily wastes from birds or poultry.

Moved. Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

Official seal. A serially numbered metal or plastic strip, consisting of a self-locking device on one end and a slot on the other end, that forms a loop when the ends are engaged and that cannot be reused if opened, or a serially numbered, self-locking button that can be used for this purpose.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

Pet bird. Any bird that is kept for personal pleasure and is not for sale.

Poultry. Chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, and turkeys.

Recognized slaughtering establishment. Any slaughtering facility operating under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), or State meat or poultry inspection acts.

Render. Reduce, convert, or melt down by heating to a temperature of at least 230 °F so that oil is removed.

State. Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State animal health official. The State official responsible for livestock- and poultry-disease control and eradication programs.

State representative. An individual employed in animal health work and

authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

State veterinarian. A veterinarian employed and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

Veterinarian in charge. A Federal veterinarian employed by the Animal and Plant Health Inspection Service and authorized by the Administrator to supervise and manage the animal health work of the Animal and Plant Health Inspection Service in a specified area of the United States.

§ 82.2 Criteria for determining birds or poultry to be infected with, exposed to, or free from END.

(a) The determination that birds or poultry are infected with END must be made by either a Federal veterinarian or a State veterinarian.¹ They will base that determination on one or more of the following factors: clinical evidence (signs, post-mortem lesions, and history of the occurrence of END); diagnostic tests;² or epidemiological evidence (evaluation of clinical evidence and the degree of risk posed by the potential spread of END based on population and exposure factors, including evaluation of whether the birds and poultry have had the opportunity to be in contact with birds or poultry infected with END or with excrement from birds or poultry infected with END, or if the birds and poultry have shared feed or water with birds or poultry infected with END).

(b) The determination that birds or poultry are exposed to END must be made by either a Federal veterinarian or a State veterinarian. They will base that determination on an evaluation of all related circumstances, including: the proximity of the birds or poultry to birds or poultry infected with END, to excrement from birds or poultry infected with END, and to other material touched by birds or poultry infected with END; the number of birds or poultry infected with END to which the birds or poultry were exposed; the species involved; the virulence of the END to which the birds or poultry were

exposed; and the length of time the birds or poultry were in contact with birds or poultry infected with END, and to material touched by birds or poultry infected with END. Birds or poultry determined to be exposed to END will continue to be treated as exposed unless they are subsequently determined to be infected with END or until either a Federal veterinarian or a State veterinarian finds them to be free of END based on one or more of the factors listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.3 Quarantined areas.

(a) Any area where birds or poultry infected with END are located will be designated as a quarantined area. A quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END. Less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as this subpart.

(b) Any area designated as a quarantined area because of END will remain designated as a quarantined area until all of the requirements of § 82.14 have been met.

(c) The following areas are quarantined because of END: (Currently, no areas are quarantined because of END.)

§ 82.4 General provisions.

(a) **Prohibitions.** The following articles may not be moved interstate from a quarantined area:

(1) Dead birds and dead poultry, including any parts of the birds or poultry, that are infected with END, or are from a flock of birds or poultry infected with END;

(2) Litter used by or manure generated by birds or poultry, or a flock of birds or poultry, infected with END;

(3) Any eggs from birds or poultry, or a flock of birds or poultry, infected with END;

(4) Hatching eggs from flocks of birds or poultry exposed to END; and

(5) Live birds or live poultry from flocks infected with or exposed to END.

(b) **Restrictions.** The following articles may be moved interstate from a quarantined area only in accordance with this subpart:

(1) Live birds or live poultry not known to be infected with or exposed to END;

¹ The location of Federal veterinarians and State veterinarians may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 41, Riverdale, MD 20737-1231, or by referring to the local telephone book.

² A copy of the protocols for END diagnostic tests may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231. The protocols are also found in "Recommended Uniform Diagnostic Procedures," published by the Committee of the American Association of Veterinary Laboratory Diagnosticians.

(2) Dressed carcasses of birds and poultry, and other dead birds and dead poultry, including any parts of the birds or poultry, that are not known to be infected with END;

(3) Litter used by or manure generated by birds or poultry not known to be infected with END;

(4) Eggs, other than hatching eggs, from birds or poultry from flocks not known to be infected with END;

(5) Hatching eggs from birds or poultry not known to be infected with or exposed to END; and

(6) Cages, coops, containers, troughs, vehicles, or other equipment used for birds, poultry, eggs, manure, or litter.

(c) *Exceptions.* This subpart does not apply to the interstate movement of birds, poultry, or other articles from a quarantined area if the interstate movement is made by the United States Department of Agriculture for purposes of research or diagnosis.

§ 82.5 Interstate movement of live birds and live poultry from a quarantined area.

(a) *Pet birds.* An individual may move his or her pet birds interstate from a quarantined area if the birds are not known to be infected with or exposed to END and:

(1) The birds are accompanied by a permit obtained in accordance with § 82.11;

(2) Epidemiological evidence, as described in § 82.2(a), indicates that the birds are not infected with any communicable disease;

(3) The birds show no clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite) during the 90 days before interstate movement;

(4) The birds have been maintained apart from other birds and poultry in the quarantined area during the 90 days before interstate movement;

(5) The birds have been under the ownership and control of the individual to whom the permit is issued for the 90 days before interstate movement;

(6) The birds are moved interstate by the individual to whom the permit is issued;

(7) The birds are caged while being moved interstate;

(8) The individual to whom the permit is issued maintains ownership and control of the birds and maintains them apart from other birds and poultry from the time they arrive at the place to which the individual is taking them until a Federal representative or State representative³ examines the birds and

determines that the birds show no clinical signs of END. The examination will not be less than 30 days after the interstate movement;

(9) The individual to whom the permit is issued allows Federal representatives and State representatives to examine the birds at any time until they are declared free of END by either a Federal veterinarian or a State veterinarian;

(10) Within 24 hours of a bird's dying or showing clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite), the individual to whom the permit is issued notifies the veterinarian in charge or the State animal health official⁴ in the State to which the birds are moved; and

(11) The individual to whom the permit is issued submits copies of the permit so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds at the destination listed on the permit.

(b) *Other birds and poultry.* Except as provided for pet birds in paragraph (a) of this section, a person may move live birds and live poultry that are not known to be infected with or exposed to END interstate from a quarantined area only if:

(1) The birds and poultry are accompanied by a permit obtained in accordance with § 82.11;

(2) The birds or poultry are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance;

(3) The birds or poultry are moved in a means of conveyance either under official seal or are accompanied by a Federal representative;

(4) Except for emergencies, the birds or poultry are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(1) of this section;

(5) If poultry, the poultry are moved interstate to a recognized slaughtering establishment⁵ and are slaughtered within 24 hours of arrival at the recognized slaughtering establishment;

and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231.

⁴The location of the veterinarian in charge or the State animal health official may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231, or by referring to the local telephone book.

⁵A list of recognized slaughtering establishments in any State may be obtained from a Federal representative, the State animal health official, or a State representative.

(6) If birds other than poultry, the birds are moved to a site approved by the Administrator; and

(7) The permit required by paragraph (b)(1) of this section is presented upon arrival at the recognized slaughtering establishment or approved site to a State representative or Federal representative. Copies of the permit must also be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival at the recognized slaughtering establishment.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.6 Interstate movement of dead birds and dead poultry from a quarantined area.

(a) Except as provided in paragraph (b) of this section for dressed carcasses, dead birds and dead poultry, including any parts of the birds and poultry, that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dead birds and dead poultry are accompanied by a permit obtained in accordance with § 82.11;

(2) The dead birds and dead poultry are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance;

(3) The dead birds and dead poultry are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(4) The dead birds and dead poultry are not unloaded until their arrival at the destination listed on the permit required by paragraph (a)(1) of this section;

(5) The dead birds and dead poultry are moved, without stopping, to the destination listed on the permit required by paragraph (a)(1) of this section, except for normal traffic conditions, such as traffic lights and stop signs;

(6) The dead birds and dead poultry are disposed of, within 24 hours after being loaded for interstate movement, by burial or composting in accordance with the procedures set forth in § 82.14(c)(1) and (c)(2), or by rendering, incineration, or other means approved by the Administrator as being adequate to prevent the dissemination of END; and

(7) Copies of the permit accompanying the dead birds and dead poultry interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dead birds and dead poultry at the

³The location of Federal representatives and State representatives may be obtained by writing to Emergency Programs, Veterinary Services, Animal

destination listed on the permit required by paragraph (a)(1) of this section.

(b) Dressed carcasses from birds and poultry that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dressed carcasses are from birds or poultry that were slaughtered in a recognized slaughtering establishment;⁶

(2) The dressed carcasses are accompanied by a permit obtained in accordance with § 82.11;

(3) The dressed carcasses are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(4) The dressed carcasses are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(2) of this section;

(5) The dressed carcasses are moved, without stopping, to the destination listed on the permit required by paragraph (b)(2) of this section, except for normal traffic conditions, such as traffic lights and stop signs; and

(6) Copies of the permit accompanying the dressed carcasses interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dressed carcasses at the destination listed on the permit required by paragraph (b)(2) of this section.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.7 Interstate movement of manure and litter from a quarantined area.

Manure generated by and litter used by birds or poultry not known to be infected with END may be moved interstate from a quarantined area only if:

(a) The manure and litter is accompanied by a permit obtained in accordance with § 82.11;

(b) The manure and litter has been heated throughout, in the quarantined area, to a temperature of not less than 175 °F (79.4 °C), and then placed either in a previously unused container or in a container that has been cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(c) The declaration or affidavit required by § 82.11(b) lists the location of the poultry or birds that generated the manure or used the litter, and the name and address of the owner of the poultry or birds that generated the manure or used the litter; and

(d) Copies of the permit accompanying the manure and litter interstate are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the manure and litter at the destination listed on the permit.

§ 82.8 Interstate movement of eggs, other than hatching eggs, from a quarantined area.

(a) Eggs, other than hatching eggs, from birds or poultry from flocks not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The eggs are accompanied by a permit obtained in accordance with § 82.11;

(2) The eggs have been cleaned and sanitized in accordance with 7 CFR part 59;

(3) The eggs are packed either in previously unused flats or cases or in used plastic flats or cases that were cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(4) The eggs are moved to a facility where they are examined to ensure they have been cleaned and sanitized in accordance with paragraph (a)(2) of this section; and

(5) Copies of the permit accompanying the eggs interstate are submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the eggs at the facility.

(b) Any flats or cases intended for reuse after being used to move eggs interstate to a facility under this section must be cleaned and disinfected in accordance with part 71 of this chapter before being moved to a premises where birds or poultry are kept.

§ 82.9 Interstate movement of hatching eggs from a quarantined area.

Hatching eggs from birds or poultry not known to be infected with or exposed to END may be moved interstate from a quarantined area only if:

(a) The hatching eggs are accompanied by a permit obtained in accordance with § 82.11;

(b) Copies of the permit accompanying the hatching eggs are submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the hatching eggs at the premises described in paragraph (c) of this section; and

(c) The hatching eggs are held in the State of destination at a premises designated jointly by the veterinarian in charge and the State animal health official from the time of arrival until hatch and the birds and poultry hatched from the eggs are held at the designated premises for not less than 30 days following hatch. During this holding period, the eggs and any birds or poultry hatched from the eggs are subject to any inspections, disinfections, and tests as may be required by the Administrator to determine their freedom from END.

§ 82.10 Interstate movement of vehicles, cages, coops, containers, troughs, and other equipment from a quarantined area.

(a) This section does not apply to cages, coops, or other containers or equipment used by or to move pet birds moved interstate in accordance with § 82.5(a).

(b) Vehicles, cages, coops, containers, troughs, and other equipment that have held or that have otherwise been used in a quarantined area in the handling of birds or poultry or their eggs, or for manure generated by or litter used by the birds or poultry, may be moved interstate from a quarantined area only in accordance with the following conditions:

(1) They are made of hard plastic or metal, and the other conditions of this section are met; or

(2) They are made of a disposable material, such as cardboard, fiber, or waxed cardboard, are previously unused, and are disposed of by incineration without being reused after being moved interstate.

(c) Before moving interstate any vehicles, cages, coops, containers, troughs, or other equipment described in paragraph (b)(1) of this section, and after using these items to move birds, poultry, eggs, manure, or litter interstate from a quarantined area, the vehicles, cages, coops, containers, troughs, and other equipment must be cleaned and disinfected in accordance with paragraphs (c)(1) through (c)(5) of this section:

(1) Clean and disinfect the vehicles, cages, coops, containers, troughs, and other equipment at the place where the birds, poultry, eggs, manure, and litter are unloaded or where the equipment is used, no more than 2 hours after the birds, poultry, eggs, manure, and litter are unloaded or the equipment is used;

(2) Clean the items in accordance with part 71 of this chapter;

(3) Have a Federal representative or State representative⁷ inspect the items after they have been cleaned;

⁶See footnote 5 to § 82.5.

⁷See footnote 3 to § 82.5.

(4) Disinfect the items in the presence of a Federal representative or State representative; and

(5) Disinfect the items in accordance with part 71 of this chapter and by using a disinfectant as specified in part 71 of this chapter.

(d) If the place where the cleaning and disinfection would otherwise be required has no facilities for cleaning and disinfecting, the items may be moved to a place where facilities are available for cleaning and disinfecting, provided a Federal representative or State representative has determined that such movement will not cause a risk of the spread of END.

(e) Vehicles, cages, coops, containers, troughs, and other equipment that are moved interstate under this section must be accompanied by a permit obtained in accordance with § 82.11, and copies of the permit accompanying the vehicles, cages, coops, containers, troughs, and other equipment interstate must be submitted so that a copy is received by the State animal health official and the veterinarian in charge⁸ for the State of destination within 72 hours of the arrival of the vehicles, cages, coops, containers, troughs, and other equipment at the destination listed on the permit.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.11 Issuance of permits.

(a) Application for the permits required by this subpart to move interstate from a quarantined area birds, eggs, poultry, or other items requiring a permit under this part must be in writing. The application must be submitted to a Federal representative or State representative and must include the following:

(1) The applicant's name and mailing address;

(2) The name and mailing address of the person who will receive the birds, eggs, poultry, or other items;

(3) The addresses of both the origin and destination of the birds, eggs, poultry, or other items;

(4) The number and types of birds, poultry, eggs, and other items intended for interstate movement; and

(5) The reason for the interstate movement.

(b) In addition to the information required by paragraph (a) of this section, to obtain permits to move birds, poultry, eggs, manure, litter, cages, coops, containers, troughs, vehicles or other equipment interstate from a quarantined area, an applicant for a permit must submit to a Federal representative or

State representative a declaration or affidavit listing the requirements of § 82.5 for live birds or live poultry, § 82.6 for dead birds and dead poultry, § 82.7 for litter or manure, § 82.8 for eggs other than hatching eggs, § 82.9 for hatching eggs, or § 82.10 for cages, coops, containers, troughs, vehicles, and other equipment, and stating that the applicant will move the items interstate only if all of the listed requirements are met.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.12 Other interstate movements and special permits.

(a) A special permit is required for the interstate movement of birds, poultry, or other items whose movement is restricted under this subpart, from a quarantined area in a manner or to a destination other than is specifically prescribed by this subpart, under special conditions determined by the Administrator to be necessary to prevent the dissemination of END. A special permit is required for the disposal of dead birds or dead poultry that are infected with END, or dead birds or dead poultry from flocks infected with END, or manure generated by or eggs from birds or poultry infected with END, in a manner other than is specifically prescribed in this subpart, and for cleaning and disinfection carried out in a manner other than is specifically prescribed in this subpart, under special conditions determined by the Administrator to be necessary to prevent the dissemination of END. To apply for a special permit, contact the veterinarian in charge⁹ for the State in which the birds, poultry, or other items are located. The Administrator may, at his or her discretion, issue special permits if he or she determines that the activity authorized will not result in the interstate dissemination of END.

(b) The special permit will list the name and address of the person to whom the special permit is issued, and the special conditions under which the interstate movement, disposal, or cleaning and disinfection may be carried out.

(1) For an interstate movement, the special permit will also include the following:

(i) The name and mailing address of the person who will receive the birds, poultry, or other items;

(ii) The addresses of both the origin and destination of the birds, poultry, or other items;

(iii) The number and type of birds, poultry, or other items to be moved interstate; and

(iv) The reason for the interstate movement.

(2) For destruction or cleaning and disinfection, the special permit will also include the following:

(i) The address of the place where the dead birds, dead poultry, manure, or eggs are located; and

(ii) The number and type of birds, poultry, or other items involved.

(c) For an interstate movement, a copy of the special permit must accompany the items moved, and copies must be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds, poultry, or other items at the destination listed on the special permit. (Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.13 Denial and withdrawal of permits and special permits.

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed to prevent the dissemination of END, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal

⁸See footnote 4 of § 82.5.

⁹See footnote 4 to § 82.5.

must be in writing¹⁰ and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits of the validity of the denial or withdrawal in accordance with rules of practice adopted for the proceeding.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.14 Removal of quarantine.

An area will be removed from quarantine only when all of the following requirements have been met:

(a) All birds and poultry exposed to END in the quarantined area have been found to be free of END;

(b) All birds and poultry infected with END in the quarantined area have been euthanized;

(c) All birds and poultry, including any parts of the birds and poultry, euthanized in accordance with paragraph (b) of this section, and all birds and poultry in the quarantined area, including any parts of the birds and poultry, that died from any cause other than slaughter, have been buried, reduced to ashes by incineration, rendered, or reduced to dust by composting;

(1) If the birds and poultry are buried, all birds and poultry infected with END must be buried in the quarantined area. The birds and poultry must be buried in a location that meets all United States Environmental Protection Agency, State, and local requirements for landfills. They must be buried at least 6 feet deep and be covered at the time of burial with soil; and

(2) If the birds and poultry are composted, all birds and poultry infected with END must be composted in the quarantined area. The birds and poultry must be composted according to the following instructions:

(i) Place a 1-foot layer of litter and manure in a free-standing compost bin, unless the compost pile will be covered in accordance with paragraph (c)(2)(ii) of this section. Add a 6-inch layer of straw, peanut hulls, or wood chips. Add a layer of dead birds or dead

poultry, leaving 6 inches between the carcasses and the bin walls. Add water sparingly and cover with 6 inches of a dry mixture of litter and manure. Repeat the layering process two more times and cap with a double layer of dry manure cake. After the bin is capped off and covered, monitor the temperature in the compost pile daily, using a 36-inch probe-type thermometer. The temperature of the compost pile must reach at least 140 °F. After 30 days from the date the compost pile is created, turn over to aerate the entire mixture. Allow mixture to reach at least 140 °F once again. After completion of the second cycle, the mixture must remain covered with any material that prevents penetration of air and moisture until spread or otherwise utilized. The composted material may not be spread or otherwise utilized until at least 30 days following completion of the second heating cycle.

(ii) Composting of birds and poultry may be accomplished outside of covered bins by following the layering and temperature requirements set forth in paragraph (c)(2)(i) of this section, then covering the compost pile with tarpaulins or 6-mm polyethylene sheets anchored with tires or straw bales. The mixture must be kept moist. The final product may not be spread or otherwise utilized until at least 30 days following completion of the second heating cycle.

(iii) Composting of birds and poultry must be carried out at least 50 yards from any building or pen where poultry and birds are housed and be inaccessible to birds and poultry. Composted material may not be commingled with, or otherwise be brought into contact with, non-composted manure cake;

(d) All eggs produced by birds or poultry infected with or exposed to END in the quarantined area have been buried, reduced to ashes by incineration, or rendered. If the eggs are buried, the eggs must be buried in the quarantined area in a location that meets all United States Environmental Protection Agency requirements and all State and local requirements for landfills. The eggs must be buried at least 6 feet deep and be covered at the time of burial with soil;

(e) All manure generated by or litter used by birds or poultry infected with or exposed to END in the quarantined area has been reduced to ashes by incineration, or has been buried, composted, or spread on a field and turned under, as follows:

(1) *Burial.* If the manure or litter is buried, the manure and litter must be buried at least 6 feet deep and covered at the time of burial with soil. The

manure and litter must be buried in the quarantined area in a location that meets all United States Environmental Protection Agency and State and local requirements for landfills;

(2) *Composting.* If the manure and litter is composted, the manure and litter must be composted in the quarantined area according to the following method: Place the manure and litter in rows 3 to 5 feet high and 5 to 10 feet at the base. The area where the manure, litter, and other material used in composting are placed must be such that there is no runoff from the composted material out of the area, no saturation into the ground, and no moisture, except for that required by this paragraph, onto the composted material from above. The composting area must be at least 50 yards from any building or pen where birds or poultry are housed and be inaccessible to birds and poultry. The manure and litter must be mixed so as to attain a carbon to nitrogen ratio of approximately 30:1, a moisture content of between 40 to 50 percent, and a supply of oxygen to the composted material. If a carbon source other than manure or litter is needed, wood chips, straw, or peanut hulls may be used. The manure and litter must be covered with tarpaulin or 6-mm polyethylene sheets, be anchored with tires or straw bales, and be mixed to ensure adequate ventilation every 10 to 15 days. The composted material must rise to a temperature of 140 °F, as determined by use of a 36-inch probe-type thermometer. The composted material may not be spread or otherwise utilized for at least 30 days from the time the 140 °F temperature is reached; and

(3) *Spreading and turning under.* Spreading and turning under of manure or litter may be used as a means of disposal only if carried out under the direct supervision of a Federal representative or a State representative. If the manure or litter is spread on a field and turned under, the field must be in the quarantined area, at least 50 yards away from any building or pen where poultry or birds are housed, and inaccessible to birds and poultry. The manure or litter must be turned under within 24 hours of being spread on the field, and the field must be left undisturbed for at least 30 days;

(f) All vehicles with which the birds or poultry infected with or exposed to END or their excrement or litter have had physical contact have been cleaned and disinfected in accordance with part 71 of this chapter. The vehicles have been inspected after cleaning, and before disinfection, by a Federal representative or State representative,

¹⁰ Written appeals should be sent to the Administrator, c/o Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737-1231.

and then have been disinfected in the presence of a Federal representative or State representative with a disinfectant listed in part 71 of this chapter;

(g) All cages, coops, containers, troughs, and other equipment used for birds or poultry infected with or exposed to END, or their excrement or litter have been reduced to ashes by incineration, or have been cleaned and disinfected in accordance with part 71 of this chapter. The items must be inspected after cleaning, and before disinfection, by a Federal representative or State representative, and then must be disinfected in the presence of a Federal representative or State representative, with a disinfectant listed in part 71 of this chapter; and

(h) The premises where birds or poultry infected with or exposed to END were located have been cleaned and disinfected in accordance with part 71 of this chapter. The premises have been inspected after cleaning, and before disinfection, by a Federal representative or State representative, and then have been disinfected in the presence of a Federal representative or State representative with a disinfectant listed in part 71 of this chapter.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.15 Replacement birds and poultry.

Birds and poultry that have been destroyed because of a quarantine for END may not be replaced by birds or poultry moved interstate into the quarantined area until the Administrator decides that END has been eradicated and that replacement birds or poultry will not become infected with END.

Subpart B—Chlamydiosis in Poultry

§ 82.19 Definitions.

As used in connection with this subpart, the following terms shall have the meaning set forth in this section.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Bird. Any member of the class *aves* other than poultry.

Chlamydiosis. A contagious bacterial disease of birds and poultry,

characterized by respiratory and systemic infection. The disease is also known as psittacosis in psittacine birds and as ornithosis in poultry.

Federal representative. An individual employed and authorized by the Federal government to perform the tasks required by this subpart.

Federal veterinarian. A veterinarian employed and authorized by the Federal government to perform the tasks required by this subpart.

Infected. Affected by the virus or bacterium that causes the specified disease.

Interstate. From one State into or through any other State.

Moved. Shipped, transported or otherwise moved, or delivered or received for movement, by any person.

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

Poultry. Chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, and turkeys.

State. Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State animal health official. The State official responsible for livestock- and poultry-disease control and eradication programs.

State representative. An individual employed in animal health work and authorized by a State or political subdivision of a State to perform the tasks required by this subpart.

Veterinarian in charge. A Federal veterinarian employed by the Animal and Plant Health Inspection Service and authorized by the Administrator to supervise and manage the animal health work of the Animal and Plant Health Inspection Service in a specified area of the United States.

§ 82.20 General restrictions.

The following items may not be moved interstate:

- (a) Live poultry infected with chlamydiosis;
- (b) Dead poultry that were infected with chlamydiosis when they died, and parts of dead poultry that were infected with chlamydiosis when they died; and
- (c) Offal from poultry infected with chlamydiosis.

§ 82.21 Vehicles, cages, coops, containers, troughs, and other equipment used for infected poultry.

- (a) Before moving vehicles, cages, coops, containers, troughs, and other

equipment interstate that have held or have otherwise been used in the handling of poultry infected with chlamydiosis, and after using these items to move poultry infected with chlamydiosis interstate, the vehicles, cages, coops, containers, troughs, and other equipment must be cleaned and disinfected in accordance with paragraphs (a)(1) through (a)(5) of this section:

(1) Clean and disinfect the vehicles, cages, coops, containers, troughs, and other equipment at the place where the poultry are unloaded or where the equipment is used, no more than 2 hours after the poultry infected with chlamydiosis are unloaded or the equipment is used;

(2) Clean the items in accordance with part 71 of this chapter;

(3) Have a Federal representative, State representative,¹ or an accredited veterinarian, inspect the items after they have been cleaned;

(4) Disinfect the items in the presence of a Federal representative, State representative, or an accredited veterinarian; and

(5) Disinfect the items in accordance with part 71 of this chapter and by using a disinfectant as specified in part 71 of this chapter.

(b) If the place where the cleaning and disinfection would otherwise be required has no facilities for cleaning and disinfecting, the items may be moved to a place where facilities are available for cleaning and disinfecting, provided a Federal representative or State representative has determined that such movement will not cause a risk of the spread of chlamydiosis.

(c) Vehicles, cages, coops, containers, troughs, and other equipment moved interstate under this section must be accompanied by a permit obtained in accordance with § 82.23, and copies of the permit accompanying the vehicles, cages, coops, containers, troughs, and other equipment interstate must be submitted so that a copy is received by both the State animal health official and the veterinarian in charge² for the State of destination within 72 hours of the arrival of the vehicles, cages, coops, containers, troughs, and other equipment at the destination listed on the permit.

(Approved by the Office of Management and Budget under control numbers 0579-0116 and 0579-0032)

¹ See footnote 3 to § 82.5.

² See footnote 4 to § 82.5.

§ 82.22 Cleaning and disinfecting premises.

Premises that contained poultry that were infected with chlamydiosis must be cleaned and disinfected in accordance with this section before any poultry are moved interstate onto the premises.

(a) The premises must be cleaned in accordance with part 71 of this chapter;

(b) After being cleaned, the premises must be inspected by a Federal representative, State representative, or an accredited veterinarian; and

(c) After being inspected, the premises must be disinfected in the presence of a Federal representative, State representative, or an accredited veterinarian, in accordance with part 71 of this chapter, using a disinfectant listed in part 71 of this chapter.

(Approved by the Office of Management and Budget under control numbers 0579-0116 and 0579-0032)

§ 82.23 Issuance of permits.

(a) Application for the permit required by this subpart to move vehicles, cages, coops, containers, troughs, or other equipment interstate must be in writing, and must be submitted to a Federal representative or State representative. The application must include the following:

(1) The applicant's name and mailing address;

(2) The name and mailing address of the person who will receive the items;

(3) The addresses of both the origin and destination of the items;

(4) The number and types of items intended for interstate movement; and

(5) The reason for the interstate movement.

(b) *Exceptions.* This subpart does not apply to the interstate movement of poultry, vehicles, cages, coops, containers, troughs, or other equipment or material if the interstate movement is made by the United States Department of Agriculture for the purposes of research or diagnosis.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.24 Other interstate movements and special permits.

(a) A special permit is required for the interstate movement of items whose movement interstate is restricted under this subpart in a manner or to a destination other than is specifically prescribed by this subpart. A special permit is required for the disinfection of vehicles, premises, cages, coops, containers, troughs, and other equipment by a method other than is specifically prescribed by this subpart. To apply for a special permit, contact the veterinarian in charge for the State

in which the items are located. The Administrator may, at his or her discretion, issue special permits if he or she determines the activity authorized will not increase the risk of spreading chlamydiosis interstate.

(b) The special permit will list the name and address of the person to whom the special permit is issued, and the special conditions under which the interstate movement, or cleaning and disinfection, may be carried out.

(1) For an interstate movement, the special permit will also include the following:

(i) The name and mailing address of the person who will receive the items;

(ii) The addresses of both the origin and destination of the items;

(iii) The number and type of items to be moved interstate; and

(iv) The reason for the interstate movement.

(2) For cleaning and disinfection, the special permit will also include the following:

(i) The address of the place where the items are located; and

(ii) The number and type of items involved.

(c) For an interstate movement, a copy of the special permit must accompany the items moved, and copies must be submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the items at the destination listed on the special permit.

(Approved by the Office of Management and Budget under control number 0579-0116)

§ 82.25 Denial and withdrawal of permits and special permits.

(a) *Denial.* If the Administrator determines that the applicant for a permit or special permit is not complying with or could not comply with this subpart or any special conditions needed to prevent the spread of chlamydiosis, or, in the case of a special permit, that the special permit is not required under this subpart, the Administrator may deny the request for a permit or special permit. If the request is denied, the Administrator will send the applicant a written notice explaining why the permit or special permit was denied.

(b) *Withdrawal.* The Administrator may withdraw a permit or special permit, orally or in writing, if he or she determines the person to whom the permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit. The Administrator may withdraw the permit or special permit without advance notice if he or she determines that the person to whom the

permit or special permit has been issued is violating either this subpart or some condition specified in the permit or special permit in a way that threatens the public health, interest, or safety. The Administrator will send the person to whom the permit or special permit has been issued a written explanation of why the permit or special permit is to be or was withdrawn.

(c) *Appeals.* Denial or withdrawal of a permit or special permit may be appealed to the Administrator within 10 days after receipt of the written notice of denial or withdrawal. The appeal must be in writing³ and must state all of the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal, in writing, explaining all of the reasons for the decision, as promptly as circumstances allow. In cases where there is a conflict as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits or validity of the denial or withdrawal in accordance with rules of practice adopted for the proceeding.

(Approved by the Office of Management and Budget under control number 0579-0116)

PART 92—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

11. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

PART 92—AMENDED

12. The heading for part 92 is revised to read as set forth above:

§ 92.101 [Amended]

13. Section 92.101 is amended as follows:

a. In paragraph (c)(3)(i), the term "ornithosis" is removed and the term "chlamydiosis" is added in its place.

b. In paragraph (g)(2), the words "velogenic viscerotropic Newcastle disease (VVND)" are removed and the words "exotic Newcastle disease (END)" are added in their place;

c. The term "VVND" is removed and the term "END" is added in its place in the following places:

i. Footnote 7 to paragraph (g)(2);

³ See footnote 10 to § 82.13.

- ii. Paragraph (g)(3), each time it appears; and
- iii. Paragraph (g)(4).

§ 92.104 [Amended]

14. Section 92.104 is amended by removing the word "ornithosis" and adding the word "chlamydiosis" in its place, in the following places:

- (a) Paragraph (b)(2);
- (b) Paragraph (b)(3);
- (c) Paragraph (b)(3);
- (d) Paragraph (c)(4);
- (e) Paragraph (d)(3); and
- (f) Paragraph (d)(4).

§ 92.106 [Amended]

15. In § 92.106, paragraph (c)(5)(iii), Cooperative and Trust Fund Agreement Between _____ (Name of Reporter) and the United States Department of Agriculture, Animal and Plant Health Inspection Service, is amended as follows:

- a. In paragraph (A)(17), the words "velogenic viscerotropic Newcastle disease" are removed and the words "exotic Newcastle disease" are added in their place; and
- b. The term "VVND" is removed and the term "END" is added in its place in the following places:
 - i. Paragraph (B)(4); and
 - ii. Paragraph (B)(5).

§ 92.209 [Amended]

16. In § 92.209, paragraph (a)(2) is redesignated as paragraph (b) and is amended by removing the words "viscerotropic velogenic Newcastle disease" and adding in their place the words "exotic Newcastle disease", and the paragraph designative (1) is removed in paragraph (a).

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS.

17. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.22, 2.80, and 371.2(d).

PART 94—AMENDED

18. The heading for part 94 is revised to read as set forth above.

19. In § 94.0, the definition of *Exotic Newcastle disease (VVND)* is removed and a definition of *Exotic Newcastle disease (END)* is added, in alphabetical order, to read as follows:

§ 94.0 Definitions.

* * * * *

Exotic Newcastle disease (END). Any velogenic Newcastle disease. Exotic Newcastle disease is an acute, rapidly spreading, and usually fatal viral disease of birds and poultry.

* * * * *

§ 94.6 [Amended]

20. Section 94.6 is amended as follows:

- a. The term "VVND" is removed and the term "END" is added in its place in the following places:
 - i. The heading;
 - ii. Paragraph (a) introductory text;
 - iii. Paragraph (a)(1);
 - iv. Paragraph (a)(2);
 - v. Paragraph (c) introductory text, each time it appears;
 - vi. Paragraph (d) introductory text, each time it appears;
 - vii. Paragraph (d)(1)(ix) introductory text;
 - viii. Paragraph (d)(1)(ix)(A);
 - ix. Paragraph (d)(1)(ix)(B);
 - x. Paragraph (d)(1)(ix)(C) introductory text;
 - xi. Paragraph (d)(1)(ix)(C)(1);
 - xii. Paragraph (d)(1)(ix)(C)(2), each time it appears;
 - xiii. Paragraph (d)(2);
 - xiv. Paragraph (d)(3), both times it appears; and
 - xv. Paragraph (d)(4), both times it appears.

b. The term "viscerotropic velogenic Newcastle disease" is removed and the term "END" is added in its place in the following places:

- i. Paragraph (c)(2); and
- ii. Paragraph (c)(5).

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

21. The authority citation for part 161 continues to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.22, 2.80, and 371.2(d).

§ 161.2 [Amended]

22. In § 161.2, paragraph (d)(6) is amended by removing the words "psittacosis or ornithosis, and velogenic viscerotropic Newcastle disease" and adding the words "chlamydiosis and exotic Newcastle disease" in their place.

Done in Washington, DC, this 29th day of October 1996.

A. Strating,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–28060 Filed 11–4–96; 8:45 am]

BILLING CODE 3410–34–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–37893]

Delegation of Authority to the General Counsel

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is amending its rules to delegate authority to the General Counsel to refer matters and information concerning possible professional misconduct to state bar associations and other state professional boards or societies.

EFFECTIVE DATE: November 5, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara B. Hannigan, Ethics Counsel, at 942–0970.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today announced amendments to its rules governing delegation of authority to the General Counsel.

The amendment to Rule 30–14¹ authorizes the General Counsel to refer matters and information concerning possible professional misconduct to state bar associations and other state professional boards or societies.

Notwithstanding this delegation of authority, in instances where a referral of possible professional misconduct presents any unusual or noteworthy issues, the delegation would not be exercised and the matter would be submitted to the Commission.

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedure Act,² that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date is also unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

¹ 17 CFR 200.30–14.

² 5 U.S.C. 553(b)(3)(A).