

from regions where CEM exists were imported into approved States in fiscal year 1996. During this same period, approximately 3,243 horses of all classes were imported into the United States from countries other than Canada and Mexico through air and ocean ports; approximately 18,223 horses were imported from Canada; and, approximately 10,079 horses were imported from Mexico.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small 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: (1) Preempts all State and local laws and regulations that are inconsistent 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.

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 93

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

Accordingly, 9 CFR part 93 is amended as follows:

#### PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622; 19 U.S.C. 1305; 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).

#### § 93.301 [Amended]

2. Section 93.301 is amended as follows:

a. In paragraph (h)(6), by adding, in alphabetical order, “The State of Georgia”.

b. In paragraph (h)(7), by adding, in alphabetical order, “The State of Georgia”.

Done in Washington, DC, this 22 day of July, 1998.

**Charles P. Schwable,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 98–19995 Filed 7–24–98; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 9 CFR Part 145

[Docket No. 97–043–2]

#### National Poultry Improvement Plan; Special Provisions for Ostrich Breeding Flocks and Products

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the National Poultry Improvement Plan (the Plan) to provide for the participation of ostrich breeding flocks in the provisions of the Plan. The addition of provisions for ostrich breeding flocks to the Plan was voted on and approved by the voting delegates at the Plan's 1996 National Plan Conference. Adding provisions for ostriches to the Plan will make it possible for the owners of ostrich flocks to voluntarily participate in the Plan's programs for the prevention and control of egg-transmitted, hatchery-disseminated poultry diseases.

**EFFECTIVE DATE:** August 26, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 200, Conyers, GA 30094–5104; (770) 922–3496; E-mail: arhorer@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

#### Background

The National Poultry Improvement Plan (referred to below as “the Plan”) is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-

disseminated poultry diseases.

Participation in all Plan programs is voluntary, but flocks, hatcheries, and dealers must qualify as U.S. Pullorum-Typhoid Clean before participating in any other Plan program. Also, the regulations in 9 CFR part 82, subpart C, which provide for certain testing, restrictions on movement, and other restrictions on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis*, require that no hatching eggs or newly hatched chicks from egg-type chicken breeding flocks may be moved interstate unless they are classified U.S. S. Enteritidis Monitored under the Plan, or they meet the requirements of a State classification plan that the Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined to be equivalent to the Plan, in accordance with 9 CFR 145.23(d).

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR part 145 (referred to below as the regulations) contain the general provisions of the Plan (subpart A, §§ 145.1 through 145.14) and special provisions regarding the participation of breeding flocks of egg-type chickens (subpart B, §§ 145.21 through 145.24), meat-type chickens (subpart C, §§ 145.31 through 145.34), turkeys (subpart D, §§ 145.41 through 145.44), and waterfowl, exhibition poultry, and game birds (subpart E, §§ 145.51 through 145.54).

On March 12, 1998, we published in the **Federal Register** (63 FR 12036–12040, Docket No. 97–043–1) a proposal to amend the regulations to add a new subpart F to provide for the participation of ostrich breeding flocks and their products. That proposed amendment had been recommended by the voting delegates to the National Plan Conference that was held from June 30 to July 2, 1996.

We solicited comments concerning our proposal for 60 days ending May 11, 1998. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule without change.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866

and, therefore, has not been reviewed by the Office of Management and Budget.

This rule amends the Plan to provide for the participation of ostrich breeding flocks in the provisions of the Plan. Adding provisions for ostriches to the Plan will make it possible for the ostrich flocks to voluntarily participate in the Plan's programs for the prevention and control of egg-transmitted, hatchery-disseminated poultry diseases. The changes contained in this document are based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who took part in the Plan's 1996 National Plan Conference.

The Plan serves as a "seal of approval" for egg and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. In all cases, the changes have been generated by the industry itself with the goal of reducing disease risk and increasing product marketability.

According to industry estimates, there were approximately 350,000 to 500,000 ostriches of all ages in the United States in 1995. There were approximately 371,000 ostrich chicks hatched during the same period. In comparison, within the chicken industry, about 8,324 million chicks (broiler and meat type) were hatched by commercial hatcheries, with a total value to the poultry industry was about \$17.2 billion in 1995. Thus, the ostrich industry, in comparison to the rest of the poultry industry, is very small.

Although participation in the Plan is voluntary, 99 percent of poultry breeders and hatcheries are participants in the Plan and benefit from various aspects of the program. There are several economic and other advantages that will accrue to ostrich breeders and hatcheries if they participate in the Plan as a result of this rule.

If the bulk of ostrich producers participate in the Plan, their implementation of the Plan's management practices can be expected to raise, or at least maintain, the level of health of ostriches in the United States. Wide membership will also provide a voice for the ostrich industry with regard to regulatory control of infectious poultry diseases that affect ostriches.

Allowing ostrich flocks to participate in the Plan may validate the ostrich industry in the eyes of the public and of the agricultural industry as whole, so participating flockowners could anticipate some potential advancement in the marketability of ostriches and ostrich products throughout the country. To those interested in

acquiring ostriches or their products, it may be reassuring to know that these are from breeders and hatcheries that are participants in the Plan. Similarly, overseas importers may be more at ease knowing the ostriches and products are derived from flocks that are part of the Plan. We believe that it will be advantageous to those who raise ostriches and to the poultry industry as a whole, as well as to APHIS, that as many producers of poultry and poultry products, including ostriches, participate in the Plan and follow the standards developed and practiced by Plan participants.

Because participation in any Plan program is voluntary, individuals are likely to continue in the program only as long as the benefits they receive from the program outweigh the costs of their participation. Tests and procedures recommended by the Plan are considered optimal for the industry. Any increased cost to ostrich breeders and hatcheries for the detection and prevention programs will be minor compared to the losses that each producer could bear in case of undetected disease spread. Furthermore, the number of birds required to be tested is small compared to the size of flocks within the industry. The costs of conducting tests, as well as the cost of specific antigens used to detect specific diseases, are modest. For example, the cost of performing Pullorum-Typhoid plate test averages between \$0.04 and \$0.08 per bird. The cost of Mycoplasma gallisepticum plate test antigen is \$0.10 per plate test, while the cost of antigen for each pullorum-typhoid plate test is \$0.08. In many States, pullorum testing is provided for free. Although the cost for the laboratory testing of blood samples from ostriches will not differ significantly from the cost of testing blood samples from other poultry, the process of obtaining blood samples from ostriches may require more resources than for other birds. Applying these costs to the small sizes of the ostrich flocks, and comparing the total potential losses that individual producers could incur as a result of the loss of some or all of their flock due to disease, the cost of testing a small number of birds would be minor.

Because participation in the Plan is not mandatory, it is not clear how many owners of ostriches will join the program. However, there are about 7,380 flockowners, owning on average between 50 and 70 ostriches each, who may potentially join. The potential entry of the ostrich flocks into the Plan is not be expected to change the supply and demand conditions in the market for poultry of any type, including ostriches;

as a result, changes in prices are not anticipated. Finally, since the additional costs will be minor and could be expected to be balanced out by the benefits, we have concluded that this rule is unlikely to have any significant impact on producers or consumers. Including ostrich flocks in the Plan will not likely result in any significant change in program operations.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small 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: (1) 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.

#### **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 rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0007.

#### **List of Subjects in 9 CFR Part 145**

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

Accordingly, 9 CFR part 145 is amended as follows:

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

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

**Authority:** 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.2(d).

##### **§ 145.1 [Amended]**

2. In § 145.1, the definition of *poultry* is amended by adding the word "ostriches," immediately after the word "turkeys,".

**§ 145.3 [Amended]**

3. In § 145.3, in the introductory text of paragraph (c), the second sentence is amended by adding the words "or, in the case of ostriches, before the birds reach 20 months of age" immediately after the word "age".

**§ 145.5 [Amended]**

4. In § 145.5, paragraph (c) is amended by removing the words "or E" and adding the words "E, or F" in their place.

**§ 145.10 [Amended]**

5. In § 145.10, the introductory text of the section is amended by removing the words "or E" and adding the words "E, or F" in their place, and paragraph (b) is amended by removing the words "and § 145.53(b)" and adding the words "§ 145.53(b), and § 145.63(a)" in their place.

**§ 145.14 [Amended]**

6. In § 145.14, in the introductory text of the section, the first sentence is amended by adding the words "and ostriches blood tested under subpart F must be more than 12 months of age" immediately after the word "first".

7. In § 145.14, paragraph (a)(5) is amended by removing the words "and 145.53" and adding the words "and 145.53, and 145.63" in their place.

8. A new subpart F is added to read as follows:

**Subpart F—Special Provisions for Ostrich Breeding Flocks and Products**

145.61 Definitions.

145.62 Participation.

145.63 Terminology and classification; flocks and products.

**Subpart F—Special Provisions for Ostrich Breeding Flocks and Products****§ 145.61 Definitions.**

Except where the context otherwise requires, for the purposes of this subpart the following terms shall be construed, respectively, to mean:

*Ostrich.* Birds of the species *Struthio camelus*, including all subspecies and subspecies hybrids.

**§ 145.62 Participation.**

Participating flocks of ostriches, and the eggs and chicks produced from them, shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart.

(a) Started poultry shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 145.5(a).

(b) Hatching eggs produced by primary breeding flocks shall be

fumigated or otherwise sanitized (see § 147.22 of this chapter).

**§ 145.63 Terminology and classification; flocks and products.**

Participating flocks, and the eggs and baby poultry produced from them, that have met the respective requirements specified in this section may be designated by the following terms and their corresponding designs illustrated in § 145.10.

(a) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in paragraph (a)(1) or (a)(2) of this section. (See § 145.14(a) relating to the official blood test for pullorum-typhoid where applicable.)

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier or primary breeding flock in which a sample of each bird in flocks of 30 or fewer birds, a minimum of 30 birds from flocks up to 300 birds, or 10 percent of all birds from flocks exceeding 300 birds has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided*, That a bacteriological examination monitoring program for ostriches acceptable to the Official State Agency and approved by the Service may be used in lieu of annual blood testing: *And provided further*, That when a flock is a multiplier breeding flock located in a State which has been deemed to be a U.S. Pullorum-Typhoid Clean State for the past 3 years, and during which time no isolation of pullorum or typhoid has been made that can be traced to a source in that State, a bacteriological examination monitoring program or a serological examination monitoring program acceptable to the Official State Agency and approved by the Service may be used in lieu of annual blood testing.

(b) [Reserved]

Done in Washington, DC, this 22nd day of July 1998.

**Charles P. Schwalbe,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 98-19997 Filed 7-24-98; 8:45 am]

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**DEPARTMENT OF AGRICULTURE****Food Safety and Inspection Service****9 CFR Parts 391 and 381**

[Docket No. 98-030N]

**Meat, Poultry, and Egg Products Labeling Review Process; Elimination of Appointments With Label Courier/Expediting Firms**

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice of procedural change; request for comments.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing a procedural change for reviewing labeling submitted to the Labeling Review Branch (LRB) of the Labeling and Compounds Review Division (LCRD). The new procedure will eliminate routine, daily, time-set, face-to-face appointments with label courier/expediting firms. Elimination of the daily, face-to-face appointments will not change the present system of labeling review and will not limit access to all LCRD staff. The labeling review staff will continue to receive and approve labels for meat, poultry, and egg products in a timely and orderly manner. However, the procedural change will lead to a more effective and efficient use of LRB staff time and enable staff to perform labeling reviews and other duties concurrently.

**DATES:** The change in procedures for labeling review will be effective September 10, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. William J. Hudnall, Assistant Deputy Administrator, Office of Policy, Planning and Evaluation; telephone (202) 205-0495 or FAX (202) 401-1760.

**SUPPLEMENTARY INFORMATION:** FSIS has stated repeatedly its intent to increase the proportional share of its resources that are devoted to food safety. The Agency reorganization of 1996 reduced the number of administrative support positions, eliminated several management levels, improved supervisor-to-employee ratios, and restructured an expanded front line inspection workforce to perform more effectively. The Agency continues to seek ways to improve the efficiency with which it carries out its consumer protection activities that are not related to food safety. Therefore, FSIS is reviewing all operations in an effort to achieve greater efficiency while improving the level of consumer protection.

The Prior Label Approval System (PLAS) is conducted as part of the