

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the facts and reasons upon which the person relies to show that the permit or special permit was wrongfully denied or withdrawn.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as to any material fact, the person denied a permit or special permit, or from whom a permit or special permit is withdrawn, shall be given an opportunity for a hearing with respect to the merits or validity of the denial or withdrawal in accordance with rules of practice adopted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)

Subpart C—Poultry Disease Caused by Salmonella Enteritidis Serotype Enteritidis

SOURCE: 56 FR 3738, Jan. 30, 1991, unless otherwise noted. Redesignated at 61 FR 56883, Nov. 5, 1996.

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

Authorized laboratory. A laboratory approved by the Administrator to conduct tests in accordance with this subpart. Application for accreditation shall be made in writing by the owner or operator of the laboratory and sent to the Administrator, Animal and Plant Health Inspection Service, Veterinary Services, Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46, Riverdale, MD 20737-1231.

The applying laboratory will bear all costs associated with its application process. The Administrator will ap-

prove an authorized laboratory only after consulting with the State animal health official in the State in which the laboratory is located and after determining that the laboratory:

(1) Is supervised by a person holding, as a minimum, a bachelor's degree in either chemistry, microbiology, or a related field and having 1 year's experience in diagnostic microbiology, or equivalent qualifications, as determined by the Administrator;

(2) Has technical personnel assigned to conduct the tests who have received training prescribed by the National Veterinary Services Laboratories (NVSL);

(3) Uses reagents, media, and antigen approved by NVSL;

(4) Maintains laboratory quality control records for the most recent 3 years that samples have been analyzed under this Program;

(5) Demonstrates acceptable levels of systematic laboratory difference, variability, and individual large deviations in the identification of microorganisms. An applying laboratory will successfully demonstrate these capabilities if its diagnostic results from annual check test proficiency studies satisfy the criteria of NVSL;

(6) Follows standard test protocols approved by NVSL;

(7) Maintains complete records of the receipt, analysis, and disposition of official samples for the most recent 3 years that samples have been analyzed under this Program;

(8) Reports results of all tests ordered in accordance with this subpart or in accordance with §145.23(d) of this chapter to the State animal health official and APHIS.¹

(9) Maintains a standards book, which is a permanently bound book with sequentially numbered pages, containing all readings and calculations for diagnostic tests and calibration of

¹Training requirements, standard test protocols, and check test proficiency requirements prescribed by the National Veterinary Services Laboratories and the names and addresses of authorized laboratories are available from the Animal and Plant Health Inspection Service, Veterinary Services, Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46, Riverdale, MD 20737-1231.

³See footnote 10 to §82.13.

instruments. All entries are to be dated and signed by the analyst immediately upon completion of the entry and by his/her supervisor within 2 working days. The standards book is to be retained for a period of 3 years after the last entry is made;

(10) Analyzes NVSL check test proficiency samples and returns the results to NVSL within 3 weeks of sample receipt. This must be done whenever requested by NVSL and at no cost to USDA;

(11) Informs the Administrator by certified or registered mail, within 30 days, when there is any change in the laboratory's ownership, officers, directors, supervisory personnel, or other responsibly connected individual or entity; and

(12) Permits any duly authorized representative of the Secretary to perform both announced and unannounced on-site laboratory reviews of facilities and records during normal business hours and to copy all such records.

The Administrator may revoke the authorized status of a laboratory after determining that the laboratory fails to meet any requirement of this definition. The revocation will be effective on the date written notice of revocation is given to the owner or operator of the laboratory. A laboratory whose accreditation has been revoked may reapply for authorized laboratory status no sooner than 6 months after the effective date of revocation, and must provide written documentation specifying what corrections were made.

Certified Salmonella enteritidis serotype enteritidis Tested Free Flocks. Egg-type chicken breeding flocks that are classified "U.S. S. Enteritidis Monitored" under the National Poultry Improvement Plan (NPIP), or meet the requirements of a State classification plan determined by the Administrator to be equivalent to the NPIP, in accordance with §145.23(d) of this chapter.

Egg production flock. A flock maintained for the purpose of producing eggs for human consumption.

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

Flock. All of the poultry on one premise.

Hatching eggs. Eggs in which young chickens are allowed to develop.

Infected flock. A flock that does not contain separate poultry houses as defined by this section, and in which any poultry has tested positive for *Salmonella enteritidis* serotype *enteritidis* in accordance with the blood and internal organ tests of §82.32(c) or (e)(2) of this subpart.

Infected poultry house. A poultry house containing chickens determined to be infected with *Salmonella enteritidis* serotype *enteritidis* in accordance with §82.32(c) or (e)(2) of this subpart.

Internal organs. All internal organs except for the lungs and organs of the gastrointestinal tract.

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

Move (moving, moved, movement). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

Multiplier breeding flock. A flock that is intended for the production of hatching eggs used for the purpose of producing progeny for commercial egg production.

Newly-hatched chicks. Chicks that have not been fed or watered for the first time.

Poultry. Chickens of all ages, including eggs for hatching.

Poultry house. A building or other structure used to house poultry.

Primary breeding flock. A flock composed of one or more generations that is maintained for the purpose of establishing or continuing multiplier breeding flocks for the ultimate purpose of commercial egg production.

Separate poultry house. A poultry house that has been determined by a Federal or State representative to have biosecurity to prevent the transmission of communicable disease to other poultry houses. Biosecurity means that flock management procedures are in place to ensure that there is no contact between poultry houses through exposure to chickens, feed, water, manure, equipment, or personnel from other poultry houses.

State. Any State, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands

of the United States, and any other territory or possession of the United States.

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.

Study flock. A flock determined in accordance with § 82.32(a) of this part to be a study flock, based on:

(1) A determination by a Federal representative or State representative through epidemiologic investigation that the flock is the probable source of disease in an outbreak of disease in poultry or humans caused by *Salmonella enteritidis* serotype *enteritidis*, or

(2) A determination by a Federal representative or State representative that the flock has received progeny from a primary breeding flock or multiplier breeding flock that has had a positive organ sample in accordance with § 145.23(d) of this chapter, after the date of the last negative environmental sample for the primary breeding flock or multiplier breeding flock in accordance with § 145.23(d) of this chapter.

Test flock. A flock that does not contain separate poultry houses as defined by this section, and in which any manure and egg transport machinery samples have tested positive for *Salmonella enteritidis* serotype *enteritidis* in accordance with § 82.32(b) or (b)(2)(ii) of this subpart.

Test poultry house. A poultry house determined in accordance with § 82.32(b) or (b)(2)(iii) of this subpart to have tested positive for *Salmonella enteritidis* serotype *enteritidis* by isolation of the bacterium from one or more manure or egg transport machinery samples, and designated for blood and internal organ testing in accordance with § 82.32(c) of this subpart.

[56 FR 3738, Jan. 30, 1991, as amended at 57 FR 778, Jan. 9, 1992; 59 FR 67613, Dec. 30, 1994; 61 FR 11517, Mar. 21, 1996; 66 FR 21062, Apr. 27, 2001]

§ 82.31 Applicability.

The regulations in this subpart apply only to primary and multiplier breeding flocks used for the purpose of producing progeny for commercial egg production, and to egg production

flocks used for the purpose of producing table eggs for sale or other distribution in interstate commerce or for export.

§ 82.32 Identification of study flocks, test poultry houses, test flocks, infected poultry houses, and infected flocks.

Only a Federal representative or State representative² may make a determination in accordance with this subpart that an egg production flock is a study flock, a test flock, or an infected flock, or that a poultry house is a test poultry house or an infected poultry house. The Federal representative or State representative shall also determine which subunits of a flock meet the definition of a separate poultry house in § 82.30 of this subpart. Immediately after a study flock, test flock, infected flock, test poultry house, or infected poultry house is identified, a Federal representative or a State representative shall notify in writing the person in control of the flock that his or her flock has been determined to be a study flock, test flock, or infected flock, or that specified poultry houses in the flock have been determined to be test poultry houses or infected poultry houses. At any time after such notification, the person in control of such flock, test poultry house, or infected poultry house, upon request of a Federal representative or a State representative, shall make available for review and copying all records maintained in accordance with 7 CFR 59.200³ and all

²The location of Federal or State representatives can be obtained by writing to the Animal and Plant Health Inspection Service, Veterinary Services, Center for Planning, Certification, and Monitoring, 4700 River Road Unit 46, Riverdale, Maryland 20737-1231.

³In accordance with 7 CFR 59.200, persons engaged in the business of transporting, shipping, receiving, holding, or handling eggs or egg products in commerce shall maintain records for two years showing the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of an authorized representative of the Secretary, permit him, at reasonable times, to have access to and to copy all such records.