

## § 55.25

practice concerning the hearing will be adopted by the Administrator.

(2) [Reserved]

(d) *Herd status of animals added to herds.* A herd may add animals from herds with the same or a higher herd status in the CWD Herd Certification Program with no negative impact on the certification status of the receiving herd.<sup>5</sup> If animals are acquired from a herd with a lower herd status, the receiving herd reverts to the program status of the sending herd. If a herd participating in the CWD Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new enrollment date of the date of acquisition of the animal.

(Approved by the Office of Management and Budget under control number 0579-0237)

## § 55.25 Animal identification.

Each animal required to be identified by this subpart must have at least two forms of animal identification attached to the animal. One of the animal identifications must be official animal identification as defined in this part, with a nationally unique animal identification number that is linked to that animal in the CWD National Database or in an approved State database. The second animal identification must be unique for the individual animal within the herd and also must be linked to that animal and herd in the CWD National Database or in an approved State database. The means of animal identification must be approved for this use by APHIS, and must be an electronic implant, flank tattoo, ear tattoo, tamper-resistant ear tag, or other device approved by APHIS.

(Approved by the Office of Management and Budget under control number 0579-0237)

<sup>5</sup>Note that in addition to this requirement, § 81.3 of this chapter restricts the interstate movement of farmed and captive deer, elk, and moose based on their status in the CWD Herd Certification Program.

## 9 CFR Ch. I (1-1-14 Edition)

## PART 56—CONTROL OF H5/H7 LOW PATHOGENIC AVIAN INFLUENZA

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AUTHORITY: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

SOURCE: 71 FR 56323, Sept. 26, 2006, unless otherwise noted.

### § 56.1 Definitions.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any other employee of the Animal and Plant Health Inspection Service delegated to act in the Administrator's stead.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*Breeding flock.* A flock that is composed of stock that has been developed for commercial egg or meat production and is maintained for the principal purpose of producing chicks for the ultimate production of eggs or meat for human consumption.

*Classification.* A designation earned by participation in a Plan program.

*Commercial flock or slaughter plant.* A commercial poultry flock or slaughter plant that is required because of its size to participate in the special provisions in part 146 of this chapter in order to participate in the Plan.

*Cooperating State Agency.* Any State authority recognized by the Department to cooperate in the administration of the provisions of this part 56. This may include the State animal health authority or the Official State Agency.

*Department.* The U.S. Department of Agriculture.

*Domesticated.* Propagated and maintained under the control of a person.

*Flock plan.* A written flock management agreement developed by APHIS and the Official State Agency with input from the flock owner and other affected parties. A flock plan sets out the steps to be taken to eradicate H5/H7 LPAI from a positive flock, or to prevent introduction of H5/H7 LPAI into another flock. A flock plan shall include, but is not necessarily limited to, poultry and poultry product movement and geographically appropriate infected and control/monitoring zones. Control measures in the flock plan should include detailed plans for safe handling of conveyances, containers, and other associated materials that could serve as fomites; disposal of flocks; cleaning and disinfection; downtime; and repopulation.

*H5/H7 low pathogenic avian influenza (LPAI).* An infection of poultry caused by an influenza A virus of H5 or H7 subtype that has an intravenous pathogenicity index test in 6-week-old chickens less than 1.2 or any infection with influenza A viruses of H5 or H7 subtype for which nucleotide sequencing has not demonstrated the presence of multiple basic amino acids at the cleavage site of the hemagglutinin.

*H5/H7 LPAI exposed.* At risk of developing H5/H7 LPAI because of association with birds or poultry infected with H5/H7 LPAI, excrement from birds or poultry infected with H5/H7 LPAI, or other material touched by birds or poultry infected with H5/H7 LPAI, or because there is reason to believe that association has occurred with H5/H7 LPAI or vectors of H5/H7 LPAI, as determined by the Cooperating State Agency and confirmed by APHIS.

*H5/H7 LPAI virus infection (infected).* (1) Poultry will be considered to be infected with H5/H7 LPAI for the purposes of this part if:

- (i) H5/H7 LPAI virus has been isolated and identified as such from poultry; or
- (ii) Viral antigen or viral RNA specific to the H5 or H7 subtype of AI virus has been detected in poultry; or
- (iii) Antibodies to the H5 or H7 subtype of the AI virus that are not a consequence of vaccination have been detected in poultry. If vaccine is used, methods should be used to distinguish vaccinated birds from birds that are

both vaccinated and infected. In the case of isolated serological positive results, H5/H7 LPAI infection may be ruled out on the basis of a thorough epidemiological investigation that does not demonstrate further evidence of H5/H7 LPAI infection, as determined by APHIS.

(2) The official determination that H5/H7 LPAI virus has been isolated and identified, viral antigen or viral RNA specific to the H5 or H7 subtype of AI virus has been detected, or antibodies to the H5 or H7 subtype of AI virus have been detected may only be made by the National Veterinary Services Laboratories.

*Mortgage.* Any mortgage, lien, or other security or beneficial interest held by any person other than the one claiming indemnity for the destruction of poultry or eggs due to H5/H7 LPAI.

*Official appraiser (APHIS official appraiser, State official appraiser).* A person authorized by APHIS to appraise poultry for the purposes of this part. A State official appraiser is selected by a State and authorized by APHIS.

*Official State Agency.* The State authority recognized by the Department to cooperate in the administration of the Plan.

*Plan.* The provisions of the National Poultry Improvement Plan contained in parts 145, 146, and 147 of this chapter.

*Poultry.* Domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat.

*Secretary.* The Secretary of the United States Department of Agriculture, or any officer or employee of the Department delegated to act in the Secretary's stead.

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

*Table-egg layer.* A domesticated chicken grown for the primary purpose of producing eggs for human consumption.

## § 56.2

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*United States.* All of the States.

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10656, Mar. 9, 2010; 76 FR 15792, Mar. 22, 2011]

### § 56.2 Cooperation with States.

(a) The Administrator has been delegated the authority to cooperate with Cooperating State Agencies in the eradication of H5/H7 LPAI. This cooperation may include, but is not necessarily limited to, the following activities:

(1) Payment to Cooperating State Agencies for surveillance and monitoring associated with poultry that have been infected with or exposed to H5/H7 LPAI;

(2) Transfer of vaccine for H5/H7 LPAI to Cooperating State Agencies if provided for in the initial State response and containment plan approved by APHIS under § 56.10; and

(3) Payment for vaccine administration by Cooperating State Agencies, if provided for in the initial State response and containment plan approved by APHIS under § 56.10.

(b)(1) Any payment made to a State or an Official State Agency for the activities listed in paragraphs (a)(1) and (a)(3) of this section must be made through a cooperative agreement between the Cooperating State Agency and APHIS. The payment for which the Cooperating State Agency is eligible will be determined in the cooperative agreement.

(i) For any Cooperating State Agency that participates in the National Poultry Improvement Plan diagnostic surveillance program for H5/H7 LPAI, as described in § 146.14 of this chapter, and has an initial State response and containment plan for H5/H7 LPAI that is approved by APHIS, as described in § 56.10 of this part, the cooperative agreement will provide that the Cooperating State Agency is eligible for payment of 100 percent of the costs of surveillance and monitoring and 100 percent of the costs of vaccine administration, as determined in the cooperative agreement.

(ii) For any Cooperating State Agency that does not meet the criteria in paragraph (b)(1)(i) of this section, the cooperative agreement will provide that the Cooperating State Agency is

eligible for payment of 25 percent of the costs of surveillance and monitoring and 25 percent of the costs of vaccine administration, as determined in the cooperative agreement.

(2) Transfer of vaccine under paragraph (a)(2) of this section must be accomplished through a cooperative agreement between the Cooperating State Agency and APHIS.

(c) Cooperating State Agencies will be responsible for making the determination to request Federal assistance under this part in the event of an outbreak of H5/H7 LPAI.

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10656, Mar. 9, 2010]

### § 56.3 Payment of indemnity.

(a) *Activities eligible for indemnity.* The Administrator may pay indemnity for the activities listed in paragraphs (a)(1) through (a)(3) of this section, as provided in paragraph (b) of this section:

(1) Destruction and disposal of poultry that were infected with or exposed to H5/H7 LPAI;

(2) Destruction of any eggs destroyed during testing of poultry for H5/H7 LPAI during an outbreak of H5/H7 LPAI; and

(3) Cleaning and disinfection of premises, conveyances, and materials that came into contact with poultry that were infected with or exposed to H5/H7 LPAI; or, in the case of materials, if the cost of cleaning and disinfection would exceed the value of the materials or cleaning and disinfection would be impracticable for any reason, the destruction and disposal of the materials.

(b) *Percentage of costs eligible for indemnity.* Except for poultry that are described by the categories in paragraphs (b)(1) through (b)(3) of this section, the Administrator is authorized to pay 100 percent of the costs, as determined in accordance with § 56.4, of the activities described in paragraphs (a)(1) through (a)(3) of this section, regardless of whether the infected or exposed poultry participate in the Plan. For infected or exposed poultry that are described by the categories in paragraphs (b)(1) through (b)(3) of this section, the Administrator is authorized to pay 25 percent of the costs of the activities