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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.

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### 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 in 6-week-old chickens less than or equal to 1.2 or causes less than 75 percent mortality in 4- to 8-week-old chickens infected intravenously, or an infection with influenza A viruses of H5 or H7 subtype with a cleavage site that is not consistent with a previously identified highly pathogenic avian influenza virus.

*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 the Cooperating State Agency, the Official State Agency, and 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

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of producing eggs for human consumption.

*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; 79 FR 38753, July 9, 2014]

### § 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

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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 described in paragraphs (a)(1) through (a)(3) of this section:

(1) The poultry are from a breeding flock that participates in any Plan program in part 145 of this chapter but that does not participate in the U.S. Avian Influenza Clean or the U.S. H5/H7 Avian Influenza Clean program of the Plan available to the flock in part 145 of this chapter; or

(2) The poultry are from a commercial flock or slaughter plant, but the flock or slaughter plant does not participate in the U.S. Avian Influenza Monitored program available to the commercial flock or slaughter plant in part 146 of this chapter; or

(3) The poultry are located in a State that does not participate in the diagnostic surveillance program for H5/H7 LPAI, as described in §146.14 of this chapter, or that does not have an initial State response and containment plan for H5/H7 LPAI that is approved by APHIS under §56.10, unless such poultry participate in the Plan with another State that does participate in the 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 under §56.10.

(c) *Other sources of payment.* If the recipient of indemnity for any of the activities listed in paragraphs (a)(1) through (a)(3) of this section also receives payment for any of those activities from a State or from other sources, the indemnity provided under this part will be reduced by the total amount of payment received from the State or other sources.

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010; 76 FR 15792, Mar. 22, 2011; 76 FR 65935, Oct. 25, 2011]

#### **§ 56.4 Determination of indemnity amounts.**

(a) *Destruction and disposal of poultry.* (1) Indemnity for the destruction of poultry infected with or exposed to H5/H7 LPAI will be based on the fair market value of the poultry, as determined by an appraisal. Poultry infected with or exposed to H5/H7 LPAI that are removed by APHIS or a Cooperating

State Agency from a flock will be appraised by an APHIS official appraiser and a State official appraiser jointly, or, if APHIS and State authorities agree, by either an APHIS official appraiser or a State official appraiser alone. For laying hens, the appraised value should include the hen's projected future egg production. Appraisals of poultry must be reported on forms furnished by APHIS and signed by the appraisers and must be signed by the owners of the poultry to indicate agreement with the appraisal amount. Appraisals of poultry must be signed by the owners of the poultry prior to the destruction of the poultry, unless the owners, APHIS, and the Cooperating State Agency agree that the poultry may be destroyed immediately. Reports of appraisals must show the number of birds and the value per head.

(2) Indemnity for disposal of poultry infected with or exposed to H5/H7 LPAI will be based on receipts or other documentation maintained by the claimant verifying expenditures for disposal activities authorized by this part. Any disposal of poultry infected with or exposed to H5/H7 LPAI for which indemnity is requested must be performed under a compliance agreement between the claimant, the Cooperating State Agency, and APHIS. APHIS will review claims for indemnity for disposal to ensure that all expenditures relate directly to activities described in §56.5 and in the initial State response and containment plan described in §56.10. If disposal is performed by the Cooperating State Agency, APHIS will indemnify the Cooperating State Agency for disposal under a cooperative agreement.

(3) The destruction and disposal of the indemnified poultry must be conducted in accordance with the initial State response and containment plan for H5/H7 LPAI, as described in §56.10.

(b) *Destruction of eggs.* Indemnity for eggs destroyed during an outbreak for testing for H5/H7 LPAI will be based on the fair market value of the eggs, as determined by an appraisal. Eggs destroyed for testing for H5/H7 LPAI will be appraised by an APHIS official appraiser and a State official appraiser jointly, or, if APHIS and State authorities agree, by either an APHIS official

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appraiser or a State official appraiser alone. Appraisals of eggs must be reported on forms furnished by APHIS and signed by the appraisers and must be signed by the owners of the eggs to indicate agreement with the appraisal amount. Appraisals of eggs must be signed by the owners of the eggs prior to the destruction of the poultry, unless the owners, APHIS, and the Cooperating State Agency agree that the eggs may be destroyed immediately. Reports of appraisals must show the number of eggs and the value per egg.

(c) *Cleaning and disinfection.* (1) Indemnity for cleaning and disinfection of premises, conveyances, and materials that came into contact with poultry that are infected with or exposed to H5/H7 LPAI will be based on receipts or other documentation maintained by the claimant verifying expenditures for cleaning and disinfection activities authorized by this part. Any cleaning and disinfection of premises, conveyances, and materials for which indemnity is requested must be performed under a compliance agreement between the claimant, the Cooperating State Agency, and APHIS. APHIS will review claims for indemnity for cleaning and disinfection to ensure that all expenditures relate directly to activities described in § 56.5 and in the initial State response and containment plan described in § 56.10.

(2) 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, indemnity for the destruction of the materials will be based on the fair market value of those materials, as determined by an appraisal. Materials will be appraised by an APHIS official appraiser and a State official appraiser jointly, or, if APHIS and State authorities agree, by either an APHIS official appraiser or a State official appraiser alone. Indemnity for disposal of the materials will be based on receipts or other documentation maintained by the claimant verifying expenditures for disposal activities authorized by this part. Appraisals of materials must be reported on forms furnished by APHIS and signed by the appraisers and must be signed by the owners of the materials

to indicate agreement with the appraisal amount. Appraisals of materials must be signed prior to the destruction of the materials, unless the owners, APHIS, and the Cooperating State Agency agree that the materials may be destroyed immediately. Any disposal of materials for which indemnity is requested must be performed under a compliance agreement between the claimant, the Cooperating State Agency, and APHIS. APHIS will review claims for compensation for disposal to ensure that all expenditures relate directly to activities described in § 56.5 and in the initial State response and containment plan described in § 56.10.

(d) *Requirements for compliance agreements.* The compliance agreement is a comprehensive document that describes the depopulation, disposal, and cleaning and disinfection plans for poultry that were infected with or exposed to H5/H7 LPAI, or a premises that contained such poultry. The compliance agreement sets out APHIS responsibilities, owner responsibilities, and Cooperating State Agency responsibilities. The compliance agreement must include the owner's name and the name and address of the affected premises. The compliance agreement must have signatories that include, but are not necessarily limited to, the owner, the grower (if applicable), the Cooperating State Agency representative, the State veterinarian, and the APHIS area supervisor. In addition, the compliance agreement must contain a flock plan with estimated cost breakdowns that include labor, materials, personal protective equipment, travel expenses for personnel involved, and any additional information deemed necessary by the Service. A signed compliance agreement is required before beginning any work for which indemnity funds will be requested. Once work associated with the compliance agreement is completed, receipts and documentation detailing the activities specified in the agreement should be forwarded to APHIS for review, approval, and final payment. This documentation should be submitted to APHIS no later than 30 days after the

quarantine release of the affected or exposed premises.

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[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010; 79 FR 38753, July 9, 2014]

**§ 56.5 Destruction and disposal of poultry and cleaning and disinfection of premises, conveyances, and materials.**

(a) *Destruction of poultry.* Poultry that are infected with or exposed to H5/H7 LPAI may be required to be destroyed at the discretion of the Cooperating State Agency and APHIS and in accordance with the initial State response and containment plan described in § 56.10. The Cooperating State Agency and APHIS will select a method to use for the destruction of such poultry based on the following factors:

- (1) The species, size, and number of the poultry to be destroyed;
- (2) The environment in which the poultry are maintained;
- (3) The risk to human health or safety of the method used;
- (4) Whether the method requires specialized equipment or training;
- (5) The risk that the method poses of spreading the H5/H7 LPAI virus;
- (6) Any hazard the method could pose to the environment;
- (7) The degree of bird control and restraint required to administer the destruction method;
- (8) The speed with which destruction must be conducted; and
- (9) Consistency of the method with humane euthanasia guidelines.

(b) *Disposal of poultry.* Carcasses of poultry that have died from H5/H7 LPAI infection or poultry that have been humanely slaughtered to fulfill depopulation requirements must be disposed of promptly and efficiently in accordance with the initial State response and containment plan described in § 56.10 to prevent the spread of H5/H7 LPAI infection. Disposal methods will be selected by the Cooperating State Agency and APHIS and may include one or more of the following: Burial, incineration, composting, or rendering. Regardless of the method used, strict biosecurity procedures must be implemented and enforced for all personnel

and vehicular movement into and out of the area in accordance with the initial State response and containment plan to prevent dissemination of the H5/H7 LPAI virus.

(c) *Controlled marketing.* (1) At the discretion of the Cooperating State Agency and APHIS, poultry that has been infected with or exposed to H5/H7 LPAI may be allowed to move for controlled marketing in accordance with the initial State response and containment plan described in § 56.10 and in accordance with the following requirements:

(i) Poultry infected with or exposed to H5/H7 LPAI must not be transported to a market for controlled marketing until approved by the Cooperating State Agency in accordance with the initial State response and containment plan described in § 56.10.

(ii) Within 7 days prior to slaughter, each flock to be moved for controlled marketing must be tested for H5/H7 LPAI using a test approved by the Cooperating State Agency and found to be free of the virus.

(iii) Routes to slaughter must avoid other commercial poultry operations whenever possible. All load-out equipment, trailers, and trucks used on premises that have housed poultry that were infected with or exposed to H5/H7 LPAI must be cleaned and disinfected and not enter other poultry premises or facilities for 48 hours after removing such poultry from their premises.

(iv) Flocks moved for controlled marketing must be the last poultry marketed during the week they are marketed.

(2) Poultry moved for controlled marketing will not be eligible for indemnity under § 56.3. However, any costs related to cleaning and disinfection of premises, conveyances, and materials that came into contact with poultry that are moved for controlled marketing will be eligible for indemnity under § 56.3.

(d) *Cleaning and disinfection of premises, conveyances, and materials.* Premises, conveyances, and materials that came into contact with poultry infected with or exposed to H5/H7 LPAI must be cleaned and disinfected; *Provided*, that materials for which the cost

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of cleaning and disinfection would exceed the value of the materials or for which cleaning and disinfection would be impracticable for any reason may be destroyed and disposed. Cleaning and disinfection must be performed in accordance with the initial State response and containment plan described in §56.10, which must be approved by APHIS. Cleaning and disinfection must also be performed in accordance with any applicable State and local environmental regulations. This paragraph (d) provides guidelines for the development of a cleaning and disinfection plan for a premises and for the materials and conveyances on that premises.

(1) *Preparation for cleaning and disinfection.* Following the depopulation or controlled marketing of all poultry infected with or exposed to H5/H7 LPAI on a premises, the following procedures should be completed prior to cleaning and disinfection:

(i) Secure all feathers and debris that might blow around outside the house in which the infected or exposed poultry were held by gathering and pushing the material into the house;

(ii) Apply insecticides and rodenticides immediately after the removal of the birds, before the house cools;

(iii) Close the house in which the poultry were held, maintaining just enough ventilation to remove moisture. Leave the house undisturbed for a minimum of 72 hours.

(2) *Cleaning and disinfection.* All premises, conveyances, and materials that came into contact with poultry that were infected with or exposed to H5/H7 LPAI must be cleaned and disinfected. Cleaning and disinfection must be performed on all buildings that came into contact with poultry that were infected with or exposed to H5/H7 LPAI within a premises, including pumpshouses and service areas. To accomplish cleaning and disinfection, the following procedures should be completed:

(i) *Disposal of manure, debris, and feed.* Clean up all manure, debris, and feed. Compost manure, debris, and feed by windrowing in the house if possible. If this is not possible, set up a system for hauling manure, debris, and feed to an

approved site for burial, piling, or composting. Manure, debris, and feed may be removed from the house or premises and disposed of by composting it on site, leaving it in a undisturbed pile on site, or removing it from the site in covered vehicles. Land application of manure, debris, and feed should only be performed in accordance with the initial State response and containment plan described in §56.10. Clean out the house or move or spread litter as determined by the Cooperating State Agency and in accordance with the initial State response and containment plan. If composting is used as a disposal method, manure and litter should be composted in accordance with State and local regulations. If litter is piled, the litter pile must be covered and allowed to sit undisturbed for an amount of time approved by the Cooperating State Agency and APHIS and in accordance the initial State response and containment plan described in §56.10. Drying and heat *in situ* over time are effective and may be used in place of composting if weather conditions or conditions in the building are favorable. After use, equipment used to clean out manure, debris, and feed must be cleaned, disinfected, and inspected at the site to which the manure and litter was transported. In the case of inclement weather, the equipment may be cleaned, disinfected, and inspected at off-site wash stations at the discretion of the Cooperating State Agency and APHIS.

(ii) *Cleaning of premises and materials.* Cleaning and washing should be thorough to ensure that all materials or substances contaminated with H5/H7 LPAI virus, especially manure, dried blood, and other organic materials, are removed from all surfaces. Spray all contaminated surfaces above the floor with detergent and water to knock dust down to the floor, using no more water than necessary. Wash equipment and houses with detergent and water. Disassemble equipment as required to clean all contaminated surfaces. Special attention should be given to automatic feeders and other closed areas to ensure adequate cleaning. Inspect houses and equipment to ensure that cleaning has removed all contaminated materials or substances. Rinse with

fresh water and let houses and equipment dry completely before applying disinfectant.

(iii) *Disinfection of premises and materials.* When cleaning has been completed and all surfaces are dry, all interior surfaces of the structure should be saturated with a disinfectant registered with the U.S. Environmental Protection Agency (EPA) for AI virus per label instructions or a disinfectant approved by the EPA for use under a Federal Insecticide, Rodenticide, and Fungicide Act section 18 exemption. A power spray unit should be used to spray the disinfectant on all surfaces that may be treated with the disinfectant according to its EPA label, making sure that the disinfectant gets into cracks and crevices. Special attention should be given to automatic feeders and other closed areas to ensure adequate disinfection.

(vi) *Cleaning and disinfection of conveyances.* Clean and disinfect all trucks and vehicles used in transporting affected poultry or materials before soil dries in place. Both exterior, including the undercarriage, and interior surfaces, including truck cabs, must be cleaned. The interior of the truck cabs should be washed with clean water and sponged with a disinfectant authorized in § 71.10(a) of this chapter. Manure and litter removed from these vehicles should be handled in a manner similar to that described in paragraph (d)(2)(i) of this section.

(3) *Activities after cleaning and disinfection.* Premises should remain empty until testing provides negative virus detection results and checked by the Cooperating State Agency in accordance with the initial State response and containment plan described in § 56.10. The premises may not be restocked with poultry until after the date specified in the initial State response and containment plan described in § 56.10.

(4) *Destruction and disposal of materials.* In the case of materials for which the cost of cleaning and disinfection would exceed the value of the materials or for which cleaning and disinfection would be impracticable for any reason, the destruction and disposal of the materials must be conducted in accordance with the initial State re-

sponse and containment plan described in § 56.10.

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010; 79 FR 38753, July 9, 2014]

#### § 56.6 Presentation of claims for indemnity.

Claims for the following must be documented on a form furnished by APHIS and presented to an APHIS employee or the State representative authorized to accept the claims:

(a) Compensation for the value of poultry to be destroyed due to infection with or exposure to H5/H7 LPAI;

(b) Compensation for the value of eggs to be destroyed during testing for H5/H7 LPAI; and

(c) Compensation for the cost of cleaning and disinfection of premises, conveyances, and materials that came into contact with poultry 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 cost of destruction and disposal for the materials.

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[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010]

#### § 56.7 Mortgage against poultry or eggs.

When poultry or eggs have been destroyed under this part, any claim for indemnity must be presented on forms furnished by APHIS. The owner of the poultry or eggs must certify on the forms that the poultry or eggs covered are, or are not, subject to any mortgage as defined in this part. If the owner states there is a mortgage, the owner and each person holding a mortgage on the poultry or eggs must sign the APHIS-furnished form, consenting to the payment of indemnity to the person specified on the form.

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[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010]

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### § 56.8 Conditions for payment.

(a) When poultry or eggs have been destroyed pursuant to this part, the Administrator may pay claims to any party with which the owner of the poultry or eggs has entered into a contract for the growing or care of the poultry or eggs. The indemnity the Administrator may pay to such a party or parties shall be determined as follows:

(1) Divide the value of the contract the owner of the poultry or eggs entered into with another party for the growing and care of the poultry or eggs in dollars by the duration of the contract as it was signed prior to the H5/H7 LPAI outbreak in days;

(2) Multiply this figure by the time in days between the date the other party began to provide services relating to the destroyed poultry or eggs under the contract and the date the poultry or eggs were destroyed due to H5/H7 LPAI.

(b)(1) If indemnity for the destroyed poultry or eggs is being provided for 100 percent of eligible costs under § 56.3(b), the Administrator may pay contractors eligible for compensation under this section 100 percent of the indemnity determined in paragraph (a) of this section.

(2) If indemnity for the destroyed poultry or eggs is being provided for 25 percent of eligible costs under § 56.3(b), the Administrator may pay contractors eligible for compensation under this section 25 percent of the indemnity determined in paragraph (a) of this section.

(c) If a contractor receiving indemnity under this section has received any payment under his or her contract from the owner of the poultry or eggs at the time the poultry or eggs are destroyed, the amount of indemnity for which the contract grower is eligible will be reduced by the amount of the payment the contract grower has already received.

(d) If indemnity is paid to a contractor under this section, the owner of the poultry or eggs will be eligible to receive the difference between the indemnity paid to the growers and the total amount of indemnity that may be paid for the poultry or eggs.

(e) In the event that determination of indemnity to a party with which the owner of destroyed poultry or eggs has

entered into a contract for the growing or care of the poultry or eggs using the method described in paragraph (a) of this section is determined to be impractical or inappropriate, APHIS may use any other method that the Administrator deems appropriate to make that determination.

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010]

### § 56.9 Claims not allowed.

(a) The Department will not allow claims arising out of the destruction of poultry unless the poultry have been appraised as prescribed in this part and the owners have signed the appraisal form indicating agreement with the appraisal amount as required by § 56.4(a)(1).

(b) The Department will not allow claims arising out of the destruction of poultry unless the owners have signed a written agreement with APHIS in which they agree that if they maintain poultry in the future on the premises used for poultry for which indemnity is paid, they will maintain the poultry in accordance with a plan set forth by the Cooperating State Agency and will not introduce poultry onto the premises until after the date specified by the Cooperating State Agency. Persons who do not maintain their poultry and premises in accordance with this written agreement will not be eligible to receive indemnity under this part.

(c) The Department will not allow claims arising out of the destruction of poultry unless the poultry have been moved or handled by the owner in accordance with an agreement for the control and eradication of H5/H7 LPAI and in accordance with part 56, for any progeny of any poultry unless the poultry have been moved or handled by the owner in accordance with an agreement for the control and eradication of H5/H7 LPAI and in accordance with part 56, or for any poultry that become or have become infected with or exposed to H5/H7 LPAI because of actions not in accordance with an agreement

for the control and eradication of H5/H7 LPAI or a violation of this part.

(Approved by the Office of Management and Budget under control number 0579-0007)

[71 FR 56323, Sept. 26, 2006, as amended at 75 FR 10657, Mar. 9, 2010]

**§ 56.10 Initial State response and containment plan.**

(a) In order for poultry owners within a State to be eligible for indemnity for 100 percent of eligible costs under § 56.3(b), the State in which the poultry participate in the Plan must have in place an initial State response and containment plan that has been approved by APHIS. The initial State response and containment plan must be developed by the Official State Agency. In States where the Official State Agency is different than the Cooperating State Agency, the Cooperating State Agency must also participate in the development of the plan. The plan must be administered by the Cooperating State Agency of the relevant State. This plan must include:

- (1) Provisions for a standing emergency disease management committee, regular meetings, and exercises, including coordination with any tribal governments that may be affected;
- (2) A minimum biosecurity plan followed by all poultry producers;
- (3) Provisions for adequate diagnostic resources;
- (4) Detailed, specific procedures for initial handling and investigation of suspected cases of H5/H7 LPAI;
- (5) Detailed, specific procedures for reporting test results to APHIS. These procedures must be developed after appropriate consultation with poultry producers in the State and must provide for the reporting only of con-

firmed cases of H5/H7 LPAI in accordance with § 146.13 of this chapter;

- (6) Detailed, strict quarantine measures for presumptive and confirmed index cases;
  - (7) Provisions for developing flock plans for infected and exposed flocks;
  - (8) Detailed plans for disposal of infected flocks, including preexisting agreements with regulatory agencies and detailed plans for carcass disposal, disposal sites, and resources for conducting disposal, and detailed plans for disposal of materials that come into contact with poultry infected with or exposed to H5/H7 LPAI;
  - (9) Detailed plans for cleaning and disinfection of premises, repopulation, and monitoring after repopulation;
  - (10) Provisions for appropriate control/monitoring zones, contact surveys, and movement restrictions;
  - (11) Provisions for monitoring activities in control zones;
  - (12) If vaccination is considered as an option, a written plan for use in place with proper controls and provisions for APHIS approval of any use of vaccine;
  - (13) Plans for H5/H7 LPAI-negative flocks that provide for quarantine, testing, and controlled marketing; and
  - (14) Public awareness and education programs regarding avian influenza.
- (b) If a State is designated a U.S. Avian Influenza Monitored State, Layers under § 146.24(a) of this chapter or a U.S. Avian Influenza Monitored State, Turkeys under § 146.44(a) of this chapter, it will lose that status during any outbreak of H5/H7 LPAI and for 90 days after the destruction and disposal of all infected or exposed birds and cleaning and disinfection of all affected premises are completed.

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