

## Federal Order Requiring Testing for and Reporting of Highly Pathogenic Avian Influenza (HPAI) in Livestock

April 24, 2024

The Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), is issuing this Federal Order to prevent the spread of highly pathogenic avian influenza (HPAI). HPAI is a contagious viral disease of domestic poultry and wild birds. HPAI is deadly to domestic poultry and can wipe out entire flocks within a matter of days. HPAI is a threat to the poultry industry, animal health, human health, trade, and the economy worldwide. In the US, HPAI has now been detected in dairy cattle.

This Federal Order is issued in accordance with the regulatory authority provided by the Animal Health Protection Act, as amended, 7 U.S.C. § 8301 et seq. Section 8305 authorizes the Secretary of Agriculture to prohibit or restrict the movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of any pest or disease of livestock into the United States or the dissemination of any pest or disease of livestock within the United States. Section 8308 authorizes the Secretary of Agriculture to carry out operations and measures to detect, control, or eradicate any pest or disease of livestock. Section 8315 authorizes the Secretary of Agriculture to issue orders as he determines necessary to carry out the Animal Health Protection Act. Should this Order be deemed a substantive rule, APHIS has determined that good cause exists to impose these requirements without notice and comment, as further delay would threaten to hasten the spread of the disease, multiplying the potential harm to livestock, poultry, the dairy industry, and, potentially, human health.

On February 8, 2022, the U.S. Department of Agriculture (USDA) confirmed HPAI H5N1 virus in a commercial poultry flock in the United States. Since February 2022, USDA has worked swiftly with states and poultry producers to identify and respond to over 1,100 HPAI detections on poultry farms and mitigate the virus' impact on U.S. poultry production and trade.

Since late March 2024, the U.S. Department of Agriculture, Food and Drug Administration, Centers for Disease Control and Prevention, state veterinary and public health officials and the National Animal Health Laboratory Network (NAHLN) laboratories have been investigating the emergence of the HPAI, H5N1 virus in dairy cows. The National Animal Health Laboratory Network (NAHLN) is a nationally coordinated network and partnership of Federal, State and university-associated animal diagnostic laboratories. The laboratories are trained and proficiency tested by USDA's National Veterinary Services Laboratories (NVSL) to perform official federal animal health testing; the network provides ongoing disease surveillance, responds quickly to disease events, communicates diagnostic outcomes to decision makers, and has the capability and capacity to meet diagnostic needs during animal disease outbreaks.

APHIS will provide reimbursement for testing at NAHLN labs, including samples submitted for (1) dairy cattle suspected of disease due to clinical signs, (2) pre-movement testing, (3) producers interested in the disease status of their asymptomatic animals, and (4) samples taken from other animals on dairies associated with this disease event.

As of April 24, 2024, USDA has confirmed HPAI H5N1 clade 2.3.4.4b virus detections on 33 dairy cattle premises in 8 states (Kansas, Idaho, Michigan, New Mexico, North Carolina, Ohio, South Dakota, Texas). USDA has also confirmed - based on specific phylogenetic evidence and epidemiological information - that 8 poultry premises in 5 states (Kansas, Michigan, Minnesota, New Mexico and Texas) have also been infected with the same HPAI H5N1 virus genotype detected in dairy cattle. Additionally, APHIS' National

Veterinary Services Laboratories found HPAI in a lung tissue sample from an asymptomatic cull dairy cow that originated from an affected herd and which did not enter the food supply.

HPAI has already been recognized as a threat by USDA, and the interstate movement of animals infected with HPAI is already prohibited. See 9 C.F.R. 71.3(b). However, the detection of this new distinct HPAI H5N1 virus genotype in dairy cattle poses a new animal disease risk for dairy cattle - as well as an additional disease risk to domestic poultry farms - since this genotype can infect both cattle and poultry.

In order to continue to monitor and understand the extent of this virus and reduce the risk of further disseminating HPAI H5N1 virus, resulting in greater threats to poultry and livestock, this Federal Order requires the following measures, effective Monday, April 29, 2024.

### **Mandatory Testing for Interstate Movement of Dairy Cattle**

- Prior to interstate movement, dairy cattle are required to receive a negative test for Influenza A virus at an approved National Animal Health Laboratory Network (NAHLN) laboratory.
- Owners of herds in which dairy cattle test positive for interstate movement will be required to provide epidemiological information, including animal movement tracing.
- Dairy cattle moving interstate must adhere to conditions specified by APHIS.
- As will be described in forthcoming guidance, these steps will be immediately required for lactating dairy cattle, while these requirements for other classes of dairy cattle will be based on scientific factors concerning the virus and its evolving risk profile.

### **Mandatory Reporting**

- Laboratories and state veterinarians must report positive Influenza A nucleic acid detection diagnostic results (e.g. PCR or genetic sequencing) in livestock to USDA APHIS.
- Laboratories and state veterinarians must report positive Influenza A serology diagnostic results in livestock to USDA APHIS.

For more information regarding this Federal Order go to [HPAI Detections in Livestock Page](#).