



PennState Law

Center for Agricultural
and Shale Law

PENNSYLVANIA DEPARTMENT OF AGRICULTURE  AGRICULTURAL BUSINESS DEVELOPMENT CENTER
Understanding Agricultural Law Webinar Series

Understanding the Basics of **Animal Disease Control & Quarantines**



November 22, 2024

Understanding Agricultural Law Webinar Series





Understanding Agricultural Law

**A Legal Educational Series for General Practice Attorneys and Business
Advisors Representing Agricultural and Rural Clients**

This webinar series is specifically tailored to create subject matter literacy and competence on fundamental issues of agricultural law for attorneys, advisors, and service providers to agricultural producers and agri-businesses.



Understanding Agricultural Law Series:

Past Topics:

- Agricultural Labor Laws
- Leasing Farmland for Energy Development
- Local Land Use Regulation of Agriculture
- Statutory Protections for Ag Operations
- Agricultural Cooperatives
- Livestock Market Regulation
- Crop Insurance
- Federal & State Conservation Programs
- Licensing & Regulation of Direct Agricultural Product Sales
- Agricultural Finance
- PA's "Clean & Green" Tax Assessment Program
- Animal Confinement Laws
- Conservation Easements
- Landowner Immunity Statutes
- The Farm Credit System
- Milk Pricing
- Pesticides
- Seed Laws
- Fair Labor Standards Act (FLSA)
- Perishable Agricultural Commodities Act (PACA)
- Food Labeling
- Organic Production
- Buyer Default Protections for Producers
- PA's Agricultural Area Security Law

aglaw.psu.edu/understanding-agricultural-law/



Register at <https://aglaw.psu.edu/events/>

Understanding Agricultural Law Series

Understanding the Basics of **Upcoming Topics:**

Dec. 13, 2024—**Children, Minors & Farm Work**

Jan. 24, 2024—**PA's Carbon Sequestration Law**

Feb. 28, 2024—**Pesticide Drift**

Mar. 24, 2024—**Clean Water Act & Ag: Impaired Waters & TMDL Process**

Apr. 25, 2024—**PA Ag Exemptions for Inheritance Tax and Real Estate Transfers**

More Programming with the Center for Agricultural and Shale Law

Dec. 18, 2024—Complying with New U.S. Treasury "Beneficial Ownership Information" Filing Requirements, with PA SBDC Ag Center of Excellence

Jan. 14, 2024—Quarterly Dairy Legal Webinar



Understanding the Basics of Animal Disease Control & Quarantines

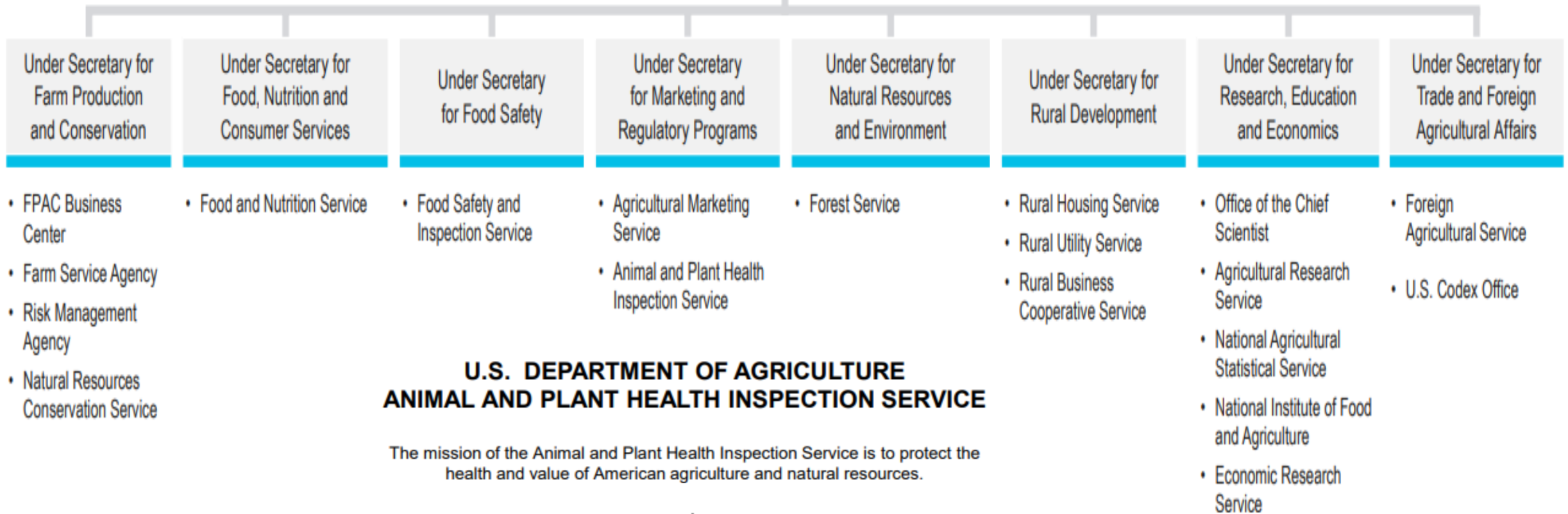




Federal Legal Authority for Animal Disease Control



USDA Org Chart – Where is Animal Disease Control?



According to USDA: “Our [Veterinary Services program](#) receives its authority from the laws listed below. These laws provide a framework for protecting animal health domestically and internationally.

1. [Animal Health Protection Act](#) (7 U.S.C. 8301-8317)—The Animal Health Protection Act restricts the importation, entry, and movement of animals (including livestock) and allows for the destruction or removal of animals to stop the spread of a livestock pest or disease.
2. [28-Hour Law](#) (49 U.S.C. 80502)—Under this law, animals may not be confined in a vehicle or vessel for more than 28 consecutive hours without unloading them for feeding, water, and rest.
3. [Section 203 of the Agricultural Marketing Act of 1946](#) (7 U.S.C. 1622)—Section 203 of the Agricultural Marketing Act describes the duties of the Secretary of Agriculture related to agricultural products, including inspection and certification.
4. [Section 205 of the Agricultural Marketing Act of 1946](#) (7 U.S.C. 1624)—Section 205 of the Agricultural Marketing Act authorizes the Secretary of Agriculture to cooperate with other branches of Government, State agencies, private organizations, and others involved in producing, transporting, storing, processing, marketing, and distributing agricultural products.
5. [Section 101\(d\) of the Organic Act of 1944](#) (7 U.S.C. 398)—Section 101(d) of the Organic Act authorizes the Secretary of Agriculture to purchase and test tuberculin, serums, antitoxins, or analogous products of foreign or domestic manufacture that are sold in the United States for the detection, prevention, treatment, or cure of domestic animal diseases.
6. [Swine Health Protection Act](#) (7 U.S.C. 3801-3813)—The Swine Health Protection Act prohibits feeding garbage to pigs, unless the garbage is properly treated, to prevent the introduction and spread of animal diseases such as foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular diseases.
7. [Anti-Hog Cholera Serum and Hog Cholera Virus](#) (7 U.S.C. 851-855)—This law ensures the United States maintains an adequate supply of anti-hog cholera serum and hog cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce.
8. [Transportation of Equines to Slaughter](#) (7 U.S.C. 1901 note)—The Commercial Transportation of Equines to Slaughter Act sets standards to ensure the humane movement of equines for slaughter via commercial transportation.
9. [Virus-Serum-Toxin Act](#) (21 U.S.C. 151-159)—The Virus-Serum-Toxin Act regulates veterinary biologics to ensure they are pure, safe, potent, and effective.
10. [Authority To Establish Research Facilities for Foot-and-Mouth and Other Diseases](#) (21 U.S.C. 113a)—This law authorizes the Secretary of Agriculture to establish laboratories in the United States or elsewhere for research and study of foot-and-mouth disease and other animal diseases that constitute a threat to the U.S. livestock industry.
11. [Section 18 of the Federal Meat Inspection Act](#) (21 U.S.C. 618)—Among other things, Section 18 of the Federal Meat Inspection Act authorizes inspectors to issue official certificates that attest to the condition of live animals that will be exported to other countries.
12. Title II, Subtitles B and C of the [Public Health Security and Bioterrorism Preparedness and Response Act of 2002](#) (7 U.S.C. [8401](#) and [8411](#))—This Act requires APHIS to establish and regulate a list of biological agents, known as "select agents," that have the potential to pose a severe threat to animal health and safety or to the safety of animal products.”



Animal Health Protection Act (7 U.S.C. § 8301 - 8322)

- Re-enacted wholesale as part of 2002 Farm Bill from provisions of various dates and statutes.
- “To prevent and eliminate burdens on interstate commerce and foreign commerce” – among other findings in the preamble.
- Concurrent with states’ “intra-state” authority.
- States depend upon USDA for technical assistance, research and resources/\$\$\$ (indirect mostly).
- 2014-2015 HPAI outbreak = opportunities to fine tune processes.
- COVID illustrated some analogous working relationships that are rarely seen in action.
- Authority granted is **extremely broad** – see following slides.

CHAPTER 109—ANIMAL HEALTH PROTECTION

Sec.	
8301.	Findings.
8302.	Definitions.
8303.	Restriction on importation or entry.
8304.	Exportation.
8305.	Interstate movement.
8306.	Seizure, quarantine, and disposal.
8307.	Inspections, seizures, and warrants.
8308.	Detection, control, and eradication of diseases and pests.
8308a.	Animal disease prevention and management.
8309.	Veterinary accreditation program.
8310.	Cooperation.
8311.	Reimbursable agreements.
8312.	Administration and claims.
8313.	Penalties.
8314.	Enforcement.
8315.	Regulations and orders.
8316.	Authorization of appropriations.
8317.	Effect on regulations.
8318.	Veterinary training.
8319.	Surveillance of zoonotic diseases.
8320.	Expansion of Animal and Plant Health Inspection Service activities.
8321.	Pest and Disease Response Fund.
8322.	National aquatic animal health plan.



Powers Granted to USDA-APHIS (§8301 – 8305)

- Grants **Import, Export** and **Interstate** movement authority

- **What regulated?** Pests and Diseases of Livestock.

Livestock: “all farm-raised animals.”

Disease – “the meaning given that term by the Secretary.”

Pest - “any of the following that can directly or indirectly injure, cause damage to, or cause disease in livestock: protozoan, plant, bacteria, fungus, virus or viroid, infectious agent or other pathogen, arthropod, parasite, prion, vector, any organism similar to or allied with any” of the foregoing.

- **How?** Issue **orders** and promulgate **regulations** . . .

- prohibiting or restricting **importation**, entry, or movement, or
- order the destruction, removal or disinfection,
- “of any animal, article or means of conveyance;”
- **“necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock.”**



- Contains identical grants of authority re: **exportation** “necessary to prevent the **dissemination from** or within the United States of any pest or disease of livestock.”
- Contains identical grants of authority re **interstate movement** “necessary to prevent the introduction or **dissemination within** the United States of any pest or disease of livestock.”
- **Export certification**: “The Secretary may certify the classification, quality, quantity, condition, processing, handling, or storage of any animal or article intended for export.”
- **Enforcement** – If **failure to comply with order**, “take remedial action, destroy, or remove from the United States the animal or progeny of any animal, article, or means of conveyance” and “and recover from the owner the costs of any care, handling, disposal, or other action.” [includes “equitable” measures]



Seizure, Quarantine, and Disposal - §8306(b)

- May “**seize, quarantine, treat, destroy**, dispose of, take other remedial action re: animal or progeny of any animal, article, or means of conveyance” “moving or has been moved in **interstate commerce or has been imported** or entered” and
- “**the Secretary has reason to believe may carry, may have carried, or may have been affected with or exposed to any pest or disease of livestock**” or otherwise is in violation of the statute, regs or orders.



⚠️ HPAI Animal Health Emergency Alert

A form of highly pathogenic avian influenza (HPAI) has been causing widespread disruption and illness in birds since first being detected in 2022. Learn more about [Detections of HPAI](#) and [HPAI Emergency Response](#).

HPAI has also been detected in domestic livestock. For the latest information, visit [Detections of HPAI in Livestock](#).

Extraordinary Emergencies – §8306 (b)

- “if the Secretary determines
 - that an **extraordinary emergency exists because of the presence** in the United States of a pest or disease of livestock and
 - that the **presence of the pest or disease threatens the livestock** of the United States,
- **hold, seize, treat, apply other remedial actions to, destroy (including preventative slaughter), or otherwise dispose of, any animal, article, facility, or means of conveyance if the Secretary determines the action is necessary** to prevent the dissemination of the pest or disease.
- “The Secretary may take action in a State under this subsection only on finding that measures being taken by the State are inadequate to control or eradicate the pest or disease, **after review and consultation,**” with the Governor or tribal head.
 - Also contains public notice and Federal Register publication requirements.



Compensation - §8306 (d)

- “The Secretary shall **compensate the owner** of any animal, article, facility, or means of conveyance that the Secretary requires to be destroyed under this section.”
- **Fair market value**, as determined by the Secretary (minus “any compensation received by the owner from the State or other source.”)
- “The determination by the Secretary of the amount to be paid . . . **shall be final and not subject to judicial review.**”
- Exceptions - No payment shall be made if
 - **moved or handled by the owner in violation of an agreement for the control and eradication of diseases** or pests or in violation of this chapter;
 - any animal, article, or means of conveyance that is **refused entry** under this chapter [*i.e. rejected at the border*];
 - **becomes affected with or exposed to any pest or disease** of livestock because of a violation of an **agreement for the control and eradication of diseases or pests** or a violation of this chapter by the owner.



Other powers granted

8307(b) Warrantless inspections:

The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

- (1) **into the United States**, to determine whether the person or means of conveyance is carrying any animal or article regulated under this chapter;
- (2) **in interstate commerce, on probable cause to believe that the person or means of conveyance is carrying any animal or article regulated under this chapter;** or
- (3) **in intrastate commerce from any State**, or any portion of a State, **quarantined under section 8306(b)** of this title, **on probable cause** to believe that the person or means of conveyance is carrying any animal or article quarantined under section 8306(b) of this title.



Warrantless investigatory powers granted

§8308 Detection, Control, and eradication of diseases and pests

- “The Secretary may carry out operations and measures to **detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals)**, including animals at a slaughterhouse, stockyard, or other point of concentration.”
- “The Secretary may **pay a claim** arising out of the **destruction of any animal**, article, or means of conveyance consistent with the purposes of this chapter.”
- The Secretary shall **compensate industry participants and State agencies** that cooperate with the Secretary in carrying out operations and measures under subsection (a) for 100 percent of eligible costs relating to cooperative programs involving Federal, State, and industry participants to control diseases of *low pathogenicity* in accordance with regulations issued by the Secretary.

Animal Health Protection Act Regs

9 CFR §

Where are the applicable regulations for HPAI?



Part 56	Control of H5/H7 Low Pathogenic Avian Influenza	56.1 – 56.10
§ 56.1	Definitions.	
§ 56.2	Cooperation with States.	
§ 56.3	Payment of indemnity and/or compensation.	
§ 56.4	Determination of indemnity and/or compensation amounts.	
§ 56.5	Destruction and disposal of poultry and cleaning and disinfection (virus elimination) of premises, conveyances, and materials.	
§ 56.6	Presentation of claims for indemnity and/or compensation.	
§ 56.7	Mortgage against poultry or eggs.	
§ 56.8	Conditions for payment.	
§ 56.9	Claims not allowed.	
§ 56.10	Initial State response and containment plan.	

Title 9	Animals and Animal Products	Part / Section
▼ Chapter I	Animal and Plant Health Inspection Service, Department of Agriculture	1 – 199
▼ Subchapter B	Cooperative Control and Eradication of Livestock or Poultry Diseases	49 – 56
▼ Part 49	Rules of Practice Governing Proceedings Under Certain Acts	49.1 – 49.10
Subpart A	General	49.1
Subpart B	Supplemental Rules of Practice	49.10
▼ Part 50	Animals Destroyed Because of Tuberculosis	50.1 – 50.22
§ 50.1	Definitions.	
Subpart A	General Indemnity	50.2 – 50.16
Subpart B	Dairy Cattle and Facilities in the El Paso, Texas, Region	50.17 – 50.22
▼ Part 51	Animals Destroyed Because of Brucellosis	51.1 – 51.33
Subpart A	Indemnity for Cattle, Bison, and Swine	51.1 – 51.10
Subpart B	Indemnity for Sheep, Goats, and Horses	51.20 – 51.33
▶ Part 52	Swine Destroyed Because of Pseudorabies	52.1 – 52.7
▶ Part 53	Foot-and-Mouth Disease, Pleuropneumonia, and Certain Other Communicable Diseases of Livestock or Poultry	53.1 – 53.11
▼ Part 54	Control of Scrapie	54.1 – 54.22
§ 54.1	Definitions.	
§ 54.2	Cooperative agreements and memoranda of understanding with States.	
Subpart A	Scrapie Indemnification Program	54.3 – 54.11
Subpart B	Scrapie Free Flock Certification Program	54.20 – 54.22
▼ Part 55	Control of Chronic Wasting Disease	55.1 – 55.25
§ 55.1	Definitions.	
Subpart A	Chronic Wasting Disease Indemnification Program	55.2 – 55.8
Subpart B	Chronic Wasting Disease Herd Certification Program	55.21 – 55.25
▶ Part 56	Control of H5/H7 Low Pathogenic Avian Influenza	56.1 – 56.10



HPAI Regs – 9 CFR § Part 53.11 (2016, rev. 2018)

§ 53.11 Highly pathogenic avian influenza; conditions for payment.

(a) When poultry or eggs have been destroyed pursuant to this part, the Administrator may pay claims to any party with whom 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 by the following method:

- (1) Divide the value in dollars of the contract the owner entered into with the contractor by the duration in days of the contract as it was signed prior to the highly pathogenic avian influenza outbreak;
- (2) Multiply this figure by the time in days between the date the contractor 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 highly pathogenic avian influenza.



HPAI Regs – 9 CFR § Part 53.11 (cont.)

- (b) 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 contractor is eligible will be reduced by the amount of the payment the contractor has already received.
- (c) 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 contractors and the total amount of indemnity that may be paid for the poultry or eggs.
- (d) In the event that determination of indemnity due a contractor 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.



HPAI Regs – 9 CFR § Part 53.11 (cont.)

(e)(1) The owner and, if applicable, the contractor, unless exempted under § 53.10(g)(2), must have a **poultry biosecurity plan** that is approved by the Administrator. Approved biosecurity principles are listed in the **NPIP Program Standards**, as defined in § 147.51 of this chapter. Alternative biosecurity principles may also be approved by the Administrator in accordance with § 147.53(d)(2) of this chapter.

(2)(i) The **biosecurity plan shall be audited at least once every 2 years** or a sufficient number of times during that period to satisfy the owner and/or contractor's Official State Agency that the plan is in compliance with the biosecurity principles contained in the NPIP Program Standards. The audit will include, but may not be limited to, a review of the biosecurity plan, as well as documentation that it is being implemented.

(ii) To be recognized as being in compliance with the biosecurity principles and eligible for indemnity, owners and contractors who fail the initial audit conducted by the NPIP Official State Agency must have a check audit performed by a team appointed by National NPIP Office and must demonstrate that they have implemented applicable biosecurity measures. The team will consist of an APHIS poultry subject matter expert, the Official State Agency, and a licensed, accredited, industry poultry veterinarian.

(f) Proposed updates to the **NPIP Program Standards will be announced to the public through a Federal Register notice**, as described in § 147.53(e) of this chapter.



HPAI Regs – 9 CFR § Part 53.11 (cont.)

[EXEMPTION FROM POULTRY BIOSECURITY PLAN – 9 CFR § 53.10(g)(2)]

(g)(1) Except as provided in paragraph (g)(2) of this section, the **Department will not allow claims** arising out of the destruction of animals or eggs destroyed due to an outbreak of highly pathogenic avian influenza **unless** the owner of the animals or eggs and, if applicable, any party that enters into a contract with the owner to grow or care for the poultry or eggs, had in place, at the time of detection of highly pathogenic avian influenza, and was following a **poultry biosecurity plan** that meets the requirements of § 53.11(e).

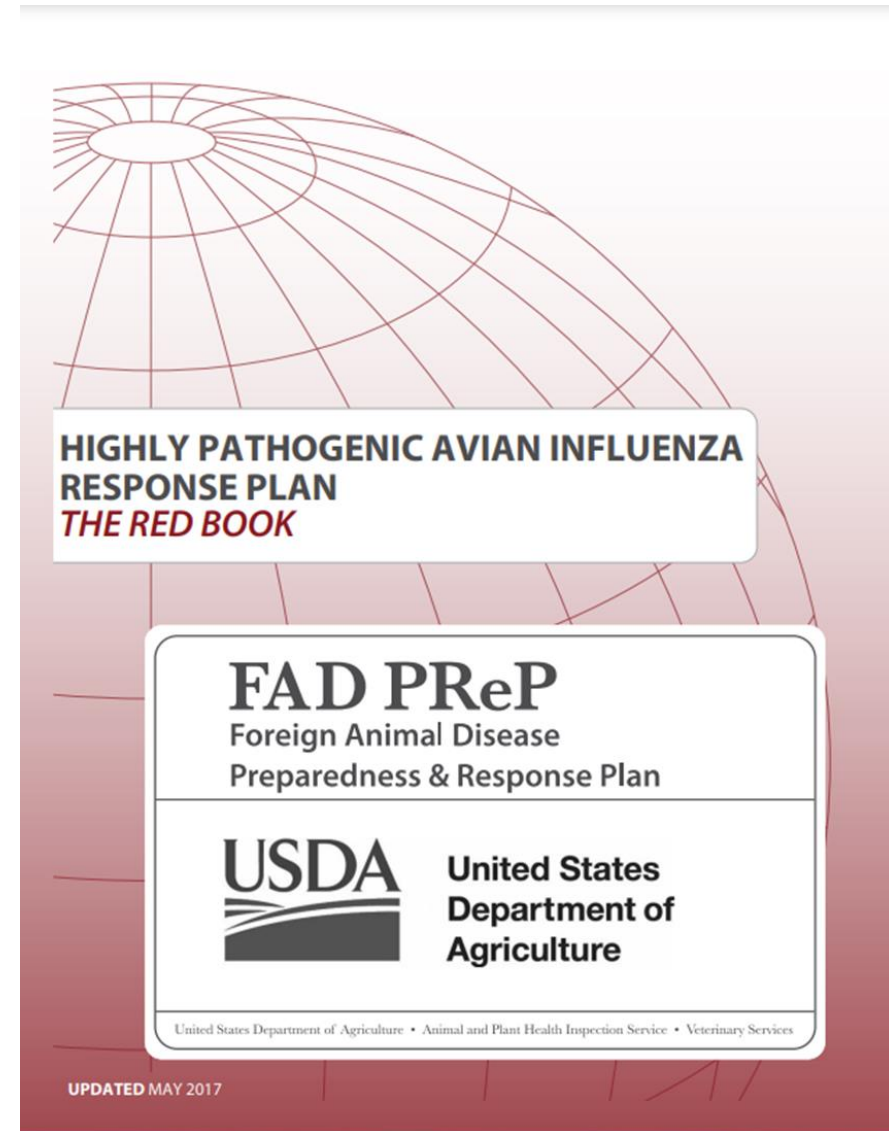
(2) Owners and contractors are **exempted** from the requirements of paragraph (g)(1) of this section if the facilities where the animals or eggs are raised or cared for falls under one of the following categories:

- (i) Premises meeting the criteria of the National Poultry Improvement Plan regulations in §§ 146.22(b) or 146.52(c) of this chapter; *[<75K layers; <50K meat game birds or meat waterfowl; <25K egg game birds or egg waterfowl]*
- (ii) Premises on which fewer than **100,000 broilers** are raised annually; and
- (iii) Premises on which fewer than **30,000 meat turkeys** are raised annually.

Foreign Animal Disease Preparedness and Response Plan - [APHIS webpage](#)

Between December 2014 and June 2015, the United States experienced its largest highly pathogenic avian influenza (HPAI) outbreak—and most serious animal health disease incident—in history. This plan was updated in August 2015 to reflect immediate changes required based on those events. Soon thereafter, in January 2016, there was an HPAI/low pathogenicity avian influenza (LPAI) outbreak in Indiana. This version of the *USDA APHIS HPAI Response Plan: The Red Book (Updated May 2017)* reflects the knowledge and lessons learned during both of these outbreaks, as well as in the recent HPAI/LPAI incident in 2017. Additionally, this version incorporates changes made in related Foreign Animal Disease Preparedness and Response Plan (FAD PReP) materials.

This guidance document represents the Agency's position on this topic and is intended solely as guidance. It does not have the force and effect of law, does not create or confer any rights for or on any person, and does not bind the U.S. Department of Agriculture (USDA) or the public. Language suggesting that this guidance is mandatory (e.g., "shall," "must," "required", or "requirement") should not be construed as binding unless the terms quote from a statutory or regulatory requirement. The information this document contains may be made available to the public. While this document provides guidance for users outside VS, VS employees may not deviate from the directions provided herein without appropriate justification and supervisory concurrence.



“THE RED BOOK”



There are multiple “Red Books.”

FAD	Primary type of animal affected	Highly contagious disease	Vector- borne disease	Zoonotic disease potential
Diseases with FAD PReP Response Plans (Red Books)				
Highly pathogenic avian influenza (HPAI)	Avian, others	Yes	No	Yes
Foot-and-mouth disease (FMD)	All cloven hoofed animals	Yes	No	No
Classical swine fever (CSF)	Swine	Yes	No	No
Newcastle disease (ND) (virulent ND virus)	Avian	Yes	No	Yes Minor

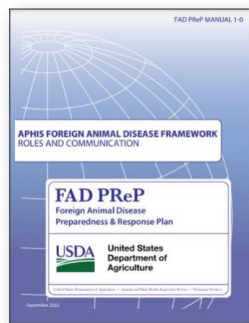
USDA APHIS Authorities for an FAD Incident

- APHIS (through the Secretary of Agriculture) receives its permanent and general regulatory authority to act in preventing, detecting, controlling, and eradicating any FAD or emerging disease through the Animal Health Protection Act (AHPA), 7 United States Code (U.S.C.) 8301 et seq.
- Regulations related to FAD response are found in the Code of Federal Regulations (CFR), which detail how Executive agencies interpret U.S.C.
- Relevant sections include 7 CFR Parts 1, 2, 15, and 371; 9 CFR Parts 53, 71, and 161.

Roles and Coordination

APHIS Foreign Animal Disease Framework

FAD PReP Manual 1-0
September 2022



[Link to source](#)

This is a statement of how USDA APHIS perceives its authority in a FAD incident.

USDA APHIS Authorities for an FAD Incident

The AHPA authorizes the Secretary of Agriculture to perform the following in pursuit of FAD preparedness and response:

- Prohibit or restrict imports, exports, and/or interstate commerce;
- Implement remedial measures (i.e., destruction or removal activities, movement restrictions);
- Disinfect articles, conveyances, individuals and personal articles involved in the importation or exportation of animals;
- Declare an extraordinary emergency;
- Compensate the owner of animals, articles, facilities, or conveyances destroyed in the process of FAD eradication;
- Inspect, without warrant, persons or conveyances moving regulated animals or articles into the United States, in interstate commerce, or in intrastate commerce;
- Obtain warrants, for the purpose of entering, inspecting and seizing (if necessary) premises in the United States;
- Establish a veterinary accreditation program as well as standards of conduct for accredited veterinarians;
- Cooperate with both domestic and international government and non-government actors;
- Pay overtime for employees performing import/export services;
- Levy civil and criminal penalties against violators of the AHPA;
- Conduct investigations and administer subpoenas necessary for the administration of the AHPA; and
- Transfer funds from other USDA agencies and corporations for the arrest, control, eradication, and prevention of an FAD.



“Agreement for the control and eradication of diseases or pests”

- Recall the phrase used in Animal Health Protection Act.
- USDA APHIS strives to conduct its animal disease emergency activities through disease control agreements with producers to authorize activities.
- The incentive to agree is indemnity and compensation.
- So far, rarely is court enforcement of special quarantine orders (applicable to a single premise) necessary.

Understanding USDA Indemnity/Compensation

Process and Procedure

- [HPAI Response: Overview of Finance & Administration Procedures](#) - This document is the outline of the process to be followed in order to get paid for birds/eggs and potentially virus elimination (if not done 100% by USDA APHIS contractors).



HPAI Response

Overview of Finance & Administration Procedures

February 4, 2022

Note: These procedures are subject to change.

PURPOSE

This document provides an overview for producers and responders about the financial processes for paying poultry owners and contract growers. To provide consistency for USDA APHIS avian influenza indemnity and compensation claims, USDA APHIS is using the same administrative forms and request process for both Low Pathogenic Avian Influenza (LPAI) and HPAI. Please refer to our latest LPAI guidance document for updated guidance regarding the required forms and process for indemnity mentioned in this document:

[VSG 8603.2 - Procedures for Indemnity and Compensation Claims in Cases of H5 H7 LPAI in Poultry](#)



Understanding USDA Indemnity/Compensation (cont.)

Procedures for Indemnity /Compensation

- [VS Guidance 8603.2 Procedures for Indemnity and Compensation Claims in Cases of H5/H7 Low Pathogenicity Avian Influenza Infection in Poultry.](#)
- Within this document are mentioned forms to be used. Those forms are either found: (a) directly within VS Guidance 8603.2 discussed above; or (b) found on the APHIS webpage titled, [Highly Pathogenic Avian Influenza Emergency Response](#), under the blue drop-down menu titled “Finance and Administration Processes.”

Rates of Indemnity (payment for birds and eggs)

- [HPAI Response: Poultry Indemnity Valuation](#) (Apr. 2022) – explains the process and how valuations are set
- [USDA Indemnity Values for 2022: Commercial Table](#) (Mar. 2022) – the actual published amounts for 2022
- [VS Indemnity Values for 2022: Specialty Table](#) (Mar. 2022) – the actual published amounts for 2022

Rates of Compensation (payment for depopulation, disposal and disinfection, i.e., “virus elimination”)

- [HPAI Virus Elimination: Per-Square-Foot Rates for Floor-Raised Poultry](#)– explains the process, how amounts are set and contains the actual published amounts.
- [HPAI Virus Elimination: Per-Cubic-Yard Flat Rates for Table Egg-Laying Bird Barns and Table Egg Storage and Processing Facilities](#) - explains the process, how amounts are set and contains the actual published amounts.



USDA Disease Control Tools Available

Measures to Control and Eradicate HPAI

- Surveillance and diagnostics
- Quarantine and movement control
- Biosecurity measures
- Epidemiological investigations
- Appraisal and compensation
- Depopulation (euthanasia) of affected poultry
- Carcass disposal
- Cleaning and disinfection (virus elimination)
- Emergency vaccination (if appropriate)



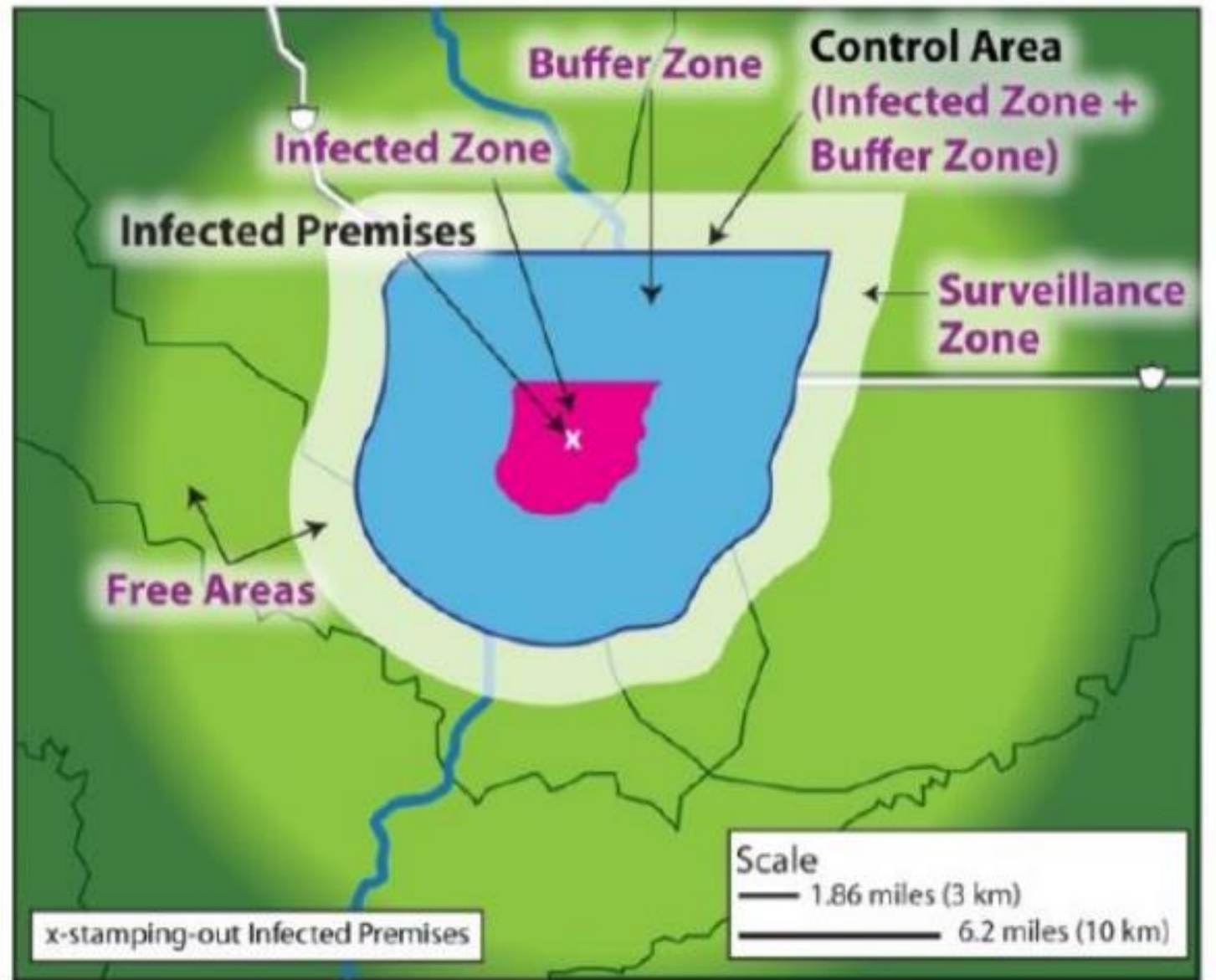
Poultry Approach

(Depop = 90M+ birds)

“Stamping Out Infected Premises”

The primary measure employed by USDA APHIS for HPAI in poultry is to immediately (w/in 48 hours) **depopulate** all poultry on the premises.

Coupled with a **Control Zone** to attempt to stop transmission beyond the infected premise.





Dairy Cattle Approach Continues to Evolve

- 4/24/24 – MANDATORY - [Federal Order Requiring Testing and Reporting of HPAI in Livestock](#) – mandatory testing for interstate movement of only lactating dairy cattle; mandatory report by states and laboratories of Influenza A in all livestock.
- 5/14/24 – VOLUNTARY (& clarification of above mandatory measure) - [APHIS Requirements and Recommendations for Highly Pathogenic Avian Influenza \(HPAI\) H5N1 Virus in Livestock For State Animal Health Officials, Accredited Veterinarians and Producers](#) – “This document outlines both the interstate movement requirements, as well as APHIS recommendations to limit the spread. Updated laboratory guidance, including details on required reporting, are located on the APHIS website.”
- 5/23/24 & 7/1/24 – VOLUNTARY - USDA Support for Dairy Herd Producers, [Summary Part 1](#); [Summary Part 2](#); [ELAP details](#).
- 5/30/24 – VOLUNTARY - [Dairy Herd Status Program](#) established, creating an option for freer movement of lactating dairy cattle through alternative testing schedule to the Federal Quarantine Order and creating a “monitored herd” status. Enrollment so far is 8 herds in 7 states.

Which disease control measures are chosen and why?



United States Department of Agriculture

Regulatory Intervention During an FAD Outbreak

The scope of regulatory intervention and the selection of a response strategy or strategies in an FAD outbreak will depend on the following:

- Transmission characteristics of the FAD agent
 - Rate of contagious disease agent transmission
 - Potential for zoonotic transmission
 - Number and types of susceptible animal species.
- Consequences of the FAD outbreak
 - To national security, food security, public health, animal health, the environment, and the economy
 - Regulatory impacts for owners, growers, stakeholders, and the general public.

Regulatory Intervention During an FAD Outbreak

(continued)

- Acceptance
 - Social and political acceptance of the response policy by different communities.
 - Local, State, Tribal, U.S. regional, U.S. national, North American, and international.
- Scale of the outbreak
 - Number of animals, species, and premises infected
 - The susceptible animal population density for infected or high-risk areas.
- Rate of outbreak spread
 - Numbers and types of premises
 - Numbers and types of animals
 - Rate at which each Infected Premises (IP) leads to infection of one or more additional IP.
- Veterinary countermeasures available
 - Availability and efficacy of countermeasures, such as FAD vaccines.

Regulatory Intervention During an FAD Outbreak

(continued)

- Resources available to implement response strategies
 - Capabilities and resources available to:
 - eradicate an FAD in domestic animals and
 - to control and eradicate and FAD in potential wildlife reservoirs.
- Domestic animal disease management capabilities
 - Capability, feasibility, and resources available to:
 - eradicate an FAD in domestic animals as an emergency response control as an animal disease program
 - monitor as an endemic animal disease.
- Wildlife management capabilities
 - Capability, feasibility, and resources available to eradicate, control, or monitor an FAD in wildlife reservoirs.



State Legal Authority for Animal Disease Control





PA's Domestic Animal Law – [3 Pa.C.S. 2301 - 2390](#)

- **Definitions**
 - **“Quarantine.”** Restrictions upon the use, movement or other disposition of domestic animals, domestic animal products, equipment, facilities, vehicles, buildings and other articles required to eradicate, contain or otherwise control a dangerous transmissible disease or to control or prevent contamination by hazardous substances.
 - **General quarantine.** A quarantine order published in at least one newspaper that restricts the movement of animals and materials, including conveyance into, within or from a **designated area or locality**.
 - **“Special quarantine.”** An order of quarantine issued by the Department of Agriculture **covering a single premises or a single domestic animal or any number of domestic animals when confined or contained in or on the same premises** and any conveyances, goods, products, materials, containers or articles which may carry disease or contamination by a hazardous substance.
- §2305 - “The department shall have authority to **regulate the keeping and handling of domestic animals to exclude or contain dangerous transmissible diseases and hazardous substances and to protect the environment . . .**”
- **“Dangerous transmissible disease”** designation = The department may establish regulations addressing the specific discovery, prevention, reporting, testing, control and eradication measures which it determines are necessary



PA's Domestic Animal Law (cont.)

Subchapter C. Detection, Containment or Eradication of Certain Diseases

- [§ 2321. Dangerous Transmissible Diseases](#)
- [§ 2322. Neoplastic Diseases, Metabolic Diseases and Heritable Diseases](#)
- [§ 2323. Health Requirements](#)
- [§ 2324. Safety of Domestic Animal Feed](#)
- [§ 2325. Use of Biologicals, Antibiotics, Genetic Material, Chemicals, Diagnostic Agents and Other Substances](#)
- [§ 2326. Sanitation](#)
- [§ 2327. Disease Surveillance and Detection](#)
- [§ 2328. Entry on Premises](#)
- [§ 2329. Quarantine](#)
- [§ 2330. Condemnation](#)
- [§ 2331. Indemnification](#)
- [§ 2332. Depopulation Incentive](#)
- [§ 2333. Restriction on Payment of Indemnification and Depopulation Incentive](#)
- [§ 2334. Report on Insurance or Cost-Sharing Program](#)
- [§ 2335. Contract Growers](#)
- [§ 2336. Posted Notice with Information on Dangerous Transmissible Diseases](#)



3 Pa.C.S. § 2329 Quarantine

(a) Power to establish and enforce.--Whenever a **dangerous transmissible disease or contamination by hazardous substances** exists **anywhere within or outside of this Commonwealth**, or whenever it is deemed **advisable to test or treat** any domestic animal upon the **reasonable suspicion** that it has contracted or been exposed to a dangerous transmissible disease or is contaminated with a hazardous substance,

or whenever the testing or treatment of a domestic animal indicates that the domestic animal has been exposed to a dangerous transmissible disease or contaminated with a hazardous substance so as to render future accurate testing for recent exposure of that domestic animal to that dangerous transmissible disease or hazardous substance impractical or impossible,

the department shall have the power to establish and enforce quarantines of any such infected, exposed, contaminated, suspected or susceptible domestic animal.

In addition to the aforescribed domestic animals, a quarantine may apply to any goods, products, facilities, containers, vehicles or materials that may carry dangerous transmissible disease or that may be contaminated with a hazardous substance and may be applied on or in or against any premises, area or locality as defined in this chapter.



Thanks for attending.
QUESTIONS?





BONUS SLIDES

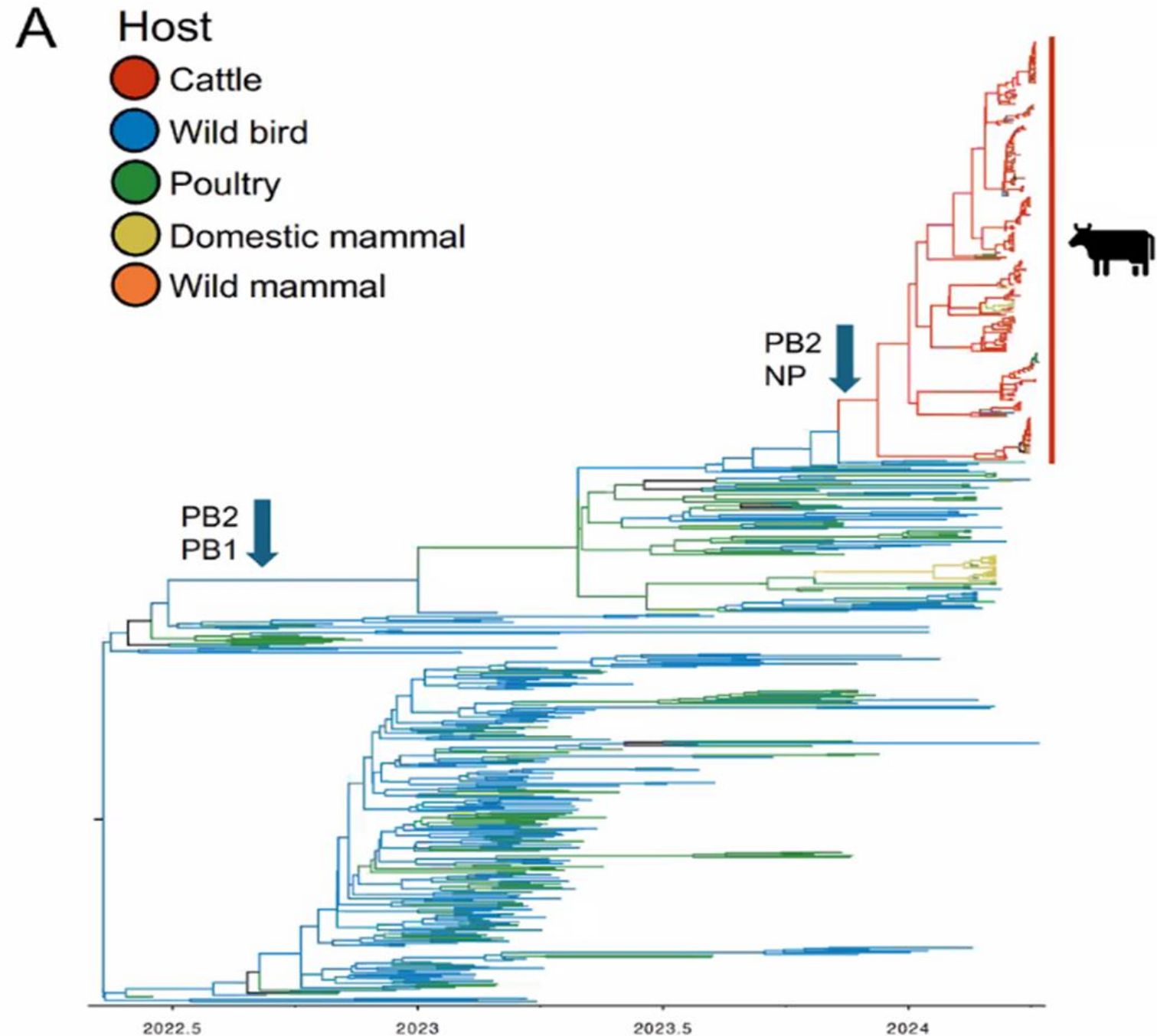


Key Abbreviations

AI	avian influenza	NRF	National Response Framework
FAD	foreign animal disease	NVS	National Veterinary Stockpile
FAD PReP	Foreign Animal Disease Preparedness and Response Plan	NVSL	National Veterinary Services Laboratories
H or HA	hemagglutinin	OIE	World Organization for Animal Health
HPAI	highly pathogenic avian influenza	PPE	personal protective equipment
LPAI	low pathogenic avian influenza	VS	Veterinary Services
N or NA	neuraminidase	WHO	World Health Organization
NIMS	National Incident Management System		

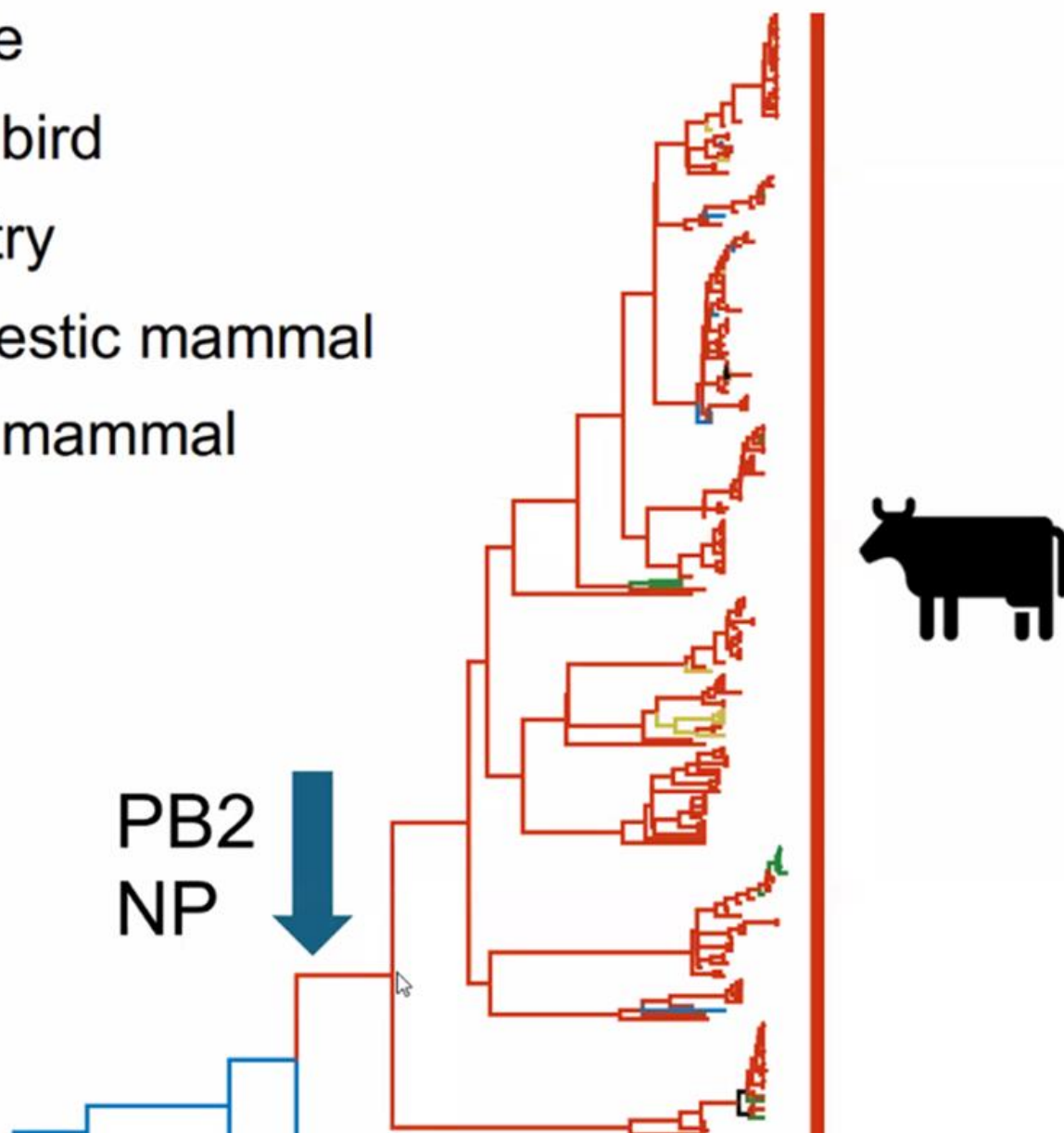
On July 12, 2024, Pennsylvania's State Veterinarian supplied this graphic compiled by USDA/CDC research from the entire outbreak. It charts the outbreak by species, time, organized by genotype of the virus in each detection.

The “cross-over” of a mutated genotype of the H5N1 virus in wild birds to dairy cattle was a **one-time event and is not a recurring event**. So far, there has been little transmission back from cattle to other species.



Host

- Cattle
- Wild bird
- Poultry
- Domestic mammal
- Wild mammal





Thank you for joining us!

Understanding Agricultural Law Series Upcoming Topics:

Understanding the Basics of

Dec. 13, 2024—**Children, Minors & Farm Work**

Jan. 24, 2024—**PA's Carbon Sequestration Law**

Feb. 28, 2024—**Pesticide Drift**

Mar. 24, 2024—**Clean Water Act & Ag: Impaired Waters & TMDL Process**

Apr. 25, 2024—**PA Ag Exemptions for Inheritance Tax and Real Estate Transfers**

More Programming with the Center for Agricultural and Shale Law

Dec. 18, 2024—Complying with New U.S. Treasury "Beneficial Ownership Information" Filing Requirements, with PA SBDC Ag Center of Excellence

Jan. 14, 2024—Quarterly Dairy Legal Webinar

Register at

<https://aglaw.psu.edu/events/>

CENTER MISSION AND BACKGROUND

Center programs are funded in part by the Commonwealth of Pennsylvania through the Pennsylvania Department of Agriculture. The Center for Agricultural and Shale Law is a partner of the National Agricultural Law Center (NALC) at the University of Arkansas System Division of Agriculture, which serves as the nation's leading source of agricultural and food law research and information.

This publication is available in alternative media on request. Penn State is an equal opportunity, affirmative action employer, and is committed to providing employment opportunities to all qualified applicants without regard to race, color, religion, age, sex, sexual orientation, gender identity, national origin, disability, or protected veteran status.

