

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 developed by the Official State Agency and 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 developed by the Official State Agency and 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) States will be responsible for making the determination to request Federal assistance under this part in

the event of an outbreak of H5/H7 LPAI.

### § 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)(7) 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)(7) 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 egg-type breeding chickens from a 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 program of the Plan in § 145.23(h) of this chapter; or

(2) The poultry are meat-type breeding chickens from a flock that participates in any Plan program in part 145 of this chapter but that does not participate in the U.S. Avian Influenza

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Clean program of the Plan in §145.33(l) of this chapter; or

(3) The poultry are breeding turkeys from a flock that participates in any Plan program in part 145 of this chapter but that does not participate in the U.S. H5/H7 Avian Influenza Clean program of the Plan in §145.43(g) of this chapter; or

(4) The poultry are commercial table-egg layers from a premises that has 75,000 or more birds and that does not participate in the U.S. H5/H7 Avian Influenza Monitored program of the Plan in §146.23(a) of this chapter; or

(5) The poultry are commercial meat-type chickens that are associated with a slaughter plant that slaughters 200,000 or more meat-type chickens per operating week and that does not participate in the U.S. H5/H7 Avian Influenza Monitored program of the Plan in §146.33(a) of this chapter; or

(6) The poultry are commercial meat-type turkeys that are associated with a slaughter plant that slaughters 2 million or more meat-type turkeys in a 12-month period and that does not participate in the U.S. H5/H7 Avian Influenza Monitored program of the Plan in §146.43(a) of this chapter; or

(7) The poultry are associated with a flock or slaughter plant that participates in the Plan, but they are located in a State that does not participate in the National Poultry Improvement Plan 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, unless such poultry participate in the Plan with another State that does participate 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.

(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

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amount of payment received from the State or other sources.

#### §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 compensation 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. If disposal is performed by the Cooperating State Agency, APHIS will indemnify the Cooperating State Agency for disposal under a cooperative agreement.