

**SUPPORTING STATEMENT - OMB NO. 0579-XXXX**  
**CONDITIONS FOR PAYMENT OF HIGHLY PATHOGENIC AVIAN INFLUENZA**  
**INDEMNITY CLAIMS**

2016

**A. Justification**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. The AHPA is contained in Title X, Subtitle E, Sections 10401-18 of P.L. 107-171, May 13, 2002, the Farm Security and Rural Investment Act of 2002.

The U.S. poultry industry recently experienced a severe outbreak of highly pathogenic avian influenza (HPAI). The outbreak was discovered in December 2014 in backyard flocks in the Pacific Northwest, and in two commercial turkey and chicken flocks in California. Twenty-one States had reported a total of 223 HPAI detections in backyard flocks, commercial premises, captive wild birds, and wild birds. Established U.S. animal health policy calls for elimination of the AI virus (both highly pathogenic and low pathogenicity strains) when found through depopulation (i.e., euthanasia and disposal) of affected poultry. The Animal and Plant Health Inspection Service (APHIS) has been working with State and local animal health officials to euthanize poultry, clean and disinfect premises and equipment, and test for elimination of the virus to ensure that farms can be safely restocked.

The outbreak of 2015 was unprecedented in magnitude and scope. In some instances, poor biosecurity practices may have led to HPAI introduction or spread within some commercial poultry facilities. More specifically, the current level of biosecurity appears to have failed to protect layer and turkey facilities in the upper Midwest from HPAI. In our view, the biosecurity of layer, turkey, and broiler facilities needs to be enhanced to avoid future catastrophic outbreaks of HPAI. As a step toward achieving that goal, APHIS will require certain owners of and contractors for poultry or egg facilities and contractors to provide to APHIS a statement that at the time of detection of HPAI they had in place and were following a biosecurity plan. Indemnity claims will be denied if the owner or contractor, unless exempted, does not provide such a statement. The referenced biosecurity plans should include certain measures, specified in the interim rule, essential for preventing the spread of HPAI.

APHIS is also amending its regulations to include conditions for splitting HPAI indemnity payments when multiple parties are involved. This is necessary because during the 2015 outbreak, APHIS paid the full indemnity amount to the birds' owner – usually the poultry

company – with the understanding that the grower/contractor would be paid according to contractual agreements between the owner and grower. However, this has not always occurred. When the government compensates for losses arising as a result of HPAI, all who suffer losses should be equitably compensated.

The following activities are to be administrated through APHIS Veterinary Services (VS) when HPAI is identified in infected flocks:

- Development of a biosecurity plan that mitigates potential HPAI introductions.
- Provision of a statement the premises implemented a biosecurity plan before HPAI was identified.
- Agreement to accept fair market values for destroyed poultry and eggs as determined by APHIS and to accept division of the indemnity payment between the owner and contract grower.
- Agreement to provide APHIS with copies of current contractual obligations executed between parties as well as any supporting documentation APHIS needs to determine indemnity payments.

APHIS is asking the Office of Management and Budget (OMB) to approve, for 6 months, its use of these information collection activities in connection with its efforts to characterize and understand the scope of on-farm biosecurity practices. The information collected will inform planning to minimize future outbreaks of HPAI and aid in developing future control options.

**2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

APHIS uses the following activities to collect information necessary to understand biosecurity practices occurring in the United States and to assist in future disease control options:

**Appraisal and Indemnity Claim for Animals Destroyed or Materials Destroyed and Continuation Sheet (VS Forms 1-23 and 1-23A)**

These forms record appraisals made and approved for payment to owners or claimants. The VS Form 1-23 is completed by either personnel from the State VS office or a Federal and State approved appraiser (usually a Federal employee) with input from the flock owner. It is signed by both the appraiser and the owner. It lists the owner's name and address, the number of animals for which the owner is seeking payment, and the appraised value of each animal. The owner's signature on this form indicates agreement with the appraised value of each animal. The owner must also certify whether the animals are subject to a mortgage. If there is a mortgage, the form must also be signed by each person holding a mortgage. By signing the form, each mortgage holder is consenting to the payment of indemnity to the owner or lien holder.

**9 CFR 53.11 - Appraisal and Indemnity Worksheet for HPAI-Affected Premises Using Contract Growers (VS forms 9-12, 9-12A, and 9-13)**

In addition to compiling information in the VS 1-23 and 1-23a as outlined above, producers and contractors work with APHIS officials to respond to and review information and formulas set forth in an appraisal and indemnity worksheet designed specifically for use on HPAI-affected premises using contract growers. The producers and growers supply the premises ID number of the facility where the affected birds are located; and the premises address as well as the name, address, and email address of both the producer and grower. The following components are also part of the worksheet:

*Agreement to Depopulate, Accept Fair Market Value and Provide Business Information (to determine split payment)*

Eggs and poultry must be disposed of quickly to prevent disease spread to other poultry premises. The producer and grower must initial the worksheet to signify their agreement to depopulate the premises within 24 hours and provide mortality and egg destruction records, and to accept fair market value for their commodities. APHIS may also need access to specific contracts and supporting documents between flock owners and growers to determine how to apportion indemnity and make timely payment. The producer and flock owner must also sign signifying their agreement to provide contracts and supporting documents regarding arrangements between them.

*Statement on Biosecurity Implementation*

Flock owners and producers need to practice industry-recommended biosecurity protocols and procedures to protect their operations and the poultry industry as a whole. The worksheet includes a self-certification or attestation to having a biosecurity plan (see below). Producers and owners of size-qualifying flocks sign the worksheet and so attest that at the time of infection the producer or flock owner has incorporated industry-recommended biosecurity practices into his or her premises-specific plan. This statement is necessary as a condition of indemnity payment. Owners and contractors will be exempted from the requirement to submit a biosecurity statement if their facilities fall under one of the following categories: Premises covered under the National Poultry Improvement Plan regulations in 9 CFR 146.22(b) (commercial table-egg laying premises with fewer than 75,000 birds) or 9 CFR 146.52(b) (raised for release upland game bird and waterfowl premises that raise fewer than 25,000 birds annually) and premises where fewer than 100,000 broilers or 30,000 turkeys are raised for meat annually.

**9 CFR 53.10 - HPAI Biosecurity Plans**

Although producers are not required to have a plan, those not exempt must attest to having a biosecurity plan. Biosecurity plans support continuity of business and are designed and implemented to prevent the introduction of diseases such as HPAI. Biosecurity plans are individualized plans specific to the premises and its operational procedures. To facilitate owners' and contractors' biosecurity planning, APHIS created a biosecurity self-assessment and distributed biosecurity training material, which included specific examples of approaches to develop and implement biosecurity protocols for various types of commercial poultry operations.

Biosecurity plans should contain action categories known to assist and control disease introduction, such as:

- Biosecurity training program for premises/farm personnel.
- Biosecurity protocols for personnel.
- Procedures to control of wild birds, rodents, and insects to reduce the risk of introduction or spread of HPAI.
- Measures taken to prevent introduction through vehicles and equipment.
- Maintenance of a line of separation.
- A clean water source for the facility.

This training material regarding biosecurity categories can be found by visiting <https://iastate.app.box.com/Biosec-Officer-Info-Manual>. Additionally detailed Educational and training materials on biosecurity for poultry-industry personnel are available at <http://www.poultrybiosecurity.org/>.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Electronic and automated submission methods are minimal. Owners and contractors must provide original signature to the documents. In some situations electronic signatures may be allowed and submitted via email. Once information is obtained, it will be electronically captured into APHIS Emergency Response data management systems.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.**

The information that APHIS collects in connection with this program is not available from any other source. APHIS is the only Federal agency responsible for preventing, detecting, controlling, and eliminating diseases of poultry from the United States.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

APHIS estimates approximately 85 percent of the respondents in this information collection are small businesses. The information collected is the absolute minimum needed for rapid depopulation and disposal activities to prevent the spread of HPAI.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If the information were conducted less frequently or not at all, APHIS would not know how to properly reimburse producers and flock owners for their lost inventory. APHIS might also pay producers who did not implement biosecurity measures. Lack of this information could undermine APHIS' ability to provide indemnity and rapid depopulation and disposal, which may lead to additional spread of disease and greater hardship for producers.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5, such as:**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**  
**Agreement to Depopulate, Accept Fair Market Value and Provide Business Information (to determine split payment)**  
Eggs and poultry must be disposed of quickly to prevent disease spread to other poultry premises. The producer and grower must initial the worksheet to signify their agreement to depopulate the premises within 24 hours and provide mortality and egg destruction records, and to accept fair market value for their commodities.
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than 3 years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No other special circumstances exist that would require this collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.

**8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB.**

APHIS engaged in productive consultations with the following individuals in connection with the information collection requirements associated with these new requirements:

Dr. Eric Gonder, staff veterinarian  
Butterball, LLC  
P.O. Box 10009  
Goldsboro, NC 27532-0009  
Phone: (919) 778-3130, ext. 1239  
Email: [egonder@butterball.com](mailto:egonder@butterball.com)

Dr. Don Ritter  
Mountaire Farms, Inc.  
Company veterinarian  
P.O. Box 1320  
Millsboro, DE 19966  
Phone: (302)934-4091  
Email: [dritter@mountaire.com](mailto:dritter@mountaire.com)

Dr. Kristi Scott  
Ise America (Newberry), Inc.  
2063 Alexander St.  
Newberry, SC 29108  
(803) 321-2525 (office)  
(803) 924-7597 (cell)  
Email: [kscott.ise@mindspring.com](mailto:kscott.ise@mindspring.com)

APHIS will publish an interim rule in the Federal Register establishing these new requirements.

**9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.**

This information collection activity involves no payments or gifts to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

No additional assurance of confidentiality is provided with this information collection.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

This information collection activity will ask no questions of a personal or sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

**•Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

See APHIS Form 71. Burden estimates were developed based on real-time use and discussions with commercial livestock farm owners and managers; animal agriculture-related business owners and managers; private veterinarians; animal agriculture-related agencies and organizations; breed registry agencies; agriculture extension agents; fair and exhibition officials; owners, operators, and managers of livestock markets; owners, operators, and managers of slaughter establishments and dairy plants; and State animal health officials and laboratory personnel.

**•Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

APHIS estimates the total annualized cost to these respondents to be \$3,048,520.50. APHIS arrived at this figure by multiplying the hours of estimated response time (112,950 hours) by the estimated average hourly wage of the above respondents (\$26.99) APHIS derived the estimated

wage by averaging the following figures from the U.S. Department of Labor; Bureau of Labor Statistics May 2014 Report - Occupational Employment and Wages in the United States.

Farmers, ranchers, and other agricultural managers:	\$34.89
Animal scientists:	\$34.90
Agricultural technicians	\$17.95
Veterinarians	\$47.23
Animal breeders	\$20.90
Ranch farmworkers	\$12.10
Inspectors	\$20.97

**13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

No annual cost burden is associated with capital and startup costs, operation and maintenance expenditures, and purchase of services.

**14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

The annualized cost to the Federal government is estimated at \$4,406,189. (See APHIS Form 79.)

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.**

This is a new information collection resulting in 112,950 burden hours.

**16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.**

APHIS has no plans to publish information it collects in connection with this program.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**



APHIS will display the expiration dates on VS forms 9-12, 9-12A, and 9-13.

VS forms 1-23 and 1-23A are used in multiple information collections; therefore, it is not practical to include an OMB expiration date because of the various expiration dates for each information collection. APHIS is seeking approval not to display the OMB expirations date on these two forms.

**18. Explain each exception to the certification Statement in the "Certification for Paperwork Reduction Act."**

APHIS can certify compliance with all provisions under the Act.

**B. Collections of Information Employing Statistical Methods**

There are no statistical methods associated with the information collection activities used in this program.