



APHIS policy for indemnity and compensation for H5/H7 low pathogenicity avian influenza (LPAI) is based on two primary objectives. The first objective is to stop the spread of virus as quickly as possible to minimize the number of affected flocks and also to mitigate the chance of mutation of an LPAI virus into an HPAI virus. The second objective is to partner with States and producers in our response, reducing total costs for indemnity and compensation wherever possible.

The H5/H7 LPAI prevention and control program has always been a Federal/State/industry partnership; responses, including funding, should also be a partnership. This policy reflects that partnership and is applied to affected flocks to secure both the health of U.S. poultry and international trade in poultry and poultry products.

APHIS Indemnity and Compensation Policy for H5/H7 LPAI-Affected Flocks

For H5/H7 LPAI-affected flocks APHIS, with input from the owner and the State Animal Health Official, will first determine if controlled marketing or depopulation via slaughter is a recommended option for the affected flock.

1. **Scenario One: The flock can be control marketed.** If the flock can be control marketed or depopulated via slaughter, APHIS will pay the following for indemnity and compensation:
 - Zero percent indemnity or compensation for depopulation.
 - 100 percent of HPAI compensation/flat rates for disposal (materials), materials destroyed, and virus elimination in all occupied houses.
2. **Scenario Two: The flock cannot be control marketed.** If the flock cannot be control marketed or depopulated via slaughter, APHIS will pay the following for indemnity and compensation:
 - 100 percent indemnity and depopulation costs; and
 - 100 percent of HPAI compensation/flat rates for disposal (materials), materials destroyed, and virus elimination in all occupied houses.

In both Scenario 1 and 2, the owner must present APHIS with evidence that the premises was following sufficient biosecurity measures to prevent the introduction of LPAI at the time the disease is suspected to have entered the flock.

3. **Scenario Three: 25 percent indemnity with 100 percent compensation.** If the flock is only eligible for 25 percent indemnity per existing regulations*, *or* if there is evidence of significant biosecurity lapses documented by State and/or Federal personnel, *or* if the owner declines controlled marketing or depopulation via slaughter as recommended by APHIS, then the following guidance will be applied:
 - 25 percent indemnity;
 - 100 percent depopulation costs; and
 - 100 percent HPAI compensation/flat rates for disposal (materials), materials destroyed, and virus elimination in all occupied houses.

* U.S. Code of Federal Regulations Title 9 Part 56 Paragraph 3 (9 CFR §56.3) outlines three situations in which an H5/H7-affected flock is eligible for 25 percent indemnity:

- 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;
- 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;
- 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.