



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2022-0031]

Notice of Availability of a Final Supplemental Environmental Assessment and Finding of No Significant Impact for Emergency Response for Highly Pathogenic Avian Influenza Outbreaks in the United States Migratory Bird Flyways

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a final supplemental environmental assessment (EA) and finding of no significant impact (FONSI) relative to our emergency response activities for highly pathogenic avian influenza outbreaks in commercial and backyard poultry operations located in the four migratory bird flyways in the United States. This final supplemental EA supplements the initial EA and FONSI we published in September 2022, which evaluated the environmental impacts associated with the first seven States where highly pathogenic avian influenza outbreaks occurred. Based on our FONSI, we have determined that an environmental impact statement need not be prepared for the proposed action as described in this final supplemental EA.

FOR FURTHER INFORMATION CONTACT: Ms. Chelsea Bare, Chief of Staff, Veterinary Services, APHIS, U.S. Department of Agriculture, 1400 Independence Avenue SW, Whitten Building Room 318-E, Washington, DC 20250; (515) 337-6128; chelsea.j.bare@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS), has been delegated the authority under the Animal Health Protection Act (7 U.S.C. 8301-8322) to protect the health of livestock,

poultry, and aquaculture populations in the United States by preventing the introduction and interstate spread of serious diseases and pests of livestock, poultry, and aquaculture, and eradicating such diseases within the United States when feasible. Highly pathogenic avian influenza (HPAI) is an extremely infectious disease and often fatal to poultry¹. Avian influenza (AI) viruses may circulate freely in wild bird populations without the birds appearing sick. As these birds migrate, they carry HPAI and other AI viruses with them and may subsequently transmit AI to domestic birds. HPAI can rapidly spread within and between domestic poultry flocks and wild bird (especially waterfowl) populations. It is APHIS' objective to stamp out HPAI as rapidly as possible at locations where it has been found. Preventing the entry of diseased birds and eggs into the United States, monitoring AI in migratory birds, identifying AI strains occurring primarily in migratory waterbird species, as well as backyard and commercial poultry flocks, and stamping out HPAI as it arises in domestic poultry is important for the long-term maintenance of disease-free United States poultry stocks.

In response to outbreaks of the HPAI H5N1 (AI strain) virus subtype in commercial and backyard poultry flocks that began on February 8, 2022, we published a draft environmental assessment (EA) and draft finding of no significant impact (FONSI) in April 2022 to allow VS to carry out emergency response activities in seven States (Indiana, Kentucky, Virginia, New York, Maine, Delaware, and Michigan). A final EA titled "Emergency Response for HPAI Outbreaks in Seven States" and final FONSI were published in September 2022.²

Since the preparation and publication of the final EA and FONSI for the initial seven States, HPAI outbreaks have continued to occur across the United States. As of November 21, 2024, the virus was confirmed in 538 commercial, 661 backyard, and 32 other types (e.g., live bird markets, rehabilitation facilities) of flocks, affecting approximately 110 million birds in 49

¹ Domestic poultry that can be affected include chickens; turkeys; ring-necked pheasants; ducks; geese; common, Japanese, or bobwhite quail; Indian peafowl; chukar or grey partridge; pigeons; ostrich; and guinea fowl.

² To view the draft EA, draft FONSI, the comments we received, the final EA, and the final FONSI, go to www.regulations.gov and enter APHIS-2022-0031 in the Search field.

States.³ As HPAI outbreaks have been stamped out, new outbreaks emerge and are likely to continue with seasonal (i.e., spring and fall) bird migrations. For this reason, we prepared a supplemental EA titled “Emergency Response for Highly Pathogenic Avian Influenza Outbreaks in the United States Migratory Bird Flyways” to cover HPAI emergency response activities in other impacted States in the four North American migratory bird flyways (i.e., the Atlantic, Mississippi, Central, and Pacific Flyways).

On August 24, 2023, we published in the *Federal Register* (88 FR 57923-57924, Docket No. APHIS-2022-0031) a notice in which we announced the availability, for public review and comment, of a draft supplemental EA and draft FONSI that examined the potential environmental impacts associated with HPAI response activities for additional outbreaks in commercial and backyard poultry operations in other impacted States in the four North American migratory bird flyways.⁴

We solicited comments on the draft supplemental EA and FONSI for 30 days ending September 25, 2023. We received one comment on the draft supplemental EA by that date. Besides commenting on specific outbreak information not included in the draft supplemental EA and the timeliness of publication, the commenter raised several concerns regarding the draft supplemental EA. These concerns included whether APHIS appropriately consulted with other Federal agencies as required by the Endangered Species Act; that APHIS has not considered the significant effects that outbreak response actions will cause to the natural environment, nearby communities, wildlife and ecological resources, particularly threatened and endangered wildlife populations; and that reasonable alternatives were not considered, especially restricting certain disposal options that the commenter felt would limit the potential exposure of threatened and endangered species to HPAI-infected domestic poultry.

³ Current HPAI outbreak data can be accessed at APHIS’ website at <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian/avian-influenza/2022-hpai> (last visited November 21, 2024).

⁴ To view the draft supplemental EA, draft FONSI, and the comment we received, go to www.regulations.gov and enter APHIS-2022-0031 in the Search field.

We reviewed and considered the concerns raised by the commenter. We have both revised the draft supplemental EA where appropriate and provided responses to concerns expressed. Our full responses can be found in Appendix E of the final supplemental EA.

We are also advising the public of our final FONSI regarding the final supplemental EA for our emergency response activities for HPAI in the United States migratory bird flyways. The FONSI, which is based on the final supplemental EA, reflects our determination that the methods used as part of HPAI emergency outbreak response activities will not have a significant impact on the quality of the human environment.

The final supplemental EA and FONSI may be viewed on the Regulations.gov website (see footnote 4). Copies of the final supplemental EA and FONSI are also available for public inspection in our reading room located in room 1620 of the USDA South Building, 14th Street and Independence Avenue, SW, Washington, DC 20250. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming. In addition, copies may be obtained by calling or writing to the individual listed under FOR FURTHER INFORMATION CONTACT.

The final supplemental EA and FONSI were prepared in accordance with: (1) the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), (2) the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR parts 1500 through 1508) in effect prior to July 1, 2024, (3) USDA's NEPA-implementing regulations (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 3rd day of December 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.