

Congress of the United States
Washington, D.C. 20515

February 6, 2024

The Honorable Thomas J. Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

The Honorable Michael Watson
Administrator
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

The Honorable Rosemary Sifford
Deputy Administrator
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Vilsack, Administrator Watson, and Deputy Administrator Sifford:

We are writing to you regarding the ongoing and widespread outbreak of highly pathogenic avian influenza (HPAI) – which has taken a historically significant toll in the United States, both from an economic perspective and on the animals themselves – and the USDA’s oversight of depopulation methods used to kill the affected birds.

We are concerned with reports and analysis indicating that the use of Ventilation Shutdown Plus Heat (VSD+ Heat) has become the default method for depopulations during this outbreak, despite the serious welfare implications involved. Analysis by the Animal Welfare Institute of USDA records from February 2022 to July 2023 indicates that an extremely high percentage of birds (over 83%) were killed in depopulation events that used VSD+ Heat as their sole depopulation method (13.6 million birds) or as one of multiple depopulation methods employed (35.4 million birds).

VSD+ Heat kills animals by inducing heatstroke and leads to prolonged suffering. Our understanding of current USDA policy is that this method should only be employed when more humane alternatives are not feasible. To that end, we request information to better understand how the USDA is contending with the current HPAI outbreak and how the department foresees preparing for future outbreaks so that the USDA, state agencies, and the industry itself are better equipped to more humanely depopulate animals during a crisis. We would appreciate responses to the following questions, as well as the department’s insights into any of the issues and concerns raised:

- We have heard the USDA recently withdrew funding for high expansion nitrogen foam research because the method is not “AVMA approved”; however, the American Veterinary Medical Association is currently updating its depopulation guidelines to include this method, and it is already discussed in detail in similar but more comprehensive guidelines in the European Union for depopulation of poultry and pigs.¹ Further, the AVMA approves both foaming and nitrogen gassing, two methods which are the basis for high expansion nitrogen foam. What is the USDA doing to promote research and field testing of more humane methods of depopulation, such as whole house gassing with nitrogen and high expansion nitrogen gas-filled foam?
- How is the USDA using indemnity and compensation to encourage industrial operations to prepare for HPAI by sourcing equipment and contracting suppliers needed for rapid deployment of more humane depopulation methods?
- What are the Animal and Plant Health Inspection Service’s plans to ensure emergency access to carbon dioxide (CO₂), particularly in the face of a CO₂ shortage, as needed for the “preferred” methods of containerized gassing, partial house gassing, and whole house gassing with CO₂? Is the USDA looking into inert gases (nitrogen and argon), which are more readily accessible and humane?
- Similarly, what is APHIS doing to ensure that personnel conducting depopulations are appropriately trained in the use of whole house or partial house gassing, particularly given that lack of training is sometimes raised as justification for use of less humane methods?² How is USDA evaluating the psychological impact of using inhumane methods (including water-based foam and VSD+) on the well-being of the veterinarians, producers and other responders who deploy these methods?
- What is the status of HPAI vaccination research and policy? What would be a timeline for renegotiating trade agreements to permit U.S. egg and poultry industries to start using vaccinations? What is the USDA’s assessment on ability to meet diagnostic demands associated with HPAI surveillance in vaccinated birds?
- How does APHIS plan to address the issues raised in the petition for rulemaking submitted to the agency by the Animal Welfare Institute in June 2023,³ requesting APHIS amend regulations pertaining to Highly Pathogenic Avian Influenza; Conditions for Payment (9 C.F.R. § 53.11) to require an audited response action plan as an additional condition for payment of indemnity claims?

¹ EFSA Panel on Animal Health and Welfare (AHAW), Nielsen, S. S., Alvarez, J., Bicot, D. J., Calistri, P., Depner, K., Drewe, J. A., Garin-Bastuji, B., Gonzales Rojas, J. L., Gortázar Schmidt, C., Miranda Chueca, M. Á., Roberts, H. C., Sihvonen, L. H., Spooler, H., Stahl, K., Velarde Calvo, A., Viltrop, A., Winckler, C., Candiani, D., Fabris, C., ... Michel, V. (2019). Killing for purposes other than slaughter: poultry. *EFSA journal. European Food Safety Authority*, 17(11), e05850. <https://doi.org/10.2903/j.efsa.2019.5850>; EFSA Panel on Animal Health and Welfare (AHAW), Saxmose Nielsen, S., Alvarez, J., Bicot, D. J., Calistri, P., Depner, K., Drewe, J. A., Garin-Bastuji, B., Gonzales Rojas, J. L., Gortázar Schmidt, C., Michel, V., Miranda Chueca, M. Á., Roberts, H. C., Sihvonen, L. H., Spooler, H., Stahl, K., Viltrop, A., Winckler, C., Candiani, D., Fabris, C., ... Velarde, A. (2020). Welfare of pigs during killing for purposes other than slaughter. *EFSA journal. European Food Safety Authority*, 18(7), e06195. <https://doi.org/10.2903/j.efsa.2020.6195>.

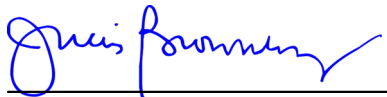
² Delaware Department of Agriculture Public Records related to HPAI 2022 obtained via Public Records Request by Animal Outlook. Available online: <https://awionline.org/sites/default/files/uploads/documents/DE-Public-Records-re-HPAI-Depop-2022.pdf>. Page 9.

³ <https://awionline.org/sites/default/files/uploads/documents/AWI-Petition-Amend-HPAI-Compensation-Regulations.pdf>

- How does the USDA plan to address recommendations by the Scientific Task Force on Avian Influenza and Wild Birds, co-convened by the Food and Agriculture Organization (FAO) and the Convention on the Conservation of Migratory Species (CMS),⁴ such as reforming poultry production systems and reducing the density of commercial poultry farms in densely populated poultry areas?
- We also request that the USDA provide data regarding the application of secondary methods when VSD+ is used, including how long it takes after VSD+ is used before all survivors can be killed with a secondary method.
- Since the 2019 version of the AVMA Guidelines for the Depopulation of Animals was issued, the science on humane depopulation methods has advanced, and this will be incorporated into the new Guidelines. How will USDA prepare to implement the updated guidance, which may include new methods and require advanced planning and stockpiling new equipment?

We recognize that the USDA is charged with an enormous responsibility in effectively mitigating animal disease outbreaks and does not take lightly the significant animal losses involved (an estimated 80 million birds during the current HPAI outbreak alone). We look forward to receiving this information from the USDA and appreciate your attention to this critical matter.

Sincerely,



Julia Brownley
Member of Congress



Anthony D'Esposito
Member of Congress



Barbara Lee
Member of Congress



Brian Fitzpatrick
Member of Congress

⁴ <https://www.fao.org/3/cc6936en/cc6936en.pdf>



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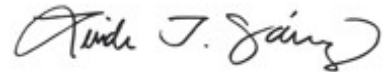
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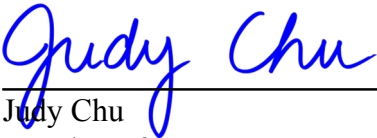
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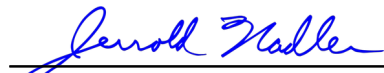
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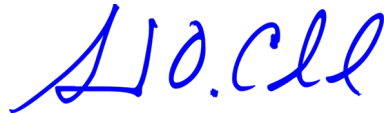
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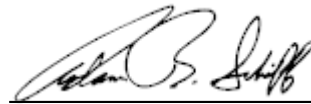
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