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NEWS

NGFA Update: HPAI detected in Texas, Kansas dairy cattle

By David Fairfield, Senior Vice President, Feed

The U.S. Department of Agriculture (USDA) on March 25 announced that unpasteurized, clinical samples of milk from sick cattle collected from two dairy farms in Kansas and one in Texas, as well as an oropharyngeal swab from another dairy in Texas, have tested positive for highly pathogenic avian influenza (HPAI). USDA states that based on findings from Texas, the detections appear to have been introduced by wild birds.

These incidents represent the first time HPAI has been identified as affecting dairy cattle. On March 20, the Minnesota Board of Animal Health announced that HPAI was detected in a goat on a Minnesota farm where an outbreak had recently been detected in poultry. The occurrence of HPAI in the goat was the first U.S. detection of HPAI in livestock.

Federal and state agencies are conducting additional testing for HPAI, as well as viral genome sequencing, to better understand these situations, including characterization of the HPAI strain or strains associated with these detections. Significantly, initial testing by the National Veterinary Services Laboratories has not found changes to the virus that would make it more transmissible to humans, which would indicate that the current risk to the public remains low.

Further, USDA states, at this stage, there is no concern about the safety of the commercial milk supply or that this circumstance poses a risk to consumer health. Dairies are

required to send only milk from healthy animals into processing for human consumption; milk from impacted animals is being diverted or destroyed so that it does not enter the food supply. In addition, pasteurization has continually proven to inactivate bacteria and viruses, like influenza, in milk. Pasteurization is required for any milk entering interstate commerce.

H5N1 is an extremely infectious influenza virus that is often fatal to poultry, and can spread quickly by direct, bird-to-bird contact. The virus can also spread indirectly, such as when birds come in contact with contaminated surfaces or materials. Migratory waterfowl (including wild ducks and geese) and the movement of poultry, poultry equipment, vehicles and people are other potential sources for spreading the disease.

When an outbreak occurs, USDA's Animal and Plant Health Inspection Service (APHIS) works closely with animal health officials in the state on a joint incident response. Key components of the response include movement standstill orders, quarantine and area/zone designations, and depopulation of birds to prevent the spread of the disease.

Grain and feed facilities potentially can be affected when an outbreak occurs. Facilities associated with an affected farm likely will be expected to obtain a movement permit and maintain records related to movements of delivery trucks, and other service vehicles and personnel. As a resource to members, NGFA has made available [guidance](#) that provides information on animal disease biosecurity considerations and preparedness and response issues.

In addition, USDA has made available a [variety of resources](#) related to prevention of H5N1. NGFA encourages grain and feed facilities to implement biosecurity practices that are effective and appropriate for their operations.

CISA proposes federal rules for cyber incident reporting

The Department of Homeland Security's (DHS) Cybersecurity and Infrastructure Security Agency (CISA) on March 27 published a proposed rule to require critical infrastructure companies to report significant cyberattacks within 72 hours and ransom payments within 24 hours.

All critical infrastructure entities – including the food and agriculture sector – are covered by the proposal, other than those that are considered small businesses. The [447-page proposal](#) offers varying sets of criteria for whether the different critical infrastructure sectors will be required to report incidents.

CISA's proposal references several comments submitted by NGFA in 2022. NGFA's [recommendations](#) included excluding small companies from the definition of those that need to report incidents.

CISA estimates that the proposed rules' costs will total \$2.6 billion over 11 years. Roughly 316,000 entities are potentially impacted, the agency said, and it expects to receive more than 25,000 reports per year starting in 2026.

“When information about cyber incidents is shared quickly, CISA can use this information to render assistance and provide warning to prevent other organizations from falling victim to a similar incident,” CISA noted in a news release. “This information is also critical to identifying trends that can help efforts to protect the homeland.”

The agency developed the rules after President Joe Biden signed the Cyber Incident Reporting for Critical Infrastructure Act into law in March 2022. Once it is [published in the Federal Register](#) on April 4, CISA will accept public comments on the proposal for 60 days.

NGFA urges STB to preserve competition in CN-IANR merger

In comments to be submitted on March 29 to the Surface Transportation Board (STB), NGFA said it does not oppose the Canadian National Railway Company's (CN) proposed acquisition of Iowa Northern Railway Company (IANR) but urged STB to condition any approval of CN's application on actions to preserve competition and customer service.

NGFA outlined several conditions that should be met by the proposal and any oversight agreement, including:

1. Any approval of CN's acquisition of IANR should be conditioned on the same terms for keeping gateways open on "commercially reasonable terms" that the Board imposed on its approval of the Canadian Pacific-Kansas City Southern Railway merger.
2. STB should impose a five-year monitoring and oversight condition on any approval of CN's IANR acquisition.
3. CN's development and implementation of a scheduled local service plan should be made an express condition of the Board's approval. "The preservation of the local service provided by IANR is critical to the success of this transaction," NGFA noted.
4. STB should also require CN to preserve the status quo concerning customer service on the IANR system. During the oversight period, STB should "closely monitor how CN integrates the IANR's customer service into CN's system" and be prepared to step in if CN's actions result in reduced service.

CN closed an agreement to acquire IANR on Dec. 6, 2023, and filed an application with the STB on Jan. 30, 2024. Contact ngfa@ngfa.org to receive NGFA's full comments to the STB.

OSHA's worker walkaround rule in final approval stage

A rule that would expand access for third parties to participate as employee representatives in federal workplace inspections has completed review at the Office of Management and Budget (OMB), meaning the Occupational Safety and Health Administration (OSHA) could finalize the rule at any time.

Once finalized, the "Worker Walkaround Representative Designation" rule will immediately apply to federal OSHA jurisdictions, but not to State Plan States until it is formally adopted. A map distinguishing federal OSHA jurisdictions from the State Plan States is [available here](#) on OSHA's website.

OSHA issued the Notice of Proposed Rulemaking on Aug. 30 and sent it to OMB in February this year. Among other issues, the rule would open the door to union organizers, community activists, or other third parties who do not officially represent the employees or the government to accompany OSHA on an inspection of a workplace if an OSHA Compliance Safety and Health Officer (CSHO) determined the third party would positively impact the inspection.

NGFA joined the *Employers Walkaround Representative Rulemaking Coalition* led by Conn Maciel Carey LLP which drafted and submitted [comments](#) in November urging OSHA to withdraw the proposal.

“In several ways, the proposal significantly expands the scope of individuals who can be designated as third-party authorized representatives, creating unworkable practical challenges for employers,” noted the coalition. The proposal represents “a significant change to the OSHA’s longstanding approach to physical inspections of American workplaces and raises novel and complex issues of law.”

In its comments, the coalition noted that the proposal would violate several laws, including the OSH Act, the National Labor Relations Act, and the Fourth Amendment.

Changes resulting from the proposal “would create a system in which otherwise unauthorized third parties can gain access to employers’ private workplaces and their workforces,” potentially including disgruntled former employees, workers on strike against the company, or individuals who pose security, cybersecurity and proprietary risks, the groups noted.

In addition to increasing costs for employers, the change “will undoubtedly” result in contention between employers and OSHA, the coalition added.

According to the proposal, a CSHO would determine if any potential “third-party representatives” would be qualified to participate in the inspection, which could potentially include union representatives; plaintiffs’ attorneys; attorneys and consultants “experienced in interacting with government officials,” or “with relevant cultural competencies;” worker advocacy organizations; technical experts with more expertise than OSHA has in-house; competitors accessing proprietary information; former employees; customers; and media.

Multiple parties are considering litigation to challenge the rule after it is published and goes into effect.

EVENTS

Register for NGFA’s April 10 safety webinar

NGFA will host a grain safety webinar on “[Accountability](#)” with Joe Mlynek, founder of Progressive Safety Services, LLC, and partner at Safety Made Simple, on **April 10 at 1 p.m. ET.**

During the webinar, Mlynek will discuss several strategies for getting employees to take responsibility for their personal safety and overall team performance. The discussion will touch on defining safe behaviors, performance evaluations, and progressive discipline.

[Please register](#) to attend this webinar.

Mlynek will host a series of grain safety webinars throughout 2024 as part of a new partnership with the NGFA. In addition to “Accountability” on April 10, other webinar topics include “Hazardous Atmospheres in Confined Spaces” on June 18 and “Serious Injury and Fatalities (SIFs) in the Grain and Feed Industry” on Nov. 14.



Mlynek is a Certified Safety Professional (CSP) and an Occupational Health and Safety Technician (OHST), as well as an active member of the NGFA, Grain Elevator and Processing Society, Ohio Risk Coordinators, National Fire Protection Association, and American Society of Safety Professionals.

Recognize Stand Up 4 Grain Safety Week participation

NGFA joined the Grain Elevator and Processing Society (GEAPS), Grain Handling Safety Council (GHSC) and Occupational Safety and Health Administration (OSHA) to promote the annual Stand Up 4 Grain Safety Week on March 25-29.

Resources made available throughout the week are available on standup4grainsafety.org.

Certificates: Did you participate in the free virtual learning sessions offered each day this week? Did your company host a safety briefing during Stand Up week? If so, download a [Certification of Participation](#) signed by OSHA and the safety alliance partners. The certificate can be downloaded and filled in with the names of each participating team member.



SUPPLEMENTS

Extra Supplements

NGFA in the news:

World Grain: [Seyfert: It's going to be a busy year for NGFA](#)

Feed & Grain: [Why the grain, feed industry must speak up to impact policy \[Video\]](#)

Baking Business: [USDA highlights developing markets for US ag commodities](#)

Feed & Grain: [NGFA announces new industry officers and directors](#)

Farms.com: [Ag Groups Seek USDA Funds to Recover Markets](#)

Columbus Telegram: [Agriculture boards promote grain safety during Stand Up 4 Grain Safety Week](#)

World Grain: [ADM's Boerm elected NGFA chairman](#)

Other news:

Agri-Pulse: [Opinion: A different perspective on the PURR Act](#)

DTN: [South Dakota Gov. Noem: Chinese Influence in US Agriculture is a National Security Threat](#)

Wall Street Journal: [U.S. Publishes Draft Federal Rules for Cyber Incident Reporting](#)

Marine Link: [Demopolis: A Cautionary Tale For Increased Infrastructure Investment](#)

DTN: [Agriculture, Biofuels Groups Press EPA to Issue Emergency E15 Waiver](#)

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