State of Iowa

Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

PROCLAMATION OF DISASTER EMERGENCY

WHEREAS, beginning on October 19, 2023, and continuing thereafter, there have been confirmed cases of highly pathogenic avian influenza in the state of Iowa; and

WHEREAS, highly pathogenic avian influenza is a contagious and economically devastating disease that has threatened turkeys, chickens, and other poultry in our state; and

WHEREAS, the spread of this highly contagious disease continues to threaten the public peace, health, and safety of the citizens of the State of Iowa and has the potential to quickly destroy private property and exhaust local resources and capacities unless its spread is stopped, which provides legal justification for the issuance of a Proclamation of a State of Disaster Emergency; and

WHEREAS, Iowa poultry producers typically dispose of animal manure generated by their facilities under the provisions of Iowa Code Chapter 200A; and

WHEREAS, strict compliance with the provisions of Iowa law related to composting facilities and permit application requirements for composting facilities would prevent, hinder, or delay necessary action in coping with this disaster in the affected county; and

WHEREAS, Iowa Code § 200A.3 (6) requires that animal manure must be "unmanipulated" and composed "primarily of animal excreta" in order to be considered "dry animal nutrient product" to come under the regulation of Iowa Code Chapter 200A. As defined, Iowa Code § 200A.3 (6) creates a particular hardship for turkey and chicken producers on sites infected by highly pathogenic avian influenza by making them ineligible to dispose of their animal manure under the authority of Iowa Code Chapter 200A; and

WHEREAS, producers with sites infected with highly pathogenic avian influenza in the following Iowa county is adversely affected by the definition of "dry animal nutrient product" in Iowa Code § 200A.3 (6): Hamilton.

NOW, THEREFORE, I, KIMBERLY K. REYNOLDS, Governor of the State of Iowa, by the power and authority vested in me by the Iowa Constitution Art. IV, §§ 1, 8 and Iowa Code §§ 29C.6 (1), 163.1, 163.3A (2) and all other applicable laws, and in conjunction with the Iowa Department of Agriculture and Land Stewardship, and the authority granted to it under Iowa Code § 163.3A, do hereby proclaim a **STATE OF DISASTER EMERGENCY** specifically for Hamilton County and do hereby **ORDER** and **DIRECT** the following:

SECTION ONE. As required by Iowa Code § 29C.6 (1), (10) and 42 U.S.C. § 5170 in cases of presidential disaster declarations, this Proclamation of Disaster Emergency activates the disaster response and recovery aspect of the Iowa Department of Homeland Security and Emergency Management's Iowa Emergency Response Plan, any annex to that plan dealing with foreign animal disease, and those local response plans applicable to the county affected by this disaster.

SECTION TWO. This proclamation further authorizes the use and deployment of all available state resources, supplies, equipment, and materials as are deemed reasonably necessary by the Iowa Department of Agriculture and Land Stewardship and the Iowa Department of Homeland Security and Emergency Management, working in conjunction with the United States Department of Agriculture and the Governor's Office and pursuant to Iowa's Emergency Response Plan, in order to do the following:

A. Track and monitor instances of confirmed highly pathogenic avian influenza throughout the state of Iowa and the country,

B. Establish importation restrictions and prohibitions in respect to animals suspected of suffering from this disease,

C. Rapidly detect any presumptive or confirmed cases of highly pathogenic avian influenza within Iowa's borders,

D. Contain the spread of highly pathogenic avian influenza within our state through depopulation, disinfections, and disposal of livestock carcasses,

E. Engage in such surveillance and detection activities, contact tracking, and other investigatory work to stop the spread of highly pathogenic avian influenza within our state, and

F. Eliminate the disease in the disaster county where it has been found and lessen the risk of this disease spreading to our state as a whole.

SECTION THREE. The Iowa Department of Homeland Security and Emergency Management, the Iowa Department of Transportation, the Iowa Department of Public Safety, the Iowa Department of Natural Resources, the Iowa Department of Public Health, other state agencies, and local law enforcement agencies are hereby authorized to implement such stop movement and stop loading restrictions, surveillance and sampling activities, and other control zone measures as are reasonably deemed necessary, including establishing buffer zones, checkpoints, and cleaning and disinfecting operations at checkpoints and borders surrounding any quarantine areas established by the Iowa Department of Agriculture and Land Stewardship or at any other location in the state of Iowa, in order to stop the spread of this contagious disease.

SECTION FOUR. The Iowa Department of Homeland Security and Emergency Management, working in conjunction with the Iowa Department of Transportation, the Iowa Department of Public Safety, the Iowa Department of Natural Resources, the Iowa Department of Public Health, other state agencies, and local law enforcement agencies, are authorized to assist the Iowa Department of Agriculture and Land Stewardship and the United States Department of Agriculture in disinfection, depopulation, and carcass disposal efforts.

SECTION FIVE. I temporarily waive those restrictions set out in 567 Iowa Admin. Code 105.3(5), 105.3(6), 105.6(6) and suspend the requirements of 567 Iowa Admin. Code 105.8 as to allow for the timely and efficient composting of poultry carcasses and associated materials, subject to the composting requirements and direction of the United States Department of Agriculture and the Iowa Department of Agriculture and Land Stewardship.

SECTION SIX. I temporarily waive those restrictions set out in 567 Iowa Admin. Code 100.4(2)(b) as to allow for the timely and efficient disposal of poultry carcasses, subject to the restrictions set out in 567 Iowa Admin. Code 100.4 (2)(c).

SECTION SEVEN. I temporarily suspend the regulatory provisions of Iowa Code § 200A.3 (6) requiring that animal manure be "unmanipulated" and composed "primarily of animal excreta" in order to be considered "dry animal nutrient product" as defined by this section. This suspension shall be effective only to manure and compost generated at a premise infected with highly pathogenic avian influenza and quarantined by the Iowa Department of Agriculture and Land Stewardship, in the county delineated above, provided said material has been released for application in writing by the United States Department of Agriculture and the Iowa Department of Agriculture and Land Stewardship. All other provisions of Iowa Code Chapter 200A shall apply to the above-described material.

SECTION EIGHT. I temporarily suspend the regulatory provisions of Iowa Code § 321.449 pertaining to hours of service for commercial vehicle drivers hauling loads related to the response to this disaster during its duration, subject to these conditions:

A. Nothing contained in this Proclamation shall be construed as an exemption from the controlled substances and alcohol use and testing requirements under 49 CFR Part 382, the commercial drivers' license requirements under 49 CFR Part 383, the financial responsibility requirements of 49 CFR Part 387, or any other portion of the Code of Federal Regulations not specifically identified in this proclamation.

B. No motor carrier operating under the terms of this proclamation shall require or allow a fatigued or ill driver to operate a motor vehicle. A driver who informs a carrier that he or she needs immediate rest shall be given at least ten consecutive hours off duty before the driver is required to return to service.

C. Upon the request of a driver, a commercial motor carrier operating under this proclamation must give a driver at least thirty-four (34) consecutive hours off when the driver has been on duty for more than seventy (70) hours during any eight consecutive days.

D. Motor carriers that have an out-of-service order in effect may not take advantage of the relief from regulations that this declaration provides under title 49 CFR § 390.23.

E. Upon the expiration of the effective date of this Proclamation, or when a driver has been relieved of all duty and responsibility to provide direct assistance to the emergency effort, a driver that has had at least thirty-four (34) consecutive hours off duty shall be permitted to start his or her on-duty status hours and 60/70-hour clock at zero.

SECTION NINE. I temporarily suspend the regulatory provisions of Iowa Code §§ 321.463 (6) (a) and (b) for certain loads transported on all highways within Iowa, excluding the interstate system, for commercial vehicle drivers hauling loads related to the response to this disaster during its duration, when such loads:

A. Do not exceed a maximum of 90,000 pounds gross weight,

B. Do not exceed by more than twelve and one-half percent (12.5%) the maximum axle weight limit determined under the non-primary highway maximum gross weight table in Iowa Code § 321.463 (6) (b),

C. Do not exceed the legal maximum axle weight limit of 20,000 pounds, and

D. Comply with posted weight limits on roads and bridges.

SECTION TEN. I temporarily suspend the regulatory provisions of 11 Iowa Admin. Code § 53.11 (3) prohibiting pay to those State of Iowa employees for hours worked in excess of 40 hours per workweek while present in the State's Emergency Operations Center or otherwise engaged in assigned disaster response missions or other activities. This suspension shall be retroactive to the initial activation of the Iowa Department of Agriculture and Land Stewardship Incident Management Team.

SECTION ELEVEN. I temporarily suspend the regulatory provisions of Iowa Code Chapter 8A, 11 Iowa Admin. Code Chapters 117 and 118, and 641 Iowa Admin. Code Chapter 176, requiring the Iowa Department of Homeland Security and Emergency Management, the Iowa Department of Transportation, the Iowa Department of Public Safety, the Iowa Department of Natural Resources, the Iowa Department of Public Health, and other state agencies procure goods and services through a competitive selection process or to otherwise follow, adhere to, or obtain other procurement-related processes, procedures, approvals, or limitations. Suspension of these provisions is limited to the duration of this proclamation and is further limited to procurements which are necessary to prevent or contain the spread of the disease that is the subject of this proclamation of disaster emergency.

SECTION TWELVE. This state of disaster emergency shall be effective immediately, shall continue for a period of thirty (30) days and shall now expire on December 3, 2023, unless sooner terminated or extended in writing by me.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME AND CAUSED THE GREAT SEAL OF THE STATE OF IOWA TO BE AFFIXED AT DES MOINES, IOWA THIS THIRD DAY OF NOVEMBER IN THE YEAR OF OUR LORD TWO THOUSAND TWENTY-THREE.

Kim Reynolds

KIMBERLY K. REYNOLDS
GOVERNOR

ATTEST:

Paul D. Pate

PAUL D. PATE
SECRETARY OF STATE