

UNIVERSITY OF
MARYLAND
EXTENSION

Commercial Poultry News

In This Issue:

- 2 - Biosecurity: Review and Tightening Up!
HPAI On Delmarva Again...Still
- 4 - Broiler Grower Settlement Forms
Arriving to Mid-Atlantic Growers: Background on the Class Action
- 5 - The MDA Diagnostic Labs & Education Tour
And
The Poultry Farm Management Workshop
Both, Great Opportunities to Learn!
- 6 - Another Class Action
Filed Claiming Companies Have
Miscategorized Contract Growers

**KEEP OUR CHICKENS
HEALTHY**



**NO ADMITTANCE
WITHOUT OWNER
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Need Biosecurity Signs?
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Poultry Grower Meeting October 4, 2022 Denton, Maryland

**Sharing the HPAI Experience:
What Happens in the First 24 Hours
Plus
Circulation Fan Research Results**

Date and Time: October 4, 2022 6:00 pm - 8:00 pm

Location: Caroline County 40-H & Youth Park
8230 Detour Road, Denton, MD 21629

Cost: Free with Dinner Provided

Register ASAP: <https://poultry-growers-mtg-ai-experience.eventbrite.com>

Maryland and Delaware offering Nutrient Management Credits

The University of Maryland Extension, along with University of Delaware Cooperative Extension and the Delmarva Chicken Association are offering this event to Delmarva Poultry Growers on Tuesday, October 4, from 6-8pm in Denton, MD.

The University of Maryland Extension programs are open to all and will not discriminate against anyone.

Sponsors:



CHEMTRADE



Biosecurity: Review and Tightening Up! HPAI On Delmarva Again...Still

Jenny Rhodes sent this out to the UME Commercial Poultry mailing list this week:

SITUATION UPDATE from the Delaware Department of Agriculture - September 23, 2022



Two Kent County Backyard Flocks Test Presumptive Positive for Avian Influenza

UPDATE Preliminary testing of two non-poultry backyard flocks in Kent County, Del., has returned presumptive positive H5 avian influenza from the University of Delaware's Lasher Laboratory in Georgetown, part of the National Animal Health Laboratory Network. Additional samples have been sent to the U.S. Department of Agriculture's National Veterinary Services Laboratory for further confirmation. State officials have quarantined all affected premises, and birds on the properties have been depopulated to prevent the spread of the disease. Birds from affected flocks will not enter the food system. Avian influenza is a highly contagious airborne respiratory virus that spreads quickly among birds through nasal and eye secretions and manure. The virus can be spread from flock to flock, including wild birds, through contact with infected poultry, equipment, and on the clothing and shoes of caretakers. This virus affects poultry, like chickens, ducks, and turkeys, and some wild bird species, such as ducks, geese, shorebirds, and raptors.

BACKGROUND Over the past six weeks, highly pathogenic avian influenza (HPAI) H5N1 has been confirmed in the Atlantic Flyway, of which Delaware is a part, including flocks in neighboring states. With the southerly migration of waterfowl underway, all commercial and backyard flock owners need to increase their vigilance in protecting their flocks from contracting avian influenza. The avian influenza cases previously announced in February and March 2022 in New Castle County and Kent County have all been declared disease-free and have returned to production.

Key biosecurity practices:

- Clean and disinfect vehicles. Don't walk through or drive trucks, tractors, or equipment in areas where waterfowl or other wildlife feces may be. If you can't avoid this, clean your shoes, vehicle, and equipment thoroughly to prevent bringing disease agents back to your flock. This is especially important when visiting with farmers or those who hunt wildfowl, such as when gathering at a local coffee shop, restaurant, or gas station.
- Remove loose feed. Don't give wild birds, rodents, and insects a free lunch! Remove spilled or uneaten feed immediately and ensure feed storage units are secure and free of holes. Wild birds can carry HPAI.
- Keep visitors to a minimum. Only allow those who take care of your poultry to come in contact with your birds, including family and friends. Make sure everyone who has contact with your flock follows biosecurity principles.
- Wash your hands before and after coming in contact with live poultry. Wash with soap and water (always your first choice). If using hand sanitizer, remove manure, feathers, and other materials from your hands because disinfectants will not penetrate organic matter or caked-on dirt.

Biosecurity: Review and Tightening Up! HPAI On Delmarva Again...Still continued

- Provide disposable boot covers (preferred) or disinfectant footbaths for anyone having contact with your flock. If using a footbath, remove all droppings, mud, or debris from boots and shoes using a long-handled scrub brush BEFORE stepping into the disinfectant footbath, and always keep it clean.
- Change clothes before entering poultry areas and before exiting the property. Visitors should wear protective outer garments or disposable coveralls, boots, and headgear when handling birds. Shower out and change clothes when leaving the facility.
- Clean and disinfect tools or equipment before moving them to a new poultry facility. Before allowing vehicles, trucks, tractors, or tools and equipment (e.g., egg flats and cases) that have come in contact with birds or their droppings to exit the property, ensure they are cleaned and disinfected to prevent contaminated equipment from transporting disease. Do not move or reuse items that cannot be cleaned and disinfected, such as cardboard egg flats.
- Look for signs of illness. Know the warning signs of infectious bird diseases. If You Have Sick Poultry or Experience Increased Mortality in Your Flock:
 - ◆ Commercial poultry producers should follow the procedures of contacting the company they grow for when they notice signs of disease.

What to do if you see signs of disease in your flock

Commercial poultry producers should follow the procedures of contacting the company they grow for when they notice [signs of disease](#). This can include decreased water or feed consumption, increased mortality, swelling around the head or legs, nasal discharge, or lack of energy.

In **Delaware**, email the Delaware Poultry Health Hotline at poultry.health@delaware.gov or call 302-698-4507 and provide your contact information, size of flock, location, and concerns.

In **Maryland**, report any unusual or sudden increases in sick birds to the MDA Animal Health Program at 410-841-5810. Commercial chicken growers and backyard flock owners can email questions about the outbreak to MD.Birdflu@maryland.gov.

In **Virginia**, report sick birds or unusual bird deaths to the State Veterinarian's Office at 804-692-0601 or vastatevet@vdacs.virginia.gov or through the USDA's toll-free number, 866-536-7593.

More Information

Article: [Highly Pathogenic Avian Influenza \(HPAI\) - A Typical First 72 Hours](#)

The University of Maryland Extension website for information, publications, videos, etc.:

<https://extension.umd.edu/programs/agriculture-food-systems/program-areas/animal-science/poultry>

Broiler Grower Settlement Forms Arriving to Mid-Atlantic Growers: Background on the Class Action

By Paul Goeringer, Extension Legal Specialist, UMD



The article is not a substitute for legal advice. See [here](#) for the site's reposting policy.

The Mid-Atlantic region's poultry growers may have started to receive settlement forms recently for broiler grower class action lawsuit settlement. Growers might be surprised to receive this form in the mail and may have questions on what the class action was about. If you have questions about the settlement process, please check out the website for the litigation [here](#), which includes many important deadlines for broiler growers. Answers to many of the important questions growers may have are currently unknown; how much each individual grower will receive, whether additional integrators will settle, and what amount of attorneys' fees will need to be paid are among those questions.

Originally filed in 2017 in the federal district court for the Eastern District of Oklahoma, the lawsuit alleges that a number of integrators colluded in the broiler market. According to the court filings, the plaintiffs alleged that the integrators agreed not to poach growers. In addition to the no-poaching agreement, the integrators also allegedly used Agri Stats to share detailed data about their operations. Although this data shared through Agri Stats is anonymous, it is highly detailed, making it possible for companies to distinguish various operations. This data is also non-public -- private data only available to the integrators, according to the court filings. By sharing this detailed data with Agri Stats, the integrators were able to collude to lower grower compensation.

The plaintiffs brought these claims of collusion, antitrust, and unfair competition practices under the Sherman Antitrust Act and the Packers and Stockyards Act. Growers for other integrators may also be receiving settlement agreement forms. This is because the lawsuit involves a large number of integrators, including Koch Poultry, Pilgrim's Pride, Sanderson Farms, Tysons, and Perdue, and a number of co-conspirators, including Agri Stats, Foster Farms, Mountaire Farms, Wayne Farms, George's, Inc., Peco Foods, Inc., House of Raeford Farms, Simmons Foods, Keystone Foods, Fieldale Farms Corp., O.K. Industries, Case Foods, Marshall Durbin Companies, Amick Farms, Inc., Mar-Jac Poultry, Inc., Harrison Poultry, Inc., and Claxton Poultry Farms. At this point, Perdue and Tyson have not agreed to the settlement, but their growers are still included in the settlement process.

Growers for all these companies will receive settlement forms as potential class members impacted by the lower grower compensation amount due to the alleged collusion. Growers getting settlement forms will need to pay attention to certain dates. The first date is **Sept. 23, 2022**, for postmarking requests to be excluded from the settlement. Remember that you always have the right to be excluded from a settlement. When you do this, you often have the right to sue for similar claims on your own or do nothing, but you **must** opt-out by the September 23 date. Second, all claims forms must be submitted online or be postmarked by **February 6, 2023**. Please check the website at <https://www.broilergrowersantitrustsettlement.com/> for the important dates to determine if a grower wants to be part of the settlement or notices mistakes on the settlement form.

The MDA Diagnostic Labs & Education Tour And The Poultry Farm Management Workshop - Both, Great Opportunities to Learn!



On August 16, over 40 people came to tour the new, recently-opened, MDA Animal Diagnostic Laboratories on Nanticoke Road in Salisbury, Maryland.

Short talks on **Early Clinical Signs of HPAI** by State Veterinarians, Drs. Odian and Mondal, and **Biosecurity**, by Karen Clark (MDA), Jon Moyle and Jenny Rhodes, (UME), while the attendees enjoyed a Chic-fil-A luncheon, provided by our sponsor **Horizon Farm Credit**, and were given mini tours of the new facility and laboratories.

On Tuesday, Sept. 26, we held the **Poultry Farm Management Workshop for New & Existing Growers** and filled MDA's conference room in their new Diagnostic Labs Building. Where, again we were sponsored by **Horizon Farm Credit** and also **Maryland Farm Bureau**.



On **October 26**, we will be in the MDA Building again and present:
“Covering Poultry Legal Issues: Suspicious Vehicles and Drones”

Register by **October 24** at: <https://poultry-legal-issues.eventbrite.com>

Another Class Action Filed Claiming Companies Have Miscategorized Contract Growers

By Paul Goeringer, Extension Legal Specialist, UMD

The article is not a substitute for legal advice. See [here](#) for the site's reposting policy.

Earlier this year, I posted about a recently filed class action lawsuit involving contract poultry growers, arguing that they were employees of Amick Farms and not independent contractors. For anyone needing a refresher on a class action lawsuit, I encourage you to check out that post. Another class action lawsuit filed in Georgia by growers for Perdue argues that growers are employees, not independent contractors. The lawsuit also contends that Perdue failed to pay the growers the federal minimum wage and overtime and breached the grower agreement by calling the growers independent contractors. This new lawsuit is [Parker v. Perdue Farms, Inc.](#), No. 5:22-cv-00268-TES.

Background

The plaintiff, a poultry farmer from South Carolina, is a contract grower for Perdue Farms, Inc. and their operation in Milledgeville, Georgia. Parker, the plaintiff, has been a poultry grower for Perdue but was informed by Perdue in 2019 that they would no longer provide him with birds. The contract stated that Parker was an independent contractor and that Perdue would process the birds and market the final product.



As a refresher, an independent contractor is a self-employed person or entity with the right to control or direct the result of work, what will not be done, and how work will be done. For example, you hire a plumber to repair a water line issue at your house. The plumber is an independent contractor who controls the work, when and how it will be done, and what will not be done. In addition, independent contractors are responsible for paying their social security and Medicare taxes.

Claims Being Pursued

The claims pursued in this new class action lawsuit are more straightforward than the previous one I discussed. The first claim is that Perdue failed to pay a minimum wage to its growers. Next, based on allegations, Parker argues that the Perdue growers are employees, not independent contractors, and have not paid its employees the federal minimum wage. Next, because the growers worked over 40 hours per week, Parker argues that growers are entitled to overtime under federal law. Although the federal Fair Labor Standards Act exempts agricultural workers, Parker argues that the growers do not fit within those categories. Therefore, Perdue was required to pay overtime for work over 40 hours per week.

Next, Parker argues that because the Poultry Production Agreement that all growers sign treats them as independent contractors, Perdue has violated that agreement by failing to treat them as independent

Another Class Action Filed Claiming Companies Have Miscategorized Contract Growers....

contractors. This claim is based on the argument that because the growers are Perdue employees, Perdue has breached the contract by not treating them as independent contractors.



With the remaining claims, Parker argues that the growers are entitled to a declaration that they are employees and should be treated as such by Perdue. First, Parker includes a claim of fraud based on the argument that because Perdue represented to the growers that they would be independent contractors, Perdue withheld information to get them to sign up with Perdue. Next, Parker argues that these misrepresentations should be considered negligent misrepresentation. Negligent misrepresentation is when a party makes statements without regard for the truth. In this case, Parker claims that Perdue knew

the growers were not independent contractors but still told the growers they would be treated that way to get them to sign contracts. Therefore, Perdue has been unjustly enriched by not compensating the growers appropriately based on these alleged misrepresentations.

Finally, Parker includes claims based on the Packers and Stockyards Act. This federal law regulates practices within the poultry and livestock industries. This claim is for only Parker and not the entire class. Parker claims that Perdue did not weigh the birds accurately, which reduced Parker's compensation. This claim stems from arguments Parker is making that Perdue allegedly retaliated against him after Parker made claims against Perdue and its practices to USDA.

What Do You Need to Know?

It's too early to know what will happen in this litigation. We are still in the early stages, and this case may not survive beyond this. It is also too early to tell if this litigation will be certified as a class action lawsuit. However, if it is certified as a class action, Perdue growers may receive notices that they are included in the litigation. As this litigation progresses, I'll keep updating the information so growers know what to expect.

On **October 26**, we will be in the MDA Building again and present:
"Covering Poultry Legal Issues: Suspicious Vehicles and Drones"

Register by **October 24** at: <https://poultry-legal-issues.eventbrite.com>

As always, more poultry information at our University of Maryland Extension/Poultry website:
<https://extension.umd.edu/programs/agriculture-food-systems/program-areas/animal-science/poultry>