EMERGING ANIMAL HEALTH THREATS AND THE EXERCISE OF ANIMAL HEALTH AUTHORITY IN UNITED STATES AGRICULTURE

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I. INTRODUCTION

Animal disease outbreaks increasingly operate as regulatory events rather than purely veterinary concerns. Contemporary animal health threats implicate federal and state police powers, interstate commerce, emergency management authority, and biosecurity enforcement. Recent incidents involving the renewed threat of New World Screwworm along the United States and Mexico border, a multistate equine herpesvirus (EVH-1) outbreak linked to interstate horse movement, and the unprecedented detection of highly pathogenic avian influenza in United States dairy cattle illustrate how animal health events activate overlapping statutory and regulatory frameworks.[1]

For agricultural law practitioners, these incidents demonstrate the practical operation of animal health law. Agencies invoke emergency authority, restrict animal movement, impose surveillance requirements, and coordinate across jurisdictions. It is critical to note that split authority exists with regard to animal health threats and response from both federal and state agencies. Collaboration at the state and federal level is generally complementary, where one agency's authority may expire, but their resources are vast and can provide support where another agency's authority may be invoked with a more limited resource pool. This Article examines these three events as case studies in the application of animal health authority in the United States.

II. NEW WORLD SCREWWORM

A. Background and Biology

The New World Screwworm (NWS, Cochliomyia hominivorax) is a parasitic fly native to the Western Hemisphere. It lays eggs in the living tissue of fresh wounds in warm-blooded animals. The larvae (maggots) feed on the host's flesh, causing severe wounds and often death if untreated.[2] Unlike other fly larvae that consume necrotic tissue, screwworm larvae feed exclusively on living flesh, making infestations particularly destructive to livestock and wildlife.[3]

As of May 2025, there has been renewed attention to this parasite, as it may pose future risks to livestock and wildlife within the continental United States. The continued migration of the pest north through Mexico has resulted in increased concern over a possible reemergence in the United States.

The United States eradicated New World screwworm domestically in 1966 through the sterile insect technique.[4] The pest remains endemic in parts of Central and South America. Since 2023, confirmed detections have moved steadily northward through Mexico, raising concern regarding reintroduction into the United States.[5] The NWS is controlled only through the release of sterile males, known as the sterile insect technique (SIT). This approach, along with regular active surveillance and livestock inspections, has proven highly successful thus far.

While livestock are certainly at risk from NWS, infestation within the wildlife population is more troubling, both from animal husbandry and regulatory perspectives. Livestock are handled and moved in a somewhat predictable manner (there are exceptions) and can be treated as necessary. The same cannot be said for wildlife, which technically belongs to the states. There is no federal agency that has jurisdiction over wildlife (except those listed as endangered or threatened under the Endangered Species Act or are present on federal property). In Texas, the regulatory authority falls to the Texas Parks and Wildlife Department (TPWD).

B. Legal and Economic Significance

The potential reintroduction of NWS in the United States carries substantial legal and economic consequences. Infestation would threaten livestock health, disrupt interstate commerce, and likely result in quarantines, movement restrictions, and enhanced inspection regimes. From a legal standpoint, NWS directly implicates the federal government's authority to prevent the introduction and dissemination of animal pests and diseases under the Animal Health Protection Act.[6]

Texas faces heightened exposure due to the size of its livestock industry and its role as a primary entry point for animal movement from Mexico. The economic consequences of infestation would extend beyond producers to markets, transporters, and processors, reinforcing the legal justification for aggressive preventive action.[7]

C. Federal and State Response

There is little doubt that should the NWS arrive in the United States, there would be a response from both federal and state governments.

1. Federal Authority and United States Department of Agriculture (USDA) Action

Under the Animal Health Protection Act, the United States Department of Agriculture is authorized to prohibit or restrict the importation or movement of animals and to take emergency action to prevent the spread of animal pests and diseases.[8] In response to the advancing threat of screwworm, the USDA

implemented a multi-component response strategy emphasizing surveillance, international coordination, animal movement controls, and expanded use of the sterile insect technique.[9]

In 2026, the USDA completed a sterile fly dispersal facility in South Texas, increasing domestic capacity to establish a buffer zone along the United States and Mexico border.[10] The USDA also adjusted sterile fly release patterns and restricted certain livestock imports from affected regions when necessary.[11]

As of June 2025, the USDA has implemented a Five-Pronged Plan to Address New World Screwworm:[12]

1. Stop the Pest from Spreading in Mexico and Ensure We Are Full Partners in Eradication

- USDA's recent $21 million expenditure went toward renovating an existing fruit fly production facility in Metapa, Mexico, which will provide an additional 60-100 million sterile flies a week to stop the spread, on top of the over 100 million sterile flies already produced in Panama. This will result in at least 160 million sterile flies produced per week.
    - New Texas Facility ($750M): This facility will be the only U.S.-based NWS production site, aimed at securing the border and reducing reliance on foreign supply. USDA & Army Corps of Engineers signed a construction contract with the builder in March 2026 with the goal of opening by late 2027.
    - International Support ($21M): USDA is investing $21 million to renovate a facility in Metapa, Mexico, to boost production capacity. Expected to open Summer 2026.
    - Total Capacity Goal: Once operational, the combination of Texas (300M/week), Mexico (up to 100M/week), and Panama (100M/week) facilities will provide 500 million sterile flies per week. The US provides a majority of the funding for the COPEG facility in Panama.
- Since June 2025 USDA has conducted robust, in-person audits of Mexico's animal health controls and will maintain close, continual monitoring of these aspects moving forward and will make continuous improvements. These in-person visits have allowed a unique opportunity for APHIS to see first-hand the challenges and opportunities in Mexico toward combating NWS.
- USDA is working closely with Mexico to improve its surveillance and detection of NWS, which includes but is not limited to regularly providing traps, lures, and technical expertise to Mexico.

2. Protect the U.S. Border at All Costs

- USDA will support Mexico's strategic trapping along our shared border and ensure the United States will receive regular reporting as an early warning intervention.
- USDA will escalate communications and public outreach along the U.S.-Mexico border to create a "barrier zone of vigilance" and boost as close to real-time as possible awareness of this pest.
- APHIS cattle fever tick riders, in collaboration with U.S. Customs & Border Protection and with state partners, will intercept and treat stray and illegally introduced livestock.

3. Maximize Our Readiness

- USDA will partner with state animal health officials to update and finalize emergency management plans and support federal, state, and local responders in training on and practicing for a potential response.
- USDA will ensure we have sufficient NWS treatments and will work to remove any federal regulatory hurdles for their use.

4. Take the Fight to the Screwworm

- Because sterile NWS flies are one of the most important and proven tools we have for eradicating the pest, USDA will immediately begin building a sterile insect dispersal facility at Moore Air Base, located north of Mission, Texas, set to be completed in 2025. This facility will be able to disperse sterile flies in Northern Mexico.
- USDA is exploring all options to eradicate NWS, which includes potential expenditures in new technologies, new science, including possible plans to move forward with the design process of a domestic sterile fly production facility to complement the new dispersal facility at Moore Air Base, which has also been identified as the proposed location. The facility could boost domestic sterile fly production by up to 300 million flies per week and complement current production in Panama and Mexico.

5. Innovate Our Way to Eradication

- USDA is pursuing innovative research to improve sterile insect technology, exploring the development of better traps and lures, exploring next-generation NWS treatments, and assessing the

potential use and practicality of additional strains or genetically modified versions of the pest, as well as e-beam and other radiation technology for the production of sterile flies.
- USDA will strengthen partnerships with land-grant universities in border states such as Texas, Arizona, and New Mexico to facilitate local training, trap deployment, surveillance validation, and stakeholder outreach in an initial manner.
- Innovation Funding ($100M): USDA-APHIS is offering up to $100 million through the New World Screwworm Grand Challenge for innovative projects to enhance production and develop NWS therapeutics.

2. FDA Emergency Use Authorizations for New World Screwworm Response

D. Statutory Authority for Emergency Use Authorizations

The Food and Drug Administration derives authority to issue Emergency Use Authorizations (EUAs) from section 564 of the Federal Food, Drug, and Cosmetic Act.[13] This provision allows FDA, upon a determination by the Secretary of Health and Human Services that a public health emergency exists or has the potential to exist, to authorize the emergency use of unapproved medical products or unapproved uses of approved products. While EUAs are most commonly associated with human medical countermeasures, Congress has expressly authorized their use for animal drugs when necessary to protect animal health, food security, or national interests.[14]

In August 2025, the Secretary of Health and Human Services determined that New World screwworm posed a significant potential public health emergency affecting national security and the food supply, thereby triggering FDA's authority to issue EUAs for animal drugs intended to prevent or treat screwworm myiasis.[15] This determination marked a significant moment in animal health law, as it enabled FDA to deploy emergency regulatory tools traditionally reserved for human health crises.

E. EUA Deployment for Screwworm Treatment and Prevention

Beginning in October 2025, FDA issued a series of EUAs authorizing the emergency use of existing antiparasitic drugs for treatment or prevention of New World screwworm infestations in animals. The first EUA authorized the use of *Credelio* (lotilaner) chewable tablets for the treatment of screwworm myiasis in dogs and puppies.[16] This action represented the first time FDA had issued an EUA for an animal drug, signaling a shift in how animal health emergencies are addressed under federal law.[17]

Subsequent EUAs expanded the available treatment toolbox. FDA authorized *Credelio CAT* for cats and kittens, *NexGard* for dogs, and *NexGard COMBO* for cats.[18] In February 2026, FDA issued an EUA for *Ivomec* (ivermectin) injectable solution to prevent screwworm infestations in cattle when administered around high-risk events such as birth, castration, or wound occurrence.[19] Most recently, FDA authorized *F10 Antiseptic Wound Spray with Insecticide* for prevention and treatment of screwworm myiasis across multiple species, including cattle, horses, sheep, goats, wildlife, and captive exotic animals.[20]

Each EUA included product-specific conditions of use, limitations on eligible species, withdrawal periods when applicable, and mandatory fact sheets for veterinarians and animal owners. These conditions underscore that EUA authority does not eliminate regulatory oversight, but rather allows FDA to balance urgent access with continued risk management.

F. Implications for Agricultural and Animal Health Law

FDA's use of EUAs in response to the screwworm threat carries several important legal implications. First, it demonstrates the increasing integration of animal health into national public health and security frameworks, particularly where livestock production and food supply stability are implicated. Second, it reflects a growing willingness to employ flexible regulatory tools in anticipation of disease introduction, rather than waiting for confirmed domestic outbreaks.[21]

For producers and veterinarians, EUAs introduce both opportunities and obligations. While they expand access to critical treatment and prevention tools, they also require compliance with specific conditions, labeling requirements, and, in some cases, restrictions on use in food-producing animals.[22] From a state perspective, regulatory agencies such as the Texas Department of Agriculture have publicly supported the FDA's EUA decisions while emphasizing that emergency authorizations supplement, rather than replace, surveillance and biosecurity measures.[23]

Taken together, the FDA's EUA actions illustrate how emergency regulatory authority is increasingly deployed as a preventive instrument in animal health law, blurring traditional distinctions between outbreak response and preparedness.

1. Texas Authority and State Action - Role of the Texas Animal Health Commission

State animal health officials dictate the rules for their respective states and domestic trade as it relates to animal health concerns. Often, the collaboration with federal partners such as the USDA Animal and Plant Health Inspection Service bolsters the capacity of state

agencies by providing access to additional funding and support.

In June 2025, Gov. Abbott directed TAHC and TPWD to establish a joint response team to coordinate efforts in combatting the NWS. The governor also issued a preemptive disaster declaration.

In January 2026, the Governor of Texas issued a statewide disaster declaration pursuant to state emergency management law, authorizing the use of state resources to prevent the introduction of screwworm before any confirmed in-state detection.[24] This action reflects the preventive use of emergency authority in animal health regulation.

G. Statutory Authority and Institutional Role

The Texas Animal Health Commission (TAHC) is the state agency charged with protecting the health of Texas livestock, domestic animals, and poultry. The Commission derives its authority primarily from the Texas Agriculture Code and corresponding provisions of the Texas Administrative Code, which empower the agency to investigate animal diseases, impose quarantines, regulate animal movement, and adopt rules necessary to control or eradicate pests and diseases that threaten animal health.[25] These authorities provide the legal foundation for state-level intervention in response to the threat posed by New World screwworm.

Under Texas law, the Texas Animal Health Commissioner, acting through the Commission's executive leadership and the State Veterinarian, is authorized to declare quarantines in areas where screwworm infestation is suspected or confirmed and to regulate the inspection, treatment, and certification of animals moving out of regulated zones.[26] The Commission's screwworm-specific regulations allow TAHC personnel to require wound treatment, spraying, and certification prior to animal movement, placing legal responsibility for compliance on livestock owners and transporters.[27]

H. Surveillance, Preparedness, and Response Activities

TAHC has played a central role in Texas's proactive response to the potential reintroduction of New World screwworm, even in the absence of confirmed detections within the state. As screwworm cases expanded northward through Central America and Mexico beginning in 2023, the Commission increased internal preparedness efforts, including staff training, interagency coordination, and alignment with federal partners such as the United States Department of Agriculture's Animal and Plant Health Inspection Service.[28]

The Commission maintains official guidance, reporting protocols, and educational resources related to New World screwworm, emphasizing producer vigilance, prompt reporting of suspected cases, and coordination with veterinarians and animal health officials.[29] These materials form part of a broader state strategy focused on early detection and rapid response to prevent the establishment of the pest within Texas.

I. Leadership of the Texas New World Screwworm Response Team

In January 2026, the Governor of Texas directed the Texas Animal Health Commission, in conjunction with the Texas Parks and Wildlife Department, to lead a joint Texas New World Screwworm Response Team.[30] This directive formalized TAHC's role as a lead operational agency responsible for coordinating preparedness and response efforts, engaging industry stakeholders, and integrating state actions with ongoing federal initiatives.

TAHC leadership has emphasized that the Commission began preparing for a potential screwworm incursion well before the confirmed spread into northern Mexico.[31] This approach reflects both Texas's historical experience with screwworm eradication and the recognition that effective response depends on early coordination among regulatory agencies, producers, veterinarians, and wildlife managers.

J. Relationship to Other State Agencies and Industry

While other state agencies, including the Texas Department of Agriculture, conduct biosecurity and surveillance activities such as trapping in high-risk locations, TAHC retains primary authority over animal disease control, quarantine decisions, and livestock movement requirements.[32] The Texas Animal Health Commissioner's role complements, rather than duplicates, the functions of other agencies involved in agricultural biosecurity.

This regulatory structure positions TAHC as the legal backbone of Texas's screwworm response, ensuring that quarantine powers, inspection authority, and enforcement mechanisms are in place if the pest reaches the state. By grounding preparedness and response in existing statutory and regulatory authority, the Commission provides continuity between historical eradication efforts and modern responses to emerging animal health threats.

III. THE 2025 MULTISTATE EQUINE HERPESVIRUS OUTBREAK

Equine infectious disease outbreaks pose not only serious risks to animal health but also complex legal and regulatory challenges. Among these diseases, equine herpesvirus type 1 (EHV-1) is particularly significant due to its highly contagious nature and its potential to cause severe neurologic illness, widespread disruption to the equine industry, and substantial economic loss.

The multistate EHV-1 outbreak linked to a major equine event in Waco, Texas, in November 2025 serves as a critical case study in how rapidly disease can spread through interstate animal movement and how existing legal frameworks respond under pressure.

A. Disease Overview

Equine herpesvirus type 1 is a highly contagious virus affecting horses. While commonly associated with respiratory disease and abortion, certain strains can cause equine herpesvirus myeloencephalopathy, a neurologic condition that may result in paralysis or death. Transmission occurs through direct contact, aerosolized respiratory secretions, contaminated equipment, and mechanical transfer by humans.[33]

B. Legal Significance of the 2025 Outbreak

In November 2025, a multistate equine herpesvirus outbreak was linked to a major equine event in Waco, Texas. Horses traveled across state lines before clinical signs emerged, resulting in confirmed cases in at least eight states.[34]

The outbreak highlighted vulnerabilities created by interstate animal movement, including compliance with certificates of veterinary inspection, the scope of state quarantine authority, and potential liability exposure for event organizers and horse owners.[35]

C. Regulatory Response

State animal health officials exercised authority under state animal health statutes to impose quarantines, issue movement advisories, and require heightened biosecurity. The Texas Department of Agriculture issued statewide alerts recommending isolation, temperature monitoring, and enhanced sanitation practices for exposed horses.[36]

Several states imposed additional import requirements or movement restrictions on horses originating from affected areas. These actions followed established equine herpesvirus incident response guidelines developed for state animal health officials.[37]

IV. HIGHLY PATHOGENIC AVIAN INFLUENZA IN DAIRY CATTLE

The emergence of highly pathogenic avian influenza (H5N1) in an unexpected host has introduced new challenges for animal health management and regulatory oversight in the United States. Long regarded as a disease confined primarily to poultry and wild birds, the detection of H5N1 in dairy cattle in March 2024 marked a significant shift in the epidemiology of the virus, raising concerns about cross-species transmission, agricultural biosecurity, and potential public health risks. This unprecedented development prompted swift action from federal and state authorities, including expanded surveillance, testing protocols, and movement controls aimed at limiting the spread of the virus.

A. Emergence in Cattle

Highly pathogenic avian influenza H5N1 has historically been associated with poultry and wild birds. In March 2024, federal agencies confirmed H5N1 infections in United States dairy cattle for the first time.[38] Affected cattle primarily exhibited reduced feed intake, decreased milk production, and abnormal milk appearance.[39] Most animals recovered with supportive care.

This development marked a significant shift in influenza ecology, with evidence of cow-to-cow transmission and broader implications for animal and public health governance.[40]

B. Federal and State Response

The United States Department of Agriculture expanded surveillance activities to include dairy cattle and implemented a National Milk Testing Strategy to monitor viral presence prior to interstate movement.[41] Testing requirements and movement controls were imposed in certain jurisdictions pursuant to federal and state animal health authorities.[42]

Public health agencies monitored limited human infections associated with exposure to infected dairy cattle, reinforcing the importance of coordinated animal and human health oversight.[43]

V. CONCLUSION

These animal health events demonstrate how disease outbreaks function as legal triggers that activate federal and state authority over animal movement, surveillance, and emergency response. The New World screwworm response illustrates the preventive use of emergency powers. The equine herpesvirus outbreak highlights vulnerabilities associated with interstate animal movement. The emergence of avian influenza in dairy cattle underscores the evolving nature of zoonotic risk in modern agriculture.

For agricultural law practitioners, familiarity with these statutory and regulatory frameworks is essential for advising clients on compliance, risk management, and policy development in an increasingly complex animal health landscape.

FOOTNOTES

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