PANDEMIC FLU: APARTMENT OWNER PREPARATIONS

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- Federal officials have indicated that in the event of a pandemic flu, they will not establish national public health and safety guidelines to manage and treat the outbreak. Instead, local authorities will make these decisions based on individual community needs. As a result, federal officials have urged private sector firms to develop, and to routinely review, individualized disaster and business continuity plans.

- This white paper outlines steps that apartment firms can take to prepare for a possible pandemic flu outbreak.

- It provides an update on the status of the avian flu, information on developing an emergency preparedness program, flu-specific elements of continuity plans and site controls, apartment-specific concerns, legal issues. It also includes a resource guide with links to valuable information on disaster planning, crisis communications and more.
The National Multi Housing Council (NMHC) and the National Apartment Association (NAA) represent the nation’s leading firms participating in the multifamily rental housing industry.

Based in Washington, D.C., NMHC represents the interests of the nation’s largest and most prominent firms in the apartment industry. NMHC members are engaged in all aspects of developing and operating apartments, including ownership, construction, management and financing. The Council was established in 1978 as a national association to advocate for rental housing and to provide a source of vital information for the leadership of the multifamily industry. Since then, NMHC has evolved into the industry’s leading national voice. The association concentrates on public policies that are of strategic importance to participants in multifamily housing, including finance, tax, property management, environmental issues and building codes. NMHC benefits from a focused agenda and membership that includes the principal officers of the most distinguished real estate organizations in the United States. For more information on joining NMHC, contact the Council at 202-974-2300 or www.nmhc.org.

NAA, based in Alexandria, VA, is a federation of 190 state and local affiliated associations representing more than 50,000 members responsible for more than 6 million apartment homes nationwide. It is the largest broad-based organization dedicated solely to rental housing. NAA members include apartment owners, management executives, developers, builders, investors, property managers, leasing consultants, maintenance personnel, suppliers, and related business professionals throughout the United States and Canada. NAA strives to provide a wealth of information through advocacy, research, technology, education and strategic partnerships. For more information, call 703-518-6141, e-mail information@naahq.org or visit www.naahq.org.

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Please understand that the information discussed in this guidance is general in nature and is not intended to be legal advice. It is intended to assist owners and managers in understanding this issue area, but it may not apply to the specific fact circumstances or business situations of all owners and managers. For specific legal advice, consult your attorney.

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SUMMARY

While most Avian flu cases are currently centered in Southeast Asia, the global nature of our society means that if the Avian flu becomes fully adapted to human-to-human transmission, it is expected to spread around the world within several weeks. Experts estimate that such a pandemic could last 18 months and may proceed in several waves. An interim report issued by the White House in May predicted that “flu pandemic would severely disrupt the economy” and that “40 percent of employees would be absent for two weeks at the height of each wave.”

The federal government is urging businesses to develop plans to deal with employee absence, including plans to facilitate telecommuting and other remote operations. A pandemic flu outbreak would present severe disruptions at all levels of society. According to the White House, local police will have primary responsibility for keeping order, with assistance from the National Guard.

Although there is nothing our industry can do to prevent a pandemic, we can take steps to prepare for it. This paper is not intended to alarm or to definitively predict catastrophe. However, as was the case with possible Y2K issues, previous experience has shown that firms can minimize disruption by identifying areas of vulnerability and developing plans to strengthen them before a disaster occurs.

Pandemic flu presents unique challenges for residential property owners and managers. Unlike many businesses that only need to have business continuity plans, apartment firms must operate their businesses at a very high level in order to continue to provide housing for their residents. The goal of this paper is to identify points for firms to consider in preparing for a possible pandemic flu. Our aim in this paper is to supply points to consider in developing a plan for your business’s operations. Many of the policies that organizations have already developed in terms of disaster planning and management are relevant for consideration.

If a pandemic flu outbreak occurs, it will be important for individual apartment communities to be in touch with local emergency planning and public health officials. Thus, a list of resources for additional, updated information is provided.

INTRODUCTION

Seasonal flu is a familiar, yearly event that typically causes only mild human health effects, except for those in high-risk populations. However, pandemic flu refers to a global outbreak of disease stemming from a new flu virus. Since most people have little to no natural immunity to these new flu strains, pandemic flu is likely to be more severe and affect more people than seasonal flu.

Health care professionals are warning that a more severe global pandemic of flu may be imminent. The last time such a pandemic occurred was in 1918-1919. Over the past 8 years, scientists have been tracking the emergence of another type of flu, referred to as the Avian flu. While most flu viruses at some point are harbored in the digestive tracks of migratory water fowl, this flu strain possess a unique biochemical profile that enables scientists to say that it poses a threat to public health beyond that of the seasonal or typical flu virus and may in fact lead to a global outbreak or pandemic. While we typically think of older or immunocompromised people as being most susceptible to the adverse consequences of infection, the Avian flu may in fact...
have a higher mortality rate among otherwise healthy individuals, i.e., 20-40 year olds whose strong immune systems react aggressively to the infection, triggering a fatal immune response (cytokine reaction).

### CURRENT STATUS OF AVIAN FLU

The United States Centers for Disease Control and Prevention (CDC) reports that during the period from December 1, 2003 to June 13, 2006, a total of 225 human cases of Avian flu infection were reported to the World Health Organization (WHO) from 10 countries in Asia. More than half of these cases have been fatal. Most of these cases have involved direct or close contact to diseased poultry or areas contaminated by feces of infected birds. No evidence of sustained person-to-person transmission of the Avian flu virus has been reported to date, but rare cases of person-to-person transmission likely have occurred. To date, no human case of Avian flu virus infection has been identified in the United States.

As of June 13, 2006, Avian flu has been reported in migratory birds or poultry flocks in Asia, Africa and Europe. The spread of the virus can be associated, in part, with the movement of wild migratory birds from Asia, suggesting that apparently healthy birds can carry the virus over long distances. In its current form, Avian flu does not pose a considerable health risk to humans outside of specific poultry-oriented industries. However, health experts are concerned that Avian flu may mutate into a strain that can easily infect humans and efficiently spread from human to human.

### Chart 1: The World Health Organization’s Pandemic Alert System

The WHO uses a six-phase pandemic alert system (See Chart 1) to define the seriousness of the threat. Each of the six phases coincides with a series of recommended activities to be undertaken by the WHO, the international community, industry and governments. Several factors trigger changes from one phase to another, including the epidemiological behavior of the disease and the characteristics of circulating viruses. The WHO identifies the current flu threat as phase 3; a new influenza virus subtype is causing disease in humans, but is not yet spreading efficiently and sustainably among humans.
ECONOMIC, SOCIAL AND HEALTH CONSEQUENCES

History shows that flu viruses and pandemics are unpredictable. In the 20th century there have been three flu pandemics of varying severities. It is difficult to estimate social and economic impacts, virulence, and treatment options because the characteristics of a pandemic flu virus cannot be identified until the actual virus materializes. Therefore, many experts are using the especially severe 1918 Spanish Flu Pandemic as a point of reference for planning purposes.

In a 1918-like pandemic, more people are likely to get sick than during a normal flu year, with increased rates of severe complications and fatalities. As more people require acute medical care, health care facilities are likely to experience shortages of staff, medical supplies, and treatment space.

According to a report, Pandemic Influenza Preparedness, Response and Recovery, prepared by a federal interagency group and released on July 3 by the Department of Homeland Security (DHS) “business contingency planners should have something measurable upon which to base their planning, and something tangible from which to extrapolate their specific impacts and implications.” The federal government is basing its planning on the following assumptions prepared by the CDC:

1. Susceptibility to the pandemic influenza virus will be universal.

2. Efficient and sustained person-to-person transmission signals an imminent pandemic.

3. The clinical disease attack rate will be 30 percent in the overall population during the pandemic. Illness rates will be highest among school-aged children (about 40 percent) and decline with age. Among working adults, an average of 20 percent will become ill during a community outbreak.

4. Some persons will become infected but not develop clinically significant symptoms. Asymptomatic or minimally symptomatic individuals can transmit infection and develop immunity to subsequent infection.

5. While the number of patients seeking medical care cannot be predicted with certainty, in previous pandemics about half of those who became ill sought care. With the availability of effective antiviral drugs for treatment, this proportion may be higher in the next pandemic.

6. Rates of serious illness, hospitalization, and deaths will depend on the virulence of the pandemic virus and differ by an order of magnitude between more and less severe scenarios. Risk groups for severe and fatal infection cannot be predicted with certainty but are likely to include infants, the elderly, pregnant women, and persons with chronic or immunosuppressive medical conditions.

7. Rates of absenteeism will depend on the severity of the pandemic. In a severe pandemic, absenteeism attributable to illness, the need to care for ill family members, and fear of infection may reach 40 percent during the peak weeks of a community outbreak, with lower rates of absenteeism during the weeks before and after the peak. Certain public health measures (closing schools, quarantining household contacts of infected individuals, “snow days”) are likely to increase rates of absenteeism.
8. The typical incubation period (interval between infection and onset of systems) for influenza is approximately two days.

9. Persons who become ill may shed virus and can transmit infection for one-half to one day before the onset of illness. Viral shedding and the risk of transmission will be greatest during the first 2 days of illness. Children will play a major role in transmission of infection as their illness rates are likely to be higher because they shed more virus over a longer period of time and they do not control their secretions as well.

10. On average, infected persons will transmit infection to approximately two other people.

11. Epidemics will last 6 to 8 weeks in affected communities.

12. Multiple waves (periods during which community outbreaks occur across the country) of illness are likely to occur with each wave lasting 2 to 3 months. Historically, the largest waves have occurred in the fall and winter, but the seasonality of a pandemic cannot be predicted with certainty.

Vaccines and antiviral drugs are two of the most important prevention and response measures used against flu. However, these pharmaceutical aides will likely be unavailable during part or most of a pandemic. There is no vaccine to protect against Avian flu and there is very limited protection to be offered against this strain by immunization with the “seasonal flu” vaccine. Public health officials are confident that a vaccine can be developed once a pandemic flu strain appears. Ramping up vaccine production to accommodate a pandemic scenario, however, may prove problematic, as illustrated by the shortages of seasonal flu vaccines experienced in recent years. Similarly, currently available antivirals (such as Tamiflu) are of unknown effectiveness against a mutated pandemic flu strain and are predicted to be in short supply.

High levels of illness, aggressive mitigation efforts, and mere apprehension of illness can take a serious toll on economic and social systems. Public health officials may employ numerous strategies to prevent and interrupt disease transmission like closing schools, cancelling public events, closing theaters, etc. High absentee rates are anticipated as people may be ill, caring for family members, and unable or afraid to go to work. This could result in a disruption of social services, economic activities, and basic infrastructure causing power outages, telecom failure, interruption of public transportation, and supply disruptions affecting food and other essential goods.

A report recently released by the National Institutes of Health suggests that California is the most likely location in which the Avian flu will make its first appearance. The state is a gateway for travelers from Asia and coupled with its population density, epidemiologists predict that within 2 to 4 weeks, the pandemic would spread across the country. Keep in mind, though, that a pandemic could start anywhere; the epicenter of the 1918 pandemic is believed to be in Kansas.

**DEVELOPING AN EMERGENCY PREPAREDNESS PROGRAM**

NMHC/NAA staff has been in touch with federal agencies and has posed questions specific to the operation and maintenance of apartment properties. In this paper we are reporting their answers to us. Federal agencies have not issued specific guidance for the apartment industry nor are they
likely to do so. They have stressed that apartment properties do not pose any special concerns with respect to air handling or other systems etc. With that in mind, officials have suggested that all persons should take extra hygiene precautions to limit their potential exposure should a pandemic be declared.

Federal officials have indicated that in the event of a pandemic flu, they will not establish national public health and safety guidelines to manage and treat the outbreak. Instead, local authorities will make these decisions based on individual community needs. The federal government has also acknowledged that it will not be in a position to offer hands-on, operational assistance in the event a pandemic flu strikes. As a result, federal officials have urged private sector firms to develop, and to routinely review, individualized disaster and business continuity plans. The best emergency plans include regular internal and outside review.

Despite this encouragement, the Society for Human Resources Management (SHRM) reports that most firms, including Fortune 500 companies, have not adequately planned for a disastrous event or pandemic. While there is nothing the apartment industry can do to prevent the pandemic, there are steps firms can take to prepare a plan in the event that the pandemic flu threat is realized.

According to a recent report from the research and business organization The Conference Board titled Are Businesses Doing Enough to Prepare for a Pandemic?, the most important aspect of a pandemic preparedness plan involves coordination with the public sector. While it is important to develop a plan for the management of your business and properties in the event of a pandemic, it is necessary to realize that the extent to which you will be successful in implementing your plan depends on a large extent on coordination with local government officials who are providing essential services. Although the apartment industry has not been ranked by DHS as a “critical industry” with the healthcare, energy/utilities and information technologies industries, without a doubt the operational continuity of the apartment industry during a pandemic is critically important.

DHS encourages business continuity planners to incorporate the unique features of a pandemic into their existing and ongoing planning efforts. According to the National Strategy for Pandemic Influenza Implementation Plan, pandemics are not bounded by geography or time. A pandemic will spread across communities of all types and sizes, over an indefinite period of time, and will have varying degrees of severity. Therefore, according to the DHS Pandemic Influenza Preparedness, Response, and Recovery Guide, “the impact of a severe pandemic may be more comparable to that of war or widespread economic crisis than a hurricane, earthquake, or act of terrorism.” The likelihood of simultaneous disease outbreaks nationwide may render typical disaster response practices, such as shifting available resources from affected areas to safe areas, “impractical if not impossible.”

In developing an emergency preparedness plan for your company, it is imperative that the plan be developed under the auspices of the company’s top leadership. Plans developed by individual departments (for example, Human Resources staff, attorneys, site personnel and personnel with technical skills) may contain the nuts and bolts of the corporate policy but leadership from the top will send the message that this is “the” plan to be followed.

Plans should also be flexible enough to be modified as the situation develops. While the CDC’s assumptions (see text box on page 4) are a good starting point for estimating the impact of a flu pandemic on your business and apartment properties, regional planning efforts and local devel-
opments will also have an impact on the deployment of your corporate plan. Plans should be simply worded and communicated in the language that employees read and speak. Ensure that the plan clearly identifies who is authorized to make real-time decisions, and identifies alternate decision-makers. Once the emergency plan is complete, communication of the plan is paramount to its effectiveness. Company executives should promote a company culture that takes emergency preparedness seriously.

The potential threat of a pandemic also offers firms with comprehensive disaster plans an opportunity to undertake a self-audit and to make any adjustments necessary to account for changes in the company, its workforce, and the particular communities in which the company operates. While general disaster management plans will help a firm respond to a pandemic flu, such an outbreak will create specific communications and risk management challenges that firms should anticipate. It is anticipated that businesses would begin to implement their pandemic plan when the WHO raises the threat level to four on the six-phase pandemic alert system (see Chart 1).

Communication

Proper communication is central to any emergency preparedness and response plan. However, experts agree that public health emergencies present unique challenges for those distributing information at all levels. These events generate increased psychological impacts due in part to unfamiliarity, the perceived involuntary or random nature of infection, misunderstanding of exposure and transmission issues and the uncertainty of health effects. As such, various communication strategies for conveying information to employees, residents and those outside the organization should be designed and rehearsed. There are various resources available from agencies such as the U.S. Department of Health and Human Services (HHS) and the WHO to guide organizations in effective risk communication involving public health issues. These are posted at www.pandemicflu.gov/communication/.

Risk Management Strategies

Health experts are recommending various practices to mitigate the spread of a possible pandemic flu.

A) Stop germs from spreading.
   - Wash hands frequently and thoroughly. When hand washing is not possible, use disposable hand wipes or gel sanitizers.
   - Practice good illness etiquette, like properly disposing of used tissues and coughing into the crook of your arm instead of using your hand to cover a cough.
   - Alter social greetings to minimize handshaking.

B) Social distancing.
   - According to public health experts, flu transmission is a function of time and proximity. Flu infection increases as people spend longer periods of time in close contact. Therefore, experts believe that reducing the amount of time people interact can significantly arrest disease transmission. As a result, localities may promote social distancing by closing schools, limiting public gatherings, closing theaters and encouraging individuals to alter their work schedules or methods.
C) Isolate.

- Encourage sick people to seek medical treatment and stay home when sick. Anyone coming into close contact with sick individuals (i.e., family members, officemates) should also voluntarily isolate themselves.

Property owners/managers may want to communicate basic hygiene information to their staff to reinforce the infection control messages that have been developed by public health officials. In addition, firms may want to communicate these messages to their residents through newsletters or by posting information in common areas.

**FLU-SPECIFIC ELEMENTS OF CONTINUITY PLANS AND SITE CONTROLS**

The Centers for Disease Control and Prevention recommends that corporate emergency preparedness plans include specific provisions addressing the impact of a pandemic flu on their employees. The agency suggests:

- forecasting and allowing employee absences during a pandemic due to illness or family member illness, community containment measures and quarantines, school and/or business closures and public transportation closures;
- implementing guidelines to modify the frequency and type of face-to-face contact among employees;
- encouraging and monitoring annual employee flu vaccinations;
- evaluating and improving employee access to healthcare;
- identifying employees with special needs and incorporating those considerations into preparedness plans.

The following points can help keep businesses running and apartment properties safe in the event of any emergency situation, including pandemic flu. This list is not intended to be exhaustive but provide a starting point for developing a plan.

- Consider non-punitive, “liberal leave” policies which require sick individuals to stay home and accommodate situations where healthy employees are absent due to events like mandatory isolation, critical infrastructure failures and public transportation closures. Policies should also provide clear guidance for identifying and dealing with abuse of absence policy.
- Cross-train employees to perform multiple job functions in anticipation of increased employee/contractor absenteeism. Ensure that operating instructions/manuals/records for equipment and building systems are accessible onsite in the event individuals with primary responsibility for those tasks are unavailable.
- Clearly identify the trigger points for initiating and discontinuing various elements of preparedness and response plans. Internal plans should be tied to changes in pandemic alert phases as identified by the WHO and local health authorities.
- Establish policies for telecommuting, flexible work hours and staggered shifts to the greatest extent possible.
• Establish protocols for staff to stay in touch with their supervisors.

• Ensure that policies address limited Information Technology capacities and the loss of telecommunications due to a surge in use, utility outages, etc. Create tiered access to the firm’s virtual private network (VPN), so critical personnel are able to access the network. Give staff with less critical functions lower priority access.

• Instruct employees and residents about preparing themselves and their families for disasters by storing emergency supplies of food, water, medications, etc. Consult legal counsel before supplying employees or residents with any goods or services outside those of your normal course of business.

• Mitigate supply disruptions by understanding your supply needs, your supply and distribution chain, and pre-arranging alternate vendor/contractor relationships.

• Consider seeking expert advice. There are various crisis management consultants, service providers, and attorneys who specialize in disaster preparation and response.

• Familiarize yourself with state and local public health and disaster management authorities, learn how to access and use their resources and designate individuals to maintain these relationships. These individuals will be responsible for providing your community with the most up-to-date information about a pandemic, the recommended procedures and the mandatory activities.

• Public health officials caution against employing restrictive or disruptive mitigation or safety policies of unproven effectiveness. Any disaster planning and response activity should balance the mitigation benefits against the psychological impacts, economic concerns, social disruption, etc. Organizations should look to their public health authorities and other experts for guidance.

**WHAT DOES THIS MEAN FOR APARTMENT COMMUNITIES?**

Experts tell NMHC/NAA that the characteristics inherent to multifamily communities will likely not exacerbate flu transmission rates. Most flu is spread when infected individuals cough and/or sneeze. The vapor droplets released in these actions contain infectious viruses; however, these particles do not remain suspended in the air, so close contact with an infected individual is required for transmission. Experts consider three to six feet a protective distance from sick individuals. **Therefore, the mere presence of sick residents within apartment units should not pose a threat to other community residents or staff.**

Similarly, heating, ventilating and air conditioning (HVAC) systems do not generally serve as good conduits for flu viruses (meaning that shared HVAC systems should not facilitate the transmission of flu). Therefore, caution staff and residents against disabling or otherwise altering HVAC systems unless expressly instructed to do so by local authorities, building engineers, etc. This could seriously compromise the indoor air quality of the building and the overall health of residents.

Flu can also be transmitted through “fomites.” Fomites are inanimate objects (like tissues, money, office supplies) that can transmit infectious disease from one person to another. For example, when a sick individual touches a door handle, the virus can attach to that handle. Then, a second person coming in contact with that door handle can become infected. This kind of transmission can be minimized by frequent hand washing, cough etiquette, and other personal hygiene efforts. In the apartment context, this can be mitigated by increasing the fre-
quency and thoroughness of cleaning in common areas and of frequently touched items like elevator buttons, door handles, and intercom panels. Accordingly, excess supplies should be purchased ahead of a pandemic to ensure that proper cleaning and maintenance can continue despite shortages or disruptions in the supply chain.

Finally, apartment communities should avoid any activities that are counter-productive to greater mitigation efforts. For instance, if local authorities close schools, DHS has suggested to NMHC/NAA that it would be “unwise” to create onsite childcare arrangements that mimic the classroom setting.

**LEGAL ISSUES**

Pandemic flu planning and response raises a host of legal questions that should be analyzed in advance to the maximum extent possible.

- Clearly articulate and distribute any changes to leave or disability benefit policies in advance to ensure uniform application. Give special attention to describing what types of leave may be used in situations where an employee is caring for sick family, when in voluntary isolation after being in close contact with an ill individual, or where it is difficult to get to work due to such things as fuel shortages and public transportation closures.

- Be mindful of new and changing legal requirements enacted to address an emerging pandemic. DHS has said it will examine the efficacy of enacting emergency powers and suspending statutory frameworks and regulations for their effects on business during a pandemic.

- Analyze the nature of contractual obligations during a pandemic. According to *The Avian Flu Time Bomb*, a November 2005 article in the American Bar Association’s ABA Journal, *force majeure* provisions [also known as “greater force” or Act of God clauses] in contracts may not protect businesses against liability for failure to perform contractual duties during a pandemic. Legal precedent suggests that “once an event is no longer unforeseen, *force majeure* law suggests that one or both parties to the contract should bear the risk.” Legal experts advise businesses to examine risk allocation in time of emergencies during contract negotiations.

- Be prepared. The November 2005 ABA Journal article mentioned above suggests that a failure to plan ahead for a potential pandemic could expose businesses to novel charges like “negligent failure to prepare.” Such legal claims were advanced after the 2003 SARS (Severe Acute Respiratory Syndrome) outbreak.

- When requiring employees to cover extra duties, remember to adhere to training requirements and licensing and certification regulations.

- Be sure that any disclosures about the health of staff or residents are made in accordance with privacy laws.

- Carefully analyze any decision to use personal protective equipment (PPE), such as gloves and masks. While the use of such equipment may seem helpful to prevent disease transmission, the CDC is not recommending the use of masks in non-health-care settings. Rather, it is promoting the primary utilization of the hygiene-based infection control strategies discussed above. In addition, the Food and Drug Administration (FDA), the regulatory agency responsible for rating PPE used for disease prevention, has not approved any PPE for use in preventing or treating flu. FDA says it is not aware of any studies testing PPE against flu. Before deciding to use or make PPE available,
be sure to review firm policies for compliance with Occupational Safety and Health Administration (OSHA) regulations. Requiring staff to use certain PPE-like respirators requires compliance with the OSHA Respiratory Protection Standard (29 CFR 1910.134; www.osha.gov/SLTC/etools/respiratory/oshfiles/require.html).

- Anticipate that new worksite conditions may subject your business to certain OSHA and other safety or environmental regulations.

### RESOURCE GUIDE

- Additional information on flu, including Avian flu, is available at [www.cdc.gov/flu](http://www.cdc.gov/flu).
- For more information and guidance on industry’s role in planning for a pandemic flu outbreak, go to [www.pandemicflu.gov/plan/businesschecklist.html](http://www.pandemicflu.gov/plan/businesschecklist.html).
- For information about how individuals and families can plan for emergencies go to [www.pandemicflu.gov/plan/tab3.html](http://www.pandemicflu.gov/plan/tab3.html).
- For information on inclusive emergency plans, go to [www.jan.wvu.edu/media/emergency.html](http://www.jan.wvu.edu/media/emergency.html).
- For information about risk communication, go to [www.pandemicflu.gov/rcommunication/](http://www.pandemicflu.gov/rcommunication/). Specifically:
- The Conference Board maintains a resource page that contains useful information for corporate decision makers on the danger and challenges that avian flu poses to business and to society. [www.conferenceboard.org/knowledge/resources/resource_avianFlu.cfm](http://www.conferenceboard.org/knowledge/resources/resource_avianFlu.cfm).
- For information about preparing for all types of disasters, go to [www.ready.gov](http://www.ready.gov).