SUPPORTING STATEMENT
0579-0352
Animal Welfare
Handling of Animals; Contingency Plans

JUSTIFICATION **December 2012**

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 et seq.), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers. The Secretary has delegated responsibility for administering the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA). Within APHIS, the responsibility for AWA administration has been delegated to Animal Care (AC). Regulations established under the AWA are contained in the Code of Federal Regulations (CFR) in 9 CFR parts 1, 2, and 3.

The stated purpose of the Act, Section I (b), is as follows:

"...(1) to insure that animals intended for use in research facilities, or exhibition purposes, or for use as pets are provided humane care and treatment;

(2) To assure the humane treatment of animals during transportation in commerce; and ...."

Sections 10, 11, 12, and 13 of the AWA authorize and require certain recordkeeping requirements for regulated facilities. Title 9 CFR Subchapter A, Part 3 stipulates certain conditions that must be documented in a record format in order for dealers, exhibitors, research facilities, etc., to hold, buy, sell, and/or ship animals. APHIS/AC reviews these records to ensure that the animals are cared for in the prescribed manner(s) that is required by the regulations. All records must be kept for a period of at least one year.

APHIS is proposing to amend the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. APHIS is proposing these requirements because it believes all licensees and registrants should develop a contingency plan for all animals regulated under the Animal Welfare Act in an effort to better prepare for potential disasters. This action would heighten the awareness of licensees and registrants regarding their responsibilities and help ensure a timely and appropriate response should an emergency or disaster occur.

2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Sections 2.38(i)(iv) - Contingency Plan for Research Facilities: The research facilities must develop, document, and follow an appropriate plan to provide for the humane handling, treatment, transportation, housing, and care of their animals in the event of an emergency or disaster (one which could reasonably be anticipated and expected to be detrimental to the good health and well-being of the animals in their possession). The contingency plans must: identify situations the facility might experience including emergencies such as electrical outages, faulty HVAC systems, fires, and animal escapes, as well as natural disasters the facility is most likely to experience; outline specific tasks required to be carried out in response to the identified emergencies or disasters including, but not limited to, detailed animal evacuation instructions or shelter-in-place instructions and provisions for providing backup sources of food and water as well as sanitation, ventilation, bedding, veterinary care, etc.; identify a chain of command and who (by name or by position title) will be responsible for fulfilling these tasks; and address how response and recovery will be handled in terms of materials, resources, and training needed. The contingency plan must be in place in 180 day after the effective date of the final rule. This plan must be made available to APHIS and any funding Federal agency representatives upon request. The plan must be reviewed by the research facility on at least an annual basis to ensure that it adequately addresses the criteria. The facility must provide and document participation in and successful completion of training for its personnel regarding their roles and responsibilities as outlined in the plan.

Sections 2.134 – Contingency Plan for Dealers, Exhibitors, Intermediate Handlers, and Carriers: The dealer or exhibitor who obtains prior approval from the AC Regional Director can arrange to have another person hold animals for the required period provided that the other person agrees in writing to comply with the regulations and standards in 2.101(a) and they allow inspection of an APHIS official during business hours. The animals must remain under the total control and responsibility of the dealer or exhibitor. The other person or premises must either be directly included in the dealer's or exhibitor's contingency plan required under 2.134 or must develop its own contingency plan in accordance with 2.134. Dealers, exhibitors, intermediate handlers, and carriers must develop, document, and follow an appropriate plan to provide for the humane handling, treatment, transportation, housing, and care of their animals in the event of an emergency or disaster (one which could reasonably be anticipated and expected to be detrimental to the good health and well-being of the animals in their possession). The contingency plan must identify common emergencies; outline specific tasks required to be carried out in response to the identified emergencies; identify a chain of command and who (by name or by position title) will be responsible for fulfilling these tasks; and address how response and recovery will be handled in terms of materials, resources, and training needed.

Recordkeeping

The contingency plan must be in place and made available to APHIS representatives upon request. This plan must be retained for 3 years.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

Contingency plans may be maintained electronically by respondents.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

APHIS is the only Agency responsible for the safe handling of animals. The information APHIS is collecting is its only source for the information and is not being collected through other forms or reports.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information APHIS is collecting for this program is the minimum needed to ensure that the AWA is being enforced into the country. Eighty percent of the businesses responding to this information collection are small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the collections were conducted less frequently, APHIS would not be able to accurately measure the enforcement of the program and still meet the provisions of the Act.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.

- **requiring respondents to report information to the agency more often than quarterly;**

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No special circumstances exist that would require this collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.

8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB.

In 2012, APHIS held productive consultations with the following individuals in connection with the information collection activity associated with this program:

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On October 23, 2008, APHIS published a proposed rule and 60-day comment period. APHIS then published another notice extending the comment period until February 20, 2009. APHIS received 997 comments from private citizens, breeders, dealers, animal welfare organizations, research facilities, Government agencies, pharmaceutical companies, universities and colleges, research associations, exhibiters, carriers, kennels, and medical associations. The comments have been discussed and addressed, by topic, in the Final Rule. The comments can be viewed online at: http://www.regulations.gov/#!searchResults;rpp=25;po=0;s=Handling%252Bof%252BAnimals%252C%252Bcontingency%252Bplan;a=APHIS;dct=PS

9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.

This information collection activity involves no payments for gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No additional assurance of confidentiality is provided with this information collection.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection activity asks no questions of a personal or sensitive nature.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

See APHIS Form 71 for hour burden estimates.

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Total cost to the respondents was estimated by multiplying their average hourly wage by the total number of hours needed to complete the work. $45.63 X 72,462 hours = $3,306,441. The hourly rate was taken from the U.S. Department of Labor, Bureau of Labor Statistics Report- National Compensation Survey: Occupational Wages in the United States. See http://www/bls/gov/ncs/ocs/sp/ncb10539.pdf.

13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There are no additional cost burdens to the respondents or recordkeepers.

14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The estimated cost for the Federal Government is $83,831. (See APHIS Form 79).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

This is a new collection resulting in 72,462 hours of new burden for the final rule submission. The new burden hours reflect a decrease of 82,801 burden hours between the proposed rule submission and this final rule submission. Factors attributed to this decrease are:

1) Since the proposed rule, the hours per record keeper were reviewed and changed from 5 hours to 2 hours per record keeper for a reduction of 31,053 hours (51,755 to 20,702);

2) In the proposed rule submission, the same number of respondents was used for both Dealers, Exhibitors, etc. and Research Facilities respondent groups. Respondents for

Research Facilities are less and are completely different from Dealers, Exhibitors etc. Only the number of respondents changed for the burden items (not overall).

Correction of this error resulted in a decrease of 50,205 hours between the proposed and final rules for Research Facilities and a decrease of 1,543 burden hours for Dealers, Exhibitors, etc.,

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

APHIS has no plans to publish or tabulate this information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There are no forms associated with this collection.

18. Explain each exception to the certification statement identified in the "Certification for Paperwork Reduction Act."

APHIS is able to certify compliance with all provisions under the Act.