December 2021

Supporting Statement
Animal Welfare: Handling of Animals; Contingency Plans
Final Rule Docket APHIS-2020-0101
OMB Control No. 0579-0479

The title of this information collection request was changed from Handling of Animals; Contingency Plans to Animal Welfare: Handling of Animals; Contingency Plans.

Upon approval of the final rule package, APHIS will merge the burden into 0579-0036 and this package will be retired.

JUSTIFICATION

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 Title 9 of the Code of Federal Regulations (CFR), Parts 1, 2, and 3.

9 CFR Part 2, Regulations, and Part 3, Standards, stipulate 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 manners required by the regulations.

On December 31, 2012, APHIS published a final rule (77 FR 76815) amending 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. The rule was stayed on July 31, 2013, so that the program could undertake another review of the rule's requirements. On December 3, 2021, APHIS published a final rule lifting the stay (86 FR 68533) and requiring all affected licensees and registrants to develop contingency plans for all animals regulated under the Animal Welfare Act in efforts to better prepare for potential disasters. The final rule prescribes requirements for developing and implementing contingency plans and training personnel at research facilities, dealers, exhibitors, intermediate handlers, and carriers.

APHIS is asking OMB to approve its use of these information collection activities to ensure that animal caretakers, licensees and registrants are adequately trained, and contingency plans are in place to protect animals whose welfare becomes jeopardized by emergency events.

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.

Contingency Plans (APHIS 7093); (9 CFR 2.38(l), 2.134; (Business)

Research facilities, dealers, exhibitors, intermediate handlers, and carriers are required to 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). They may use APHIS Form 7093 or develop their own documents. Contingency plans must:

(a) Identify situations the facility might experience that would trigger the need for the measures identified in a contingency plan to be put into action including, but not limited to, emergencies such as electrical outages, faulty HVAC systems, fires, and animal escapes, as well as natural disasters the facility is most likely to experience.

(b) 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.;

(c) Identify a chain of command and who (by name or by position title) will be responsible for fulfilling these tasks; and

(d) Address how response and recovery will be handled in terms of materials, resources, and training needed.

(e) Be in place within 180 days after publication of the final rule or be in place prior to conducting regulated activities.

(f) Respondents are required to review their plans on at least an annual basis and maintain documentation of their annual reviews, including documenting any amendments or changes made to their plan since the previous year's review, such as changes made as a result of recently predicted, but historically unforeseen, circumstances (e.g., weather extremes). Any changes to the plan as a result of the annual review must be communicated to employees through training conducted within 30 days of making the changes.

Traveling exhibitors are required to carry a copy of their contingency plan with them at all times and make it available for APHIS inspection while in travel status.

Recordkeeping; (9 CFR 2.38(l), 2.134; (Business)

Contingency plans, as well as all annual review documentation, must be made available to APHIS (and any funding Federal agency representatives) upon request. All records must be kept for a period of three 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.

APHIS Form 7093 is available on the APHIS AC website. The form is optional and respondents may maintain their records in formats convenient for their business use.

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 Federal 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.

APHIS estimates 80 percent of the businesses responding to this information collection are small entities. The information collected is the minimum needed to enforce the Animal Welfare Act.

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 Animal Welfare 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 2021, APHIS held productive consultations with the following individuals in connection with the information collection activity associated with this program. They were contacted by email and telephone to discuss how APHIS plans to administer this collection of information, specifically how it is obtained, how frequently, the convenience and clarity of reporting formats and other collection instruments; and the clarity of, and necessity for, any recordkeeping requirements. The respondents had no concerns with any of these items and were generally enthusiastic about them.

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On June 25, 2021, APHIS published the proposed rule in the Federal Register (86 FR 33567) with a 60-day public comment period during which interested members of the public have the opportunity to provide APHIS with their input concerning the usefulness, legitimacy, and merit of the information collection activities APHIS is proposing. APHIS received 140 comments, 138 supportive of the rule changes. Two comments were directed towards an information collection activity. It suggested the estimated preparation and training times were too low. APHIS declined changing its estimates as it believed its average across all respondents was accurate. The final rule was published on December 3, 2021 (86 FR 68533).

The stayed rule was published in the Federal Register as a proposed rule (APHIS docket 2006-0159) on October 23, 2008 (73 FR 63085) and received 206 comments which were addressed in the final rule Federal Register notice published on December 31, 2012 (77 FR 76815). The final rule was stayed on July 31, 2013.

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

This information collection activity involves no payments or 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. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

See APHIS Form 71.

APHIS estimates the total annualized cost to respondents to be $910, 825. This was computed by multiplying the estimated average hourly wage ($20.42) by the total number of burden hours (30,783) needed to complete the work, and then multiplying the result by 1.449 to capture benefit costs.

The average hourly rates used to calculate the estimate are for animal scientists (SOCC 19-1011, $32.96), dealers (SOCC 00-0000, $25.72), animal caretakers (SOCC 39-2021, $13.01), and transporters (SOCC 53-3032, $22.52. The rates were found at the U.S. Bureau of Labor Statistics website https://www.bls.gov/oes/current/oes_stru.htm.

According to DOL BLS news release USDL-21-0437 released March 18, 2021, employee benefits account for 31 percent of employee costs, and wages account for the remaining 69 percent. Mathematically, total costs can be calculated as a function of wages using a multiplier of 1.449.

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.

See APHIS 79. The annualized cost to the Federal Government is estimated at $125,325.

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 information collection request. APHIS estimates there will be 8,795 respondents affected by this final rule who will provide an estimated 17,590 responses and 30,783 hours of burden per year.

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.

The APHIS 7093 is an optional form serving as a template for developing a contingency plan. The form is available on an APHIS form website but may also be included in reference guides or shared among respondents, either of which making it very difficult to revise during ICR renewals. APHIS requests that the OMB approval expiration date not be shown on the form.

Also, upon approval of the final rule package, APHIS will merge the burden into 0579-0036 and this package will be retired. The forms in 0579-0036 are exempted from displaying the OMB approval expiration date.

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.