



United States Department of Agriculture

Animal and Plant Health Inspection Service

700 River road
Germersville, MD
21737

June 6, 2013

Dear Members of Our Regulated Community:

On December 31, 2012 APHIS published the enclosed final rule requiring all dealers, exhibitors, intermediate handlers, carriers, research facilities and other entities regulated under the Animal Welfare Act (AWA) to develop a plan for how they are going to respond to and recover from emergencies most likely to happen to their facility. The goal of this rule is to enable facilities to be better prepared for those emergencies. Under the rule, APHIS gives facilities the flexibility to develop a plan that works best for them and their animals.

There is no required format for facility plans, however, under the final rule, your contingency plan will need to:

- Identify types of emergencies seen frequently in your particular region;
- Identify emergencies that could occur at your particular type of facility;
- Outline specific tasks that facility staff will undertake in an emergency situation;
- Establish a clear chain of command for all employees to follow;
- Identify materials and resources that are available at your facility or elsewhere; and
- Ensure that all pertinent employees are trained on the plan.

| Timeline for Contingency Planning Milestones | |
|--|---|
| January 30, 2012 | Rule became effective |
| July 29, 2013 | All USDA licensed and registered facilities have a completed written plan |
| September 27, 2013 | All facility employees are trained on the plan |
| On and after September 28, 2013 | Plans are available for APHIS review upon request on regular inspection cycle |

We believe that encouraging preparedness in our regulated facilities protects the health and well-being of regulated animals and supports the resiliency of the surrounding community. Our primary focus as we move through the initial rollout for this regulation is to support you with the emergency planning process and the development of an effective and practical plan for the emergencies that you may encounter. We recognize that your plan will continue to develop as you progress through this process and will initially be looking at your plan as indication that you have been going through the planning process for emergencies. We stand ready to assist you as much as possible to understand what the requirements are and provide up front the tools which will help you create plans that work best for your facility and that ensure animal welfare even in the face of an emergency. You are welcome to and encouraged to discuss your plan with your inspector as you develop your plan.

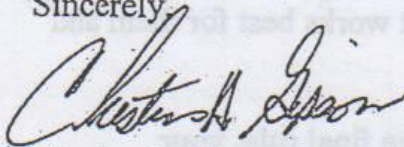
Members of Our Regulated Community
Page 2

The entire Federal Register notice and links to websites that may aid in your planning process are posted on the animal care website at:

http://www.aphis.usda.gov/animal_welfare/awa_contingency_plan.shtml.

Please refer to the enclosed Tech Note and Frequently Asked Questions document for further information and contact your inspector should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester A. Gipson". The signature is written in a cursive style with a large initial "C".

Chester A. Gipson
Deputy Administrator
Animal Care

Questions and Answers: Final Rule on Contingency Plans for Regulated Entities

Q. What does this rule do?

A. On December 31, 2012, the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) published a final rule requiring all dealers, exhibitors, intermediate handlers, carriers, research facilities and other entities regulated by the agency under the Animal Welfare Act (AWA) to take additional steps to be better prepared for potential disaster situations. They are required to develop a plan for how they are going to respond to and recover from emergencies most likely to happen to their facility, as well as train their employees on those plans. These emergency plans are also referred to as "contingency plans."

Q. Why is this rule necessary?

A. The goal of this rule is to increase the regulated community's awareness and understanding about their responsibilities to protect their animals in emergency situations. Developing contingency plans could potentially save the lives of their animals—and their employees—during an emergency or natural disaster. It will also allow each USDA licensee and registrant to evaluate their preparedness and to more fully understand how they can better survive a disaster or emergency situation.

Q. Why are contingency plans important?

A. The need for contingency planning was emphasized by events experienced by several coastal facilities during the 2005 hurricane season, including Hurricane Katrina, where animals escaped and damaged communication lines impaired communication between employers and employees. Lessons learned from such instances have shown that when people have a plan for an emergency, the response to that emergency can be more effective.

Q. How will the contingency planning process help me?

Taking the time to prepare a contingency plan and think through potential emergencies will help protect

your animals. Following a contingency plan will also help with continuity of operations and potentially shorten the time needed to return to fully operational status following an emergency. When staff members are properly trained in what to do during emergencies or disasters, they are better able to safeguard the facility's animals—and themselves.

Q. What information is required in the contingency plans?

A. APHIS Animal Care wants these plans to be simple and useful for the regulated community. Those regulated by APHIS under the AWA have the freedom to design their plans to best suit their facility, location, and needs.

However, there are a few basic elements that need to be included:

- identify common emergencies that could occur at their particular type of facility;
- outline specific tasks that the facility staff will undertake in an emergency situation;
- establish a clear chain of command for all employees to follow; and
- identify materials and resources for use during an emergency that are available at that facility or elsewhere and affirm that all employees are trained on the contents of the plan.

Q. What training is required?

A. Each regulated entity must properly train all pertinent employees on the contingency plan. This ensures that they are aware of the plan, understand the role they play in the plan, and are ready to take action should an emergency occur. If the contingency plan is modified, the regulated entity is also required to let employees know within 30 days.

Q. Do I have to send my plan to APHIS?

A. No, you are not required to send a copy of your plan to APHIS. Facilities will keep their own plans and show them to APHIS Animal Care inspectors upon request. Our intent is not to sign off on or certify these plans, but rather to make sure that our facilities have gone through the planning process in a manner that works best for them. That being said, inspectors will work with facilities on improving plans, if they identify gaps upon review of those plans.

Q. When do I need to have my plan ready?

A. A written plan must be in place at all USDA-licensed and -registered facilities by July 29, 2013, but facilities are not required to share that plan with the inspector to review until the facility has had a chance to train all its employees on that plan. All employees must be trained on the plan by September 27, 2013. Thus, contingency plans should be available upon request by APHIS inspectors after September 27, 2013. Should facilities need review of the plan prior to training their employees, they are welcome to discuss it with their inspectors.

Q. What if we have an emergency and the plan we had in place didn't work?

A. We understand that the true impact of an emergency cannot be fully anticipated or predicted, thus certain aspects of a plan may fail. Emergency preparedness is an ever-evolving process, and lessons learned from actual experience can impact planning efforts, and we encourage incorporating those lessons learned into a revised plan. Once a plan is revised, a facility has 30 days to retrain its employees on that new plan.

Q. What resources are available to help me in the planning process?

A. APHIS is currently planning a series of three live Webinars, including question and answer sessions, to share information with the regulated community and interested stakeholders. Animal Care will also help educate the regulated community about ways it can better prepare for emergencies.

APHIS will provide guidance documents on its Web site to help regulated entities with their planning, and written materials will be available as well, along with reference materials, such as examples of contingency plans from facilities.

Q. What if I already have a contingency plan in place?

A. We understand that there are facilities that may already have a plan in place as required by their State or an accreditation process (e.g., Public Health Service assurance, Association of Zoos and Aquariums accreditation, or Association for Assessment and Accreditation of Laboratory Animal Care International certification). If these plans meet the basic requirements for contingency plans under the AWA as described in this regulation, they will not have to be changed.

Q. Will all facilities regulated by APHIS be required to have a contingency plan?

A. We are aware that there may be unique situations or circumstances where having a written contingency plan as described in the regulation may not be practical or feasible. For example, some facilities do not hold animals for a prolonged period of time. APHIS is working on guidance for such facilities, and until that guidance is released, these situations will be assessed on a case-by-case basis.

Q. Marine mammals are already required under the AWA to have plans for emergency sources for electricity and water. How does this rule apply to these types of facilities?

A. In addition to meeting requirements already described for them in the AWA, facilities housing marine mammals must also have a contingency plan in place that meets the requirements of this new rule.

USDA is an equal opportunity provider and employer.

December 2012

Considerations When Making a Contingency Plan

Dealers, exhibitors, research facilities, intermediate handlers, carriers and other entities regulated under the Animal Welfare Act are now required to take steps to be prepared for emergencies and disasters. An emergency plan, also referred to as a "contingency plan," safeguards the animals should an emergency or disaster occur and supports the facility's response to emergencies and recovery from emergencies most likely to happen to their facility. Employees and other personnel involved in animal care or business processes should be aware of the facility's contingency plan and sufficiently trained on it.

This tech note provides general considerations a facility can take into account when designing its own contingency plan. There is *no* required format or length for a facility's contingency plan. APHIS wants these plans to be useful for the facility and beneficial for the animals during potential disaster situations. Individual facilities have the freedom to design their plans to best suit their facility, location and needs. Dealers, exhibitors and research facilities housing animals at holding facilities need to include these holding facilities in their contingency plan if the holding facility does not have its own contingency plan. APHIS inspectors are available for assistance in reviewing and developing plans, as needed.

Specific details of the Animal Welfare Act regulations regarding contingency plans can be found here: 9 CFR, Part 2, Subpart C, § 2.38(l)(1)(i-iv) and Subpart I, § 2.134(a)(1-4); Subpart H, § 2.102(a)(4) and (b)(3) 9 CFR, Part 2, Subpart C, § 2.38(i)(4).

Based on the regulations, the following five basic elements should be addressed in the plan.

1. Common emergencies likely to happen to your facility

The terms "emergency" and "disaster" are not limited to major natural disasters, such as hurricanes, and should include consideration of localized events such as a fire, severe weather or any other unexpected situation that interrupts normal animal care activities. Some possible emergencies to consider include, but are not limited to:

- structural fire
- electrical outage
- disruption in clean water or feed supply
- disruption in access to facility (e.g. road closures)
- intentional attack on the facilities/animals/personnel
- hazardous materials situation
- employee absence
- unexpected change in ownership
- faulty heating, ventilation and air conditioning (HVAC) system
- animal escape
- animal disease outbreak
- flooding
- earthquake
- landslide/mudslide/avalanche
- hurricane
- tornado
- blizzard/ice storm
- extreme heat/humidity
- wildfire

2. Specific tasks to be taken during emergencies

Depending on the circumstances and type of emergency, a facility should decide for itself whether its animals and employees should be relocated. Facilities housing animals should also have a plan for animal escapes.

Sheltering-in-place. Animals remain in primary enclosures during an emergency and employees stay on premises to provide animal care.

- husbandry and care needs for the animals (e.g. food and water)
- access to a veterinarian

Sheltering-in-place (continued):

- staffing and housing options (including food and water) for the staff
- environmental conditions (e.g. temperature, ventilation, lighting)
- animal identification
- records maintenance

Evacuation. Animals are moved out of their primary enclosure to another location, either on the grounds of the facility or to a remote location.

- transportation vehicle(s) and equipment/caging
- alternate location(s) for housing animals: These locations should be included on the facility's contingency plan.
- husbandry and care needs for the animals during transport and once animals are relocated
- environmental conditions on transportation vehicle and at alternate location(s)
- staffing during transport and at the alternative location
- animal identification
- records transfer

Escaped animal(s)

- supplies needed (e.g. communication equipment, gloves, nets, drugs, darting equipment)
- secondary barriers secured
- employee/public safety procedures
- notification of emergency response/security/law enforcement personnel
- recovery/transport of animal(s) back to original enclosure

3. Chain-of-command for implementing the plan

Pre-assigning responsibility to personnel for the tasks identified above as part of the planning process can streamline your response during an emergency by establishing clear authority structures and lines of communication.

- Identify the person who has the authority to initiate the contingency plan.
- Identify the people (or positions) in charge of the tasks listed in the plan.
- Have an updated contact list distributed to all of the people involved in the plan.
- Identify the methods to be used to maintain communication.

4. Materials and resources required for response and recovery

Facilities have the freedom to decide which equipment and materials they will need to make possible the tasks identified in their contingency plans. Arrangements should be made for how the facility is going to obtain the equipment during an emergency if it is not on-hand, as well as determining if certification or other specialized training is required for the use of any equipment.

- Identify and list materials and resources necessary to implement the plan.
- Obtain the necessary materials or have a plan for obtaining the materials during an emergency

5. Employee training on the plan

Ensuring that employees are aware of the plan and understand their roles will result in more expedient and organized responses during an emergency. "Employees," in this sense, refers not only to paid staff but also to volunteers and others involved in animal care and/or integral to the business operation.

- On your contingency plan, document any and all training provided to your employees.
- Ensure that employees are aware of any changes to the plan or their assigned roles.

PART 2—REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

■ 2. Section 2.38 is amended by adding new paragraphs (i)(4) and (l) to read as follows:

§ 2.38 Miscellaneous.

* * * * *

(i) * * *

(4) The other person or premises must either be directly included in the research facility's contingency plan required under paragraph (l) of this section or must develop its own contingency plan in accordance with paragraph (l) of this section.

* * * * *

(l) *Contingency planning.* (1) 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). Such contingency plans must:

(i) 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.

(ii) 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.;

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

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

(2) For current registrants, the contingency plan must be in place by July 29, 2013. For research facilities registered after this date, the contingency plan must be in place prior to conducting regulated activities. The plan must be reviewed by the research facility on at least an annual basis to

ensure that it adequately addresses the criteria listed in paragraph (l)(1) of this section. Each registrant must 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). Contingency plans, as well as all annual review documentation and training records, must be made available to APHIS and any funding Federal agency representatives upon request. Facilities maintaining or otherwise handling marine mammals in captivity must also comply with the requirements of § 3.101(b) of this subchapter.

(3) 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. For current registrants, training of facility personnel must be completed by September 27, 2013; for research facilities registered after July 29, 2013, training of facility personnel must be completed within 60 days of the facility putting its contingency plan in place. Employees hired 30 days or more before the contingency plan is put in place must also be trained by that date. For employees hired less than 30 days before that date or after that date, training must be conducted within 30 days of their start date. Any changes to the plan as a result of the annual review must be communicated to employees through training which must be conducted within 30 days of making the changes.

■ 3. Section 2.102 is amended by adding new paragraphs (a)(4) and (b)(3) to read as follows:

§ 2.102 Holding facility.

(a) * * *

(4) 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.

(b) * * *

(3) The other person or premises must either be directly included in the intermediate handler's contingency plan required under § 2.134 or must develop its own contingency plan in accordance with § 2.134.

■ 4. A new section § 2.134 is added to read as follows:

§ 2.134 Contingency planning.

(a) 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). Such contingency plans must:

(1) Identify situations the licensee or registrant 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, mechanical breakdowns, and animal escapes, as well as natural disasters most likely to be experienced;

(2) 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.;

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

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

(b) For current licensees and registrants, the contingency plan must be in place by July 29, 2013. For new dealers, exhibitors, intermediate handlers, and carriers licensed or registered after this date, the contingency plan must be in place prior to conducting regulated activities. The plan must be reviewed by the dealer, exhibitor, intermediate handler, or carrier on at least an annual basis to ensure that it adequately addresses the criteria listed in paragraph (a) of this section. Each licensee and registrant must 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). Contingency plans, as well as all annual review documentation and training records, must be made available to APHIS upon request. Traveling entities must carry a copy of their contingency plan with them at all times and make it available for APHIS inspection while in travel status. Dealers, exhibitors, intermediate handlers, and carriers maintaining or otherwise handling marine mammals in

captivity must also comply with the requirements of § 3.101(b) of this subchapter.

(c) Dealers, exhibitors, intermediate handlers, and carriers must provide and document participation in and successful completion of training for personnel regarding their roles and responsibilities as outlined in the plan. For current licensees and registrants, training of dealer, exhibitor, intermediate handler, and carrier personnel must be completed by September 27, 2013. For new dealers, exhibitors, intermediate handlers, or carriers licensed or registered after July 29, 2013, training of personnel must be completed within 60 days of the dealer, exhibitor, intermediate handler, or carrier putting their contingency plan in place. Employees hired 30 days or more before their contingency plan is put in place must also be trained by that date. For employees hired less than 30 days before that date or after that date, training must be conducted within 30 days of their start date. Any changes to the plan as a result of the annual review must be communicated to employees through training which must be conducted within 30 days of making the changes.

PART 3—STANDARDS

■ 5. The authority citation for part 3 continues to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

■ 6. In § 3.101, paragraph (b) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 3.101 Facilities, general.

(b) * * * Facilities handling marine mammals must also comply with the requirements of § 2.134 of this subchapter.

Done in Washington, DC, this 20th day of December 2012.

Rebecca Blue,
Deputy Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2012-31422 Filed 12-28-12; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. FSIS–2012–0039]

RIN 0583–AD05

Uniform Compliance Date for Food Labeling Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is establishing January 1, 2016, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2013, and December 31, 2014. FSIS periodically announces uniform compliance dates for new meat and poultry product labeling regulations to minimize the economic impact of label changes.

DATES: This rule is effective December 31, 2012. Comments on this final rule must be received on or before January 30, 2013.

ADDRESSES: FSIS invites interested persons to submit relevant comments on this proposed rule. Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov/>. Follow the online instructions at that site for submitting comments.

- *Mail, including CD-ROMs:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, OPPD, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, 8–163A, Washington, DC 20250–3700.

- *Hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, OPPD, Patriots Plaza 3, 355 E. Street SW., 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2012–0039. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov/>.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Telephone: 301–504–0879.

SUPPLEMENTARY INFORMATION:

Background

FSIS periodically issues regulations that require changes in the labeling of meat and poultry food products. Many meat and poultry establishments also produce non-meat and non-poultry food products that are subject to the jurisdiction of the Food and Drug Administration (FDA). FDA also periodically issues regulations that require changes in the labeling of products under its jurisdiction.

On December 14, 2004, FSIS issued a final rule that established January 1, 2008, as the uniform compliance date for new meat and poultry labeling regulations issued between January 1, 2005, and December 31, 2006. The 2004 final rule also provided that the Agency would set uniform compliance dates for new labeling regulations in 2-year increments and periodically issue final rules announcing those dates. Consistent with that final rule, the Agency has published three final rules establishing the uniform compliance dates of January 1, 2010, January 1, 2012, and January 1, 2014 (72 FR 9651, 73 FR 75564, and 75 FR 71344).

The Final Rule

This final rule establishes January 1, 2016, as the uniform compliance date for new meat and poultry product labeling regulations that are issued between January 1, 2013 and December 31, 2014, and is consistent with the previous final rules that established uniform compliance dates. In addition, FSIS' approach for establishing uniform compliance dates for new food labeling regulations is consistent with FDA's approach. FDA is also planning to publish a final rule establishing a new compliance date.

Two-year increments enhance the industry's ability to make orderly adjustments to new labeling requirements without unduly exposing consumers to outdated labels. With this approach, the meat and poultry industry is able to plan for use of label inventories and to develop new labeling materials that meet the requirements of all labeling regulations made within the two year period, thereby minimizing the economic impact of labeling changes.

This compliance approach also serves consumers' interests because the cost of multiple short-term label revisions that

