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§ 370.5 Requests for records.

(a) Requests for APHIS records or information other than material published or made available under the preceding sections, shall be made in writing in accordance with 7 CFR 1.3(a) and submitted to the APHIS Freedom of Information Act Coordinator at the following address:

Freedom of Information Act Coordinator, (FOIA Request), Animal and Plant Health Inspection Service, Legislative and Public Affairs, Freedom of Information, 4700 River Road, Unit 50, Riverdale, Maryland 20737–1231.

The request shall identify each record with reasonable specificity as prescribed in §1.3(b) of this title. The APHIS FOIA Coordinator is hereby delegated authority to make determinations with respect to such requests in accordance with 7 CFR.

(b) The FOIA Coordinator or his designee is authorized to receive requests and to exercise the authority under §1.4(c) of this title to:

(1) Make determinations to grant or deny requests,

(2) Extend the administrative deadline,

(3) Make discretionary releases of exempt records, and

(4) Make determinations regarding charges pursuant to the fee schedule.

(c) In exercising his authority under §1.4(c) of this title to grant and deny requests, the Coordinator will comply with subsection (b) of the Freedom of Information Act, as amended (5 U.S.C. 552(b)), which requires that any reasonably segregable portion of a document shall be provided to a person requesting such document after deletion of any portions which are exempt under the Act. Therefore, unless the disclosable and non-disclosable portions are so inextricably linked that it is not reasonably possible to separate them, the document will be released with the non-disclosable portions deleted, except that the Coordinator may exercise discretion as limited by §1.11 of this title, to release the entire document, or to make only a minimum number of deletions, e.g., the names of individuals.

[40 FR 43223, Sept. 19, 1975, as amended at 44 FR 53490, Sept. 14, 1979; 51 FR 30837, Aug. 29, 1986; 59 FR 67611, Dec. 30, 1994]

§ 370.6 Appeals.

If the request for information made under §370.5 is denied in whole or in part, the requester may file an appeal pursuant to §1.3(e) of this title. The appeal should be in writing and should be addressed as follows:

Administrator, Animal and Plant Health Inspection Service (FOIA Appeal), Room 313–E, U.S. Department of Agriculture, Washington, DC 20250.

[44 FR 53490, Sept. 14, 1979]

§ 370.7 Agency response to requests.

(a) The response to requests for information and to appeals shall be made in accordance with the Department regulations in §1.5 of this title and the regulations in this part.

(b) Requests for records and information which have customarily been directed to field stations and agency headquarters may continue to be directed to those locations, notwithstanding the provisions of these regulations. If the information is not available at the location at which the request is made, or the official receiving the request is in doubt as to whether the information should be released, the official shall (1) promptly forward the request to the FOIA Coordinator, or (2) inform the requester of the procedures established in these regulations by which the request may be sent directly to the FOIA Coordinator. The date of receipt of the request by the Coordinator shall be the determining date for purposes of the time limitations under the Freedom of Information Act and the regulations.

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Sec.

371.1 General Statement.
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371.13 Reservation of authority.
371.14 Availability of information and records.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 65 FR 1299, Jan. 10, 2000, unless otherwise noted.

§ 371.1 General statement.

(a) *The creation of APHIS.* The Animal and Plant Health Inspection Service (APHIS) was created by the Secretary of Agriculture on April 2, 1972 (37 FR 6327, March 28, 1972).

(b) *Central offices.* APHIS is headquartered in Washington, DC, and Riverdale, MD. The APHIS Management Team at these locations consists of the following:

Administrator
Associate Administrator
Deputy Administrator, Plant Protection and Quarantine (PPQ)
Deputy Administrator, Veterinary Services (VS)
Deputy Administrator, Marketing and Regulatory Programs Business Services (MRPBS)
Deputy Administrator, Wildlife Services (WS)
Deputy Administrator, Animal Care (AC)
Deputy Administrator, International Services (IS)
Director, Policy and Program Development (PPD)
Director, Legislative and Public Affairs (LPA)

(c) *Field organization.* AC, MRPBS, PPQ, VS, and WS all have field offices located throughout the United States. IS has field offices located throughout the world. A list of APHIS' field offices with addresses and telephone numbers is in the blue pages of local telephone books.

§ 371.2 The Office of the Administrator.

(a) *The Administrator.* (1) The Administrator of APHIS formulates, directs, and supervises the execution of APHIS policies, programs, and activities.

(2) The Administrator is authorized to take any action authorized by law and deemed necessary to carry out APHIS functions. Delegations of authority by the Administrator and provisions for redelegations of authority are stated in § 371.11.

(b) *The Associate Administrator.* The Associate Administrator of APHIS shares responsibility with the Administrator for general direction and supervision of APHIS programs and activities. The Associate Administrator may act for the Administrator.

§ 371.3 Plant protection and quarantine.

(a) *General statement.* Plant Protection and Quarantine (PPQ) protects and safeguards the Nation's plant resources through programs and activities to prevent the introduction and spread of plant pests and diseases.

(b) *Deputy Administrator of PPQ.* The Deputy Administrator of PPQ is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of policies, programs, procedures, and activities of APHIS.

(2) Providing direction and coordination for PPQ programs and activities. The authorities for PPQ programs include:

(i) The Terminal Inspection Act, as amended (7 U.S.C. 166);

(ii) The Honeybee Act, as amended (7 U.S.C. 281 through 286);

(iii) Sections 1 and 15 of the Federal Noxious Weed Act of 1974, (7 U.S.C. 2801 note and 7 U.S.C. 2814);

(iv) The Endangered Species Act of 1973 (16 U.S.C. 1531–1544);

(v) Executive Order 13112;

(vi) The responsibilities of the United States under the International Plant Protection Convention;

(vii) Lacey Act Amendments of 1981, as amended (16 U.S.C. 3371 through 3378);

(viii) Title III (and Title IV to the extent that it relates to activities under Title III) of the Federal Seed Act, as amended (7 U.S.C. 1581 through 1610);

(ix) Authority to prescribe and collect fees under The Act of August 31, 1951, as amended (31 U.S.C. 9701), and sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act

of 1990, as amended (21 U.S.C. 136 and 136a);

(x) Plant Protection Act, as amended (7 U.S.C. 7701–7786).

(xi) Authority to collect reimbursement for overtime paid to employees for inspection or quarantine services (7 U.S.C. 2260).

(xii) Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e and 2279f).

(xiii) title II, Subtitle B, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8401 not and 8401).

(3) Developing of regulations (including quarantines) regarding noxious weeds and plant pests and diseases.

(4) Cooperating with and providing technical assistance to State and local governments, farmer's associations, and individuals with regard to plant pest control. Cooperating with and providing technical assistance to foreign governments with regard to plant pests and diseases.

(5) Assisting in the development of sanitary and phytosanitary measures.

(6) Regulating the field release into the environment, interstate movement, and importation of genetically modified organisms.

(7) Serving as a member of the North American Plant Protection Organization (NAPPO). NAPPO is composed of plant protection officials and industry cooperators from Canada, Mexico, and the United States.

(8) Administering plant and animal pest and disease exclusion policies, procedures, and regulations at international ports of entry (land, sea, and air) relative to all plants and plant and animal products and associated materials (excluding live animals).

(9) Providing laboratory support, diagnostic services, methods development, and research activities in support of PPQ programs.

[65 FR 1299, Jan. 10, 2000, as amended at 65 FR 49471, Aug. 14, 2000; 66 FR 21060, Apr. 27, 2001; 68 FR 27449, May 20, 2003; 70 FR 55706, Sept. 23, 2005]

EDITORIAL NOTE: At 70 FR 57994, Oct. 5, 2005, § 371.3, paragraph (b)(2)(x) was amended by removing the citation "7 U.S.C. 7701–7772" and adding the citation "7 U.S.C. 7701–7772 and 7781–7786" in its place. However, there is no citation "7 U.S.C. 7701–7772" in this paragraph.

§ 371.4 Veterinary Services.

(a) *General statement.* Veterinary Services (VS) protects and safeguards the Nation's livestock and poultry through programs and activities to prevent the introduction and spread of pests and disease of livestock and poultry. VS also provides leadership and coordinates activities pertaining to veterinary biologics.

(b) *Deputy Administrator of VS.* The Deputy Administrator of VS is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of policies, programs, procedures, and activities of APHIS.

(2) Providing direction and coordination for the activities of the Center for Veterinary Biologics.

(3) Providing direction and coordination for VS programs and activities.

The authorities for VS programs include:

(i) Section 18 of the Federal Meat Inspection Act, as amended, as it pertains to the issuance of certificates of condition of live animals intended and offered for export (21 U.S.C. 618).

(ii) 28 Hour Law, as amended (49 U.S.C. 80502);

(iii) Act of August 26, 1983, as amended (46 U.S.C. 3901 through 3902);

(iv) Harmonized Tariff Schedule of the United States;

(v) Virus-Serum-Toxin Act (21 U.S.C. 151 through 159);

(vi) Sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended, with respect to voluntary inspection and certification of animal products; inspection, testing, treatment, and certification of animals; and a program to investigate and develop solutions to the problems resulting from the use of sulfonamides in swine (7 U.S.C. 1622 and 1624);

(vii) Section 101(d) of the Organic Act of September 21, 1944 (7 U.S.C. 430);

(viii) The Swine Health Protection Act (7 U.S.C. 3801 through 3813);

(ix) Conducting diagnostic and related activities necessary to prevent, detect, control, or eradicate foot-and-mouth disease and other animal diseases (21 U.S.C. 113a);

(x) Authority to prescribe and collect fees under the Act of August 31, 1951, as

amended (31 U.S.C. 9701), and sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136 and 136a); and

(xi) Transportation of horses to slaughter under sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

(xii) Animal Health Protection Act (7 U.S.C. 8301–8317).

(xiii) Section 10504 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8318).

(xiv) The responsibilities of the United States related to activities of the Office International des Epizooties.

(xv) Title II, Subtitles B and C, of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (7 U.S.C. 8401 note, 8401, 8411).

(4) Directing and coordinating animal health information systems and maintaining a Federal-State program operation capable of responding to exotic livestock and poultry disease outbreaks.

(5) Cooperating with and providing technical assistance to State and local governments, farmer's associations and similar organizations, and individuals with regard to VS programs and activities. Cooperating with and providing technical assistance to foreign governments with regard to pests and diseases of livestock and poultry.

(6) Providing laboratory support, diagnostic services, methods development, and research activities in support of VS programs.

[65 FR 1299, Jan. 10, 2000, as amended at 68 FR 27449, May 20, 2003; 70 FR 55706, Sept. 23, 2005]

§ 371.5 Marketing and Regulatory Programs Business Services.

(a) *General statement.* Marketing and Regulatory Programs Business Services (MRPBS) plans and provides for the agency's human, financial, and physical resources.

(b) *Deputy Administrator of MRPBS.* The Deputy Administrator of MRPBS is responsible for:

(1) Assisting the Under Secretary for Marketing and Regulatory Programs, and the Administrators of APHIS, the Agricultural Marketing Service (AMS), and the Grain Inspection and Packers and Stockyards Administration (GIPSA), and other APHIS, AMS, and GIPSA officials in the planning and formulation of MRP policies, programs, and activities. Providing human resource, certain financial, and management services for AMS, APHIS, and GIPSA.

(2) Planning, formulating and coordinating policies, and directing management support functions for APHIS and designated functions for other MRP agencies, including finance, personnel, and management services.

(3) Conducting administrative reviews and inspections in APHIS to assess the implementation of policies and procedures and to assess the accomplishments of program objectives.

(4) Evaluating and issuing administrative directives.

(5) Serving as APHIS' liaison official with the General Accounting Office and the Office of the Inspector General.

(6) Preparing cooperative agreements, memoranda of understanding, agreements between APHIS and other agencies, and agreements that require the signature of more than one Deputy Administrator or Director.

(7) Directing and coordinating investigations related to APHIS program laws and regulations and coordinating enforcement of program laws and regulations with the Office of the General Counsel.

(8) Supporting and enforcing APHIS program activities, which include:

(i) Title 7, Code of Federal Regulations, §§ 371.3(b)(2)(i) through (xiv);

(ii) Title 7, Code of Federal Regulations, §§ 371.4(b)(3)(i) through (xx);

(iii) The Animal Welfare Act, as amended (7 U.S.C. 2131 through 2159); and

(iv) The Virus-Serum Toxin Act, as amended (21 U.S.C. 159).

(9) Formulating and recommending employee development and training policies.

(10) Developing, delivering, and administering organizational development, training, recruitment, and employee development programs for MRP agencies.

(11) Providing computer support and related services for APHIS.

§ 371.6 Wildlife Services.

(a) *General statement.* Wildlife Services (WS) manages problems caused by wildlife.

(b) *Deputy Administrator of WS.* The Deputy Administrator of WS is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of policies, programs, procedures, and activities of APHIS.

(2) Providing direction and coordination for programs authorized by the Act of March 2, 1931 (7 U.S.C. 426 and 426b, as amended) and the Act of December 22, 1987 (7 U.S.C. 426c).

(3) Assisting Federal, State, local, and foreign agencies and individuals with regard to wildlife damage and control.

(4) Conducting research to develop wildlife damage management methods.

[65 FR 1299, Jan. 10, 2000, as amended at 69 FR 76379, Dec. 21, 2004]

§ 371.7 Animal Care.

(a) *General statement.* Animal Care (AC) establishes acceptable standards of humane care and treatment for regulated animals and monitors and achieves compliance through inspections, enforcement, education, and cooperative efforts under the Animal Welfare and Horse Protection Acts.

(b) *Deputy Administrator of AC.* The Deputy Administrator of AC is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of policies, programs, and activities of APHIS.

(2) Directing activities to ensure compliance with and enforcement of animal welfare and horse protection laws and regulations. These laws are:

(i) The Animal Welfare Act, as amended (7 U.S.C. 2131 through 2159); and

(ii) The Horse Protection Act (15 U.S.C. 1821 through 1831).

(3) Providing recommendations for policy and program changes and promulgating requirements, procedures, and guidelines for the conduct of field activities relating to AC programs.

§ 371.8 International Services.

(a) *General statement.* International Services (IS) protects U.S. agriculture and enhances agricultural trade with foreign countries.

(b) *Deputy Administrator of IS.* The Deputy Administrator of IS is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of international policies, programs, and activities of APHIS.

(2) Maintaining and administering the foreign service personnel system for employees of APHIS in accordance with section 202(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3922), E.O. 12363, dated May 21, 1982, and the provisions of § 2.51(a)(1) of this title.

(3) Developing and maintaining systems for monitoring and reporting the presence and movement of plant and animal diseases and pests in foreign countries.

(4) Developing and maintaining cooperative relationships and programs with other Federal agencies, foreign governments, industry, and international organizations, such as the Food and Agriculture Organization of the United Nations, with regard to APHIS activities in foreign countries.

(5) Developing and maintaining systems for observing the effects of plant and animal diseases in foreign countries and evaluating their effect on the agriculture industry.

(6) Developing and directing programs to enhance the trade in U.S. plants, animals, and their products in compliance with established international sanitary and phytosanitary standards.

(7) Providing recommendations for policy and program changes, and promulgating requirements, procedures, and guidelines for the conduct of field activities relating to IS programs.

§ 371.9 Policy and Program Development.

(a) *General statement.* Policy and Program Development (PPD) provides analytical support for agency decisions and plans.

(b) *Director of PPD.* The Director of PPD is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of APHIS policies, programs, and activities.

(2) Providing planning and evaluations; regulations development; and policy, risk, and economic analysis for APHIS programs.

(3) Analyzing the environmental effects of APHIS programs to ensure their compliance with environmental laws and regulations and providing support for pesticide registration and drug approval.

(4) Coordinating registration of chemicals and other substances used in APHIS control and eradication programs.

§ 371.10 Legislative and Public Affairs.

(a) *General statement.* Legislative and Public Affairs (LPA) is the communications arm of APHIS.

(b) *Director of LPA.* The Director of LPA is responsible for:

(1) Advising and assisting the Administrator and other officials on matters relating to agency legislative and media affairs.

(2) Preparing legislative proposals for APHIS programs and responsibilities. Assisting in compiling support material for agency witnesses for congressional hearings. Preparing legislative reports.

(3) Establishing and maintaining liaison with Members of Congress, various congressional committees and subcommittees, and their staffs on matters pertaining to APHIS.

(4) Planning and conducting an information program to promote interest in and increase the public knowledge of APHIS programs and activities.

(5) Drafting and administering policy guidelines on press contacts, photography, audiovisual activities, graphic design, radio-TV, and policy/editorial/graphics clearances for publications. Planning and conducting a program to explain APHIS policies in written form to Members of Congress, State and industry leaders, officials of foreign governments, and private citizens.

(6) Preparing replies to written inquiries and establishing and maintaining a system for the control of written inquiries referred by the Office of the Secretary or sent directly to the agency.

(7) Assisting in the preparation of position papers regarding APHIS programs.

(8) Assisting in the preparation of directives, procedural manuals, articles for publication, and agency correspondence. Coordinating APHIS activities within the scope of the Freedom of Information Act and the Privacy Act.

§ 371.11 Delegations of authority.

(a) *Associate Administrator.* The Associate Administrator is delegated the authority to perform the duties and to exercise the functions and powers that are now, or that may become, vested in the Administrator, including the power of redelegation except where prohibited, and including authority reserved to the Administrator in § 371.14 of this part. The Associate Administrator is also authorized to act for the Administrator in the absence of the Administrator.

(b) *Deputy Administrators and Directors.* The Deputy Administrators of Plant Protection and Quarantine (PPQ), Veterinary Services (VS), Wildlife Services (WS), Marketing and Regulatory Programs Business Services (MRPBS), Animal Care (AC), and International Services (IS); the Directors of Policy and Program Development (PPD) and Legislative and Public Affairs (LPA); and the officers they designate to act for them, with prior specific approval of the Administrator, are delegated the authority, severally, to perform duties and to exercise the functions and powers that are now, or that may become vested in the Administrator (including the power of redelegation, except where prohibited) except authority that is reserved to the Administrator. Each Deputy Administrator or Director shall be responsible for the programs and activities in APHIS assigned to that Deputy Administrator or Director.

§ 371.12 Concurrent authority and responsibility to the Administrator.

(a) *Delegations that preclude the Administrator or each Deputy Administrator or Director from exercising powers or*

functions. No delegation or authorization in this part shall preclude the Administrator or each Deputy Administrator or Director from exercising any of the powers or functions or from performing any of the duties conferred upon each, respectively. Any delegation or authorization is subject, at all times, to withdrawal or amendment by the Administrator, and in their respective fields, by each Deputy Administrator or Director. The officers to whom authority is delegated in this part shall:

(1) Maintain close working relationships with the officers to whom they report.

(2) Keep them advised with respect to major problems and developments.

(3) Discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with other Federal agencies, other agencies of the Department, other divisions, staffs, or offices of the agency, or other governmental, private organizations, or groups.

(b) *Prior authorizations and delegations.* All prior delegations and redelegations of authority relating to any function, program, or activity covered by the statement of Organization, Functions, and Delegations of Authority, shall remain in effect except as they are inconsistent with this part or are amended or revoked. Nothing in this part shall affect the validity of any action taken previously under prior delegations or redelegations of authority or assignments of functions.

§ 371.13 Reservation of authority.

The following are reserved to the Administrator, or to the individual designated to act for the Administrator:

(a) The initiation, change, or discontinuance of major program activities.

(b) The issuance of regulations pursuant to law.

(c) The transfer of functions between Deputy Administrators and Directors.

(d) The transfer of funds between Deputy Administrators and Directors.

(e) The transfer of funds between work projects within each Deputy Administrator's or Director's area, except those not exceeding 10 percent of base funds or $50,000 in either work project, whichever is less.

(f) The approval of any change in the formal organization, including a section, its equivalent, or higher level.

(g) The making of recommendations to the Department concerning establishment, consolidation, change in location, or abolishment of any regional, State, area, and other field headquarters, and any region or other program area that involves two or more States, or that crosses State lines.

(h) Authority to establish, consolidate, change a location, abolish any field office, or change program area boundaries not included in paragraph (g) of this section.

(i) Approval of all appointments, promotions, and reassignments at the GS–14 level and above.

(j) Authorization for foreign travel and for attendance at foreign and international meetings, including those held in the United States.

(k) Approval of all appointments, promotions, and reassignments of employees to foreign countries.

(l) Approval of program budgets.

(m) Authority to determine the circumstances under which commuted traveltime allowances may be paid to employees performing inspections and necessary auxiliary services after normal working hours or on holidays, when these services come within the scope of the Act of August 28, 1950 (7 U.S.C. 2260).

§ 371.14 Availability of information and records.

Any person desiring information or to comment on the programs and functions of the agency should address correspondence to the appropriate Deputy Administrator or Director, APHIS, U.S. Department of Agriculture, Washington, DC 20250. The availability of information and records of the agency is governed by the rules and regulations in part 370 of this chapter.

PART 372—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Sec.

372.1 Purpose.