For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

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

Authority: Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, Exemption of Record Systems under the Privacy Act, the following new paragraph ''12'':

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

12. The Department of Homeland Security General Legal Records system of records consists of electronic and paper records and will be used by DHS and its components. General Legal Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; national security and intelligence activities; and protection of the President of the United States or other individuals pursuant to Section 3056 and 3056A of Title 18. General Legal Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5) and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(1),(2),(3) and (5) this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (I), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: October 14, 2008.

Hugo Teufel III,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E8–24997 Filed 10–22–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 2

[Docket No. APHIS–2006–0159]

RIN 0579–AC69

Handling of Animals; Contingency Plans

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are 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. We are proposing these requirements because we believe 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.

DATES: We will consider all comments that we receive on or before December 22, 2008.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0159* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2006–0159, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0159.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Jodie Kulpa-Eddy, Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; (301) 734–7833.

SUPPLEMENTARY INFORMATION:

Background

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, operators of auction sales, carriers, and intermediate handlers. Regulations established under the AWA are contained in the Code of Federal Regulations (CFR) in 9 CFR parts 1 and 2, and 9 CFR part 3 contains standards for the humane handling, care, treatment, and transportation of animals covered by the AWA. Part 3 consists of subparts A through E, which contain specific standards for dogs and cats, guinea pigs and hamsters, rabbits, nonhuman primates, and marine mammals, respectively, and subpart F, which sets forth general standards for warmblooded animals not otherwise specified.

The only requirement for contingency planning by licensees and registrants currently in the regulations is located in § 3.101(b), which covers water and power supply requirements at facilities housing marine mammals. Specifically, this section requires facilities to submit written contingency plans to the Deputy Administrator of Animal Care (AC) regarding emergency sources of water and electric power should primary sources fail. Among other things, the plans must include evacuation plans in the event of a disaster and a description of backup systems and/or arrangements for relocating marine mammals requiring artificially cooled or heated water.

Following the events experienced during the 2005 hurricane season, a Federal document, ''The Federal Response to Katrina: Lessons Learned,'' which can be found on the Internet at *http://www.whitehouse.gov/reports/katrina-lessons-learned/,* was published that highlighted the need for planning to minimize the impact of disasters. AC's experience indicates that, although contingency planning would benefit the health and welfare of animals covered by the AWA, at least some entities responsible for regulated animals have not undertaken such planning. Therefore, we believe all licensees and registrants should be required to develop a contingency plan for all animals regulated under the AWA in an effort to better prepare for potential disasters. We are proposing to add requirements for contingency plans, and training of personnel regarding their roles and responsibilities, to a new § 2.38(l) for research facilities and to a new § 2.134 for dealers, exhibitors, intermediate handlers, and carriers. For marine mammal facilities, these proposed requirements would be in addition to the requirements of § 3.101(b) mentioned above.

The regulations in current § 2.38(i) allow a person or premises to be designated as a recognized animal site for holding animals in lieu of a research facility, if the research facility obtains prior approval of the AC Regional Director. Likewise, the regulations in § 2.102 allow a person or premises to be designated as a recognized animal site for holding animals in lieu of a dealer, exhibitor, or intermediate handler if the dealer, exhibitor, or intermediate handler obtains prior approval of the AC Regional Director. We would also amend these provisions to require that any site so designated either be directly included in the contingency plan of the research facility, dealer, exhibitor, or intermediate handler or develop its own contingency plan in accordance with the regulations for research facilities, dealers, exhibitors, or intermediate handlers.

Due to the fact that the individual circumstances for facilities may be different (e.g., holding exotic animals versus pet animals, being situated in a State with a cold climate versus a temperate climate, etc.), it is difficult to go into specific detail as to what elements must be included in all contingency plans. However, we are proposing a set of general criteria to which contingency plans would have to adhere. These criteria would require licensees and registrants to develop contingency plans that:

- Identify situations the facility might experience that would trigger the need for a contingency plan, 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. Listings of areas most at risk for specific natural disasters can be found on the U.S. Geological Survey Web site at *http://www.usgs.gov/hazards* or on the Weather Channel Web site at *http://www.weather.com/ready/?from=secondarynav.*
- Outline specific tasks required to be carried out in response to the identified emergencies 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.
- Address how response and recovery will be handled in terms of materials, resources, and training needed.

We are also considering the development of a guidance document (or other means) to provide examples of elements that may be included in contingency plans. We welcome public comment on Web sites, articles, or other sources that may be used to develop such guidance, in addition to suggestions as to what elements should be included as examples for an adequate contingency plan. We would retain the specific requirements in § 3.101(b) that are applicable to marine mammals.

We are further proposing that the plans be made available to APHIS upon request and, in the case of research facilities, to any funding Federal agency representatives. Contingency plans would have to be in place 180 days after any final rule following this proposal became effective and would have to be reviewed by the research facility, dealer, exhibitor, intermediate handler, or carrier on at least an annual basis. Training of personnel would have to take place within 60 days following the adoption of a contingency plan by the research facility, dealer, exhibitor, intermediate handler, or carrier. Employees hired within 30 days or less after adoption of the contingency plan would be included in the training period taking place within 60 days following adoption of the contingency plan. For employees hired more than 30 days after adoption of the contingency plan, training would have to be conducted within 30 days of their start date. Training of personnel could be developed and offered by the research facility, dealer, exhibitor, intermediate handler, or carrier or provided by an outside entity.

Each research facility, dealer, exhibitor, intermediate handler, or carrier would be expected to review its contingency plan on at least an annual basis to ensure their plan adequately addresses the four criteria listed above. For licensees and registrants who travel with animals or have multiple sites where animals are maintained, their contingency plans would have to address potential hazards for all areas where the animals are maintained for regulated purposes. Any changes to a contingency plan resulting from the annual review would have to be communicated to employees through training, which would have to be conducted within 30 days of making the changes. The plan would also be reviewed by APHIS personnel as a part of the routine inspection process (similar to the process for our review of dog exercise and nonhuman primate environment enhancement plans).

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

For this proposed rule, we have prepared an economic analysis, which is summarized below. The analysis includes an initial regulatory flexibility analysis that considers the potential economic effects of the proposed rule on small entities as required by the Regulatory Flexibility Act, and a cost-benefit analysis as required by Executive Order 12866. The full economic analysis may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov). The full analysis may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Lack of disaster preparedness can leave businesses and organizations and the animals in their care vulnerable, as was the case in the southern United States in 2005. The devastating impact of the 2005 hurricane season, in particular the many animals that were stranded and died in the aftermath of Hurricane Katrina, underscores the need for contingency planning for all animals covered under the Animal Welfare Act. Regulated animal populations, in addition to non-regulated animal populations, suffered as a result of the hurricane. In one particular instance, 90 percent of the animals left in a facility after personnel were evacuated either died or had to be humanely euthanized.

In 2004, USDA's Animal Care reported 1,101,958 animals, including dogs, cats, guinea pigs, nonhuman primates, hamsters, and rabbits, were used by registered research facilities (*http://www.aphis.usda.gov/animal_welfare/publications_and_reports.shtml*). This does not include regulated animals in zoos and other types of facilities. This high number of animals used by research facilities illustrates the need for contingency plans to protect animals and mitigate impacts of natural and manmade disasters.

Currently, only facilities that house marine mammals are required under the regulations to develop contingency plans. The proposed rule would require that all licensees and registrants, of which there are more than 10,000, develop and document contingency plans for all other animals covered under the Act. In addition, training and familiarization with these plans would have to be provided to all facility employees.

The proposed requirements may affect research facilities, dealers, exhibitors, intermediate handlers, and carriers that fall into nine categories of the North American Industry Classification System (NAICS). For the purposes of this analysis, the potentially affected entities are classified within the following industries: All Other Animal Production (NAICS 112990), Pet and Pet Supplies Stores (NAICS 453910),[1] Schedule Freight Transport (NAICS 48112), Research and Development in Physical Engineering and Life Sciences (NAICS 541710), Veterinary Services (NAICS 541940), Zoos and Botanical Gardens (NAICS 712130), Nature Park and Other Similar Institutions (NAICS 712190), Environment Conservation and Wildlife Organizations (NAICS 813312), and Pet Care Services (NAICS 812910). Data are unavailable on the size of the specific entities, but we may assume that the majority of the establishments that would be affected by the rule are small, based on the industry estimates obtained from the Economic Census and the Census of Agriculture.

In terms of economic impacts, we anticipate that the proposed changes would only impose minimal costs to develop and document the contingency plans and provide employee training. This is because the cost of training for facility personnel is expected to vary depending on the type and size of business and many of the larger facilities, in particular, already have contingency plans in place. In addition, there is a wealth of information available from various Federal and State agencies and private organizations that addresses animal disaster planning. A list of resources that may aid in the development and implementation of contingency plans is included in the full economic analysis.

We do not have any estimates of the costs of implementing contingency plans for facilities that do not already have contingency plans in place, such as the costs of equipment or materials that may be needed. We welcome public comment on the types of equipment or materials that may be needed to implement contingency plans and the costs of this equipment or materials.

Significant Alternatives to the Rule

One alternative to the rule would be to require that all licensees and registrants submit their contingency plans to APHIS for review, as is required for the marine mammal facilities. There are more than 10,000 licensees and registrants that would be submitting plans for review under this alternative, which we expect would take an enormous amount of resources for the Agency to process, review, and store. Another alternative would be to retain the status quo, i.e., not amend the regulations to require regulated entities other than marine mammal facilities to prepare contingency plans. However, we believe that this alternative would

[1] Businesses are included in this category if they deal in exotic pets such as primates.

not provide adequate protection for the general public and the animals in these facilities. Thus, the approach we are proposing in this document, which would ensure that contingency plans are developed and can be reviewed by APHIS during scheduled inspection visits or at other times, is preferred.

Summary

Preparedness for disasters can reduce harm caused to animals and loss of life. The devastating impact of the 2005 hurricane season underscores the need for contingency planning for all animals covered under the Animal Welfare Act. Currently, only facilities that house marine mammals are required under 9 CFR 3.101 to develop contingency plans. The proposed rule would require that all licensees and registrants develop and document contingency plans for all other animals covered under the Act. In addition, training and familiarization with these plans would be provided to all facility employees. The licensees and registrants fall into various categories of the North American Industry Classification System and while no economic data are available on business size for the specific entities, we may assume the majority of the establishments are small, based on the industry estimates obtained from the Economic Census and the Census of Agriculture. In terms of economic impacts, we anticipate that the proposed rule would only impose minimal costs to develop and document the contingency plans and provide employee training. The cost of training for facility personnel is expected to vary depending on the type and size of business. Many of the larger facilities, in particular, already have contingency plans in place. Overall, we do not anticipate a substantial economic impact on the entities affected. Nevertheless, APHIS welcomes public comment on the proposed rule's possible impacts, including the cost of implementing contingency plans.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2006–0159. Please send a copy of your comments to: (1) Docket No. APHIS–2006–0159, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

The proposed rule would amend the current regulations and would require all licensees and registrants, which include research facilities, dealers, exhibitors, intermediate handlers, and carriers, to develop and document contingency plans for the handling of animals during all emergencies or disasters.

These criteria would require licensees and registrants to develop contingency plans that:

- Identify situations the facility might experience that would trigger the need for a contingency plan, 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.
- Address how response and recovery will be handled in terms of materials, resources, and training needed.

We are further proposing that the plans be made available to APHIS upon request and, in the case of research facilities, to any funding Federal agency representatives. Contingency plans would have to be in place 180 days after any final rule following this proposal became effective and would have to be reviewed by the research facility, dealer, exhibitor, intermediate handler, or carrier on at least an annual basis.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated at 4 to 6 hours (average 5 hours) per response.

Respondents: Dealers, exhibitors, research facilities, carriers and intermediate handlers.

Estimated annual number of respondents: 10,351.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 10,351.

Estimated total annual burden on respondents: 51,755 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to

E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 9 CFR Part 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, we propose to amend 9 CFR part 2 as follows:

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 a contingency plan, 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.

(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) The contingency plan must be in place by [*date 180 days after effective date of 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 listed in paragraph (l)(1) of this section. 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. Training of facility personnel must be completed within 60 days of the adoption date required under paragraph (l)(2) of this section; employees hired 30 days or less after that date must also be trained within that 60-day period. For employees hired more than 30 days after adoption of the contingency plan, 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 facility might experience that would trigger the need for a contingency plan, 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;

(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) The contingency plan must be in place by [*date 180 days after effective date of final rule*]. This plan must be made available to APHIS upon request. 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. 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. Training of dealer, exhibitor, intermediate handler, and carrier personnel must be completed within 60 days of the adoption date required under paragraph (b) of this section. Employees hired 30 days or less after that date must also be trained within that 60-day period. For employees hired more than 30 days after adoption of the contingency plan, 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.

Done in Washington, DC, this 17th day of October 2008.

Bruce Knight,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. E8–25289 Filed 10–22–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0952; Directorate Identifier 98–ANE–49–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80A, CF6–80C2, and CF6–80E1 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for General Electric Company (GE) CF6–80A, CF6–80C2, and CF6–80E1 series turbofan engines. That AD currently requires revisions to the Airworthiness Limitations Section (ALS) of the manufacturer's Instructions for Continued Airworthiness (ICA) to include required inspection of selected critical life-limited parts at each piece-part exposure. This proposed AD would require revisions to the CF6–80A, CF6–80C2, and CF6–80E1 series engines ALS sections of the manufacturer's manuals and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements, and to update certain Engine Manual Inspection Task and Sub Task Number references. This proposed AD results from the need to require enhanced inspection of selected critical life-limited parts of CF6–80A, CF6–80C2, and CF6–80E1 series engines. We are proposing this AD to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by December 22, 2008.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *robert.green@faa.gov*; telephone (781) 238–7754; (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2008–0952; Directorate Identifier 98–ANE–49–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Discussion

On April 3, 2002, we issued AD 2002–07–12, Amendment 39–12707 (67 FR 17279, April 10, 2002), to require revisions to the ALS of the manufacturer's ICA for GE CF6–80A, CF6–80C2, and CF6–80E1 series turbofan engines to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure.

Additional Inspection Procedures

Since the issuance of that AD, an FAA study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for additional mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained engine failures. This proposal would require revisions to the CF6–80A, CF6–80C2, and CF6–80E1 series engines ALS sections of the manufacturer's manuals and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements.

FAA's Determination and Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2002–07–12 to add additional inspections for certain high-pressure turbine (HPT) components, and to update certain Engine Manual Inspection Task and or Sub Task Number references. These inspections would be required at each piece-part opportunity. For reference, this proposed AD carries forward the requirements from AD 2002–07–12. Also for reference, the parts added to the table in the compliance section of this AD are identified by an asterisk (*) that precedes the part nomenclature. Also for reference, parts that have an Engine Manual Inspection Task and or Sub Task Number reference updated in the table in the compliance section of this AD, are identified by two asterisks (**) that precede the part nomenclature.

Costs of Compliance

We estimate that this proposed AD would affect 315 CF6–80A series engines and 926 CF6–80C2 series engines installed on airplanes of U.S.