

**Animal and Plant Health Inspection Service  
Plan for Operations during a Funding Hiatus  
April 1, 2011**

APHIS has identified those functions necessary to effect an orderly shutdown of normal activities or that are excepted in accordance with the guidance provided by the Office of Budget and Program Analysis.

All employees identified as excepted solely for shutting down the Agency's operation should a lapse of appropriations occur will be directed to engage in only those activities.

**Section I. Orderly Closure and Communications**

The following section addresses procedures for activities not excepted from shutdown procedures:

Prior to Day 1, the following actions will be completed:

The Administrator, Deputy Administrators, Associate Deputy Administrators, Regional Directors, Laboratory Directors, Area Veterinarians in Charge (AVIC), State Plant Health Directors (SPHD), Wildlife Services State Directors (WSSD), and other applicable Directors will identify those functions that need to be performed that are solely associated with an orderly shutdown of normal activities. Such functions may include but are not limited to:

- Identifying measures to secure records, personal property, real property, and facilities that will be maintained and protected until appropriate disposition is accomplished
- Drafting a strategy for communicating with Agency employees
- Drafting a strategy for communicating outside the Agency as necessary
- Identifying all potential meetings, hearings, and other previously arranged Agency business that may need to be cancelled
- Identifying all excepted employees and ensuring that employees have been identified consistently and fairly in compliance with applicable personnel regulations
- Identifying employees whose presence at work will be required to perform functions associated with the orderly shutdown of program activities. This includes employee name, title, and function the employee will perform
- Identifying what Chief Information Officer systems support is needed to maintain excepted services and information technology infrastructure
- Identifying all employees in international travel status
- Identifying all contractors and contracts that could be impacted by an impending shutdown

- Identifying what instructions and procedures Human Resources Management will provide to employees for the shutdown period
- Identifying appropriate Department contacts for communications purposes and orderly shutdown of the agency
- Initiating bargaining over furlough related topics.

### Bargaining Unit Requirements

APHIS Labor Relations staff will provide pre-decisional draft notice of the APHIS Plan to the Unions. As part of this pre-decisional notice, APHIS will provide unions with specific program plan information. Union(s) may request additional information as part of the pre-decisional process. Opportunity to provide pre-decisional involvement between the parties will be offered within a reasonable time frame. Unions' feedback, suggestions, and concerns will be considered.

If the Union(s) are not satisfied with the outcome of pre-decisional involvement, legal notice of the plan and proposed implementation will be provided to Union(s.) Unions will be asked to trigger bargaining obligations within an expedited time frame. APHIS will make every reasonable effort to complete bargaining obligations prior to implementation of a shutdown.

### First half of Day 1 (First Day funds are not available):

Unless instructed otherwise by their supervisor, all employees will report to work as usual on their first scheduled work day following the determination that an emergency furlough is necessary. Those employees teleworking may "report" by telephone. Supervisors will notify affected employees either verbally or in writing of the need to conduct an emergency furlough. Affected employees will be provided copies of the SF-8 form (Unemployment Compensation for Federal Employees) and "questions and answers for furloughed employees," which provides information on a variety of topics, including continuation of benefits coverage. Supervisors will document the employee's receipt of notification—even if notified verbally. Notification may or may not be provided in advance of the actual furlough date, but all affected employees will receive written notification at some point. The call down trees already in place in the APHIS Continuity of Operations Plan may be used in the interest of efficient notification if the Agency Head determines that it is impractical to provide advance written notice.

The names of employees who are needed to carry out excepted activity will be transmitted to Human Resources, immediately upon identification. Human Resources will ensure that no personnel action is taken to furlough excepted-activity employees. Personnel actions to furlough all other Agency employees will be processed by Human Resources. Employees who are to be furloughed will complete time sheet entry in webTA, as instructed by their supervisor, as part of the Agency shutdown procedures shown below.

Employees reporting to work will be instructed either to begin their excepted activity work, or to begin shutdown operations to include:

- Protect sensitive and personally identifiable information by securing it in locked files or offices

- Ensure that all property and records assigned to an employee are accounted for and are appropriately secured
- Cancel meetings and other previously arranged business; inform parties who are involved in Agency matters, such as State governments, other Federal agencies, contractors and private entities, of the shutdown of normal business
- Document the status of assignments and projects so they can be resumed, transferred, or otherwise handled when the furlough ends
- Activate 'out of office' message in email to indicate the employee is out of the office until further notice
- Update voice mail to indicate employee is out of the office until further notice
- Record all time worked during the pay period properly in webTA
- Ensure there is no open food in the work area; place trash outside of any locked space
- Cancel any travel in the GovTrip system that was scheduled after the start date of the shutdown

Supervisors will:

- Cancel annual and sick leave scheduled for furloughed employees during the shutdown, including leave already started
- Advise employees being furloughed that the agency may not accept their voluntary services during a shutdown
- Advise employees who are furloughed they are not authorized to use Government equipment, i.e., Blackberries, laptops, cell phones, etc., to conduct official Agency business during the shutdown
- Ensure shutdown activity has been appropriately completed; secure the facility, as applicable
- Advise employees on travel who are not in an excepted position to return home before budget authority expires
- Advise travelers that travel will need to be resubmitted in GovTrip for approval and ticketing upon return
- Certify all properly entered T&As in the system before departure

#### Notification to Contractors

The Head of the Contracting Activity Designee (HCAD) will ensure that all applicable Federal Acquisition Regulations (FAR) and Agriculture Acquisition Regulation Advisories (AGAR) are followed. In addition, the HCAD will direct that all existing contracts be reviewed to determine whether the contracts are funded with appropriated, multi-year or no-year funds. If any contract is funded in excess of available appropriations in error, e.g., a period of performance has been stated beyond the expiration of a Continuing Resolution, the error will be corrected so as to limit the Government's liability.

For contracts funded with annual appropriated funds, contracting officers will issue stop work orders or suspension of work orders, consistent with FAR Part 42, with the exception of contracts whose purpose is the protection of life or property or those services needed for the orderly shutdown of government operations.

#### Second half of Day 1:

Managers and supervisors will coordinate the following activities intended to shut down Agency's operations:

- Document the status of cases and projects so that they can be resumed, transferred, or otherwise appropriately handled when APHIS' ultimate funding situation is determined
- Prepare files for permanent storage, transfer to related agencies, or other disposition
- Complete identification of employees whose presence at work will be required to perform functions associated with the orderly shutdown of program activities. This includes:
  - Name of each employee required to continue shutdown operations
  - Title of each employee identified, and
  - The termination function that each identified employee is to perform.
- A finalized listing will be submitted through the AVICs, SPHDs, WSSDs, Regional Directors, Laboratory Directors, or other Directors, to their respective Deputy Administrator and then to the Associate Administrator no later than the end of Day 2.
- Contracting Officers and contracting officer technical representatives will continue to contact all contractors and vendors to let them know work is suspended.

#### Day 2:

Only employees who were previously identified as required to perform functions necessary for orderly shutdown of program activities will report for work.

Employees leading, directing, and performing work identified as "excepted" from shutdown procedures will continue to work.

Employees will be directed to perform only those activities as enumerated earlier. As each shutdown function is completed, the supervisor must notify the supervisor at the next highest level or, at headquarters, the respective Deputy Administrator, through channels, of completion and identify those employees who were responsible for the task.

Each employee whose shutdown function is completed will be furloughed immediately and formally notified by their supervisor or other appropriate manager if the supervisor is not available.

There will be daily communications by the Administrator's Office on the status of the shutdown procedures with the Department contacts previously identified.

Day 3 and until completion of close down procedures:

Only employees who were previously identified as required to perform functions necessary for orderly shutdown of program activities will report for work.

Employees leading, directing, and performing work identified as “excepted” from close down procedures (described in Sections II and III), will continue to work.

Employees will be directed to perform only those activities as enumerated earlier.

Employees completing shutdown functions will continue tasks as outlined under Day 2 for each succeeding day until the Administrator determines the shutdown is complete.

There will be daily communications by the Administrator’s Office on the status of the shutdown procedures with the Department contacts previously identified.

Resumption of Duties:

Non-excepted employees should monitor the news for information on an additional continuing resolution and, unless told otherwise, should report back to work on their next scheduled workday once another continuing resolution or an appropriation bill is enacted (passed by the House and the Senate and signed by the President).

## **Section II. OMB November 17, 1981, Memorandum, Category 2: Activities financed from available funds (not subject to annual appropriations)**

### Trust Funds

APHIS receives revenue for activities requested by cooperators. These activities include preclearing and inspecting fruits, vegetables, and nursery products before they are shipped to the United States; inspecting commercial birds in an APHIS-approved commercial bird quarantine facility; and other technical assistance. All costs that APHIS incurs to provide these services are the responsibility of the cooperator and must be paid in advance. APHIS expects to obligate approximately \$17 million related to these activities in FY 2011 and fund 150 employees who conduct the work. Accordingly, 150 employees have been working and would continue working in the event of a shutdown. It is important to note that such work is provided as requested and may be seasonal. Not all 150 employees would necessarily be working at the same time.

### User Fees

As provided in 21 U.S.C. 136(c)(2), APHIS may charge and collect fees for the costs incurred in inspecting and quarantining animals imported into and exported from the United States; performing certain laboratory veterinary diagnostics services; and issuing phytosanitary certificates for plant materials bound for export. All fees collected shall be credited to the accounts that incur the costs and shall remain available until expended without fiscal year limitations (21 U.S.C. 136(c)(3)). As provided in 21 U.S.C. 136(a)(1)(A), APHIS may charge and collect fees for the costs incurred in providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car. APHIS transfers a portion of these fees to the Department of Homeland Security's Customs and Border Protection (CBP). All fees collected shall be credited to the accounts that incur the costs and shall remain available until expended without fiscal year limitations (21 U.S.C. 136(a)(6)).

Based on data pulled from its financial system year-to-date, APHIS expects to obligate approximately \$261.1 million related to animal import/export activities, veterinary diagnostics activities, phytosanitary certificate activities, and agricultural quarantine and inspection activities including detector dog training in FY 2011. Accounting data from the most recent pay period (ending February 12, 2011) indicate that 1,730 employees were funded by user fee collections. Accordingly, those employees funded by user fees and necessary to maintain the services APHIS has identified would continue working in the event of a shutdown.

### Reimbursable Overtime

Under the same authorities cited above for user fees, APHIS charges for the additional overtime costs associated with providing inspection services normally performed during regular hours and covered by established user fees. For FY 2011, APHIS projects to receive approximately \$6.8 million. These funds cover the costs of the services provided and are only received when the

services are requested and provided. The 1,730 user fee employees noted above do this work, so no additional employees would be required. On average, reimbursable overtime accounts for 4,350 hours worked per week. The amount of reimbursable overtime is subject to requests for services to occur outside of normal business hours and is scheduled as shipments arrive needing immediate clearance.

### Building and Facilities

There are incomplete construction projects that are funded from money previously appropriated and available until expended. This work would continue because contracts have already been awarded and funding is already available. No employees would be involved.

### No-year funding

APHIS is responding to several agricultural emergencies involving invasive pests and diseases. APHIS' responses are supported through emergency transfers of Commodity Credit Corporation (CCC) no-year, mandatory funding. APHIS will continue these operations to protect U.S. agriculture and forests. APHIS expects to obligate approximately \$45.356 million in CCC funding (much of which is transferred to State and industry partners through cooperative agreements, or awarded to contractors) related to these emergency responses in FY 2011 and fund 45 employees who oversee and conduct the work. The carryover funding is sufficient to cover the salaries and benefits for these employees for the balance of FY 2011. Accordingly, 45 employees have been working and would continue working in the event of a shutdown.

APHIS carries out certain agricultural pest detection and control programs that are supported through appropriated no-year funding. APHIS will maintain program operations using carryover balances to mitigate the risks associated with emerging pests and diseases. APHIS expects to obligate approximately \$47.3 million in carryover balances related to these activities in FY 2011 and fund 295 employees who conduct the work. The carryover funding is sufficient to cover the salaries and benefits for these employees for the balance of FY 2011. Accordingly, 295 employees have been working and would continue working in the event of a shutdown.

### **Section III: OMB November 17, 1981, Memorandum, Category 3: Protection of Life and Property**

**Conduct essential activities to the extent that they protect life and property, including:**

- a) Medical care of inpatients and emergency outpatient care;**
- b) Activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials;**
- c) The continuance of air traffic control and other transportation safety functions and the protection of transport property;**
- d) Border and coastal protection and surveillance;**
- e) Protection of Federal lands, buildings, waterways, equipment and other property owned by the United States;**
- f) Care of prisoners and other persons in the custody of the United States;**
- g) Law enforcement and criminal investigations;**
- h) Emergency and disaster assistance;**
- i) Activities essential to the preservation of the essential elements of the money and banking system of the United States, including borrowing and tax collection activities of the Treasury;**
- j) Activities that ensure production of power and maintenance of the power distribution system; and**
- k) Activities necessary to maintain protection of research property.**

Under this category, APHIS carries out functions d, e, f, h, and k:

#### *d. Border and coastal protection and surveillance*

Agricultural quarantine and inspection and cattle fever tick surveillance activities prevent the introduction of animal and plant pests into this country that would be potentially damaging to American horticulture and livestock. This work includes pre-departure inspections at ports in Hawaii and Puerto Rico, and livestock movement quarantines and tick treatments for cattle and deer along the U.S.-Mexico border.

APHIS expects to obligate approximately \$42.15 million related to these activities in FY 2011 and fund 404 employees who conduct pre-departure inspections at ports in Hawaii and Puerto Rico and 114 employees who conduct livestock movement quarantines and tick treatments for cattle and deer along the U.S.-Mexico border. Accordingly, 518 employees have been working and would continue working in the event of a shutdown.

#### *e. Protection of Federal lands, buildings, waterways, equipment and other property owned by the United States*

APHIS conducts its programs in a number of owned or leased facilities, including laboratories that hold select agents. If these properties are not maintained and secured, then the Government would lose a considerable financial interest and future replacement would be several times more costly than original costs. APHIS' facilities include the National Veterinary Services Laboratories, the National Wildlife Research Center (NWRC) and NWRC field stations, and the



Center for Plant Health Science and Technology, among others. APHIS expects to obligate approximately \$2.975 million related to these activities in FY 2011 and fund 42 employees who conduct the work. Accordingly, 42 employees have been working and would continue working in the event of a shutdown.

*f. Care of prisoners and other persons in the custody of the United States*

Currently, APHIS is providing care for animals that had previously been under the ownership of the Wild Animal Orphanage in Texas, an exotic animal sanctuary that has since been dissolved due to over-population and inadequate housing. Animals that had been part of the Wild Animal Orphanage are now being relocated to other facilities. APHIS monitors these animals; provides administrative support with financial and legal issues associated with the licensee; and is looking for homes for the animals still remaining at the facility, including chimpanzees and tigers. If these activities are suspended, then these exotic animals may not be cared for appropriately. APHIS expects to obligate approximately \$200,000 related to these activities in FY 2011 and fund 2 employees who conduct the work. Accordingly, 2 employees would continue working in the event of a shutdown.

*h. Emergency and disaster assistance*

Foreign animal disease (FAD) diagnosticians and incident command system (ICS) teams will be available on a case-by-case basis to respond to emergencies—similar to their weekend responsibilities as emergency response officials—but with no requirement that they stay at their duty stations or stay within cell phone range. Similarly, one public affairs specialist and one Agency Web specialist will be available on an as-needed basis only to post information about a foreign animal disease outbreak or other emergency.

Laboratory personnel will be available to run tests on samples associated with FAD investigations, and, at the beginning of the period, to close out pending lab tests.

APHIS will also maintain a small cadre of emergency program staff in its headquarters, regional, and State offices (not funded through emergency transfers of CCC funds) to oversee ongoing emergency programs. APHIS expects to obligate approximately \$375,000 related to these activities in FY 2011 and fund 3 employees who conduct the work. Accordingly, 3 employees have been working and would continue working in the event of a shutdown.

*k. Activities necessary to maintain protection of research property*

APHIS' National Wildlife Research Center (NWRC) research scientists develop wildlife damage management methods to reduce threats to human health and safety. APHIS will maintain staff at NWRC and its associated field stations to care for the animals being studied. APHIS also houses animals at its National Veterinary Services Laboratories (NVSL), including its Foreign Animal Disease Diagnostic Laboratory (FADDL), that are necessary for diagnostic and methods development work. APHIS will maintain a staff of animal caretakers at NVSL and FADDL to care for animals at the labs. Also, personnel will be available to suitably store lab samples received daily, for testing at a later date. APHIS expects to obligate approximately \$900,000

related to these activities in FY 2011 and fund 18 employees who conduct the work. Accordingly, 18 employees have been working and would continue working in the event of a shutdown.

In several APHIS programs, sterile or biological-control insects are continuously reared in order to retard the spread or eliminate harmful insect infestations in the United States or prevent them from reaching our borders. If operations were to cease at these facilities, these insects would no longer be produced and starting these programs again would be costly and time consuming; failure to continuously release sterile insects in barrier zones would allow pests to spread and reverse years and billions of dollars in investments. These facilities are located at Tuxtla-Gutierrez and Tapachula, Mexico; Petapa, Guatemala; Brighton, MI; Phoenix, AZ; Otis Air Force Base, MA; and Mission, TX. APHIS expects to obligate approximately \$8.5 million related to these activities in FY 2011 and fund 350 employees who conduct this work at rearing facility and biocontrol centers—the majority of whom are locally employed staff in other countries. Accordingly, 350 employees have been working and would continue working in the event of a shutdown.

Minimum support staff from the Human Resources Division; Financial Management Division; Administrative Services Division; Information Technology Division; and Emergency Management, Safety, and Security Division will be maintained to support APHIS program delivery in categories 2 and 3, and also provide administrative services for excepted employees of the Agricultural Marketing Service (AMS) and the Grain Inspection, Packers, and Stockyards Administration (GIPSA).

Approximately 19 employees will provide basic services in procurement, contracting, facility engineering, labor and employee relations, human resources, personnel actions including death benefits, furlough and staffing actions, payroll, accounting, mailroom support, and worker's compensation. Approximately 7 employees will provide baseline technical information technology assistance, ensure network security, and ensure network operations. Approximately two employees in the Office of the Administrator will provide coordination and guidance to APHIS employees during shutdown operations and to excepted employees during a shutdown. Accordingly, these 28 employees would be excepted and continue working. These types of activities will cost \$3.6 million during FY 2011.

## **Appendix I.**

### **Further justification to support inclusion of APHIS activities as excepted activities under Category 3: Protection of Life and Property.**

#### *d. Border and coastal protection and surveillance*

One commenter noted that the activities APHIS included in this section are not “safety related.” APHIS included them because they constitute border and coastal protection and surveillance. Unlike the activities of category 3b (*activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials*), they need not involve public safety and health. The following is more detail on how these activities protect property and are appropriately excepted.

APHIS maintains that agricultural quarantine and inspection and cattle fever tick surveillance prevent the introduction of animal and plant pests into this country that would be potentially damaging to American horticulture and livestock. The services rendered by employees who conduct pre-departure inspections at ports in Hawaii and Puerto Rico and who conduct cattle fever tick surveillance along the U.S.-Mexico border protect the United States from devastating incursions of animal and plant pests and diseases that could cause substantial property losses to U.S. farmers and ranchers.

APHIS’ pre-departure efforts facilitate travel between Hawaii and Puerto Rico and the continental United States while maintaining the highest level of agricultural security. When program personnel identify a commodity that poses a specific risk, they take immediate action to prevent the entry of materials that could harbor the pest or disease in question. This action could prevent significant damage to the country’s agricultural industry and negate the need for costly control and eradication programs. In FY 2010, APHIS inspected the baggage of almost 15 million passengers before they left Hawaii and Puerto Rico and intercepted more than 300,000 prohibited items and reportable pests (i.e., quarantine-significant pests that must be reported to Federal or State authorities).

The APHIS cattle fever tick program works to prevent the reinfestation of the Southeastern United States by cattle fever ticks through surveillance, curative measures, and maintaining a permanent quarantine zone along the southern border of Texas. The disease carried by the ticks, bovine babesiosis or “cattle fever,” has caused enormous losses to the U.S. cattle industry in the past. Before the nationwide eradication program began in 1906, direct and indirect economic losses were estimated to be \$130.5 million, which would be approximately \$3 billion today. If the ticks had not been eradicated from the United States, the cattle industry’s losses from disease and ticks could amount to approximately \$1 billion annually.

Currently, APHIS is working to maintain a buffer quarantine zone along the southern border of Texas so the ticks, which are established in Mexico, do not become reestablished in the United States.

*e. Protection of Federal lands, buildings, waterways, equipment and other property owned by the United States*

APHIS needs 42 employees to protect Federal lands, buildings, equipment, and other property during a shutdown. This estimate includes the Chief of the Security Branch for building security services; 9 employees to provide security at the National Veterinary Services Laboratories; 8 employees for the National Wildlife Research Center and related field stations; and 24 employees to provide security at various Plant Protection and Quarantine facilities, including the National Monitoring Residue Analysis Laboratory in Gulfport, Mississippi; Hawaii Irradiation Facility; Asian longhorned beetle laboratory in Massachusetts; potato cyst nematode chemical safeguarding in Idaho; Medfly eclosion facilities in Florida and California. After reviewing the many facilities included, we believe that the 42 employees reflect the minimum needed to protect these valuable resources. We would add that some of the materials housed in these facilities are listed as select agents—believed to be susceptible to use as terrorist tools and therefore subject to extraordinary protection.