

**APHIS DIRECTIVE 156.1**  
**10/19/82**

**FREEDOM OF INFORMATION ACT/PRIVACY ACT GUIDLINES**

I. PURPOSE

- A. Outlines the policy and procedure for administration of the Freedom of Information Act (FOIA) and the Privacy Act (PA).
- B. Provides guidelines on the responsibility for APHIS personnel who maintain Agency records.
- C. Gives guidelines for APHIS personnel who maintain records that contain personal information.

II. REPLACEMENT HIGHLIGHTS

Replace APHIS Directive 156.1 (4/14/78) and APHIS Directive 460.1 (8/9/74) with this Directive. This revision incorporates changes in regulations and clarifies actions needed to assure compliance with these laws.

III. AUTHORITY

This Directive is in compliance with 5 U.S.C. 301, 552, 552a; the Paperwork Reduction Act of 1980 (Public Law 96-511); and the Office of Management and Budget Circular No. A-108, as amended.

IV. POLICY

It is APHIS policy to:

- A. Collect only that information needed to accomplish program objectives. Personal information obtained from or about individuals must be obtained from the subject individual when possible.
- B. Maintain accurate, relevant, and complete records.
- C. Protect the personal privacy of individuals by not making clearly unwarranted disclosures of personal information.
- D. Make available for public inspection any records or information unless disclosure is prohibited by law or would impair one of the interests protected by exemptions of FOIA (see VI).

V. DELEGATION OF AUTHORITY

The Administrator has overall responsibility for compliance with the FOIA/PA. This authority has been delegated to the FOIA Coordinator to:

- A. Ensure that APHIS records are maintained in compliance with these Acts.
- B. Ensure that APHIS policy is consistent throughout the Agency.
- C. Make the initial determination whether specific records are exempt from any provisions of the Acts.
- D. Serve as a central source of information about these Acts for the benefit of APHIS officials.
- E. Provide assistance on problems or questions with regard to policy

or specific types of information that cannot be answered at the local level.

- F. Disclose and account for records contained in a system of records in accordance with Attachment 2.
1. Prepare a transmittal letter for each disclosure subject to accounting except those used in USDA or required under the FOIA.
  2. Include the name and address of the person or agency to whom disclosed.
  3. Maintain a copy of the transmittal letter with the record.
  4. Make every reasonable effort to inform the subject individual when record is made available (under subpoena or other compulsory legal process) once that process becomes a matter of public record.

All FOIA/PA requests should be forwarded to the Coordinator for review:

FOIA/PA Coordinator  
APHIS, U.S. Department of Agriculture  
6505 Belcrest Road, Room 262  
Hyattsville, MD 20782  
FTS: 436-8099 COMM: (301) 436-8099

VI. PRIVACY ACT REQUIREMENTS

- A. The Privacy Act provides requirements for collecting, maintaining, and disclosing personal information obtained by Government offices from or about individuals. Personal information includes, but is not limited to:
1. Home address,
  2. Home telephone number,
  3. Social security number,
  4. Personal financial data (excluding salary),
  5. Medical records,
  6. Religious affiliation, and
  7. Educational attainments.

The Act limits the disclosure of such information in order to protect individuals against unwarranted invasions of personal privacy. The Privacy Act applies to all records maintained in the APHIS systems of records (as defined by the Act). See Attachment 1 for a list of these systems.

It also gives individuals the right to review records containing personal information about them.

- B. Collecting Personal Information. All information collections from any non-Federal Government, business, institutions, groups, or individuals must first be cleared through the Office of Management and Budget as prescribed in OMB Circulars A-40 and A-108. Personal information obtained from and about individuals should include only what is relevant and needed to serve the purpose for

which it is collected. The purpose must be authorized by law. An APHIS official planning to collect information from individuals must be aware that personal information collected may be subject to the Privacy Act. Therefore, do not collect personal information if the Agency purpose can be accomplished without it. Obtain information directly from the subject individual when possible. Forms used to collect information must include a Privacy Act statement which specifies:

1. General. Advises the individual of the Privacy Act;
2. Authority. whether granted by statute or by executive order of the President which authorizes the solicitation of the information.
3. Purposes and Uses. The principal purpose or purposes for which the information is intended to be used. Routine uses of the information.
4. Effects of Nondisclosure. Whether the disclosure of the information is mandatory or voluntary and the effects on the individual for not providing all or any part of the requested information.

Do not keep records describing how any individual exercises rights guaranteed by the first amendment unless:

- ) Specifically authorized by statute or by the individual about whom the record is maintained; or
  - ) Pertinent to, and within the scope of, an authorized law enforcement activity (such as records maintained on APHIS employees that are necessary as a result of the employer/employee relationship).
- C. Access to Records. Official Personnel Files (OPF's) and records included in the Office of Personnel Management Government-wide systems of records. However, APHIS maintains these records. Employees may request access to their individual records to insure that the information maintained is correct. Contact FSO for access to your OPF, and HRD for confidential administrative records.

Program operating levels maintain some personnel records, as authorized by APHIS Directive 408.1, Official Personnel Files and Work Folders, and APHIS Directive 408.2, Personnel Records at Program Operating Levels. Employees may request access to these records by contacting the office that maintains the record.

Refer to the Coordinator a request for access to records in an APHIS system of records (see Attachment 1) by the individual (or the individual's representative) who is the subject of the records, unless releasable under FOIA provisions of this Directive.

Refer to the Coordinator requests from an individual for information contained in a system of records which contains personal information about another person. All requests for personal information, whether from the person concerned or from a third party, will be treated as requests under provisions of both the FOIA and PA.

- D. Social Security Numbers. The Privacy Act prohibits denial of any right, benefit, or privilege provided by law to an individual who refuses to disclose his or her social security number, unless

disclosure is required by Federal statute or by regulation adopted before January 1, 1975.

1. When requesting a social security number, tell the individual:
    - a. Whether disclosure is mandatory or voluntary,
    - b. The statutory authority for soliciting the number, and
    - c. What uses will be made of it.
  2. State and local governments operating under a cooperative agreement with APHIS must provide this information when requesting social security numbers. It is an APHIS responsibility to see that this is done.
- E. Mailing Lists. In no event shall release of any list of names and home addresses of employees of the Department, or of farmers, persons, organizations, or firms, for political purposes be considered to be in the public interest; nor shall release for commercial solicitation purposes be considered to be in the public interest unless release is specifically authorized by the individuals named therein. Selling or renting an individual's name and address is also prohibited.
- F. Records Maintenance and Security.
1. Keep systems of records accurate, complete, up to date, and relevant to Agency purposes. Make a reasonable effort to see that information is correct and up to date before disclosing any personal information.

See the APHIS Records Management Handbook for procedures.

2. Safeguard APHIS systems of records against unauthorized access. Only USDA personnel who need information in order to carry out an Agency purpose can have access to these records. Use appropriate methods to safeguard records. Obtain advice concerning security requirements and equipment from the APHIS Classified Material Control Officer:

Information Management Branch  
Administrative Services Division  
Room 262, Federal Building  
Hyattsville, MD 20782  
FTS: 436-8520  
Comm: (301) 436-8520

3. Any person who wishes to inspect or obtain copies of any record available at the Field Service Office should submit a request to:

Field Servicing Office, Director  
APHIS, U.S. Department of Agriculture  
100 North Sixth Street  
Butler Square West, 5th Floor  
Minneapolis, MN 55403

G. Changes in Systems and New Systems. Notify the Coordinator when a significant change in the use or operation of one of the APHIS systems of records (shown in Attachment 1) is being considered if such a change will:

1. Increase the number or types of individuals on whom records

are maintained;

2. Expand the type or amount of information maintained;
3. Increase the number or categories of agencies or other persons who may have access to the records;
4. Alter the manner in which the records are organized, changing the nature or scope of those records (e.g., combining two or more existing systems);
5. Modify system operation at its location(s), altering the procedures by which individuals can exercise their rights under the Privacy Act and USDA regulations; or
6. Change the equipment configuration on which the system is operated, creating the potential for greater access (e.g., adding a telecommunications capability).

Also notify the Coordinator if personal information is collected for a new or expanded purpose not included in one of the existing APHIS systems.

#### VII FREEDOM OF INFORMATION ACT REQUIREMENTS

Freedom of information Act is a disclosure statute designed to allow ease access to documents held by the administrative agencies of the executive branch of the Federal Government. Each Agency has the responsibility to expedite all releasable information as prescribed by the FOIA.

- A. Responding to Requests. Offices should continue to make available, on request, information customarily released. The FOIA requires a response in 10 working days, excluding Saturdays, Sundays, and legal public holidays, after the receipt of the request by the Agency. Offices should respond to the Coordinator's referrals upon receipt of the copied request. Referrals should be made to the Coordinator within 5 days of receipt.

APHIS responds to requests for information and disclosure to the fullest extent possible without infringing upon nine specified, protected interests, or exemptions. Program offices are expected to advise the Coordinator of any such interests upon referral. The five exemptions most pertinent to APHIS are:

1. Exemption 3. Material which is specifically exempted from disclosure by statute. Example: The report to Congress required by the Animal Welfare Act, disclosure of which, prior to release by the appropriate congressional committees, is prohibited by 7 U.S.C. 2155.
2. Exemption 4. Trade secrets and commercial or financial information obtained from a person and privileged or confidential. Examples: Certain scientific and technical data including confidential product formulas and processing methods; certain confidential (as defined by Federal courts) commercial and financial data, including, in proper cases, sales statistics, share of the market, inventories, and production data. (NOTE: To deny data under this exemption, offices must provide facts in each instance to show that release will cause substantial harm to the competitive interests involved.)
3. Exemption 5. Interagency and intraagency memorandums, written in the process of reaching a policy decision,

containing opinions and recommendation, the release of which would tend to inhibit a frank exchange of ideas among the decisionmakers. Examples: Information, material, and dockets on regulations prior to publication in the Federal Register are exempt; Agency budget material before the budget is transmitted to Congress, is also exempt. Factual material in memorandums is not exempt, nor is material that is expressly incorporated into a final policy decision.

4. Exemption 6. Personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This exemption protects personal information contained in records, the disclosure of which might be harmful or embarrassing to the individual, unless the seriousness of such effects is outweighed by the public interest in disclosure.
5. Exemption 7. Investigatory records compiled for law enforcement purposes, but only under conditions specified in the Act. Examples: Records compiled for enforcement of Animal Welfare Act, Horse Protection Act, and Animal Quarantine laws. (NOTE: Routine inspection reports do not qualify under Exemption 7.)

FOIA requests should be in writing unless the request is for records routinely made available. An employee may accept a verbal request if circumstances dictate. The person receiving a verbal request should obtain as detailed a description of the records as possible.

- B. Denial of Information. Only the Coordinator, in consultation with designated program FOIA representatives, may deny initial FOIA requests. Offices may justify, at the time of submission to the Coordinator, any information that is to be protected from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552.

Refer questionable requests promptly to the Coordinator and,

1. Describe the problem and justify the recommended action, or
2. Advise the requestor to deal directly with the Coordinator, according to procedures established by Department and APHIS.

Inform the requestor that FOIA time limitations do not begin until the Coordinator receives the request.

- C. Charges. Routine charges for copying are 10 cents per page for requests involving over 30 pages of material. (Examples: 24 pages of material - fees are waived, and no charge is made; 35 pages of material charge is \$3.50).

Search charges may be appropriate under certain circumstances. Contact the Coordinator for guidance on the assessment of these fees.

Payment will be collected to the fullest extent possible in advance or at the time the requested materials are furnished. No information will be provided unless payment is received.

Advise the requestor to pay the Coordinator by check made payable to: "Treasurer of the United States."

Agencies can waive or reduce fees when "furnishing the information can be considered as primarily benefiting the general public."

Signed By

Harry Mussman

LIST OF APHIS PRIVACY ACT SYSTEMS OF RECORDS

A. Regulatory Actions (PPQ). The system consists of case files on violators and contains copies of violation report forms, compliance agreements, employee or other witness statements, warning notices, Office of the General Counsel recommendations to the U.S. Department of Justice, and court disposition documents.

B. Records of Accredited Veterinarians (VS). The system includes name of accredited veterinarian, State in which accredited, State license number, college and date of graduation, and score on accreditation examination. The system also includes material pertaining to alleged violations of accreditation standards. If allegations are proven true, the records include the disposition of the case which may be revocation of accreditation.

C. Animal Quarantine Regulatory Actions (VS). The system consists of investigatory and case files of alleged violations of quarantine laws and contains the alleged violator's name and address, type of infraction, and documentation of the alleged infraction. The files include closed cases as well as the current status of those cases remaining unresolved.

D. Animal Welfare and Horse Protection Regulatory Actions (VS). The system consists of investigatory and case files of alleged violations of the Animal Welfare and Horse Protection Acts and contains the alleged violator's name and address, type of infraction, and documentation of the alleged infraction. The files include closed cases as well as the current status of those cases not resolved.

E. Candidates for Animal Disease Control Positions in Foreign Countries (VS). The system consists of the candidate's resumes of previous job and educational experience.

F. Brucellosis Information System (VS). This system includes name of herd owners whose animals or herds are tested, studied, or restricted because of brucellosis; livestock markets, slaughter establishments, and livestock dealers (including agents and brokers) handling livestock covered by the program; milk processing plants receiving milk or cream from dairy farms; laboratories conducting brucellosis program tests or procedures; State, Federal and contractual personnel engaged in program activities.

DISCLOSURES UNDER THE PRIVACY ACT TO PERSONS  
OTHER THAN THE SUBJECTS OF THE RECORDS

When Individual's Written Consent and an Accounting is Required

Type of Disclosure	Condition	Consent	Accounting
Disclosure within USDA	On a need to know basis for purpose originally intended.	No	No
Disclosure to public	(1) Required to be released under FOIA.	No	No
	(2) Not required to be released.	Yes 1/	Yes
Disclosure for routine use 2/	Must be described in the Federal Register notice.	No	Yes

To Bureau of Census	For authorized census activity.	No	Yes
Disclosure for statistical research and reporting.	Not in individually identifiable form (cannot be reasonably deduced); and only after receipt of written statement from requester stating purpose; certifying use only as statistical records; made a part of accounting.	No	Yes
Disclosure to National Archives	Historical or other value. (44 U.S.C. 2103)	No	Yes
Disclosure for law enforcement purposes	(1) Receipt of written request from the law enforcement agency, specifying purpose and particular record wanted.	No	Yes
	(2) As a routine use.	No	Yes
Disclosure for emergency situation	Compelling circumstances affecting health and safety of an individual; and notification to last known address.	No	Yes

- 1/ Unless released pursuant to a routine use.  
2/ Attachment 3 describes routine uses for APHIS systems of records.

Type of Disclosure	Condition	Consent	Accounting
Disclosure to Congress	(1) As a body.	No	Yes
	(2) To the office of a member of Congress as a routine use.	No	Yes
Disclosure to GAO	For performance of duties by GAO	No	Yes
Disclosure pursuant to court order.	Competent jurisdiction.	No	Yes
All others	Not prohibited by law.	Yes	Yes

ROUTINE USES OF APHIS SYSTEMS OF RECORDS

ROUTINE USES 1	SYSTEM OF RECORDS
<p>A. Any record within these systems may be referred to another Federal, State, local, or foreign agency when:</p> <ul style="list-style-type: none"> <li>- The agency has responsibility for investigating or prosecuting a violation of law or for enforcing or implementing the statute, rule, regulation, or other order pursuant thereto; AND/OR</li> <li>- The information available indicates a violation of law.</li> </ul>	<p>PPQ Regulatory Actions  VS Accredited Veterinarians  VS Quarantine Regulatory Actions  VS Animal Care Regulatory Actions  VS Brucellosis Information System</p>

B. Any record within the system may be referred to a court, magistrate, or administrative counsel (or to opposing counsel in a proceeding before any of the above) when information constitutes evidence or is sought in the cause of discovery.

C. Any record within the system may be referred to a Congressional office in response to an inquiry from the Congressional office made at the request of an individual.

D. Any record within the system may be referred to the Department of Justice when the information will be helpful in:

- The defense of suits against the United States or its offices, OR

- Initiating suits to cover claims made by the United States Department of Agriculture.

E. Any record within these systems of

Health Officials or to the State Veterinary Examining Boards to certify that a particular individual is indeed accredited.

F. Any record to advise scientists in animal health and related fields of potential use of their qualifications by international organizations and/or foreign governments.

PPQ Regulatory Actions  
VS Accredited Veterinarians  
VS Quarantine Regulatory  
Actions  
VS Brucellosis Information  
System

VS Accredited Veterinarians records may be referred to State Animal

Candidates for positions in Foreign Countries.

1/ The term "Routine Use" was introduced to recognize the practical limitations of restricting use of information to explicit and expressed purposes for which it was collected. The "routine use" provision essentially permits agencies to disclose a record to recipients not foreseen (or not enumerated) by the authors of the Privacy Act, without the prior written consent of the record's subject.

**DISTRIBUTION: G03**

**OPR: OPA**