United States Department of Agriculture Marketing and Regulatory Programs Animal and Plant Health Inspection Service

APHIS Directive

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WORKPLACE VIOLENCE PREVENTION AND RESPONSE PROGRAM

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1. PURPOSE

Promoting and maintaining a safe work environment, free from violence, is essential to the welfare of all employees, and to their ability to carry out the Animal and Plant Health Inspection Service (APHIS) mission. This Directive provides a consistent and effective process for responding to incidents of workplace violence (WPV), or its potential occurrence.

2. SPECIAL INSTRUCTIONS AND REPLACEMENT HIGHLIGHTS

- a. This Directive supersedes APHIS Directive 4340.1, Workplace Violence and Harassment Prevention and Response Program, dated 10/26/2020.
 - (1) The principle changes included in this Directive are as follows:

Distribution: APHIS Originating Office: MRPBS-HRD-EMSD

- (a) All words associated with "harassment" were removed from the revised Directive.
- (b) Added: <u>DR-4070-735-001</u>, <u>Employee Responsibilities and</u> Conduct.
- (c) Removed: "APHIS Anti-Harassment Policy Statement, May 10, 2017," from the original Directive since the scope of the revision is focused on WPV. Moreover, the Department routinely issues current anti-harassment policies. Last Department policy issue was dated April 29, 2021.
- (d) The "48 hour" time requirement to report an incident was removed from the PROCEDURES section for the purposes of developing an immediate and appropriate safety and response plan during an incident or threat. The 48 hours' time limitation was changed to reflect "immediately" or "must take prompt action" as stated in ROLES AND RESPONSIBILITIES, §(b)(4). "Supervisors and management officials must take immediate action upon receiving any report of workplace violence. They must also, within 48 hours of being made aware of any allegations of harassing conduct, report such conduct to the Workplace Violence & Harassment Prevention & Response Program Coordinator. Failure to report an incident of harassment may result in administrative action, including disciplinary action."
- (e) The DEFINITIONS section was modified to include words relevant to the Workplace Violence Prevention and Response Program.
- (f) The TRAINING section was removed because it pertained to harassment, which has been removed from this directive.
- (g) The ROLES and RESPONSIBILITIES has been revised to include the role of the Emergency Management, Safety and Security Division.
- (h) The PROCEDURES section has been revised to reflect the Work Place Violence Prevention and Response Program processes and the removal of the harassment process.
- (i) The RECORDS MANAGEMENT section has been revised to expand on the types of records and to update the destruction date of information from 5 years to 10 years after the conclusion of the WPV Assessment or investigation, in accordance with CHAPTER 751 DISCIPLINE SUBCHAPTER 3 AGENCY INVESTIGATIONS OF EMPLOYEE MISCONDUCT. §3-9 RECORDS RETENTION §b (4).
- b. This Directive is in force until cancelled or superseded.

3. BACKGROUND

APHIS is committed to creating and maintaining a safe work environment in which all people are treated with dignity, fairness, and respect, and where everyone can work and interact free from violence.

4. AUTHORITIES AND REFERENCES

This Directive must be applied in conjunction with:

- a. 5 United States Code (U.S.C.) Chapter 23 § 2302, Prohibited Personnel Practices
- b. 29 U.S.C. Chapter 29 §701, The Rehabilitation Act of 1973
- c. <u>Title VII of the Civil Rights Act of 1964</u>
- d. 29 Code of Federal Regulations (CFR) Chapter XIV Part 1625, Age Discrimination Employment Act
- e. 29 CFR Chapter XIV Part 1604, Guidelines on Discrimination Because of Sex
- f. 29 CFR Chapter XIV Part §1614, Federal Sectoral Equal Employment Opportunity
- g. 7 CFR Part 15, Nondiscrimination
- h. <u>USDA Department Regulation (DR) 4200-001, Workplace Violence Prevention</u>
 Response Program
- i. USDA DR-4070-735-001, Employee Responsibilities and Conduct
- j. <u>Dealing with Workplace Violence a Guide for Agency Planners</u>, Office of Personnel Management
- k. Equal Employment Opportunity Commission (EEOC) Management Directive 110, Agency Authority and Responsibility
- 1. <u>EEOC Management Directive 715, Equal Employment Opportunity.</u>

5. **DEFINITIONS**

- a. <u>External Source</u>. Any non-USDA individual.
- b. <u>First-line Supervisor</u>. The individual whom an employee directly reports to or receives direction from.
- c. <u>Imminent Danger</u>. An exposure or vulnerability to harm or risk about to occur or impending.
- d. <u>Incident</u>. A workplace violence event or occurrence.
- e. Internal Source. Any USDA employee.
- f. <u>Intimidation</u>. Making others afraid or fearful through threatening or other unwelcomed aggressive or passive aggressive behavior.
- g. <u>Management</u>. To include Program Officials, Program Managers, first- and second-line Supervisors, and other employees in a position of leadership.
- h. <u>Retaliation</u>. Retaliation is imposing any administrative action, failing to take action, or engaging in any form of harassment or bullying, against any employee for reporting matters covered under this policy, for involvement in an inquiry related to such a report, or for exercising any other rights granted them by statute or policy. Additional information regarding harassment and bullying can be found in USDA DR 4200-003 Anti-Harassment Program.
- i. Threat. Any gesture, verbal, or written expression a reasonable person would interpret that conveys intent to cause physical/non-physical harm to the individual or their property, either presently or in the future. The behavior causes an individual to fear for their personal safety or the safety of others. A threat can also include individuals who have expressed an intent to harm themselves by means of suicide.
- j. Threat Assessment. Is an evaluation of the threat or incident itself, which is, the overall credibility and capability of an expression or intention to do harm. The assessment is an evaluation of the threat and the risk levels of violence presented by an offending person(s). These evaluations assist the Coordinator in the decision-making process in determining whether the person(s) who have made a threat is likely to carry it out. Moreover, the threat assessment also identifies steps needed to mitigate risks and develop an appropriate response plan after a WPV incident has occurred.
- k. <u>Violence</u>. Any act of physical force, violence, threat, physical interference, intimidation, and other threatening or disruptive behavior for the purpose of

- violating, damaging, or abusing another person(s). This behavior can occur by internal or external sources.
- 1. WPV Assessment. An Administrative Investigations and Compliance Branch (AICB) evaluation of the reported threat(s) itself, that is, the assessment of the overall viability of an expression, or the intention, to do harm through violent means. The assessment determines the nature of the reported threat, the risk level that a violent situation will occur again, and it evaluates those violent situations which have occurred by known internal or external sources.

6. SCOPE

- a. This Directive applies to all APHIS offices as well as all employees, contractors, volunteers, and those under formal partnership agreements performing work on behalf of APHIS.
- b. APHIS will administer a Workplace Violence Prevention and Response Program consistent with <u>USDA DR 4200-001</u>, <u>Workplace Violence Prevention and Response Program</u>.

This Directive is not intended to replace or impede application of:

- a. Any of the APHIS administrative grievance processes.
- b. Negotiated grievance processes for employees in collective bargaining units.
- c. Equal Employment Opportunity (EEO) complaint procedures under 29 CFR § 1614, Federal Sector Equal Employment Opportunity. This Directive establishes rules and guidelines distinct and separate from any rights or obligations established by the Equal Employment Opportunity Commission, Merit Systems Protection Board, Office of Special Counsel (OSC), the administrative grievance system, or negotiated grievance procedures under a collective bargaining agreement. Reporting WPV under this program does not satisfy any of the requirements or timelines of any other process or course of action, nor is it equivalent to filing an individual complaint of unlawful harassment in accordance with EEO laws and regulations, nor does it initiate EEO counseling.
- d. Nothing in this Directive is intended to negate or affect the Office of the Inspector General's (OIG) independence.
- e. Staff offices may not issue policies or directives that conflict with or limit this Directive.

This Directive also does not alter the filing deadlines for invoking those processes. This

policy sets forth a procedure separate from those processes. Complaints of WPV may be made under this Directive, irrespective of whether any other applicable process is invoked. Such complaints may be made in addition to other applicable processes.

7. POLICY

- a. The goal of the APHIS WPV Prevention and Response Program is to address reported WPV incidents, mitigate situations where the likelihood for violence exists, and educate employees about WPV. To achieve this goal, APHIS established policy, training, education, rules, and guidelines that enable employees, contractors, and seasonal employees to report WPV to a management official or the WPV Prevention and Response Coordinator as soon as possible.
- b. APHIS is committed to keeping employees safe in the workplace and addressing conduct that has the potential to escalate into a violent situation. Employees must never attempt to dismiss, downplay, justify, or condone WPV threats and incidents, irrespective if the behavior seems innocuous, habitual, or that such conduct does not appear to warrant disciplinary action. Employees are required to report WPV threats or incidents no matter how slight or harmless they might appear.
- c. Employees who are experiencing, or are aware of a WPV incident or threat, must immediately report these incidents to their first-line supervisor and to the WPV Prevention and Response Program Coordinator. If a first-line supervisor is not available, employees are expected to contact the next higher level supervisory official within their chain of command. Employees, regardless of grade or position, must report a WPV incident or threat on behalf of another employee, even in the absence of an official WPV complaint.
- d. In accordance with DR-4070-735-001, Employee Responsibilities and Conduct, § 19(a) "Every employee is required to report actions by other employees that they know, or have a reasonable basis to believe, are violations of law or regulation. A report may be made to the USDA Office of Inspector General, the employee's supervisor, or any appropriate USDA management official."
 - (1) Failure to report an incident of WPV may result in administrative action, including disciplinary action.
 - (2) WPV reporting responsibilities are not limited to an employee's tour of duty. Employees can report a WPV incident or threat outside their normal business hours. Employees must not wait days, weeks, or months to report a WPV incident or threat. Agency employees must report WPV incidents and threats when they become aware of them.
- e. Cooperation with USDA Investigations. Every employee is required to cooperate

- with USDA Investigations as per DR 4070-735-001.
- f. Confidentiality with regards to WPV complaints and assessments will be protected to the extent as allowed by law. Only select individuals, with a need-to-know basis will be made aware of a WPV complaint. This is done with the purpose of determining 1) when addressing a WPV incident, 2) whether a credible threat of WPV exists, and 3) when it becomes necessary for the Agency to develop an appropriate safety or response plan to protect employees from danger.
- g. APHIS requires all responsible parties to take appropriate steps to immediately address reports of WPV threats or incidents, and to remedy such events in a timely manner. This includes, but is not limited to, conducting a WPV assessment or assisting management with internal inquiries into alleged WPV complaints.
- h. APHIS also requires supervisory and management officials to implement appropriate corrective and disciplinary action when a record of finding supports that a WPV incident, or threatening situation has occurred.
- i. Even when there is not a credible threat of WPV, supervisory and management officials need to take appropriate corrective and disciplinary action to address behaviors that are considered inappropriate for the workplace. Such behavior harms the efficient service of operations and creates an uncomfortable working environment. For example, dismissing or downplaying minor threatening/hostile behaviors as playful or jesting, or allowing an employee to make threatening comments because that is their communication style.
- j. APHIS prohibits any form of retaliation or reprisal against an employee who files a complaint regarding safety related issues, such as WPV. Retaliation against an employee for their participation in an official investigation is prohibited under DR-4070-735-001, Employee Responsibilities and Conduct §18 RETALIATION AND REPRISAL.
 - (1) Any suspected retaliatory response must be reported immediately to the Workplace Violence Presentation and Response Coordinator, LMER, or Program official, so that the issue can be promptly investigated and remedied in accordance with this Directive.
 - (2) Incidents of retaliation and intimidation can be reported to the USDA Office of Inspector General (OIG) or the U.S. Office of Special Counsel (OSC).
 - (3) As appropriate, APHIS' Program Officials, Managers, or Supervisors will take corrective measures to ensure that employee retaliation does not occur before or after a WPV complaint has been reported, or during an official WPV assessment, inquiry, or investigation.

- (4) In situations where an employee is subjected to retaliation by their manager or supervisor, WPV complaints and findings will be elevated to the next higher level.
- k. Employees must also report threats, comments, intentions, or expressions of suicide by other employees. Employees must immediately report this information to their first-line supervisor and the WPV Prevention and Response Program Coordinator.
- 1. Violent behavior of any kind, including threats of violence, either implied or direct, against persons or property will not be tolerated. This includes acts of intimidation or other inappropriate behavior which causes an employee to fear for their personal safety. An employee who exhibits violent behaviors may be subject to criminal prosecution and shall be subject to disciplinary action up to and including removal from Federal service. Violent threats or actions by non-employees may result in criminal prosecution. APHIS will appropriately consider all complaints of WPV or any violation of this policy.
- m. APHIS is committed to creating and maintaining a safe work environment in which all people are treated with dignity, fairness, and respect; and where everyone can work and interact free from violence. APHIS employees have a responsibility to be on the alert for any potential for WPV and to report such behavior in a timely manner. Additionally, supervisors and managers must take prompt action to address reported WPV incidents or threats. Supervisors and managers must respond to related complaints from employees, and they must ensure that no retaliation takes place against any employee or individual who reports or provides information about WPV. Failure to report WPV incidents, including threats of violence, is a violation of this Directive. All staff and supervisors are to take such reports seriously, and to respond and address them fully and in a timely manner.

8. ROLES AND RESPONSIBILITIES

The implementation of the policy and procedures as established by this Directive requires the responsibilities of the following individuals and groups:

a. <u>Employees will:</u>

- (1) Support the Department/Agency's position against workplace violence.
- (2) Identify and take individual action to stop and report inappropriate behavior as it relates to workplace violence.
- (3) Familiarize themselves with this Directive, and USDA's DR 4200-001,

Workplace Violence Prevention and Response Program.

- (4) Immediately contact local law enforcement if they or someone else is being physically harmed or is experiencing a life-threatening situation. If necessary, obtain medical treatment for any injuries that occur.
- (5) Once an imminently dangerous situation has been properly addressed, employees will notify their first-line supervisor or program manager, and the WPV Prevention and Response Coordinator of the WPV threat or incident.
- (6) Monitor their own behavior to determine whether it could be interpreted as harmful, threatening, or violent.
 - (a) Avoid using violence, or other physically harmful behaviors, when not in imminent danger.
 - (b) Refrain from using language that could be interpreted as violent or physically confrontational.
 - (c) Avoid engaging with a person if the potential for a violent interaction is high. Deescalate potentially violent situation(s) by walking/running away from aggressive and hostile individuals or physically dangerous situations.
 - (d) Always consider the repercussions of physically being harmed or harming someone else.
- (7) Avoid making direct, indirect, or veiled threats of any kind. Employees will not encourage or allow others to make threats, or to commit a violent act, on their behalf.
- (8) Take annual training to identify, prevent, and respond to WPV incidents.
- (9) Seek assistance by contacting the <u>APHIS Employee Assistance Program</u> (EAP) Coordinator, therapist, or physician for help managing their anger, stress, depression, etc. Ask their first-line supervisor for help contacting EAP. Employees can call EAP directly at 1-800-222-0364.
- (10) For threats or concerns involving suicide, employees may contact the <u>988</u> Suicide and Crisis Lifeline for support.
- b. Managers and Supervisors will:
 - (1) Inform all employees of this Directive and USDA's <u>DR 4200-001</u>, Workplace Violence Prevention and Response Program.

- (2) Take all threats seriously, including direct, indirect, and veiled threats.
- (3) Encourage subordinate employees to report WPV incidents and threats once they become aware of them.
- (4) Respond to WPV complaints, threats, and incidents in a prompt and objective manner; and in accordance with time requirements and procedures as outlined in this Directive.
- (5) Ensure that policies and procedures are in place to prevent and to respond to WPV events at all work sites.
- (6) Report all WPV threats and violent incidents to the WPV Prevention and Response Program Coordinator and Labor Management Employee Relations (LMER). Including those threats made by employees who have expressed an intent to harm themselves by suicide.
- (7) Ensure that employees are aware of and have availability to the Employee Assistance Program (EAP) and Alternative Dispute Resolution Programs. Offer EAP counseling for affected employees and assist them with making arrangements, as necessary.
- (8) Call the <u>988 Suicide and Crisis Lifeline</u> if they become aware of, or have concerns about, an employee who might commit suicide or is in crisis. The 988 Suicide and Crisis Lifeline can provide additional support and information to supervisors that need help with an employee who is in crisis.
- (9) In cases of an urgent and violent matter, managers and supervisors will obtain guidance from the WPV Prevention and Response Program Coordinator and LMER.
- (10) LMER is responsible for providing advice and counsel to Marketing and Regulatory Program (MRP), and other United States Department of Agriculture (USDA) agencies utilizing their services, supervisors, and managers in identifying the best method(s) to correct misconduct and performance problems
- (11) If it is substantiated through an official inquiry, assessment, or investigation that WPV or a credible threat or violence has occurred, management will review the findings and consult with LMER on the appropriate management response actions, to include possible disciplinary action. Managers and Supervisors will also consult with LMER before taking any preliminary disciplinary action.
- (12) Report violent incidents and threats involving external sources to the

Emergency Management, Safety and Security Division (EMSSD), Security Branch at (301) 436-3144.

c. EMSSD will:

(1) Provide services that support agency and interagency emergency management activities, and protect the health, safety and security of APHIS and other USDA personnel.

d. HR, AICB will:

- (1) Maintain and oversee the APHIS' WPV Prevention and Response Program.
- (2) Address administrative complaints involving allegations of employee misconduct.
- (3) Manage and maintain the overall APHIS WPV Prevention and Response Program. In support of this program, AICB will appoint investigators who have received appropriate investigative training. AICB will develop reporting and tracking procedures based on Agency-specific mission requirements and demographics.
- (4) Provide adequate resources for employee awareness and training regarding WPV prevention and response. AICB's designated WPV Prevention and Response Program Coordinator(s) will provide training opportunities on a yearly basis or quarterly basis to Agency employees. WPV related training presentations exclusive to supervisors and non-supervisory employees can also be requested and provided on demand. Requests for training should be submitted to the AICB Branch Chief or through the WPV e-mail reporting hotline, wpv@usda.gov.

e. <u>WPV Prevention and Response Program Coordinator(s)</u>, also known as the <u>Coordinator</u>, will:

- (1) Oversee the agency's WPV Prevention and Response Program.
- (2) Be a designated and credentialed AICB Investigator authorized to conduct inquiries, gather information and supporting documentation, and develop an official assessment report.
- (3) Will receive, assess, and address reports or allegations of WPV in collaboration with appropriate management officials and respective servicing LMER staff members consistent with the terms and requirements set forth in this regulation.

- (4) Address WPV complaints from Agency employees and will review and investigate the complaint.
- (5) Address complaints from outside sources when it involves Agency personnel. The WPV Prevention and Response Program Coordinator(s) will work with management, LMER, and other Agency officials to develop a response and safety plan in the event of a viable WPV incident or threat. WPV Prevention and Response Program Coordinator(s) will also report their findings in the form of a WPV Assessment report to the manager, supervisor, and LMER for review and appropriate corrective action.

f. HR, Labor Management and Employee Relations will:

Upon issuance of the WPV assessment, inquiry, or report of investigation, advise and coordinate with management to effect appropriate preventive, corrective, and disciplinary measures in response to a WPV incident or threat. When incidents or threats of WPV are directly reported to LMER, staff members will re-direct those employees to the WPV Prevention and Response Program Coordinator. LMER will also work with management and the WPV Prevention and Response Program Coordinator to address employee safety concerns.

9. PROCEDURES

- a. Employees must report a WPV threat or incident in 1 of 2 methods; by submitting a written Workplace Incident Report (APHIS Form 259-R), via e-mail to wpv@usda.gov, or by calling the WPV Reporting Hotline at 1-866-234-3174.
 - (1) If a complaint is reported through the WPV Reporting Hotline **1-866-234-3174**, the WPV Prevention and Response Coordinator is responsible for receiving the incoming call. The Coordinator will gather the caller's contact information and request that the caller provide detailed information concerning the WPV related threat or incident.
 - (2) Although an oral report may be accepted, the employee will be required to follow-up their oral complaint in writing with all known details. Calls to the WPV Hotline do not eliminate an employee's obligation to provide additional information in writing when asked. In addition, the Coordinator will provide the caller with a copy of the Workplace Incident Report (APHIS Form 259-R), for documentation of the reported incident.
 - (3) If a complaint is received via the wpv@usda.gov e-mail address, the Coordinator will review the incoming complaint and determine if sufficient information has been provided. If additional information is required, a response e-mail will be sent to the complainant asking them to

complete an APHIS Form 259-R, Workplace Incident Report and provide the information.

- b. Within one business day, the Coordinator will also notify the Complainant that their complaint has been received, when reported via e-mail to wpv@usda.gov.
- c. Follow-up with subordinate employees who have been physically injured or assaulted in a WPV incident. Similarly, Program Managers and Supervisors must follow -up with those employees that have reported a WPV threat.
 - In those situations where employee(s) are experiencing, have experienced physical harm, or have been threatened with physical harm, the Coordinator will immediately notify management and LMER.
- d. Within one business day, the Coordinator will also notify the AICB Branch Chief when a complaint of WPV has been received.
- e. The Coordinator will assign the WPV complaint a case number and log it into the Labor and Employee Relations Information System.
- f. Once a complaint has been reported and logged, the Coordinator will begin a threat assessment by evaluating the severity and urgency of each complaint.

 Additionally, the Coordinator will obtain additional evidence, conduct interviews, and take sworn statements as needed to properly address the complaint.
- g. Upon completion of a WPV assessment, findings will be reported to LMER and the appropriate supervisory or management official for review and implementation of appropriate corrective and disciplinary action.
 - (1) In those instances where reports of WPV are supported, and corrective disciplinary action is taken; information regarding the WPV complaint, to include statements and other supporting evidence may be shared with the subject employee(s).

In situations where a WPV threat or incident could not be substantiated, these complaints will also be referred to management and LMER for further review.

h. Managers and Supervisors will:

- (1) Immediately remove the affected employee(s) from possible or further harm or imminent danger.
- (2) Assist employee(s) with receiving medical treatment if a violent situation has occurred.
- (3) Notify their first-line supervisor(s) if employee was seriously harmed or killed during a violent encounter.

- i. If a supervisor or co-worker is concerned with an employee's well-being, they can call local law enforcement to perform a welfare check. A consistent lack of contact or obvious mental health crisis will justify a welfare check by law enforcement.
 - (1) Supervisors can request a welfare check by calling the non-emergency police number first. Explain to law enforcement the reason for your call. However, if there is an immediate concern, call 911.
 - (2) Prior to contacting law enforcement, determine if there is a family member or emergency contact that can go to the employee's residence.
 - (3) Never send an employee, regardless of their position or grade level, to perform a welfare check on a coworker.
 - (4) Do not contact law enforcement, or others, to perform a welfare check for purposes of wanting to know that an employee is working. Do not use welfare checks to retaliate, annoy, or harass an employee. These actions are prohibited. A welfare check is a last resort effort to contact an employee who is uncharacteristically absent without notifying anyone of their absence.

10. FORMS

The official form referenced and required for use as established by this Directive is the Workplace Incident Report (APHIS Form 259-R).

11. RECORDS MANAGEMENT

Federal records created by this Directive must be maintained in accordance with the established <u>General Records Schedule (GRS)</u> and the <u>APHIS Records Management Handbook</u> when applicable. If employees are named in an active litigation hold, Freedom of Information Act (FOIA) request, and other action, those records, regardless of media, must be preserved and maintained in their native format until otherwise notified by your Agency Records Officer or the Office of General Counsel (OGC).

- a. MRP Information Technology, Information Management Branch (MRP-IT, IMB) Is the official recordkeeper of this Directive, which is unscheduled.
- b. AICB is the official recordkeeper of Workplace Incident Reports (APHIS 259-R), Hotline call logs, E-mail complaints & correspondence, WPV Assessments, and other information or evidence as it relates to WPV. This information will be destroyed 10 years after the conclusion of the WPV Assessment or investigation,

in accordance with CHAPTER 751 - DISCIPLINE SUBCHAPTER 3 - AGENCY INVESTIGATIONS OF EMPLOYEE MISCONDUCT. §3-9 RECORDS RETENTION §b (4) and the General Records Schedule 5.6, item 100.

12. INQUIRIES AND ADDITIONAL INFORMATION

- a. General inquiries concerning this Directive may be directed to the WPV Prevention and Response Program Coordinator or the AICB Branch Chief at wpv@usda.gov.
- b. Records management inquiries should be directed to the MRPBS Program Records Liaison (For current contact see: <u>APHIS Records Liaisons</u>).
- c. Persons with disabilities who require alternative means for communication of this policy (Braille, large print, audiotape, etc.), must contact the United States Department of Agriculture's TARGET Center at (202) 720-2600 (voice and TDD) for assistance.
- d. This Directive can be accessed online via the APHIS Directives Web page.

/s/ Melissa Tharp MRPBS Deputy Administrator