

July 19, 2018

Kevin Shea
Administrator
U.S. Department of Agriculture
Animals and Plant Health Inspection Service

Tonya G. Woods
Director, Freedom of Information & Privacy Act
U.S. Department of Agriculture
Animal and Plant Health Inspection Service

Via e-mail (kevin.a.shea@aphis.usda.gov; tonya.g.woods@aphis.usda.gov; foia.officer@aphis.usda.gov)¹

Re: Freedom of Information Act Appeals for:
(1) Request No. 2017-APHIS-06296-F
(2) Request No. 2018-APHIS-01353-F
(3) Request No. 2018-APHIS-03234-F

Dear Mr. Shea and Ms. Woods,

On behalf of PETA, I hereby appeal the United States Department of Agriculture's ("USDA") unlawful withholding of information contained in agency records that are subject to PETA's Freedom of Information Act ("FOIA") request Nos. 2017-APHIS-06296-F, 2018-APHIS-01353-F, and 2018-APHIS-03234-F, specifically, documents from inspections of The Camel Farm—a USDA licensed exhibitor (license no. 86-C-0102). As detailed in the attached appeal:

- the USDA has arbitrarily and capriciously failed to explain its decision to withhold information that it previously disclosed, subjecting the responsible agency officer, Ms. Woods, to potential disciplinary proceedings;
- the information at issue does not meet the threshold requirements of Exemptions 6 or 7(C);
- disclosure is required because the significant public interest outweighs the at-most *de minimis* privacy interests;
- the USDA failed to meet its burden of demonstrating that it disclosed all "reasonably segregable" portions of the requested records;
- a *Glomar* response is unlawful because the requested records are not exempt under FOIA, and as a result, the records do not meet threshold requirements for a *Glomar* response; and
- an "across-the-board" *Glomar* response is improper.

¹ The USDA has informed PETA that it does not require a hard copy of FOIA appeals. Ex. A, Email from Andrea McNally, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Legislative and Public Affairs, to Storm Estep, PETA Foundation (June 14, 2018).

PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS
FOUNDATION

Washington, D.C.
1536 16th St. N.W.
Washington, DC 20036
202-483-PETA

Los Angeles
2154 W. Sunset Blvd.
Los Angeles, CA 90026
323-644-PETA

Norfolk
501 Front St.
Norfolk, VA 23510
757-622-PETA

Berkeley
2855 Telegraph Ave.
Ste. 301
Berkeley, CA 94705
510-763-PETA

PETA FOUNDATION IS AN
OPERATING NAME OF FOUNDATION
TO SUPPORT ANIMAL PROTECTION.

AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

For these reasons, the USDA must release the information at issue here—the bulk of which PETA requested last year—without further delay. I look forward to hearing within twenty business days that you will comply with the law and release this information so that we can avoid litigation and a request for disciplinary proceedings.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Delcianna Winders", with a long, sweeping horizontal line extending to the right.

Delcianna Winders, Esq.
Vice President and Deputy General Counsel
Captive Animal Law Enforcement
DelciannaW@petaf.org | 202-309-4697

**Freedom of Information Act Appeal for
Request Nos. 2017-APHIS-06296-F, 2018-APHIS-01353-F, and 2018-APHIS-03234-F**

Factual Background

The Camel Farm is a roadside zoo in Yuma, Arizona, that exhibits a variety of animals to the public and is regulated under the Animal Welfare Act (“AWA”).¹ For many years the U.S. Department of Agriculture (USDA) routinely posted the reports of its AWA inspections for The Camel Farm and other exhibitors regulated under the AWA on its website with only minimal redactions for signatures pursuant to the Freedom of Information Act’s (“FOIA”) affirmative disclosure mandate.² However, on February 3, 2017, the USDA removed all of these records from its website. It subsequently began reposting inspection reports, but with all identifying information redacted from the majority of reports and without any ability to look up reports for most entities—including for nearly all regulated exhibitors, including The Camel Farm.

The Camel Farm’s history of AWA violations is long and egregious. For just a nine-month period in 2017, The Camel Farm was cited for more than thirty violations of the AWA, almost all of which were recurring, repeat violations.³ Many of these violations were for failing to provide animals—who were obviously suffering—with basic veterinary care. As detailed below, USDA’s inspection reports demonstrate the dire circumstances for the animals at The Camel Farm.

On March 7, 2017, the USDA inspectors cited The Camel Farm for ten violations of the AWA, or “non-compliant items” (“NCI’s”) as the USDA refers to them.⁴ Included in these violations was the horrific saga of a coatimundi named Shyla who was left to languish for months with a serious and painful eye issue.⁵ During the March 7th inspection, the USDA observed that Shyla’s left eye was “extremely swollen, approximately the size of a golf ball” and was protruding from the socket.⁶ The USDA inspector described the eye as “an extremely reddened mass of tissue [that] ha[d] a dark crusty scab on approximately one third of the surface area [of the eye]” and that “[f]luid appeared to be leaking out of the eye onto [Shyla’s] face.” Shyla was observed “shaking her head and pawing at the injured eye frequently,” which the

¹ 7 U.S.C. §§ 2131-2159; *see* Ex. 1, USDA, Excerpt: Listing of Certificate Holders, https://www.aphis.usda.gov/animal_welfare/downloads/List-of-Active-Licensees-and-Registrants.pdf (Report updated July 2, 2018) (listing The Camel Farm’s AWA license as valid through Dec. 6, 2018).

² *See, e.g.*, Ex. 2, Memorandum from Kenneth Cohen, Assistant General Counsel, USDA, to Chester Gipson, Deputy Administrator, Animal Care, APHIS, USDA (Mar. 12, 2004) (AWA inspection reports “qualify as records subject to multiple requests under E-FOIA and must be made available to the public via electronic means”); Ex. 3, USDA Routine Inspection Report of The Camel Farm, November 15, 2016 (inspection report with only signatures redacted).

³ Ex. 4, USDA Inspection Reports from March 7, 2017, March 8, 2017, March 9, 2017, and May 23, 2017; Ex. 5, USDA Inspection Report from November 8, 2017; Ex. 6, USDA Inspection Reports from Aug. 17, 2017 and July 11, 2017.

⁴ Ex. 4; *see also* Ex. 7, USDA, OIG, Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dog Dealers, Audit Report 33002-4-SF, at 1 n.5 (May 2010), available here <https://www.usda.gov/oig/webdocs/33002-4-SF.pdf>. (“APHIS synonymously used the terms violations, alleged violations, and noncompliant items in its documents.”).

⁵ Ex. 4.

⁶ *Id.*

inspector noted were “signs of extreme stress and discomfort” making it clear that she was suffering and in pain.⁷ The Camel Farm’s animal manager explained that her eye had “gotten much worse since November [2016] and continue[d] to deteriorate” such that Shyla was becoming aggressive and dangerous to handle.⁸ A veterinarian examined Shyla in November 2016 and prescribed a course of treatment, which The Camel Farm followed through January 2017.⁹ Shortly thereafter, Shyla’s eye got worse, yet the veterinarian was never brought back out to reexamine her.¹⁰ Instead, the USDA inspector described the “treatment” that the facility provided:

The animal manager stated that after watching the [attending veterinarian] inject the eye during her visit on November 18, 2016 he decided that he would also try to ‘pop’ the eye on his own, in an attempt to improve the overall condition of the eye. He stated that on several occasions over the last few months he has confined the animal, popped the eye both manually with his fingers and also with a needle, and then applied Gentamicin ointment to the eye. During his self-prescribed procedure of the eye, he stated that there was a red fluid that came out [that] resembled ‘watered down blood’ and that he did not notice any pus.¹¹

The inspection report makes it clear that this “treatment” went on for months. After three days of back-to-back USDA inspections requiring The Camel Farm to obtain immediate veterinary attention for Shyla, she was euthanized.¹²

Other violations from the March 7, 2017, inspection included failing to provide veterinary care to a goat who was housed alone and unable to straighten her front legs at the knees, a goat who was “non-weight bearing on his right front limb,” a deer with a two inch diameter wound on the shoulder, and three pigs whose hooves were “excessively long, extending out approximately four to six inches”— an ailment that can be extremely painful, cause foot infections, abscesses, and lameness, and, if chronic, can be the basis for the USDA to confiscate the animals.¹³ The USDA also cited The Camel Farm for not having a written Program of Veterinary Case, ten enclosures that were in various states of disrepair, excessive buildup of urine and feces in a barn, and not providing a two and half month old camel with adequate shade or space.¹⁴

On May 23, 2017, the USDA inspected the Camel Farm again, and found twelve violations of the AWA, including failing to provide veterinary care to a camel named Zo who had a large, fly-covered growth on his chest pad, three pigs and a sheep with excessively overgrown hooves, a fox named Foxy who had hair loss “over the knuckles of all four feet,” a coati named Tuffy who had a “large golf-ball sized growth in her abdominal region,” a sheep with a “distended abdomen, nasal discharge, labored breathing and a humped back,” and an ibex

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

named Pixie who had a “dull, rough haircoat, and was underweight with her hip bones visibly protruding.”¹⁵ Many of these issues had not even been noticed by The Camel Farm. In addition, several enclosures were still in disrepair, thirty animals did not have access to adequate shade, three enclosures had dirty water, and there was an excessive amount of flies throughout the facility.¹⁶

The following month, on August 17, 2017, the USDA cited The Camel Farm for five repeat violations of the AWA.¹⁷ Specifically, The Camel Farm had failed to provide adequate veterinary care to Zo the camel, who continued to have a large, fly covered growth on his chest; to Foxy, who still had hair loss, and also had a “cloudy yellow liquid draining from her left [ear]” that was “drying up and covering her inner ear”; and to a tricolor goat who continued to be non-weight bearing on his right leg.¹⁸ Pixie, the ibex, was seen by a veterinarian shortly after the May inspection.¹⁹ The veterinarian recommended euthanasia, which The Camel Farm ignored and instead opted to do nothing until Pixie was found dead in her pen two weeks later.²⁰ The facility was still in disrepair and animals lacked access to adequate shade.²¹

On July 11, 2017, The Camel Farm was cited for violating the AWA because a responsible adult was not available for the inspection.²²

On November 8, 2017, the USDA cited The Camel Farm for four repeat violations of the AWA, including failing to provide adequate veterinary care to nineteen animals and to keep five enclosures in good repair.²³ Zo the camel still had a large, fly-covered growth on his chest and the tricolor goat was still non-weight bearing on his right front leg.²⁴

The FOIA Requests at Issue

Because of the ongoing animal welfare concerns evident in the above detailed inspection reports, Teresa Marshall submitted three (3) FOIA requests on behalf of PETA to the USDA Animal and Plant Health Inspection Service’s (“APHIS”) Animal Care (“AC”) program, for records related to inspections of The Camel Farm. It took months, and in one case almost a year, to get responses to these three requests. Tonya Woods’ response to these three requests ranged from refusing to even confirm or deny the existence of records—a *Glomar* response—to producing hundreds of fully-redacted, blacked-out pages. The specific requests, and responses are as follows:

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Ex. 6.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Ex. 5.

²⁴ *Id.*

Request No. 2017-APHIS-06296-F

On August 25, 2017, Teresa Marshall requested “all documents (memos, color photos, videos) for” inspection reports from March 7, 2017, March 8, 2017, March 9, 2017, and May 23, 2017.²⁵ Ninth months later, on May 3, 2018, the USDA responded to this request.²⁶ Tonya Woods explained that AC located two hundred and fifty five (255) pages of records (thirty-three (33) pages of inspection reports, nine (9) pages of animal care records, one hundred and eighty one (181) photographs, and thirty-two (32) videos) responsive to the request.²⁷ Only thirty-four (34) pages²⁸ were released in part, purportedly pursuant to FOIA Exemptions 6 and 7(C).²⁹ The bulk of these partially released documents are official USDA inspection reports with everything redacted except for the name of the licensee, the customer ID, license number, and the name of the inspector.³⁰ Even the date of the inspection was redacted.³¹ The remaining records were withheld in full, also purportedly pursuant to FOIA Exemptions 6 and 7(C).³²

Request No. 2018-APHIS-01353-F

On December 8, 2017, Teresa Marshall requested “any photos and videos taken during [a] November 8, 2017 inspection.”³³ Four months later, on April 20, 2018, the USDA responded to this request.³⁴ Tonya Woods explained that AC located seventeen (17) pages of records responsive to the request.³⁵ However, all seventeen (17) pages were claimed to be “exempt from release pursuant to FOIA Exemptions (b)(6) and (b)(7)(C).”³⁶

Request No. 2018-APHIS-03234-F

On March 30, 2018, Teresa Marshall requested photos and videos taken during an August 17, 2017, and July 11, 2017, inspection.³⁷ One month later, on April 27, 2018, the USDA responded to this request.³⁸ Tonya Woods explained that she could “neither confirm nor deny that any records existed” that were responsive to this request because “[t]o acknowledge the existence of records would constitute a clearly unwarranted invasion of personal privacy pursuant to Exemption 6 of the FOIA.”³⁹ This *Glomar* response was

²⁵ Ex. 8, FOIA Request Letter to Tonya Woods, 2017-APHIS-06296-F, Aug. 25, 2017.

²⁶ Ex. 9, Letter from the USDA to Teresa Marshall, FOIA Request 2017-APHIS-06296-F, May 3, 2018.

²⁷ *Id.*

²⁸ Tony Woods explained that only thirty-four (34) pages would be released in part. Ex. 9. The actual release contained 37 pages of records, three of which were released in full. Ex. 10, Records (Partially Redacted and Released in Full) Released Pursuant to FOIA Request No. 2017-APHIS-06296.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Ex. 11, Records (Fully Redacted) Released Pursuant to FOIA Request No. 2017-APHIS-06296.

³³ Ex. 12, FOIA Request Letter to Tonya Woods, 2018-APHIS-01353-F, Dec. 8, 2017.

³⁴ Ex. 12, Letter from the USDA to Teresa Marshall, FOIA Request 2018-APHIS-01353-F, April 20, 2018.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Ex. 14, FOIA Request Letter to Tonya Woods, 2018-APHIS-03234-F, March 30, 2018.

³⁸ Ex. 15, Letter from the USDA to Teresa Marshall, FOIA Request 2018-APHIS-03234-F, April 27, 2018.

³⁹ *Id.*

provided in a clearly not finalized Word document that still contained editing comments and failed to provide any explanation for the response.⁴⁰

PETA appeals all of these withholdings and the *Glomar* response for the following reasons.

Argument

I. The USDA Has Failed to Adequately Explain Its Decision to Withhold Categories of Information That It Has Previously Released

As noted above, the precise type of information redacted from the records at issue has previously been released with only minimal redactions pursuant to the FOIA.⁴¹ Now, without any explanation as to why it has changed its position, the USDA asserts that this information is exempt from disclosure pursuant to Exemptions 6 and 7(C) of the FOIA. “‘Unexplained inconsistency’ between agency actions”—like that between the USDA’s prior releases and current withholdings—“is ‘a reason for holding an interpretation to be an arbitrary and capricious change.’”⁴² “‘It is textbook administrative law that an agency must provide[] a reasoned explanation for departing from precedent or treating similar situations differently.’”⁴³ As the Ninth Circuit recently explained, departure from longstanding policy “without acknowledgment or explanation” is arbitrary and capricious.⁴⁴ Thus, when, as here, an agency changes a policy or legal interpretation, it must provide a “reasoned explanation” for doing so, which requires “that it display awareness that it is changing position. An agency may not, for example, depart from a prior policy *sub silentio* or simply disregard rules that are still on the books. And of course the agency must show that there are good reasons for the new policy.”⁴⁵ When it fails to do so, as the USDA has done here, the agency acts arbitrarily and capriciously and its action must be set aside.⁴⁶ Further, an agency’s interpretation of a relevant provision that conflicts with its earlier interpretation is “entitled to considerably less deference” than a consistently held agency view.⁴⁷

⁴⁰ *Id.*

⁴¹ See *supra* note 2 and accompanying text.

⁴² *Organized Vill. of Kake v. U.S. Dep’t of Agric.*, 795 F.3d 956, 966 (9th Cir. 2015) (en banc) (quoting *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005)); accord *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126 (2016).

⁴³ *New England Power Generators Ass’n, Inc. v. Fed. Energy Regulatory Comm’n*, 881 F.3d 202, 210 (D.C. Cir. 2018) (quoting *W. Deptford Energy, LLC v. Fed. Energy Regulatory Comm’n*, 766 F.3d 10, 20 (D.C. Cir. 2014) (alteration in original)).

⁴⁴ *Cal. Pub. Utilities Comm’n v. Fed. Energy Regulatory Comm’n*, 879 F.3d 966, 977 (9th Cir. 2018).

⁴⁵ *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (citing *United States v. Nixon*, 418 U.S. 683, 696 (1974)); accord *Encino Motorcars*, 136 S. Ct. at 2126; *Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 923 (D.C. Cir. 2017).

⁴⁶ See *Fox Television Stations*, 556 U.S. at 514-16; *Am. Wild Horse Pres. Campaign*, 873 F.3d at 923; *Organized Vill. of Kake*, 795 F.3d at 966; *Jimenez-Cedillo v. Sessions*, 885 F.3d 292, 297-99 (4th Cir. 2018); see also *Citizens for Responsibility & Ethics in Wash. v. U.S. Dep’t of Justice*, 846 F.3d 1235, 1242 (D.C. Cir. 2017) (In a FOIA case “a plaintiff may challenge an agency’s ‘policy or practice’ where it ‘will impair the party’s lawful access to information in the future.’” (citation omitted)).

⁴⁷ *Thomas Jefferson Univ. v. Shalala*, 512 U.S. 504, 515 (1994) (quoting *INS v. Cardoza-Fonseca*, 480 U.S. 421, 447 (1987)).

For this reason alone, the information at issue was improperly withheld and must be released. Moreover, such arbitrary and capricious withholding could subject Tonya Woods, as the primary responsible agency officer, to disciplinary proceedings.⁴⁸

II. The USDA Previously Released Minimally Redacted Versions of the Same Inspection Reports

Prior to PETA submitting FOIA request No. 2017-APHIS-06296-F, the USDA publicly released on its website a version of the inspection reports at issue in that request with only signatures, licensee name, customer ID, and license number redacted.⁴⁹ The minimally redacted versions of these inspection reports show that The Camel Farm was cited for twenty-three (23) violations of the AWA over the course of three months, some of which were so severe that two animals were euthanized.⁵⁰

Even if the USDA's new position is that portions of the records are exempt from disclosure—which, as demonstrated above, has not adequately been explained and, as discussed below, is erroneous—materials “normally immunized from disclosure under FOIA lose their protective cloak once disclosed and preserved in a permanent public record.”⁵¹ For the purposes of disclosure under the FOIA, a “permanent public record” exists when the agency has released a “hard copy” of the information into the public domain.⁵² It is beyond dispute that the USDA previously publicly released a copy of the inspection reports at issue in FOIA request No. 2017-APHIS-06296-F—including the portions that it is now redacting—into the public domain.⁵³ Indeed, those reports remain available on the agency's website. Accordingly, the agency cannot now withhold this information.

This prior release of the results of the USDA's inspection of The Camel Farm also undermines the USDA's argument, discussed *infra*, that disclosure of this information could “embarrass or lead to harassment” of the exhibitor. Any potential for embarrassment or harassment, although likely nonexistent, has already been set afoot by the USDA—and apparently without any actual ramifications.

III. The Withheld Information Is Not Exempt from Disclosure

The USDA claims that Exemptions 6 and 7(C) authorize redacting the inspection report information at issue in FOIA request Nos. 2017-APHIS-06296-F and 2018-APHIS-01353-F. Similarly, the USDA claims that if FOIA request No. 2018-APHIS-03234-F was not subject to a *Glomar* response, the information would still be exempt from disclosure under Exemptions 6 and 7(C). The USDA claims the records responsive to these three requests are exempt from disclosure because, allegedly, disclosure of this information “could open” the AWA-regulated

⁴⁸ See 5 U.S.C. § 552(a)(4)(F); see also 7 C.F.R. § 1.7 (FOIA response letter must provide “[t]he name and title or position of each person responsible for denial of the request”); Ex. 15 (signed on behalf of Tonya Woods); Ex. 13 (signed on behalf of Tonya Woods); and Ex. 9 (signed on behalf of Tonya Woods).

⁴⁹ Ex. 4.

⁵⁰ *Id.*

⁵¹ *Cottone v. Reno*, 193 F.3d 550, 554 (D.C. Cir. 1999).

⁵² *Davis v. U.S. Dep't of Justice*, 968 F.2d 1276, 1280 (D.C. Cir. 1992).

⁵³ Ex. 4.

businesses “up to unwanted contact or communications”⁵⁴ and cause potential “embarrassment, harassment, intimidation, or other personal intrusions.”⁵⁵ The USDA also claims that “[t]he individuals have a privacy interest because the facilities are located on the homestead” and that that privacy interest “far outweighs any public interest in disclosing this personal information.”⁵⁶ As explained below, the USDA did not—and could not—justify these withholdings.

“[D]isclosure, not secrecy, is the dominant objective of the” FOIA.⁵⁷ As the Supreme Court has explained:

The Freedom of Information Act was enacted to facilitate public access to Government documents. The statute was designed “to pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny.” Consistently with this purpose, as well as the plain language of the Act, the strong presumption in favor of disclosure places the burden on the agency to justify the withholding of any requested documents. That burden remains with the agency when it seeks to justify the redaction of identifying information in a particular document as well as when it seeks to withhold an entire document.⁵⁸

“Because FOIA establishes a strong presumption in favor of disclosure . . . requested material must be disclosed unless it falls squarely within one of the nine exemptions carved out in the Act.”⁵⁹ These “exemptions are to be ‘construed narrowly’ in favor of disclosure.”⁶⁰ Accordingly, there is “‘a substantial burden on an agency seeking to avoid disclosure’ through the FOIA exemptions,”⁶¹ and “‘conclusory and generalized allegations of exemptions are unacceptable.’”⁶² “And there is nothing about invoking Exemption 6 that lightens the agency’s burden. In fact, ‘under Exemption 6, the presumption in favor of disclosure is as strong as can be found anywhere in the Act’”⁶³—indeed, it is “at its zenith.”⁶⁴

To carry this burden, an agency cannot merely conclusorily recite the language of an exemption. Rather, the FOIA requires that an agency notify a requestor of “the *reasons*” for any withholdings.⁶⁵ Here, the USDA cursorily recited Exemptions 6 and 7(C). As explained below, the agency fell short in meeting its burden under the FOIA—and cannot meet that burden.

⁵⁴ Ex. 13; Ex. 9.

⁵⁵ Ex. 15.

⁵⁶ Ex. 13, pg. 2; Ex. 9.

⁵⁷ *Dep’t of Air Force v. Rose*, 425 U.S. 352, 361 (1976).

⁵⁸ *U.S. Dep’t of State v. Ray*, 502 U.S. 164, 173 (1991) (citing 5 U.S.C. § 552(a)(4)(B)) (additional citations omitted).

⁵⁹ *Chiquita Brands Int’l Inc. v. S.E.C.*, 805 F.3d 289, 294 (D.C. Cir. 2015) (citation omitted).

⁶⁰ *Id.* at 297 (citation omitted).

⁶¹ *Morley v. C.I.A.*, 508 F.3d 1108, 1114 (D.C. Cir. 2007) (quoting *Vaughn v. Rosen*, 484 F.2d 820, 828 (D.C.Cir.1973)).

⁶² *Id.* at 1115 (D.C. Cir. 2007) (quoting *Founding Church of Scientology of Wash., D. C., Inc. v. Nat’l Sec. Agency*, 610 F.2d 824, 830 (D.C.Cir.1979)) (additional quotation marks and citation omitted)).

⁶³ *Multi Ag Media LLC v. U.S. Dep’t of Agric.*, 515 F.3d 1224, 1227 (D.C. Cir. 2008) (citations omitted).

⁶⁴ *Jurewicz v. U.S. Dep’t of Agric.*, 741 F.3d 1326, 1332 (D.C. Cir. 2014) (citation omitted).

⁶⁵ 5 U.S.C. § 552(a)(6)(A)(i)(I) (emphasis added); *accord* 7 C.F.R. § 1.7(a)(1).

A. The Information Does Not Meet the Threshold Requirements of Exemptions 6 and 7(C)

“‘Congress’ primary purpose in enacting Exemption 6 was to protect *individuals* from the injury and embarrassment that can result from the unnecessary disclosure of *personal* information.’”⁶⁶ As the D.C. Circuit has explained, “Exemption 6 was developed to protect intimate details of personal and family life, not business judgments and relationships.”⁶⁷ The USDA’s inspection records, including photographs and videos that the USDA took as part of its inspection of The Camel Farm, and that document animal welfare violations do not contain any personal, intimate information and thus do not constitute personnel, medical, or similar files. In particular, the photographs and videos taken during these inspections would be of animals, facilities, and possibly of records that do not comply with the AWA’s recordkeeping requirements—but would not likely include people.⁶⁸ This information relates exclusively to an entity engaged in business activity that is regulated under the AWA. Moreover, on the off chance that any photograph or video did include a person’s face or personally-identifiable information, this information could easily be blurred or blacked out by the agency and released in accordance with the FOIA. Indeed, this is what it must do pursuant to their duty to segregate and has historically done.⁶⁹

The AWA specifically regulates activities, including exhibiting animals, that Congress has found “are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof” and whose regulation “is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce.”⁷⁰ Because all the information at issue pertains to The Camel Farm’s *business*, and because “[i]t is well-established . . . that

⁶⁶ *Multi Ag Media LLC*, 515 F.3d at 1228 (quoting *U.S. Dep’t of State v. Wash. Post Co.*, 456 U.S. 595, 599 (1982) (emphases added by D.C. Cir.)).

⁶⁷ *Sims v. Cent. Intelligence Agency*, 642 F.2d 562, 575 (D.C. Cir. 1980).

⁶⁸ Ex. 16, Excerpt, USDA, Animal Welfare Inspection Guide (2018), Required Inspection Procedures, Inspection Photographs, 2-14 – 2-15 (establishing the permissible scope of photographs and videos taken during inspections), https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf; Ex. 17, USDA, Retail Pet Store Rule and Importation of Live Dogs Rule – Guidance for Breeders, Brokers and Importers, pg. 25 (“Question. Will Inspectors photograph my home and its interior and make those pictures available to anyone on the Internet? Answer. We take photographs as a visual way to document noncompliant items (NCI’s) during routine inspections of already licensed facilities. We also may take overview photographs to place the NCI into perspective. Our Inspectors are aware of the sensitive nature of taking photographs at a licensed facility. They will take only the minimum number necessary in the specific situation. Our information is accessible to the public and any other person through the Freedom of Information Act.”).

⁶⁹ See *infra* at Part III.D.

⁷⁰ 7 U.S.C. § 2131.

neither corporations nor business associations possess protectible privacy interests” under Exemption 6,⁷¹ the exemption is wholly inapplicable.⁷²

For these same reasons, Exemption 7(C) is also inapplicable. Similar to Exemption 6, Exemption 7(C) protects against “an unwarranted invasion of personal privacy.”⁷³ Thus, a personal privacy interest must be at stake for Exemption 7(C) to come into play. Because all the records at issue here pertain to a business, which by definition do not have personal privacy interests, the USDA’s application of Exemption 7(C) was unlawful. Exemptions 6 and 7(C) “cover related privacy interests, including those ‘regarding marital status, legitimacy of children, identity of fathers of children, medical condition, welfare payments, alcoholic consumption, family fights [and] reputation.’”⁷⁴ Accordingly, Exemption 7’s “privacy exemption does not apply to information regarding professional or business activities. This information must be disclosed even if a professional reputation may be tarnished.”⁷⁵

Nor is the threshold requirement for Exemption 7(C)—that the USDA establish that the information at issue was specifically “compiled for law enforcement purposes”⁷⁶—met here. The D.C. Circuit focuses on whether the files relate to an actual “enforcement proceeding,” as opposed to, for example, the agency engaging in its administrative inspection duties.⁷⁷ As the U.S. District Court for the District of Columbia has underscored, “[i]t was never intended that ‘investigatory records’ be interpreted so broadly as to encompass all information resulting from routine inspections.”⁷⁸ Inspection photographs and videos are part of what must be included in the inspection reports, and are generated during routine inspections by the USDA, and not as

⁷¹ *Ivanhoe Citrus Ass’n v. Handley*, 612 F. Supp. 1560, 1567 (D.D.C. 1985) (citations omitted); accord *Nat’l Parks & Conservation Ass’n v. Kleppe*, 547 F.2d 673, 686 (D.C. Cir. 1976) (citation omitted); K. Davis, Administrative Law Treatise s 3A.19, at 163-64 (1970 Supp.); *Elec. Privacy Info. Ctr. v. Dep’t of Homeland Sec.*, 384 F. Supp. 2d 100, 118 (D.D.C. 2005); *Wash. Post Co. v. U.S. Dep’t of Agric.*, 943 F. Supp. 31, 37 n.6 (D.D.C. 1996) (“corporations, businesses and partnerships have no privacy interest whatsoever under Exemption 6”); see also *id.* at 37 n.4 (“The address of a business itself receives no protection at all under Exemption 6 because a business entity has no ‘personal privacy’ interest.”); *Viacom Int’l, Inc. v. EPA*, No. 95-2243, 1995 U.S. Dist. LEXIS 17469 (E.D. Pa. Nov. 17, 1995) (records of EPA soil testing, including names and addresses of persons residing where samples were collected, were not “similar files” because they were not detailed records about individuals).

⁷² Even to the extent a portion of The Camel Farm may be individually or closely held, none of the information at issue would reveal anything at all about The Camel Farm’s owner’s personal finances. Cf. *Multi Ag Media LLC v. Dep’t of Agric.*, 515 F.3d 1224, 1229 (D.C. Cir. 2008). The withheld information is comprised solely of business addresses of the licensee, inspection numbers, inspection dates, type of inspections, actual results of the inspections, and signatures of AC inspectors. “[T]here is a clear distinction between one’s business dealings, which obviously have an affect on one’s personal finances, and financial information that is *inherently* personal in nature.” *Aguirre v. S.E.C.*, 551 F. Supp. 2d 33, 57 (D.D.C. 2008). Moreover, even if the information at issue might somehow reveal personal information in certain limited cases, the USDA has a duty to properly segregate and release the information in all of the other cases. 5 U.S.C. § 552(a)(8)(A)(ii)(II), (b).

⁷³ 5 U.S.C. § 552(b)(7)(C).

⁷⁴ 575 F. Supp. 425, 429 (D.D.C. 1983) (quoting *Rural Housing Alliance v. U.S. Dep’t of Agric.*, 498 F.2d 73, 77 (D.C. Cir. 1974)).

⁷⁵ *Cohen v. E.P.A.*, 575 F. Supp. 425, 429 (D.D.C. 1983) (citing *Kurzon v. Dep’t of Health & Human Servs.*, 649 F.2d 65, 69 (1st Cir.1981); *Sims v. Central Intelligence Agency*, 642 F.2d 562, 574 (D.C. Cir. 1980)); accord *Wash. Post Co. v. U.S. Dep’t of Justice*, 863 F.2d 96, 100 (D.C. Cir. 1988) (citation omitted).

⁷⁶ 5 U.S.C. § 552(b)(7)(C); *Fed. Bureau of Investigation v. Abramson*, 456 U.S. 615 (1982); *Jefferson v. Dep’t of Justice, Office of Prof’l Responsibility*, 284 F.3d 172, 178 (D.C. Cir. 2002).

⁷⁷ *Jefferson*, 284 F.3d at 176-77.

⁷⁸ *Goldschmidt v. U.S. Dep’t of Agric.*, 557 F. Supp. 274, 277 (D.D.C. 1983).

part of any investigation or enforcement action.⁷⁹ Most of the inspection reports for the photograph and video records at issue state that they are, indeed, “ROUTINE INSPECTION[s].”⁸⁰ In fact, the USDA’s Office of Inspector General (“OIG”) has explained the USDA’s bifurcated inspection and investigation/enforcement process under the AWA:

If an inspection discovers violations of AWA standards, AC requires the facility to correct the problems within a given timeframe. Moderate repeat violations (e.g., incomplete records) may be settled with an official warning, while more serious violations (e.g., animal deaths due to negligence and lack of veterinary care) are referred to APHIS’ Investigative and Enforcement Services (IES) unit for a formal investigation, which includes gathering documentary evidence, interviewing witnesses, and other actions.

After the completion of an investigation, IES national office staff review the evidence and determine, with the concurrence of AC, whether to take an enforcement action against the violator.⁸¹

Moreover, the U.S. District Court for the District of Columbia held in *Goldschmidt v. USDA* that reports prepared by the USDA inspectors that identify conditions that the inspector believes to violate applicable laws and regulations “are not ‘investigatory’ records compiled as part of an inquiry into specific suspected violations of the law. Rather, they are more accurately described as records generated pursuant to ‘routine administration, surveillance or oversight of Federal programs.’”⁸² Like the reports at issue in *Goldschmidt*, the records related to the USDA’s inspections of The Camel Farm (including videos and photographs) “are compiled from information gathered during independent plant inspections” by the USDA staff.⁸³ “At that point, there is no enforcement proceeding or investigation focusing on specific alleged illegal acts in existence.”⁸⁴

Like the USDA staff that prepared the reports at issue in *Goldschmidt*, the inspectors for The Camel Farm have “no enforcement functions.”⁸⁵ The mere fact that information collected during a routine inspection might *subsequently* be referred to a different entity for formal investigation is irrelevant. Nor would it matter if, at the time of the inspection, IES was investigating The Camel Farm for other prior violations of the AWA.

B. At Most There Is Only a *De Minimis* Privacy Interest in the Information at Issue

Even if the USDA could somehow meet its threshold burdens under Exemptions 6 and 7(C)—which, again, it cannot—disclosure of the information at issue would not constitute an

⁷⁹ Ex. 16.

⁸⁰ Ex. 4 (all labeled as routine except for March 8 and 9, which were follow-up focused inspections); Ex. 5 (labeled as routine); Ex. 6.

⁸¹ USDA, OIG, APHIS Oversight of Research Facilities 1, Audit No. 33601-0001-41 (Dec. 2014), <https://www.usda.gov/oig/webdocs/33601-0001-41>.

⁸² *Goldschmidt*, 557 F. Supp. at 276 (citations omitted).

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Goldschmidt*, 557 F. Supp. at 276 (quoting *Ctr. for Nat’l Policy Review on Race & Urban Issues v. Weinberger*, 502 F.2d 370, 373 (D.C.Cir.1974)).

unwarranted invasion of personal privacy. Again, Exemption 6 exempts disclosure only where it “would constitute a clearly unwarranted invasion of personal privacy”⁸⁶ and Exemption 7(C) authorizes withholding information only where it “could reasonably be expected to constitute an unwarranted invasion of personal privacy.”⁸⁷ Exemption 6’s “clearly unwarranted” standard places a heavy burden on the government and, as a result, the presumption in favor of disclosure is strong.⁸⁸ The D.C. Circuit has observed that “[t]he privacy inquiries under Exemptions 6 and 7(C) are ‘essentially the same.’”⁸⁹ Under both Exemptions 6 and 7(C), the third party must have more than a *de minimis* privacy interest that would be compromised by the release of the requested material.⁹⁰ Here, any privacy interest is *de minimis* at most.

As discussed above, the information at issue is basic information related to a business entity, and is not the type of information that Exemptions 6 and 7(C) were intended to protect.⁹¹ Again, the information being withheld are reports, including photographs and videos, made during AWA-mandated, routine inspections, and the sole basis the USDA has proffered for withholding this information for request Nos. 2017-APHIS-06296-F and 2018-APHIS-01353-F is that the information was collected on the licensee’s homestead.⁹² The licensee, Terrill Al-Saihati, has voluntarily opted to locate her USDA-regulated business—The Camel Farm, which is open to the public—at the place of her residence. Disclosure of addresses where an individuals’ business and home addresses are the same does not alone constitute an unwarranted invasion of personal privacy when the information relates to the licensee’s business activities,⁹³ and is even further limited when the individual is calling upon the public to visit his homestead. The question “must be measured in light of the effect on [the individuals] as businesspeople.”⁹⁴ The *only* information at issue here about Al-Saihati is in her capacity as a *businessperson* at her business address. Indeed, Al-Saihati’s business is the exhibition of animals and, as such, she regularly opens her facility—and thus her “homestead”—to the public who pay to enter and observe the animals.⁹⁵ There is clearly no privacy interest in the activities of a business that is open to the public, regardless of its location.

For request No. 2018-APHIS-03234-F, the sole basis the USDA proffered for withholding the requested records—assuming a *Glomar* response was not used—is that the release of records, photographs, and videos might cause “embarrassment, harassment,

⁸⁶ 5 U.S.C. § 552(b)(6).

⁸⁷ *Id.* § 552(b)(7)(C).

⁸⁸ *Morley v. C.I.A.*, 508 F.3d 1108, 1127-28 (D.C. Cir. 2007).

⁸⁹ *Judicial Watch, Inc. v. Dep’t of Justice*, 365 F.3d 1108, 1125 (D.C. Cir. 2004) (citations omitted).

⁹⁰ *Citizens for Responsibility & Ethics in Wash. v. U.S. Dep’t of Justice*, No. 11-754(GK), 2012 WL 45499 at *4 (D.D.C. Jan. 10, 2012).

⁹¹ See *supra* Part III.A; *Cohen v. E.P.A.*, 575 F. Supp. 425, 429 (D.D.C. 1983); *Wash. Post Co. v. U.S. Dep’t of Agric.*, 943 F. Supp. 31, 36 (D.D.C. 1996) (“release must be measured in light of the effect on [the individuals] as businesspeople”).

⁹² Ex. 13; Ex. 9.

⁹³ See *Wash. Post Co. v. U.S. Dep’t of Agric.*, 943 F. Supp. 31, 36 (D.D.C. 1996); see also *Nat’l Ass’n of Home Builders v. Norton*, 309 F.3d 26, 36 (D.C. Cir. 2002) (“[D]isclosure of site specific information is not ‘inherently and always a significant threat’ to privacy. Rather, the privacy threat depends on the individual characteristics that the disclosure reveals and the consequences that are likely to ensue.” (citation omitted)).

⁹⁴ *Wash. Post Co. v. U.S. Dep’t of Agric.*, 943 F. Supp. at 36.

⁹⁵ See, e.g., Ex. 18, The Camel Farm Facebook Page, About Us (last accessed July 10, 2018) (listing business hours and admission fees for the facility).

intimidation, or other personal intrusions.”⁹⁶ However, this “does not amount to a serious invasion of privacy,” especially when related to business activities in a regulated industry.⁹⁷ Indeed, even if The Camel Farm is likely to be “embarrassed” by disclosure of their responsibility for violating the AWA, Exemptions 6 and 7(C) cannot be invoked, just as they cannot be invoked to “protect the concerns of a contractor who would be embarrassed by disclosure of his responsibility for shoddy work” or “those embarrassed by the nature of contract work they have undertaken.”⁹⁸ As the D.C. Circuit has explained, “[i]nformation relating to business judgments and relationships does not qualify for exemption. This is so even if disclosure might tarnish someone’s professional reputation.”⁹⁹

Moreover, here, as in *Nat’l Ass’n of Home Builders v. Norton*, at best the USDA “has established only the speculative potential of a privacy invasion without any degree of likelihood.”¹⁰⁰ The FOIA only authorizes withholding where “the agency *reasonably foresees* that disclosure would harm an interest protected by an exemption.”¹⁰¹

Finally, as discussed above, the USDA has already disclosed the minimally redacted versions of the reports detailing the USDA’s findings during the multiple inspections at issue here, inspections that led to the USDA taking the photographs and videos requested in the instant matter.¹⁰² Accordingly, the information released to the public by the USDA greatly diminishes The Camel Farm’s supposed privacy interest.

For these reasons, any privacy interest in the information at issue is at most *de minimis*—and more likely wholly non-existent.

C. There Is a Very Strong Public Interest in the Information at Issue

Even if there were a significant privacy interest in the information at issue, that interest would need to be weighed against the public interest in disclosure, which is very high in this case. Exemptions 6 and 7(C) require the agency or court to “balance the right of privacy of affected individuals against the right of the public to be informed.”¹⁰³ As the D.C. Circuit has explained,

⁹⁶ Ex. 15.

⁹⁷ *Wash. Post Co. v. U.S. Dep’t of Health & Human Servs.*, 690 F.2d 252, 262 (D.C. Cir. 1982); *see also Arieff v. U.S. Dep’t of Navy*, 712 F.2d 1462, 1468 (D.C. Cir. 1983) (“Exemption [6] does not apply to an invasion of privacy produced as a secondary effect of the release. . . . According to the statute, it is the very ‘production’ of the documents which must ‘constitute a clearly unwarranted invasion of personal privacy.’” (quoting 5 U.S.C. § 552(b)(6))).

⁹⁸ *Sims v. Cent. Intelligence Agency*, 642 F.2d 562, 575 (D.C. Cir. 1980) (citing *Dep’t of Air Force v. Rose*, 425 U.S. 352, 376(1976)); *see also Schell v. U.S. Dep’t of Health & Human Servs.*, 843 F.2d 933, 939 (6th Cir. 1988) (“[T]he disclosure of a document will not constitute a clearly unwarranted invasion of personal privacy simply because it would invite a negative reaction or cause embarrassment in the sense that a position is thought by others to be wrong or inadequate.”).

⁹⁹ *Wash. Post Co. v. U.S. Dep’t of Justice*, 863 F.2d 96, 100 (D.C. Cir. 1988) (citations omitted).

¹⁰⁰ 309 F.3d 26, 37 (D.C. Cir. 2002).

¹⁰¹ 5 U.S.C. § 552(a)(8)(A)(i)(I) (emphasis added).

¹⁰² *See supra* at Part II; *see also* Exs. 4-6.

¹⁰³ *Getman v. N.L.R.B.*, 450 F.2d 670, 674 (D.C. Cir. 1970).

The proper inquiry is whether the information “sheds light” on government activities, and whether it would “appreciably further” public understanding of the government’s actions. A public interest exists where the public “can more easily determine” whether an agency is in compliance with a statutory mandate, even if “the data will not be perfect” with respect to the value of the information that might be derived from that requested.¹⁰⁴

In conducting this analysis in the past, the USDA has specifically found a “significant public interest in release” of information because it would allow the public to “gauge the effectiveness of inspections” conducted by the USDA under the AWA, and the D.C. Circuit has upheld that finding.¹⁰⁵

In the instant case the USDA concedes “that there is a public interest in disclosure,” but cursorily asserts that it is “minimal.”¹⁰⁶ In reality, there can be no legitimate question that there is a very strong public interest in the information at issue here. As the en banc D.C. Circuit recognized nearly two decades ago, “[T]he AWA anticipated the continued monitoring of concerned animal lovers to ensure the purposes of the Act were honored.”¹⁰⁷

The public’s interest in this information is especially strong in cases involving facilities that are found to be persistently non-compliant with the AWA, such as The Camel Farm. The Camel Farm has been cited for violations of the AWA at fifteen of the past sixteen inspections.¹⁰⁸ Specifically, The Camel Farm has been cited, *inter alia*, for failing to: provide animals adequate veterinary care; ensure the housing facilities are structurally sound and maintained; provide adequate space for each animal; and provide adequate shade.¹⁰⁹ Many of the violations amassed by The Camel Farm are repeat or ongoing violations.¹¹⁰ Despite The Camel Farm’s unwillingness to abide by even the most minimal requirements pertaining to animal welfare, the USDA has continued to renew the facility’s license to exhibit animals year after year.¹¹¹

As demonstrated above, the more than thirty citations in the inspection reports at issue in the three FOIA request subject to this appeal are particularly egregious.¹¹² For example, these citations included:

- failing to provide adequate veterinary care to the coatimundi Shyla who was suffering for months from a painful and prolonged eye issue, which ultimately led

¹⁰⁴ *Jurewicz*, 741 F.3d 1326, 1333–34 (D.C. Cir. 2014) (citations omitted).

¹⁰⁵ *Id.* at 1333.

¹⁰⁶ Ex. 13; Ex. 9; Ex. 15.

¹⁰⁷ *Animal Legal Def. Fund, Inc. v. Glickman*, 154 F.3d 426, 445 (D.C. Cir. 1998) (en banc); *see also id.* (“[T]he Congressmen responsible for including animal exhibitions within the AWA encouraged the continued monitoring of humane societies and their members. They spoke, for instance, of how America had long depended on humane societies to bring the mistreatment of animals to light.” (citing 116 Cong. Rec. 40,305 (1970) (statement of Rep. Whitehurst))).

¹⁰⁸ Ex. 19, 2017-2018 USDA Inspection Reports.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Ex. 1.

¹¹² *See supra* at Factual Background.

to her being euthanized, but only after three days of back-to-back USDA inspections requiring that The Camel Farm take her to a veterinarian;¹¹³

- repeatedly failing to provide veterinary care to a goat who was “non-weight bearing on his right front limb” during multiple inspections;¹¹⁴
- repeatedly failing to provide veterinary care to a camel named Zo who had a large, fly-covered growth on his chest pad;¹¹⁵
- failing to provide adequate veterinary care to a number of pigs, goats, and sheep with excessively overgrown hooves—an ailment that can be extremely painful, cause foot infections, abscesses, and lameness, and, if chronic, can be the basis for the USDA to confiscate the animals;¹¹⁶
- failing to provide veterinary care to Pixie the ibex, who was so thin that her “hip bones were visibly protruding,” and, despite a veterinarian’s recommendation that she be euthanized, The Camel Farm let her to languish for two weeks until she was found dead in her enclosure;¹¹⁷
- repeatedly failing to provide veterinary care to Foxy the fox, who had hair loss “over the knuckles of all four feet,” and liquid draining from her ear;¹¹⁸
- failing to provide veterinary care to a coati named Tuffy who had a “large golf-ball sized growth in her abdominal”;¹¹⁹
- repeatedly failing to keep animal enclosures in good repair;¹²⁰ and
- repeatedly failing to provide several animals with adequate shade.¹²¹

The USDA inspectors were required to take photographs or videos of the animals at the inspections outlined above to properly document these violations and identify the animals harmed by those violations.¹²² Indeed, in response to PETA’s FOIA request No. 2018-APHIS-01353-F, the USDA stated that it located seventeen (17) pages of photographs.¹²³ In response to request No. 2017-APHIS-06296-F, the agency stated it located two hundred and fifty-five (255) pages, which included one hundred and one (101) photographs, and thirty-two (32) videos responsive to PETA’s request.¹²⁴ Access to this information is critical for the public to gauge the effectiveness of the USDA’s inspections, and in particular to determine why the USDA has consistently failed so miserably in its mandate to ensure that The Camel Farm complies with the minimal requirements set forth in the AWA.

The USDA’s unwillingness to use all tools available to the agency in order to force The Camel Farm to comply with the AWA—including refusing to renew The Camel Farm’s AWA license or, in the alternative, seeking suspension or revocation of that license—further supports

¹¹³ Ex. 4.

¹¹⁴ Exs. 4-6.

¹¹⁵ Exs. 4-6.

¹¹⁶ Exs. 4-5.

¹¹⁷ Ex. 6.

¹¹⁸ Ex. 4; Ex. 6.

¹¹⁹ Ex. 4.

¹²⁰ Exs. 4-6.

¹²¹ Ex. 4; Ex. 6.

¹²² Ex. 16.

¹²³ Ex. 13.

¹²⁴ Ex. 11.

the public's interest in the information at issue in this appeal. And the USDA's refusal to release the information raises the question of whether the agency is motivated by a desire to protect itself from criticism and embarrassment for its role in continuing to license The Camel Farm despite its documented history of repeated serious violations of the AWA, and for in effect punting enforcement responsibilities to a nonprofit organization that was then forced to expend its resources on other means available to stop The Camel Farm's cruel business practices.

The USDA's failure to take meaningful action against a habitually non-AWA compliant facility is the same sort of inaction the USDA's own Office of Inspector General ("OIG") has repeatedly raised concerns about.¹²⁵ The OIG has also identified as problematic the policy of automatically renewing AWA licenses despite chronic violations.¹²⁶

The OIG has also raised concerns about inspection consistency.¹²⁷ Just last year the OIG "found that inspections are not always performed consistently. . . . Uniformity in the inspection process across the country is not assured."¹²⁸ The OIG further noted the importance of inspection documentation to "assure adequate inspections are occurring."¹²⁹

Nor was this the first time the OIG flagged problems with the USDA's AWA inspections. In 2010, the OIG similarly found "that Animal Care inspectors . . . were not consistently

¹²⁵ See, e.g., USDA, OIG, APHIS Oversight of Research Facilities, Audit No. 33601-0001-41, page 2 of pdf (Dec. 2014), <https://www.usda.gov/oig/webdocs/33601-0001-41.pdf> (finding that APHIS "did not make the best use of its limited resources," "did not follow its own criteria in closing at least 59 cases that involved grave (e.g., animal deaths) or repeat welfare violations," "issued penalties that were reduced by an average of 86 percent from Animal Welfare Act's (AWA) authorized maximum penalty per violation," and "under-assessed penalties . . . by granting good faith reductions without merit or using a smaller number of violations than the actual number"); *id.* at 3 ("In 2010, an OIG audit . . . found that APHIS' enforcement process was ineffective, and the agency was misusing its own guidelines to lower penalties for AWA violators. The agency . . . did not implement an appropriate level of enforcement. At a time when Congress tripled the authorized maximum penalty to strengthen fines for violations, actual penalties were 20 percent less than previous calculations." (citing USDA, OIG, APHIS Animal Care Program Inspections of Problematic Dealers, Audit 33002-4-SF (May 2010), <https://www.usda.gov/oig/webdocs/33002-4-SF.pdf>)); *id.* ("In 2005, OIG performed an audit on animals in research facilities and found that APHIS was not aggressively pursuing enforcement actions against violators of AWA and was assessing minimal monetary penalties. Inspectors believed the lack of enforcement action undermined their credibility and authority to enforce AWA. In addition to reducing the penalty by 75 percent, APHIS offered other concessions—making penalties basically meaningless. Violators continued to consider the monetary stipulation as a normal cost of business, rather than a deterrent for violating the law." (citing USDA, OIG, APHIS Animal Care Program Inspection and Enforcement Activities, Audit. No. 33002-3-SF, (Sept. 2005), <https://www.usda.gov/oig/33002-03-SF.pdf>)); *id.* ("In 1995, an Office of Inspector General (OIG) audit of APHIS' enforcement policies found that APHIS did not fully address problems disclosed in a prior report, and that APHIS needed to take stronger enforcement actions to correct serious or repeat violations of AWA. Dealers and other facilities had little incentive to comply with AWA because monetary penalties were, in some cases, arbitrarily reduced and often so low that violators regarded them as a cost of doing business." (citing USDA, OIG, APHIS Enforcement of the Animal Welfare Act, Audit No. 33600-1-Ch (Jan. 1995))).

¹²⁶ See USDA, OIG, Animal and Plant Health Inspection Service Implementation of the Animal Welfare Act, Audit No. 33002- 0001-Ch, (1992); USDA, OIG, Enforcement of the Animal Welfare Act, Audit No. 33600- 1-Ch (1995).

¹²⁷ OIG, APHIS: Animal Welfare Act – Marine Mammals (Cetaceans), Audit Report 33601-0001-31 (May 2017), <https://www.usda.gov/oig/webdocs/33601-0001-31.pdf>.

¹²⁸ *Id.* at 10; *see also id.* at 18-19 (noting that certain AWA regulations "are not consistently enforced by APHIS inspectors," resulting in "inconsistent inspection standards" and potential health consequences).

¹²⁹ *Id.*; *see also id.* at 12 (recommending that the agency "develop a uniform method of documentation to assure adequate inspections are occurring" and noting that APHIS had agreed to "establish a uniform method of documentation to promote consistent inspections and compliance").

identifying safety-related deficiencies during their facility inspections,” which “could result in escapes by dangerous animals that would endanger” the public.¹³⁰ The OIG found that this “lack of consistency in the safety determinations made by APHIS Animal Care inspectors from one facility to another, and in some cases between different Animal Care inspectors at a single facility” meant that “APHIS cannot adequately ensure the safety of the animals, or of the public.”¹³¹

Of particular relevance here, the OIG has previously found that some inspectors “did not always adequately . . . support violations with photos,”¹³² which placed animals at “higher risk for neglect or ill-treatment”—in contravention of the purposes of the AWA—and weakened enforcement actions.¹³³ The OIG further noted that lack of photographs made identification of animals in need of care on re-inspection (and thus whether the facility has come into compliance) difficult.¹³⁴ In response, APHIS management acknowledged a potential need for additional training in collecting evidence.¹³⁵ These additional concerns make the public interest in this matter especially high.

Access to the information at issue will undoubtedly shed light on the USDA’s compliance with its statutory mandates under the AWA. Among other things, access to the photographs and videos will enable the public to:

- assess whether the USDA is following its own policies in conducting inspections;
- determine whether the USDA has adequately addressed issues raised by the OIG about the adequacy of its inspection photos;
- monitor inconsistencies in inspections; and
- monitor the USDA’s enforcement of the AWA.

The public’s interest in ensuring the USDA’s proper implementation of the AWA is substantial and clearly outweighs any minimal privacy interests that may be identified.¹³⁶ Accordingly, information from these animal welfare inspection reports, including photographs and videos taken by the USDA in the course of inspections of The Camel Farm are not exempt from disclosure pursuant to Exemptions 6 or 7(C), and must be provided in full.

¹³⁰ USDA, OIG, Controls Over APHIS Licensing of Animal Exhibitors 2, Audit Report 33601-10-Ch (June 2010), <https://www.usda.gov/oig/webdocs/33601-10-CH.pdf>.

¹³¹ *Id.* at 6.

¹³² USDA, OIG, Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers, Audit No. 33002-4-SF, at 2, <https://www.usda.gov/oig/webdocs/33002-4-SF.pdf>; *accord id.* at 17; *see also id.* at 22 (“We found that photos were not always taken when necessary, even though APHIS issues digital cameras to the inspectors as part of their field equipment.”).

¹³³ *Id.* at 17; *see also id.* at 22 (finding that in 7 of 16 enforcement decision reviewed, violations had been dismissed for lack of insufficient evidence, including photographs).

¹³⁴ *Id.* at 19.

¹³⁵ *Id.* at 17.

¹³⁶ *See, e.g., Wash. Post Co. v. U.S. Dep’t of Agric.*, 943 F. Supp. at 36 (finding disclosure of information regarding recipients of federal subsidies under cotton subsidy program would further significant public interest in shedding light on the workings of the USDA in administration of its massive subsidy program).

D. The USDA Failed to Meet Its Burden of Demonstrating that It Disclosed All “Reasonably Segregable” Portions of the Requested Records

Even if portions of the responsive records are found to be protected from disclosure by an exemption, the FOIA requires agencies to take “reasonable steps necessary” to segregate and release non-exempt information.¹³⁷ Since the FOIA’s focus is “information, not documents,” an agency “cannot justify withholding an entire document simply by showing that it contains some exempt material.”¹³⁸ “In addition to establishing that information is properly withheld under the claimed FOIA exemption, an agency seeking to withhold information bears the burden of establishing that all reasonably segregable non-exempt portions of records are disclosed.”¹³⁹ Claims of non-segregability must be made with the same degree of detail as required for claims of exemption.¹⁴⁰

As the Department of Justice has long recognized, the “clear purpose of this statutory requirement . . . is to ‘prevent the withholding of entire [documents] merely because portions of them are exempt, and to require the release of nonexempt portions.’”¹⁴¹ And yet, through its extensive redactions, withholding entire documents is effectively what the USDA did in this case, in total contravention of the law. As the Department of Justice’s Office of Information policy has emphasized, “[i]n administering the [FOIA] . . . agencies must not overlook their obligation to focus on individual record portions that require disclosure. This focus is essential in order to meet the Act’s primary objective of ‘maximum responsible disclosure of government information.’”¹⁴²

Courts have specifically held that in applying both Exemptions 6 and 7(C), agencies are required to release all remaining information after limiting any redactions to only those that must be made to protect individual privacy interests.¹⁴³ With the USDA providing no

¹³⁷ 5 U.S.C. § 552(a)(8)(A)(ii)(II); *see also id.* § 552(b) (“Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt”); 7 C.F.R. § 1.15(b) (“In the event a requested record contains some portions that are exempt from mandatory disclosure and others that are not, the official responding to the request shall ensure that all reasonably segregable nonexempt portions are disclosed”).

¹³⁸ *Clemente v. F.B.I.*, 64 F. Supp. 3d 110, 116 (D.D.C. 2014) (quoting *Krikorian v. U.S. Dep’t of State*, 984 F.2d 461, 467 (D.C. Cir. 1993)).

¹³⁹ *In Def. of Animals v. U.S. Dep’t of Agric.*, 656 F. Supp. 2d 68, 73, 82 (D.D.C. 2009) (holding that the USDA failed to meet its burden of demonstrating that all reasonably segregable nonexempt information from 1017 withheld pages had been disclosed).

¹⁴⁰ *See, e.g., Mead Data Central, Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261–62 (D.C. Cir. 1997); *Sciacca v. F.B.I.*, 23 F. Supp. 3d 17, 26 (D.D.C. 2014) (agency “must provide a detailed justification and not just conclusory statements to demonstrate that all reasonably segregable information has been released” (internal quotation marks and citations omitted)).

¹⁴¹ Department of Justice, Office of Information Policy, FOIA Update Vol. XIV, No. 3, OIP Guidance: The ‘Reasonable Segregation’ Obligation (Jan. 1, 1993) (quoting Attorney General’s Memorandum on the 1974 Amendments to the Freedom of Information Act 14 (Feb. 1975)) (alteration in original).

¹⁴² *Id.* (citation omitted).

¹⁴³ *See, e.g., Church of Scientology Int’l v. DOJ*, 30 F.3d 224, 230-31 (1st Cir. 1994) (Vaughn Index must explain why documents entirely withheld under Exemption 7(C) could not have been released with identifying information redacted); *Canning v. DOJ*, No. 01-2215, slip op. at 19 (D.D.C. Mar. 9, 2004) (finding application of Exemption 7(C) to entire documents rather than to personally identifying information within documents to be overly broad); *Lawyer’s Comm. for Civil Rights v. U.S. Dep’t of the Treasury*, No. 07-2590, 2008 WL 4482855, at *21 (N.D. Cal.

substantive basis for its application of the FOIA exemptions beyond general and conclusory language, it is impossible to conclude that the records have been properly redacted. However, as discussed above, since the redacted information poses no risk of yielding an unwarranted invasion of privacy, these sweeping redactions appear to be completely misapplied. Even if portions of the requested documents may be withheld, the reasonably segregable portions of these records must still be provided and any remaining redactions fully justified. This applies equally to photographs, such that if the requested photos contain some images of personal information that implicate a substantial privacy interest that warrants withholding, those images must be blurred and the photos release in redacted form, as required by the FOIA.¹⁴⁴ Indeed, the USDA has been and is capable of making appropriate redactions to inspection photos in order to protect individuals' personal privacy, which further demonstrates that the USDA's withholding in full of nearly 200 pages of photographs subject to the instant appeal is wholly inappropriate.¹⁴⁵

IV. The USDA's *Glomar* Response Was Unlawful

In rare and limited circumstances, in response to a FOIA request, when the government has found that its mere acknowledgement of the existence of responsive records would, itself, reveal information exempt under the FOIA, it may look to the process of refusing to confirm or deny the existence of the records responsive to the request.¹⁴⁶ This response to a FOIA request is known as a *Glomar* response.¹⁴⁷ In these cases, to properly provide a *Glomar* response to a request, the government must first treat the fact of the existence of the documents as the request, and proceed with the FOIA's exemption procedures.¹⁴⁸

As discussed further below, a *Glomar* response to FOIA request No. 2018-APHIS-03234-F regarding The Camel Farm was improper, for three (3) independent reasons: (1) the responsive records are not exempt under FOIA, (2) the records do not meet the threshold requirements for issuance of a *Glomar* response, and (3) the USDA may not give an "across-the-

Sept. 30, 2008) (requiring parties to meet and confer regarding scope of Exemption 6 and 7(C) redactions to ensure only private information is withheld and alleviate need for Vaughn Index).

¹⁴⁴ 5 U.S.C. § 552(a)(8)(A)(ii)(II); *see also id.* § 552(b) ("Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt . . ."); 7 C.F.R. § 1.15(b) ("In the event a requested record contains some portions that are exempt from mandatory disclosure and others that are not, the official responding to the request shall ensure that all reasonably segregable nonexempt portions are disclosed . . .").

¹⁴⁵ *See, e.g.*, Ex. 20, Photograph from United States Department of Agriculture Inspection Report of Hugo Liebel, Inspection No. 142101608550414 (May 22, 2010) (depicting elephant's rear and redacting the likeness of an individual appearing in the foreground pursuant to Exemptions 6 and 7(C)); Ex. 21, Photograph from United States Department of Agriculture Inspection Report of Hugo Liebel, Inspection No. 315101549490012 (Nov. 10, 2010) (depicting elephant at a performance in Greenville, MS, with the likenesses of two individuals appearing in the photo redacted pursuant to Exemptions 6 and 7(C)); Ex. 22, Photograph from United States Department of Agriculture Inspection Report of Hugo Liebel, Inspection No. 59111836190407 (Feb. 23, 2011) (depicting elephant and redacting the likeness of an individual appearing in the foreground of the photo pursuant to Exemptions 6 and 7(C)).

¹⁴⁶ *Phillippi v. CIA*, 546 F.2d 1009, 1012–13 (D.C. Cir. 1976).

¹⁴⁷ *See id.*

¹⁴⁸ *Id.* ("The Agency [must] provide a public affidavit explaining in as much detail as is possible the basis for its claim that it can be required neither to confirm nor to deny the existence of the requested records.").

board” *Glomar* response. Accordingly, the USDA cannot withhold these records, and they must be disclosed in full.

A. A *Glomar* Response Was Improper and Unlawful Because the Requested Records Are Not Exempt Under FOIA

A *Glomar* response is valid only “if the fact of the existence or nonexistence of agency records falls within a FOIA exemption.”¹⁴⁹ “Because *Glomar* responses are an exception to the general rule that agencies must acknowledge the existence of information responsive to a FOIA request and provide specific, non-conclusory justifications for withholding that information, they are permitted only when confirming or denying the existence of records would itself ‘cause harm cognizable under an FOIA exception.’”¹⁵⁰ “In determining whether the existence of agency records *vel non* fits a FOIA exemption, courts apply the general exemption review standards established in non-*Glomar* cases.”¹⁵¹

In refusing to acknowledge the existence of records responsive to FOIA request No. 2018-APHIS-03234-F, the USDA stated that “[t]o acknowledge the existence of records would constitute a clearly unwarranted invasion of personal privacy pursuant to Exemption 6 of the FOIA.”¹⁵² However, as discussed in full above, the release of these records would not invade personal privacy. Moreover, the USDA did not provide any substantive argument for any exemptions under the FOIA, instead conclusorily asserting that “[r]esponsive records, if they existed, would be exempt from disclosure under Exemptions 6 and/or 7C.”¹⁵³ In fact, the USDA did not—and apparently could not—identify *any* tangible harm from releasing these records as the agency’s response states “*add harm to the licensee here instead of embarrassment, harassment, intimidation, or other personal intrusions.*”¹⁵⁴ As demonstrated *supra*, moreover, the responsive records cannot lawfully be withheld pursuant to any of these exemptions. Accordingly, they must be provided in full.

B. The Records Do Not Meet the Threshold Requirements for Issuance of a *Glomar* Response

The USDA’s denial letter states that the agency considers whether the confirmation of the existence of certain records would reveal exempt information, and the following four (4) threshold circumstances exists when issuing a *Glomar* response: (1) the request is made by a third party; (2) the request is for information about a person identified by name; (3) the named individual is not deceased; and (4) the individual has not given the requester a waiver of his privacy rights.¹⁵⁵

However, as noted above, the records regarding The Camel Farm are records about regulated business activities.¹⁵⁶ The plain language of the above-referenced threshold

¹⁴⁹ *Wolf v. CIA*, 473 F.3d 370, 374 (D.C. Cir. 2007).

¹⁵⁰ *ACLU v. CIA*, 710 F.3d 422, 426 (D.C. Cir. 2013).

¹⁵¹ *Wolf*, 473 F.3d at 374.

¹⁵² Ex. 15, Letter from the USDA to Teresa Marshall, FOIA Request 2018-APHIS-03234-F, April 27, 2018

¹⁵³ *Id.*

¹⁵⁴ *Id.* (emphasis in original).

¹⁵⁵ *Id.*; see also *Pugh v. F.B.I.*, 793 F. Supp. 2d 226, 232 (D.D.C. 2011).

¹⁵⁶ See *supra* Part III.A.

requirements states that these circumstances were designed to protect individuals and their privacy interests, and not business entities.¹⁵⁷ Regulated businesses, such as The Camel Farm, do not have personal privacy interests protected under the FOIA, nor do they meet *Glomar*'s threshold requirement that they would be a "person identified by name."¹⁵⁸ Consequently, because the records requested pertain to a business, they clearly fail to meet the threshold requirements the USDA provided of being subjected to a *Glomar* response.

C. The USDA May Not Give an "Across-the-Board" *Glomar* Response

Even if portions of the requested records contained information for which a *Glomar* response was proper, the agency must still provide those records that are not protected by one of FOIA exemptions. "Across-the-board" *Glomar* responses are unjustified where there are records that fall outside of FOIA's exemptions.¹⁵⁹ Consequently, even if it were determined that portions of the responsive records could be protected from disclosure due to an exemption of the FOIA—and acknowledgement of the existence of these records would itself cause harm cognizable under the exemption—the reasonably segregable portions of the records that would not be protected by a privacy exemption must be provided.

Conclusion

Because the USDA failed to explain its decision to withhold categories of information related to The Camel Farm that it previously released, such withholdings are arbitrary and capricious. Moreover, the threshold requirements for Exemptions 6 and 7(C) are not met, there is little to no privacy interest in the information at issue, and there is a very strong public interest in disclosure. Moreover, the USDA failed to demonstrate it released all reasonably segregable portions of the requested records. Thus, this information must be disclosed in full.

Further, because the records are not exempt under the FOIA, the records do not meet the threshold requirements for a *Glomar* response, and the USDA may not give an "across-the-board" *Glomar* response. A *Glomar* response to request No. 2018-APHIS-03234-F was improper and unlawful.

I look forward to your response within twenty business days of receipt of this timely filed administrative appeal.¹⁶⁰

¹⁵⁷ See also *Pugh*, 793 F. Supp. 2d at 232.

¹⁵⁸ See, e.g., *id.*; *FCC v. AT&T, Inc.*, 562 U.S. 397, 409-10 (2011) ("The protection in FOIA against disclosure of law enforcement information 'on the ground that it would constitute an unwarranted invasion of personal privacy does not extend to corporations.'").

¹⁵⁹ *PETA v. Nat'I Inst. Health*, 745 F.3d 535, 541 (D.C. Cir. 2014).

¹⁶⁰ See 5 U.S.C. § 552(6)(A)(ii); 7 C.F.R. § 1.14(c).

From: McNally, Andrea C - APHIS <Andrea.C.McNally@aphis.usda.gov>
Sent: Thursday, June 14, 2018 9:48 AM
To: Storm Estep <StormE@petaf.org>
Cc: APHIS-FOIA Officer <FOIA.Officer@aphis.usda.gov>
Subject: RE: 2 Procedural Questions for FOIA Administrative Appeals

Hello Mr. Estep,

Both addresses go to the same location, with one identifying it by room number and the other by mail stop. Those files are sent to the FOIA officer mailbox to be logged and acknowledged, so the electronic copy you have been sending to foia.officer@aphis.usda.gov is the most pertinent. We do not need the hard copy version if you would like to stop sending that copy.

I will check into the answer for you 2nd question and get back to you shortly.

Andrea McNally
Legislative and Public Affairs
Animal and Plant Health Inspection Service, USDA
301-851-4206
2B-02.1
andrea.c.mcnally@aphis.usda.gov

Exhibit 1

Listing of Certificate Holders
FOR THE WEB
By Legal and DBA Name Order

Report Run: 7/2/2018 9:37 AM

Page 24 of 578

Region: * State: *

County: *
Customer Type: *
Certificate Type: *
Certificate Status: ACTIVE

Certificate/Customer Type L = License R = Registrant Renewal Date	Legal Name	DBA Name	City	State
L - Exhibitor Aug 23, 2018	Southwest Wildlife Conservation Center		Scottsdale	AZ
L - Exhibitor Jul 12, 2019	Ventura Entertainment Arizona Llc	Dolphinaris	Scottsdale	AZ
L - Exhibitor Nov 21, 2018	Arizona-Sonora Desert Museum		Tucson	AZ
L - Exhibitor Nov 4, 2018	City Of Tucson Parks & Recreation Dept.	Reid Park Zoo	Tucson	AZ
L - Exhibitor Jun 24, 2019	Tucson Wildlife Center Inc.		Tucson	AZ
L - Exhibitor Oct 26, 2018	Keepers Of The Wild Inc.		Valentine	AZ
L - Exhibitor Jan 20, 2019	Bearizona Wildlife Park L L C		Williams	AZ
L - Exhibitor Sep 8, 2018	Grand Canyon Deer Farm L L C		Williams	AZ
L - Exhibitor Apr 14, 2019	Navajo Nation Zoo & Botanical Park		Window Rock	AZ
L - Exhibitor Dec 6, 2018	Terrill Al-Saihati	The Camel Farm	Yuma	AZ
R - Carrier May 13, 2021	Annie's Rescue Ride		Goodyear	AZ
R - Carrier Nov 26, 2019	Phyllis Gale, Stephen Fritz		Kingman	AZ
R - Carrier Jun 30, 2019	Fur Heart Pet Sitting And Dog Walking Llc		Peoria	AZ
R - Carrier Mar 9, 2020	Wayne F Roberts		Sun City	AZ

Exhibit 2

MAR 12 2004

MEMORANDUM FOR CHESTER A. GIPSON
DEPUTY ADMINISTRATOR
ANIMAL CARE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

MICHAEL S. MARQUIS
ASSISTANT DIRECTOR FOR FREEDOM OF INFORMATION
LEGISLATIVE AND PUBLIC AFFAIRS
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

FROM: Kenneth E. Cohen ~~Senior Attorney~~
Assistant General Counsel
General Law Division

SUBJECT: Request for Legal Opinion - Electronic Freedom of Information Act

This is in response to your request for legal advice concerning whether the Animal Care ("AC") inspection and annual reports (collectively "AC reports" or "reports") should be posted on the Animal and Plant Health Inspection Service ("APHIS") Electronic Freedom of Information Act ("E-FOIA") website ("website").¹ The standard practice of your agency has been to provide public access to the reports via the internet pursuant to E-FOIA.² However, following September 11, 2001, the Department of Justice ("DOJ") Office of Information and Privacy ("OIP") and the USDA Homeland Security Office have advised your office to remove the AC reports from the website due to institutional, commercial, and personal privacy issues involved with the reports. Additionally, DOJ has maintained that the AC reports qualify for Executive Order No. 12600 ("EO 12600") procedures for business submitter information and, therefore, should remain off the website in order to give the research institutions the opportunity to object to the release of the reports. Consequently, your office has temporarily suspended the posting of the AC reports on the website. Your request seeks guidance on the electronic availability and accessibility of the AC reports.

¹ The AC reports provide information on the quantity of animals housed, types of animal experiments conducted, and level of compliance with the Animal Welfare Act ("AWA") achieved by the various animal research institutions ("animal facilities" or "research institutions") licensed under the AWA.

² Prior to posting on the website, the reports are reviewed and redacted to withhold protectible interests under applicable Freedom of Information Act ("FOIA") exemptions.

ISSUE

Taking into consideration the institutional, commercial, personal privacy, and other factors involved with the AC reports, should APHIS continue to make the reports available to the public via the website as mandated by the E-FOIA Amendments of 1996?

CONCLUSION

For the reasons set forth below, I conclude that the AC reports qualify as records subject to multiple requests under E-FOIA and must be made available to the public via electronic means, unless there is an applicable exemption from disclosure under FOIA.³ A review of the sample reports you provided indicates that [REDACTED]

[REDACTED] However, the remaining portions of the reports [REDACTED] should be posted on the website pursuant to E-FOIA because they are the subject of multiple requests.

[REDACTED]

DISCUSSION

1. E-FOIA

The first issue is whether the E-FOIA requirement of electronic availability applies to AC reports. Under E-FOIA, each agency is obliged to make available for public inspection and copying by electronic means copies of all records that "the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records." 5 U.S.C. § 552(a)(2)(D). If the AC reports qualify as this category of records, they must be made available electronically, subject to the applicability of any FOIA exemptions. See 5 U.S.C. § 552.

There is no pre-determined number of FOIA requests that renders a particular record eligible for electronic posting. Rather, each agency is to determine which of its records fall within the

³ The legal opinion provided herein is based on the sample documents provided by your office for review and may not extend to all AC reports. Each report must be reviewed individually and a determination made independently on whether it contains information that qualifies for E-FOIA disclosure requirements. [REDACTED]

[REDACTED]

"subsequent requests" category of records on a case-by-case basis. DOJ advises that an agency should reach a determination based upon its "familiarity with the subject matter of the FOIA-processed records," "knowledge of the FOIA requests received in the past," and "judgment as to the type of FOIA requests that they are likely to receive in the foreseeable future." *DOJ, FOIA Update (Winter 1997), Amendment Implementation Questions*. DOJ also advises that agencies have an obligation to make the "subsequent requests" documents available in electronic format, i.e. the internet, as quickly as practicable after consideration of the possibility that some portions of the documents might not be appropriate for public disclosure under FOIA. *Id.* (citing 5 U.S.C. § 552(a)(2)).

According to your memorandum to this office seeking a legal opinion, you think the AC reports qualify for electronic posting because of the continuing high volume of FOIA requests for the reports received from the animal interest groups and the general public. In your letter to Frankie Trull, President of National Association for Biomedical Research, dated February 7, 2002, you indicated that the APHIS-FOIA office receives "hundreds of requests for Animal Care inspection reports" every year. Specifically, "about fifty to seventy percent of all FOIA requests the Agency has received during the past several years concern Animal Care inspection reports or facility investigations."

Based on this information, it would appear that the AC reports fall within the confines of the "subsequent requests" category of records. Therefore, the AC reports must be made available via electronic means unless they are protected from public disclosure by an exemption under FOIA. 5 U.S.C. 552 §§ (a)(2), (b)(1)-(9).

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit 3



Inspection Report

Terrill Al-Saihati
15672 South Avenue 1 E
Yuma, AZ 85365

Customer ID: **3826**
Certificate: **86-C-0102**
Site: 001
TERRILL AL-SAIHATI

Type: ROUTINE INSPECTION
Date: 15-NOV-2016

2.40(a)(1) CRITICAL REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***The written Program of Veterinary Care (PVC) on file is still inadequate, as it does not contain sufficient provisions for emergency care. The current program, under the emergency care section, simply states "mobile veterinarian". The facility uses their attending veterinarian (AV) for emergency care but has no provision for veterinary care when their AV is unavailable. From 9/10/16-9/14/16, while their AV was unavailable, one camel requiring veterinary care/euthanasia (according to facility records & personnel) did not receive veterinary care and died on 9/14/16. At the time of inspection, the licensee had not made an attempt to find another veterinarian to use.

Failure to have a complete PVC, including appropriate provisions for emergency care, could jeopardize the health and well-being of the animals. The facility should establish and maintain a PVC to include all the regulated animals at the facility and regularly scheduled visits to the premises.

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***One female coati still has an abnormal left eye and has not been evaluated by a veterinarian. The facility/animal manager stated to APHIS staff, "the eye looks better since it exploded". When asked to clarify, the manager confirmed the eye had ruptured and was less swollen since the last inspection. At the time of inspection, the left eye was still swollen, extremely reddened, had an abnormally uneven corneal surface and some clear discharge.

Although the facility has been treating this animal, the ocular condition remains unresolved (intermittent resolution) since 5/5/16. The facility had contacted their veterinarian over the phone on 11/4/16. At that time, the veterinarian prescribed a new ointment that the facility is currently using. The animal has not been evaluated by a veterinarian since 8/25/16 and no additional diagnostic testing has been done.

Eye disease can be caused by a variety of problems including infection, allergies, injury, irritation or other medical

Prepared By:

AARON RHYNER, D V M

AARON RHYNER USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6077

Received By:

(b)(6), (b)(7)(c)

Title: FACILITY REPRESENTATIVE

Date:
16-NOV-2016

Date:
16-NOV-2016



Inspection Report

conditions and can be painful and distressing. Furthermore, not having clear vision can cause discomfort affecting the health and well-being of the animal and has the potential for further injury.

The licensee must have this animal examined by a veterinarian by no later than 5:00 p.m on November 18, 2016, to obtain accurate diagnoses and appropriate treatment plans for the ocular issue cited above. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests and the outcome of those tests that were performed by the veterinarian, any medications prescribed along with the dosing instructions, and entries on a log and/or calendar and/or animal health record that list when the medication is administered to the animals.

There should also be an entry at the end of the treatment to document the health status and condition of each animal at that point, to indicate a time frame to address current issues that require further veterinary treatment, and the need for follow-up and any further veterinary care prescribed.

From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

***There are several animals at the facility that are in need of hoof trims (three pigs, housed in the indoor barn, 3 sheep and 3 goats) which were pointed out to the facility/animal manager during the inspection. The hooves on the animals were excessively long, extending out approximately three to five inches. Failure to appropriately maintain hooves/nails can cause gait abnormalities which could be painful or cause injuries. As part of the facilities programs of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof and nail care in a timely manner.

3.125(a) REPEAT

FACILITIES, GENERAL.

***The following enclosures are in need of repair or replacement:

Enclosure housing 11 sheep had protruding nails at the area the animals move between enclosures.

Enclosure housing 16 goats had chain link material that is turned up and in with several sharp points.

Enclosure housing 17 goats and 5 pigs had chain link material that is turned up and in with several sharp points.

The enclosures are not maintained in good repair to protect the animals from injury or to contain the animals.

Failure to maintain housing facilities in a structurally sound manner can cause injury to the animals. The affected

Prepared By:

AARON RHYNER, D V M

AARON RHYNER USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6077

Received By:

(b)(6), (b)(7)(c)

Title: FACILITY REPRESENTATIVE

Date:

16-NOV-2016

Date:

16-NOV-2016



Inspection Report

structures must be repaired or replaced and all housing facilities should be maintained and kept structurally sound to protect and contain the animals moving forward.

3.130

WATERING.

***Two camels did not have access to potable water. At the time of inspection, the APHIS staff noticed the water receptacle was empty for the two camels. Additionally, APHIS staff watched the male camel attempt to drink from the empty receptacle. When asked, the facility/animal manager stated the water was probably turned off during the morning cleaning and someone forgot to turn it back on. The manager turned the water back on, and the male camel drank excessively for approximately eight minutes.

Failure to provide water to the animals can be detrimental to their health, can lead to dehydrated and other serious medical problems. The facility must ensure that if potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary. To be corrected by 11/17/16.

***The enclosure housing 3 pigs had dirty drinking water. There was a buildup of green debris on the interior surface of the receptacles along with green debris floating on top of the water. Additionally, the water was a dark brown liquid. Water receptacles must be maintained in a clean and sanitary condition in order to ensure that the animals are provided with clean, potable water, to minimize disease hazards and to ensure that they maintain adequate hydration. Water receptacles should be cleaned at a frequency that is adequate to maintain standard husbandry practices.

To be corrected by 11/17/16.

This inspection and exit interview were conducted with licensee and facility/animal manager.

Additional Inspectors

Jean Bolinger, Compliance Specialist

Prepared By:

AARON RHYNER, D V M

AARON RHYNER USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER, 6077

Received By:

(b)(6), (b)(7)(c)

Title: FACILITY REPRESENTATIVE

Date:

16-NOV-2016

Date:

16-NOV-2016



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	15-NOV-16

Count	Species
000003	Cattle/cow/ox/watusi
000000	Agile wallaby
000000	Kinkajou
000003	South American Coati
000008	Dromedary camel
000000	Grey four-eyed opossum
000071	Goat
000003	Fallow deer
000001	Common eland
000001	Common zebra
000041	Barbary sheep
000001	Fennec fox
000011	Domestic Pig
000143	Total

Exhibit 4



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 07-MAR-2017

2.40(a)(1) CRITICAL REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***The written Program of Veterinary Care (PVC) on file is still inadequate, as it does not contain sufficient provisions for emergency care. The current program, under the emergency care section, simply states "mobile veterinarian". The facility uses their attending veterinarian (AV) for emergency care but has no provision for veterinary care when their AV is unavailable. From 11/18/16-3/07/17, while their AV was unavailable, one female coati and one female goat requiring veterinary care, (according to facility records and personnel) did not receive veterinary care or treatment. This is the critical noncompliance for this section.

*** The written Program of Veterinary Care (PVC) on file is incomplete. The attending veterinarian last signed the PVC on 09/04/15.

Failure to have a complete PVC could jeopardize the health and well-being of the animals. The facility should establish and maintain a PVC to include all the regulated animals at the facility and regularly scheduled visits to the premises. Facility visits are necessary to ensure that the Program of Veterinary Care is being understood and followed by the licensee, to check the health and well-being of the animals and to determine if changes in the Program of Veterinary Care are needed.

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***There are three female adult pigs, housed in an indoor barn, that are in need of hoof trims, which were pointed out to the animal manager during the inspection. The hooves on the animals were excessively long, extending out approximately four to six inches. Failure to appropriately maintain hooves/nails can cause gait abnormalities which could be painful or cause injuries. As part of the facility's programs of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof and nail care in a timely manner.

The licensee must ensure that all animals showing potential signs of veterinary medical problems are evaluated in a

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

timely manner by a veterinarian as part of the facility's programs of adequate veterinary care and that the facility use appropriate methods to prevent, control, diagnose, and treat diseases, and injuries at all times. Additionally, veterinary and behavioral observations and evaluations by the veterinarian and facility staff must be documented and readily available to APHIS upon request and include sufficient detail to demonstrate the provision of adequate veterinary care.

2.40(b)(3) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***An adult female Coati named "Shyla" still has an abnormal left eye which has significantly worsened in severity since the previous inspection. The eye is protruding and extremely swollen, approximately the size of a golf ball. It is an extremely reddened mass of tissue and has a dark crusty scab on approximately one third of the surface area. Fluid appeared to be leaking out of the eye onto her face. There were flies observed in the open wound around and on the eye. APHIS staff observed the animal clacking its teeth loudly and pacing up in the top corner of the enclosure. The overall condition of the animal has changed since the last inspection. The animal now has a dull hair coat and appears to have lost weight. The animal was shaking her head and pawing at the injured eye frequently during the inspection. She appeared to be suffering, as she exhibited signs of extreme stress and discomfort for the species.

The last time the attending veterinarian examined the animal was on November 18, 2016. On January 27, 2017 the licensee noted in her log that she spoke to the attending veterinarian and discussed the eye problem, but that the AV was out of town and would come by to see the animal when she gets back. There was no notation of any attempt to contact an emergency or alternate veterinarian at any time during the months of November through March the animal's deteriorating condition.

As of today, March 7, 2017 the coati has still not been seen by any veterinarian despite the condition of the eye continuing to worsen as noted and observed by the facility staff. They have also completely stopped providing any treatment and have discontinued recommended treatment by the AV. Failure to properly communicate animal health issues to the attending veterinarian in a timely manner can result in prolonged pain and suffering for the animal and potentially worsen a current medical condition.

***An intact adult male tricolor goat was non-weight bearing on his right front limb. The goat was lame at the walk. The animal manager had not noticed that the goat was lame until the time of the USDA inspection. Lameness and non-weight bearing is an indicator of disease and often pain. It can result from numerous causes including both infectious and non-infectious. Failure to contact the attending veterinarian regarding the diagnosis and treatment

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

can result in delays of appropriate care and prolong suffering of the animal.

***A juvenile female goat had abnormal skin covering the tips of her ears. The skin was crusty and dry, with large areas of hair loss. Her overall hair coat appeared dull and she was seen to be scratching her shoulder along the chain link fencing. The animal manager stated that he had not noticed this skin condition prior to the USDA inspection. Skin disease can be caused by a variety of problems, including infection, allergies, injuries, irritation, or other medical conditions and can be painful and distressing to the animal.

***In an enclosure containing three fallow deer and a camel, a female fallow deer had a fresh wound over the left point of the shoulder. The wound was approximately two inches in diameter. There was complete hair loss at the site of the wound, with reddened tissue exposed. A clump of white hair was seen beside a metal feeder. The animal manager stated that he had introduced the deer and the camel into the same enclosure two days ago. Injuries, diseases, and medical conditions that are not treated properly (as directed by a veterinarian) may be painful and can lead to prolonged suffering.

***A young gray and white female goat, which was being housed alone in the barn, was unable to straighten her front legs at the knees. This inability to straighten her front legs caused her to place all of her weight on her toes. She was unable to stand or walk normally. The animal manager mentioned that he noticed the condition two weeks ago but the condition has worsened since then. The animal manager stated that he thought the licensee had contacted the veterinarian regarding this animal, however they "have trouble getting the vet out here." The goat has not been seen by a veterinarian nor received any medical treatment. Upon further questioning with the licensee, she stated that she had not had a chance to discuss this specific animal with the veterinarian. Failure to properly communicate animal health issues to the attending veterinarian in a timely manner can result in prolonged pain and suffering for the animal and potentially worsen a current medical condition.

Daily observation of all animals is critical to ensuring that conditions that can adversely affect health and well-being are recognized in a timely manner. Additionally, when observed, problems relating to animal health or behavior must be conveyed to the attending veterinarian so that appropriate methods can be employed to ensure adequate care. Failure to properly observe and communicate health problems, in a timely manner, can result in prolonged pain and suffering and the increase risk of development of serious medical conditions. The facility must conduct daily observations of all animals to ensure that all health and behavioral concerns are found in a timely manner and appropriately communicated with the attending veterinarian.

2.131(d)(2) REPEAT

HANDLING OF ANIMALS.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

***Upon arriving to the facility, while still in the car, APHIS inspectors saw three members of the public feeding alfalfa pellets to regulated animals. There were no facility representative in direct view of the members of the public. There are not an adequate number of attendants present at all times when the public is allowed contact with the animals. The public is allowed to walk through the facility unescorted on designated paths. The public is allowed to contact and feed the animals. At the time of inspection, only three employees were present to watch the public (approximately 15 people throughout entire facility). Of these three employees, one employee was escorting APHIS personnel on inspection, one was collecting money at the entrance with limited view of the animals, and the third employee was at the back of the property or in the barn with no view of the public. Furthermore, during the inspection, several other members of the public were seen feeding several goats and adult camels alfalfa pellets provided by the facility.

An adequate number of attendants is needed to ensure the health and safety of the animals and to decrease the likelihood of activities (rough handling, improper feeding, etc) that are harmful to the animals.

A responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during periods of public contact.

3.125(a) REPEAT

FACILITIES, GENERAL.

***A goat was sticking his head out through the wiring of his enclosure, through the gap in the wood paneling of the adjacent camel enclosure.

***The gate in the young male Dromedary camel enclosure that separates his enclosure from an adjacent empty enclosure is in disrepair. The gate is leaning inward and is attached to the structural post by baling twine. The metal bar at the top of the gate is broken at one side and entangled in the wire of the gate.

***In the goat enclosure containing a combination of eight goats and sheep, there were several nail heads sticking out of the wooden fence boards.

***In one corner of the eland enclosure, the wire fencing along the bottom is curving in an upward direction, creating a large gap between the ground and the fencing.

***In the goat enclosure containing 30 goats a section of the wood panels is elevated off of the ground. In the space between the ground and the bottom of the panel, a 10 foot long portion of the chain link fence is coming through, with the wires protruding into the enclosure.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

***In an enclosure containing eighteen sheep and goats a metal uprights of the shade structure were in disrepair. Two legs were completely rusted through, creating sharp points that could come into contact with the animals in the enclosure.

***In an enclosure containing eighteen sheep and goats, a particle board housing structure was in disrepair. Portions of the particle board had been worn and rough, causing screw heads to be visible and protrude from the wood.

***In an enclosure containing twenty goats and one pig, a roughly four foot long gap approximately 6-9 inches in height was created between the ground and the bottom of the chain-link fence. Two sharp point were also pointing downward, where the goats could come into contact with them.

***In the enclosure of "Pinkie," a female Dromedary camel, there was a deep hole roughly a foot in diameter dug by the Sulcata tortoise. The animal manager put his foot into the hole, illustrating that the depth was a minimum of two feet.

***The sheet metal in the stall containing three pigs was rusted and in disrepair, peeling off of the wall. It formed numerous sharp edges that could come into contact with the animals.

All enclosures must be kept in good repair and free of sharp points, protruding edges, or gaps/openings in order to protect the animals from injury. A system of timely identification, facility repair, and maintenance must be in place.

3.127(a) REPEAT

FACILITIES, OUTDOOR.

***A two and a half month old female Dromedary camel was in an outdoor enclosure that did not provide any shade to protect the animal from direct sunlight. The animal manager stated that the camel is placed in this enclosure daily at 9:00am and is taken out of the enclosure at 5:00pm. Inadequate protection from direct sunlight may lead to overheating or discomfort from squinting.

Sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

The camel was removed from this enclosure at the time of inspection and placed in an enclosure with adequate

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

shade structures.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

***A two and a half month old female Dromedary camel spends the night in an enclosure that is not surrounded by a perimeter fence. The camel is transferred from her night enclosure to her daytime primary enclosure by being let loose and running between the two enclosures without being led by a handler. The perimeter fence only surrounds the daytime primary enclosure. The area between the two enclosures is not surrounded by a perimeter fence. Allowing the camel to run loose without a perimeter fence in place jeopardizes the safety of the animal as she has the potential to run off of the facility premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

The animal manager moved the camel into a different enclosure at the time of inspection and told inspectors that the camel would be staying in that enclosure permanently. The perimeter fence surrounds the enclosure that the camel has been moved to.

3.128

SPACE REQUIREMENTS.

***A two and a half month old female Dromedary camel was in an enclosure that was approximately 6ft by 12ft. The animal manager stated that the camel was in this enclosure daily from 9:00am to 5:00pm. The camel was only able to stand and turn around due to the size of the enclosure. The enclosure that contained the camel at night was approximately twelve square feet in size. She was not able to exhibit normal species specific behaviors in either enclosure.

Enclosures shall be constructed and maintained as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement.

After the inspection, the animal manager moved the camel into another enclosure that was approximately 1800

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

square foot enclosure. The licensee informed inspectors that the animal began running around and bucking upon introduction to the new permanent enclosure.

3.131(a) REPEAT

SANITATION.

***In the indoor barn housing three adult female pigs, there was an excessive accumulation of excreta on the ground. Large portions of the enclosure were heavily saturated with urine and feces buildup. When APHIS inspectors opened the stall door, there was an overwhelming odor of ammonia coming from the enclosure. Excessive accumulation of animal waste can increase risk of diseases and affect the well-being of the animals.

Animal enclosures must be cleaned routinely in order to provide for appropriate animal husbandry standards, to reduce disease transmission, and to prevent animals from becoming contaminated or soiled. The licensee must clean this enclosure and ensure that all enclosures housing animals are cleaned as often as necessary to promote normal husbandry standards.

This inspection was conducted with animal manager and exit briefing was conducted with licensee and animal manager.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 07-MAR-2017

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***An adult female Coati named "Shyla" still has an abnormal left eye which has significantly worsened in severity since the previous inspection. The eye is protruding and extremely swollen, approximately the size of a golf ball. It is an extremely reddened mass of tissue and has a dark crusty scab on approximately one third of the surface area. Fluid appeared to be leaking out of the eye onto her face. There were flies observed in the open wound around and on the eye. APHIS staff observed the animal clacking its teeth loudly and pacing up in the top corner of the enclosure. The overall condition of the animal has changed since the last inspection. The animal now has a dull hair coat and appears to have lost weight. The animal was shaking her head and pawing at the injured eye frequently during the inspection. She appeared to be suffering, as she exhibited signs of extreme stress and discomfort for the species.

The animal manager stated she was eating normally, but could not describe what he considered to be normal or any changes in diet or feeding. The animal manager stated to APHIS staff that the eye has gotten much worse since November and continues to deteriorate. He described the animal as continuing to become more aggressive and that she has become dangerous to handle. He stated that the last time that any veterinarian has examined the animal was on November 18, 2016 when she came to the facility and administered injectable antibiotics and used a needle to inject "something" directly into the eye. He noticed that the eye was a little better after the veterinary treatment on November 18, 2016 and it initially reduced in size and appeared to heal. On that same date, the veterinarian discussed a plan of treatment to include daily administration of BNP eye ointment and possibly stitching the eye shut to allow it to heal if treatment didn't result in improvement.

According to the animal manager, he continued to apply eye ointment as directed for approximately 10 days. They noted on their logs on November 28, 2016 that the eye was back down to a normal size, mainly dark, with milky opacity in the center. The eyeball was also no longer red or swollen. They continued to apply eye ointment on a daily basis as directed by the veterinarian.

On December 6, 2016 staff made a notation on the animal treatment log that the eye had deteriorated again, and

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

07-MAR-2017

Date:

07-MAR-2017



Inspection Report

was "very bad." The licensee wrote in her log that she spoke to the attending veterinarian on that date and was advised that the animal needed follow up. The facility continued eye ointment and noted that the condition of the eye was worsening throughout December and January. Despite the recommendation by the attending veterinarian to have the animal reexamined, there is no record that it ever was.

On January 27, 2017 the facility noted on the treatment logs that they had ceased giving eye ointment. When questioned further, the animal manager stated that they felt "the eye looked better without it". He stated due to the aggressive behavior of the animal it was becoming difficult to administer the ointment or to even capture the animal. The licensee made the decision to discontinue use of the eye ointment on their own accord and admitted that this was not approved by the AV. The animal manager stated that after watching the AV inject the eye during her visit on November 18, 2016 he decided that he would also try to "pop" the eye on his own, in an attempt to improve the overall condition of the eye. He stated that on several occasions over the last few months he has confined the animal, popped the eye both manually with his fingers and also with a needle, and then applied Gentamicin ointment to the eye. During his self-prescribed procedure of the eye, he stated that there was a red fluid that came out with resembled "watered down blood" and that he did not notice any pus.

On January 27, 2017 the licensee again noted that she spoke to the attending veterinarian and discussed the eye problem, but that the AV was out of town and would come by to see the animal when she gets back. There was no notation of any attempt to contact an emergency or alternate veterinarian at any time during the months of November through March the animal's deteriorating condition.

As of today, March 7, 2017 the coati has still not been seen by any veterinarian despite the condition of the eye continuing to worsen as noted and observed by the facility staff. They have also completely stopped providing any treatment and have discontinued recommended treatment by the AV.

Eye issues can be caused by a variety of problems including infection, allergies, injury, irritation, or other medical conditions. This animal is already exhibiting signs of pain and distress. The delay in providing necessary follow up veterinary care appears to have resulted in unnecessary pain and suffering. In addition the 'care' provided without veterinary approval may have resulted in unnecessary distress and contributed to worsening of the condition.

***A young gray and white female goat, which was being housed alone in the barn, was unable to straighten her front legs at the knees. This inability to straighten her front legs caused her to place all of her weight on her toes. She was unable to stand or walk normally. The animal manager mentioned that he noticed the condition two weeks ago but the condition has worsened since then. The animal manager stated that he thought the licensee had contacted the veterinarian regarding this animal, however they "have trouble getting the vet out here." The goat has not been seen by a veterinarian nor received any medical treatment. Upon further questioning with the licensee,

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

07-MAR-2017

Date:

07-MAR-2017



Inspection Report

she stated that she had not had a chance to discuss this specific animal with the veterinarian.

***An intact adult male tricolor goat was non-weight bearing on his right front limb. The goat was lame at the walk. The animal manager had not noticed that the goat was lame until the time of the USDA inspection. Lameness and non-weight bearing is an indicator of disease and often pain. It can result from numerous causes including both infectious and non-infectious. Failure to contact the attending veterinarian regarding the diagnosis and treatment can result in delays of appropriate care and prolong suffering of the animal. Injuries, diseases, and medical conditions that are not treated properly (as directed by a veterinarian) may be painful and can lead to prolonged suffering.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The licensee was notified verbally that she must have both goats (the male and female listed above) and Shyla, the coati, examined by a veterinarian by no later than 6:00pm on March 7, 2017 to obtain accurate diagnosis and appropriate treatment plans for the leg problems cited above. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests and the outcome of those tests that were performed by the veterinarian, any medications prescribed along with the dosing instructions and entries on a log and/or calendar and/or animal health record that list when the medication is administered to the animal.

There should also be an entry at the end of the treatment to document the health status and condition of each animal at that point, to indicate a time frame to address current issues that require further veterinary treatment, and the need for follow-up and any further veterinary care prescribed.

Additionally, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

A complete routine inspection was conducted on March 7, 2017. This report is limited to the direct noncompliant items identified on that inspection. A second inspection report containing indirect noncompliant items will follow. The inspection was conducted with the animal manager and the exit interview were conducted with the licensee and animal manager on March 7, 2017.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

07-MAR-2017

Date:

07-MAR-2017



Inspection Report

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:
07-MAR-2017

Date:
07-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: FOCUSED INSPECTION

Date: 08-MAR-2017

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

A focused inspection was conducted on March 8, 2017 by APHIS inspectors and an IES investigator. The three pigs with the excessively long hooves noted on the previous inspection had received hoof trimming and had been moved into a different enclosure.

The coatimundi, Shyla, was not on the premises at the time of inspection. Licensee stated that she had taken the coati to the veterinary clinic at approximately 8:30 am this morning. The licensee called the clinic at approximately 10:30 am and spoke with the assistant. At the time of the inspection, the licensee did not know what the veterinarian's plan regarding the diagnosis and treatment of the coatimundi.

The APHIS inspector contacted the veterinarian regarding the coatimundi at 2:37pm on March 8, 2017. The veterinarian stated that she had not given any pain medication to the coati and that no medical treatment had been provided that day. The veterinarian stated that she had given the coatimundi antibiotics last night but sent the animal home as she did not have adequate facilities to house a coatimundi. The veterinarian stated to the inspector via phone that the animal was "very aggressive" and that the "eye is pretty bad". No other diagnostics, treatments, medications or pain control have been given at the time of this inspection. The veterinarian stated to the inspector via phone that she was planning to anesthetize the coati and try to clean the eye out and that she would "try to do it today," however she was unable to confirm when the coatimundi would be examined and treated.

The young gray and white female goat which was unable to straighten her front legs at the knees during the previous inspection was still in her enclosure in the barn. Her condition had not changed from yesterday and she was still unable to stand or walk normally. Licensee stated that the goat had not received any veterinary treatment.

In addition, the intact adult male tricolor goat that was non-weight bearing on his right front limb during the previous inspection had been moved into the same enclosure as the gray and white female goat that was cited. The buck's condition was unchanged from the previous inspection and he was still non-weight bearing on the right forelimb and

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Date:

08-MAR-2017

Title:

Date:

08-MAR-2017



Inspection Report

lame at a walk. A veterinarian visually examined the goat yesterday and made a presumptive diagnosis. The inspector spoke with this veterinarian regarding these 2 goats previously identified by the inspectors as needing veterinary care on the night of March 7. He stated that he had recommended to the licensee that the goats in question should receive diagnostic testing in order to give a diagnosis and recommended a non-steroidal anti-inflammatory agent for pain control, however animal manager at the facility declined diagnosis and treatment.

The female fallow deer that had a fresh wound over the left point of the shoulder during the previous inspection had not been seen by a veterinarian and licensee had not provided any treatment.

Injuries, diseases, and medical conditions that are not treated properly (as directed by a veterinarian) may be painful and can lead to prolonged suffering. The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The facility representative was notified verbally that he must have both goats (the male and female listed above) examined and receive medical treatment by a veterinarian by no later than 10:00am on March 9, 2017 to obtain accurate diagnosis and appropriate treatment plans for the leg problems cited above. In addition, the results of the examination and treatment of the coatimundi should be made available to the inspection. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests and the outcome of those tests that were performed by the veterinarian, any medications prescribed along with the dosing instructions and entries on a log and/or calendar and/or animal health record that list when the medication is administered to the animal.

There should also be an entry at the end of the treatment to document the health status and condition of each animal identified on inspection, to indicate a time frame to address current issues that require further veterinary treatment, and the need for follow-up and any further veterinary care prescribed.

Additionally, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian in the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

A focused inspection was conducted on March 8, 2017. This report is limited to the direct noncompliant items

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

identified on that inspection. The inspection was conducted with the animal manager and IES investigator and the exit interview was conducted with the animal manager, an authorized facility representative, on March 8, 2017.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Frank Katharine, Veterinary Medical Officer

Garland Kathleen, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: FOCUSED INSPECTION

Date: 09-MAR-2017

A focused inspection was conducted by APHIS inspectors at 10:30am on March 9, 2017. Animal manager informed the inspectors that a veterinarian had visited the facility this morning and provided veterinary care to the animals.

The veterinarian had euthanized Shyla, the coatimundi, and the young gray and white female goat which was unable to straighten her front legs at the knees during the previous inspection. Documentation left by the veterinarian showed that the coatimundi had received sedation consisting of ketamine, midazolam, and sedivet, before being administered Fatal Plus euthanasia solution. The document showed that the female goat had been sedated with Sedivet before being given Fatal Plus euthanasia solution. APHIS personnel were able to verify the disposition of the coatimundi.

The veterinarian gave the intact adult male tricolor goat that was non-weight bearing on his right front limb during the previous inspection an injection of Firocoxib. The animal manager informed us that the veterinarian had rushed off to complete other calls but would be coming back to re-evaluate the animals and fill out the program of veterinary care, as the new attending veterinarian.

This inspection was conducted with the animal manager and exit interview was conducted with the animal manager and licensee.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Frank Katharine, Veterinary Medical Officer

Garland Kathleen, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Date:

09-MAR-2017

Received By:

Title:

Date:

09-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 23-MAY-2017

2.126(a)(4) CRITICAL

ACCESS AND INSPECTION OF RECORDS AND PROPERTY; SUBMISSION OF ITINERARIES.

The licensee stated that four animals, an adult male coati named Cody, an adult hedgehog named Pickles, an adult female Fennec fox named Foxy, and an adult female ferret named Sally, were housed in a separate area from the other animals at the facility. The licensee refused to allow APHIS personnel to inspect these animals while in their primary enclosures.

To ensure the health and welfare of the animals, APHIS personnel must be able to observe all regulated animals, their primary enclosures, and the surrounding premises.

Each dealer, exhibitor, intermediate handler, or carrier, shall during business hours, allow APHIS officials to inspect and photograph the facilities, property, and animals, as the APHIS officials consider necessary to enforce the provisions of the Act, the regulations and the standards in this subchapter.

A complete routine inspection was conducted on May 23, 2017. This report is limited to critical noncompliant items identified on that inspection. A second inspection report containing indirect noncompliant items will follow.

Both the inspection and exit interview were conducted with the licensee and facility representative on May 23, 2017.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

23-MAY-2017

Date:

23-MAY-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 23-MAY-2017

2.40(a)(1) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***The applicant uses a veterinarian under consulting arrangements to provide veterinary care for the animals but does not have a written Program of Veterinary Care. The applicant does not have written guidance from an attending veterinarian to provide preventative care or treatment for routine and common veterinary problems. In order to ensure problems of animal health are addressed in an adequate and timely manner, a written program of veterinary care must be maintained and followed.

During this inspection it was observed that several animals are in need of immediate veterinary care. A male Dromedary camel, Zo, has a large growth around his chest pad. The licensee was unable to provide evidence of a physical exam, diagnosis, or treatment plan provided by her attending veterinarian. Three female pigs and a sheep, with ear tag 00384, had excessively overgrown hooves that were in need of trimming. Foxy, a female Fennec fox, had hair loss over the knuckles of all four feet and had excessively long nails. A female coati, Tuffy, had a large, golf-ball sized growth in her abdominal region. Tuffy was also repeatedly moving in a fixed pattern of jumping from one platform to the next and then crawling on the roof of the enclosure back to the first platform. A sheep was observed to have a distended abdomen, nasal discharge, labored breathing, and a humped back. The sheep had not been examined by a veterinarian. A female Ibex, Pixie, had a dull, rough haircoat, and was underweight, with her hip bones visibly protruding. Pixie has not been examined by a veterinarian.

Each applicant shall employ an attending veterinarian under formal arrangements. In the case of a part-time attending veterinarian or consultant arrangements, the formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the premises of the applicant.

The program of veterinary care should address appropriate methods to prevent (vaccination guidelines), control (parasite), diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care. The applicant and the attending veterinarian must also discuss and develop a plan regarding the diet and nutrition, including any supplements, for the animals at the facility.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Date:

23-MAY-2017

Received By:

Title:

Date:

23-MAY-2017



Inspection Report

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During this inspection, it was observed that several animals are in need of immediate veterinary care.

***A male Dromedary camel, Zo, has a large growth on his chest pad that was irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth was covered with flies. The licensee was unable to provide documentation of a physical exam, diagnosis, or treatment plan provided by the attending veterinarian. The licensee periodically applies fly spray to the area.

***An adult female Fennec fox, Foxy, had hair loss over the knuckles of all four feet. A facility representative stated that he had noticed the hair loss, however the fox has not been evaluated by a veterinarian and is not receiving treatment of any kind. The fox also had excessively long nails that needed to be trimmed.

***A female Ibex, Pixie, was observed to have a patchy, dull haircoat. She appeared to be underweight, as evidenced by protruding hip bones and a prominent spine. The facility representative stated that she had always been like that. Pixie has not been examined by a veterinarian.

***APHIS employees observed a large, golf ball sized mass on the abdominal region of a female coati named Tuffy. The licensee stated that this was the first time that she had noticed the mass. In addition, the coati was repeatedly moving in a fixed pattern of jumping from one platform to the next and then crawling on the roof of the enclosure back to the first platform. This behavior was not interrupted by the position or distance of the observers or when an attendant entered the enclosure. The coati has not received veterinary evaluation or treatment.

*** A sheep with ear tag 00384 had excessively overgrown hooves on her hind feet and was in need of a hoof trim.

***Three female adult pigs, housed in an indoor barn, are in need of hoof trims. The hooves on the animals were excessively long, extending out approximately four to five inches. Failure to appropriately maintain hooves/nails can cause gait abnormalities which can be painful or cause injuries. As part of the facility's programs of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof and nail care in a timely manner.

***An adult black and white female sheep was observed by APHIS employees to be standing with her head down, neck extended and breathing heavily. She had discharge coming from her nose that had dripped onto her front leg. Her abdomen was extremely distended and her back was hunched up. When the APHIS inspector pointed this out to the licensee, she stated that when she walked up to the enclosure she had noticed the hump on the sheep's back

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

23-MAY-2017

Date:

23-MAY-2017



Inspection Report

and felt she should call the veterinarian. The sheep has not been evaluated by a veterinarian.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing. The facility representative provided documentation showing that the veterinarian had examined and treated the goat on March 9, 2017. The licensee stated that the veterinarian had rechecked the goat on March 16, 2017, however did not have any documentation regarding that visit. A facility representative stated that he had been injecting the goat with pain medication provided by the veterinarian. The licensee confirmed that pain medication he had been injecting the goat with was an oral medication prescribed for a coati and was not intended to be used on the goat. The veterinarian has not examined this goat since March 2017.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests, and the outcome of those tests that were performed by the veterinarian, any medications prescribed along with the dosing instructions and entries on a log and/or calendar and/or animal health record that list when the medication is administered to the animal.

There should also be an entry at the end of the treatment to document the health status and condition of each animal at that point, to indicate a time frame to address current issues that require further veterinary treatment, and the need for follow-up and any further veterinary care prescribed.

From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

A complete routine inspection was conducted on May 23, 2017. This report is limited to direct noncompliant items identified on that inspection. A second inspection report containing indirect noncompliant items will follow.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

23-MAY-2017

Date:

23-MAY-2017



Inspection Report

Both the inspection and exit interview were conducted with the licensee and facility representative on May 23, 2017.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

23-MAY-2017

Date:

23-MAY-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 23-MAY-2017

2.40(b)(3)

REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During the inspection, the following animals were in need of veterinary attention:

- adult male Dromedary camel, "Zo"
- adult female Fennec fox, "Foxy"
- female Ibex, "Pixie"
- female coati, "Tuffy"
- adult sheep with ear tag 00384
- three female adult pigs located in the barn
- adult black and white female sheep
- adult male tricolor goat located in the barn

The facility failed to observe that these animals were in need of veterinary attention. Facility representatives informed APHIS personnel that the attending veterinarian had not examined these animals and were unable to provide any documentation indicating that the attending veterinarian was notified about the condition of the animals.

Daily observation of all animals is critical to ensuring that conditions that can adversely affect health and well-being are recognized in a timely manner. Additionally, when observed, problems relating to animal health or behavior must be conveyed to the attending veterinarian so that appropriate methods can be employed to ensure adequate care. Failure to properly observe and communicate health problems can result in prolonged pain and suffering and the increase risk of development of serious medical conditions. The facility must conduct appropriate daily observations of all animals to ensure that all health and behavioral concerns are found in a timely manner and appropriately communicated with the attending veterinarian.

3.125(a)

REPEAT

FACILITIES, GENERAL.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

***In one corner of the eland enclosure, the wire fencing along the bottom is curving in an upward direction, creating a large gap between the ground and the fencing. This is unchanged since the previous inspection.

***There was a strand of broken metal fencing lying on the ground in the eland enclosure, with a sharp point facing upward.

***In the eland enclosure, the base of a metal pole that serves as part of the fence is rusted through, thus compromising its structural integrity.

***The gate in the young male Dromedary camel enclosure that separates his enclosure from an adjacent empty enclosure is in disrepair. The gate is leaning inward and is attached to the structural post by baling twine. The metal bar at the top of the gate is broken at one side and entangled in the wire of the gate. This is unchanged since the previous inspection.

***The sheet metal in the stall containing three pigs was rusted and in disrepair, peeling off of the wall. It formed numerous sharp edges that could come into contact with the animals. This is unchanged since the previous inspection.

***In an enclosure containing 12 sheep, multiple screws were sticking out of the wooden boards into the enclosure.

***In the enclosure containing an adult male goat, Gozar, there was a metal pole lying on the ground along the fence. There was a hole in the pole with sharp, rusted edges that could injure the animal.

***In an enclosure containing 8 goats, there was a metal stall with one of the walls in disrepair. The bottom portion of the far wall of the stall contained sharp and rusted metal edges.

All enclosures must be kept in good repair and free of sharp points, protruding edges, or gaps/openings in order to protect the animals from injury. A system of timely identification, facility repair, and maintenance must be in place.

3.127(a) REPEAT

FACILITIES, OUTDOOR.

***Several enclosures did not have adequate shade to protect all of animals from direct sunlight.

-An enclosure containing 9 goats

-An enclosure containing five goats and two pigs

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

- An enclosure containing 11 La mancha goats and 1 Boer goat
- An enclosure containing 2 adult water buffalo

The areas of shade provided were not large enough to allow all of the animals within the enclosure to be protected from direct sunlight. At the time of inspection, the temperature registered on the Kestrel 4000 was 106.1 degrees Fahrenheit. Several of the goats and sheep were exhibiting signs of a heat stress, as indicated by the animals standing or lying down with extended necks and panting.

Inadequate protection from direct sunlight may lead to overheating or discomfort from squinting.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

***Near the eland enclosure, a large portion of the perimeter fence was in disrepair. One of the metal poles stabilizing the chain link was leaning outward, away from the property at approximately a 30 degree slant. Another metal stabilizing pole was leaning inward. Along one section of the fence, the metal bar at the top of the fence was broken into two pieces.

*** At the front of the property, near the hinny and sheep enclosure, an approximately 100 foot long segment of the perimeter fence was less than 6 feet tall.

***Near the enclosures containing the coati and Fennec fox, a tree was leaning on the perimeter fence.

All of the issues cited above decrease the efficacy of the perimeter fence to function as a secondary containment system for the regulated animals and to protect them from outside animals entering the premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

3.129(a)

FEEDING.

***In the center aisle of the barn there were two open bags of feed. They were next to a pile of building materials

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

and feed bags, which were covered in dust, rodent feces, and spider webs. There were a few flies flying in and out of the opened feed bags.

Contaminated food may harbor pathogens and cause disease in the animals. Also, the nutritive value of contaminated food is unknown. The licensee must ensure that all food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health.

To be corrected by: May 30, 2017

3.130 REPEAT

WATERING.

Several enclosures had dirty water receptacles.

***In an enclosure containing 3 adult camels there was a buildup of a green substance on the interior surface of the water receptacles along with debris floating on top of the water.

***The drinking water in an enclosure containing 5 juvenile goats and two pigs, as well as the drinking water in an enclosure containing 2 adult water buffalo was a brown liquid.

***In the enclosure containing a combination of 22 sheep and goats there was a buildup of green substance on interior surface of receptacle.

Water receptacles must be maintained in a clean and sanitary condition in order to ensure that animals are provided with clean, potable water, to minimize disease hazards and to ensure that they maintain adequate hydration. Water receptacles should be cleaned at a frequency that is adequate to maintain standard husbandry practices.

3.131(a) REPEAT

SANITATION.

***In an enclosure containing one adult zebra and two adult donkeys, there was an excessive accumulation of manure under both of the shade structures. Excessive accumulation of animal waste can increase risk of disease and affect the well-being of the animals.

***In an enclosure containing two adult water buffalo, there was a mud wallow. There was a green substance floating on the water. APHIS personnel noticed a foul odor when they approached the wallow. Dirty water can pose a health risk to the animals as it can contain bacteria and parasites.

Animal enclosures must be cleaned routinely in order to provide for appropriate animal husbandry standards, to

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

reduce disease transmission, and to prevent animals from becoming contaminated or soiled. The licensee must clean this enclosure and ensure that all enclosures housing animals are cleaned as often as necessary to promote normal husbandry standards.

3.131(c)

SANITATION.

***In the center aisle of the barn, alongside the stall containing three adult pigs, there was an accumulation of building materials, feed bags, buckets, debris, and a skull, all covered in dust, spider webs, and rodent feces.

***In the stall containing three adult pigs there was an accumulation of cobwebs along the walls.

Accumulation of materials and debris make it difficult to maintain husbandry standards, can be areas for harboring pests which can transmit disease to the regulated animals and may be an indication of substandard husbandry practices. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart.

To be corrected by: May 30, 2017

3.131(d) REPEAT

SANITATION.

***There were numerous flies on the growth on the chest pad of the adult male Dromedary camel, Zo.

***A female camel and her newborn (born on Sunday) had numerous flies on their hind legs. The adult had several flies on and around her face. Additionally, there were numerous flies around the umbilicus on the newborn.

***There were numerous flies in the enclosure containing an adult male goat, called Gozar. The flies were crawling along the wooden panels that were against the metal fencing.

There were several fly traps placed along different fence lines, however they were filled with dead flies and not adequately controlling the pest problem. Excessive amounts of flies on or around the animals can be stressful to the animal. Additionally, disease can be transmitted by the pests to the animals and they can contaminate feed and water.

The licensee must establish and maintain an effective program for the control of pests to promote the health and

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

well-being of the animals and reduce contamination by pests in all animal areas.

This report is a continuation of the previous report issued on May 23, 2017 and contains the indirect citations from the routine inspection conducted at that time. An additional report containing the direct citations was previously delivered to the licensee on May 23, 2017 and an exit interview was conducted at that time. With respect to the noncompliant items contained within this report, an exit was conducted on May 23, 2017 with the licensee and the undersigned inspector.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017

Exhibit 5



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 08-NOV-2017

2.40(b)(2)

REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During this inspection, it was observed that several animals are in need of veterinary care.

***A male Dromedary camel, Zo, has a large growth on his chest pad that was irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth was covered with flies. The licensee provided documentation of a physical exam provided by the attending veterinarian, which stated that a surgical resection should be performed at a facility that can address all surgical and postoperative concerns. The licensee periodically applies fly spray to the area.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing. The facility representative provided documentation showing that the veterinarian had examined and treated the goat on March 9, 2017. The goat was rechecked on May 27, 2017 by the veterinarian and it was his recommendation that 1) more diagnostic work needs to be done (radiographs, bloodwork, appropriate serology), or 2) if the facility representatives do not want to proceed with more diagnostics then it is his recommendation to cull the animal. The veterinarian stated in his report that the animal did not appear to be in pain and the NSAIDS used previously provided no improvement. In addition to the lameness observed, it was also observed that the goat was bleeding from his left horn, which appears to be damaged. The licensee did not notice this prior to us pointing it out.

***Nine goats, seven sheep, and one cow had overgrown hooves due to a lack of recent hoof trimming. Failure to appropriately maintain hooves can cause gait abnormalities which could be painful or cause injuries. As part of the facility's program of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof care in a timely manner.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. The

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

09-NOV-2017

Date:

09-NOV-2017



Inspection Report

program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries. The licensee is required to follow the guidance of their attending veterinarian.

2.131(d)(2) REPEAT

HANDLING OF ANIMALS.

***The public is permitted to walk directly up the primary enclosure and feed the animals. There are no barriers or signs present to discourage public contact and the guests are encouraged to feed food that is sold on the premises. There was only one attendant present during this inspection and he wasn't supervising all the public interactions or contact the guests had with the animals when they walked directly up to the enclosures to feed the animals. Continued unattended public contact does not ensure safe public interaction with these animals. Licensees must ensure that during periods of public exhibition, a responsible, knowledgeable employee or attendant is present at all times during periods of public contact.

3.125(a) REPEAT

FACILITIES, GENERAL.

***Two enclosures that housed Dromedary camels had fencing in disrepair. One had a hole with broken fencing that had sharp points that were poking straight up and some points were poking straight into the pen. The other pen had fencing that was falling down and created gaps and sharp points that were pointing into the enclosure.

***Two enclosures that housed some sheep and goats had broken fencing with sharp points and there were gaps large enough that the animal's horns or head could get stuck and therefore poses the risk of injury to animals in the enclosure.

***The enclosure housing the goats in the barn had rust along the lower parts of the walls, which was 10 inches or greater in height. In one corner there was a hole that was large enough for the animal's horns or head to get stuck and therefore poses the risk of injury to animals in the enclosure.

All enclosures must be kept in good repair and free of sharp points and protruding edges in order to protect the animals from injury. A system of facility monitoring and maintenance should be in place and to ensure all animal facilities are structurally sound and in good repair to protect the animals from injury and/or escape.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

09-NOV-2017

Date:

09-NOV-2017



Inspection Report

***Near the eland enclosure, a large portion of the perimeter fence was in disrepair. One of the metal poles stabilizing the chain link was leaning outward, away from the property at approximately a 30 degree slant. Another metal stabilizing pole was leaning inward. Along one section of the fence, the metal bar at the top of the fence was broken into two pieces.

***Near the camel and sheep enclosure, an approximately 100 foot long segment of the perimeter fence was less than 6 feet tall due to the amount of dirt and land that was leaning against it.

***Near the enclosure containing the coati, a tree was leaning on the perimeter fence causing the fence to lean downward.

All of the issues cited above decrease the efficacy of the perimeter fence to function as a secondary containment system for the regulated animals and to protect them from outside animals entering the premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

This inspection and exit interview were conducted with the facility representative.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

09-NOV-2017

Date:

09-NOV-2017

Exhibit 6



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ATTEMPTED INSPECTION

Date: 11-JUL-2017

2.126(b)

ACCESS AND INSPECTION OF RECORDS AND PROPERTY; SUBMISSION OF ITINERARIES.

A responsible adult was not available to accompany APHIS Officials during the inspection process at 1200 PM on 11-JUL-17.

Inspectors arrived at the facility (which was closed to the public) and spoke to an adult male, who advised us to call the authorized persons on the license. We attempted to call both authorized persons listed and left messages at both numbers. The adult male is a member of the family and had access to the animal facility, but not the records and wanted to get permission to conduct the inspection from the licensees by phone. After multiple attempts to call (by both parties) and waiting for a call back from either of the licensees, no contact was made with the licensees and the adult male needed to leave the facility and we left the property at 1 PM.

Additional Inspectors

Rosendale Marcy, Veterinary Medical Officer

Prepared By:

FRANK KATHARINE, D V M

FRANK KATHARINE, D V M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6091

Date:

12-JUL-2017

Received By:

Title:

Date:

12-JUL-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 17-AUG-2017

2.40(a)(2) CRITICAL REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***On May 23, 2017 during a previous inspection conducted by other APHIS inspectors, a female Ibex, Pixie, was observed to have a patchy, dull haircoat. She appeared to be underweight, as evidenced by protruding hip bones and a prominent spine. The facility representative stated that she had always been like that. At that time Pixie had not been examined by a veterinarian. On the current inspection conducted on August 17, 2017, we saw paperwork by the current veterinarian that Pixie was seen on May 27, 2017. In the veterinarian's report it was recorded that Pixie had a low body condition score and was thin and not thriving, it was the veterinarian's recommendation to cull the animal. The licensee did not cull the animal and the animal was found dead in her pen 2 weeks later.

The licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries and provide a method for humane euthanasia. The licensee is required to follow the guidance of their attending veterinarian.

3.125(a) REPEAT

FACILITIES, GENERAL.

An enclosure that housed a female Dromedary camel and her baby was lined with broken fencing that had sharp points that were poking straight up and some points were poking straight into the pen. All enclosures must be kept in good repair and free of sharp points and protruding edges in order to protect the animals from injury. A system of timely identification, facility repair, and maintenance must be in place.

3.127(a) REPEAT

FACILITIES, OUTDOOR.

The enclosure housing the eland did not have adequate shade to protect the animal from direct sunlight during

Prepared By: SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:
28-AUG-2017

Date:
28-AUG-2017



Inspection Report

certain times of the day. The areas of shade provided was not large enough to allow the animal within the enclosure to be protected from direct sunlight throughout the entire day. During the time of inspection a majority of the shade provided by the structure was on the outside of the pen and not benefiting the eland in providing an adequate amount of shade. Inadequate protection from direct sunlight may lead to overheating or discomfort from squinting.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

***Near the eland enclosure, a large portion of the perimeter fence was in disrepair. One of the metal poles stabilizing the chain link was leaning outward, away from the property at approximately a 30 degree slant. Another metal stabilizing pole was leaning inward. Along one section of the fence, the metal bar at the top of the fence was broken into two pieces.

*** Near the camel and sheep enclosure, an approximately 100 foot long segment of the perimeter fence was less than 6 feet tall due to the amount of dirt and land that was leaning against it.

***Near the enclosures containing the coati, a tree was leaning on the perimeter fence causing the fence to lean downward.

All of the issues cited above decrease the efficacy of the perimeter fence to function as a secondary containment system for the regulated animals and to protect them from outside animals entering the premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

This inspection and exit interview were conducted with the facility representatives.

Additional Inspectors

Hammel Kurt, Supervisory Animal Care Specialist

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

28-AUG-2017

Date:

28-AUG-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 17-AUG-2017

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During this inspection, it was observed that several animals are in need of immediate veterinary care.

***A male Dromedary camel, Zo, has a large growth on his chest pad that was irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth was covered with flies. The licensee was still unable to provide documentation of a physical exam, diagnosis, or treatment plan provided by the attending veterinarian. The licensee periodically applies fly spray to the area.

***An adult female Fennec fox, Foxy, has cloudy yellow liquid draining from her left ear and it is drying up and covering her inner ear. A facility representative stated that she has called and emailed (this email was shown to the VMO) her veterinarian about the ear discharge that she noticed 5 days ago. During the inspection, the facility representative was able to make an appointment with her veterinarian for August 21, 2017. The fox still has hair loss over the knuckles of all four feet and has excessively long nails that need to be trimmed.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing. The facility representative provided documentation showing that the veterinarian had examined and treated the goat on March 9, 2017. The licensee stated that the veterinarian had rechecked the goat on March 16, 2017, however did not have any documentation regarding that visit. The goat is still not weight-bearing during the inspection conducted today on August 8, 2017. The goat was rechecked on May 27, 2017 by the veterinarian and it was his recommendation that 1) more diagnostic work needs to be done (radiographs, bloodwork, appropriate serology), or 2) if the facility representatives do not want to proceed with more diagnostics then it is his recommendation to cull the animal. The veterinarian stated in his report that the animal did not appear to be in pain and the NAIDS used previously provided no improvement.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

17-AUG-2017

Date:

17-AUG-2017



Inspection Report

veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests, and the outcome of those tests that were performed by the veterinarian.

From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries. The licensee is required to follow the guidance of their attending veterinarian.

A complete routine inspection was conducted on August 17, 2017. This report is limited to the direct non-compliant items identified on the inspection. A second inspection report containing indirect non-compliant items and one critical non-compliant item will follow.

This inspection and exit interview were conducted with the facility representatives on August 17, 2017.

Additional Inspectors

Hammel Kurt, Supervisory Animal Care Specialist

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Date:

17-AUG-2017

Received By:

Title:

Date:

17-AUG-2017

Exhibit 7



U.S. Department of Agriculture

Office of Inspector General



Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers

Audit Report 33002-4-SF
May 2010



U.S. Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



DATE: May 14, 2010

REPLY TO
ATTN OF: 33002-4-SF

TO: Cindy J. Smith
Administrator
Animal and Plant Health Inspection Service

ATTN: Joanne Munno
Acting Deputy Administrator
Marketing and Regulatory Programs Business Services

FROM: Gil H. Harden /s/
Assistant Inspector General
for Audit

SUBJECT: APHIS Animal Care Program – Inspections of Problematic Dealers

This report presents the results of the subject review. Your written response to the official draft report is included at the end of the report. Excerpts from the response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on the information in your written response, we have accepted your management decision on Recommendations 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13 and 14. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

Based on your written response, management decision has not been reached on Recommendations 4 and 11. The information needed to reach management decision on these recommendations is set forth in the OIG Position section after each recommendation. In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days providing the information requested in the OIG Position section. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance, and final action to be taken within 1 year of each management decision.

We appreciate the courtesies and cooperation extended to us by members of your staff during the review.

Table of Contents

Executive Summary	1
Background & Objectives	4
Background	4
Objectives	7
Section 1: Enforcement	8
Finding 1: AC’s Enforcement Process Was Ineffective Against Problematic Dealers	8
Recommendation 1	14
Recommendation 2	15
Recommendation 3	15
Recommendation 4	16
Recommendation 5	16
Finding 2: AC Inspectors Did Not Cite or Document Violations Properly To Support Enforcement Actions	17
Recommendation 6	23
Recommendation 7	24
Section 2: Stipulations	25
Finding 3: APHIS’ New Penalty Worksheet Calculated Minimal Penalties	25
Recommendation 8	30
Recommendation 9	30
Finding 4: APHIS Misused Guidelines to Lower Penalties for AWA Violators	30
Recommendation 10	34
Recommendation 11	35
Section 3: Internet	36
Finding 5: Some Large Breeders Circumvented AWA by Selling Animals Over the Internet	36
Recommendation 12	38

Section 4: Information System	39
Finding 6: Security Controls Need to Be Addressed for AC's New Information System	39
Recommendation 13.....	40
Section 5: Debt Management	41
Finding 7: IES Did Not Adequately Establish Payment Plans for Stipulations	41
Recommendation 14.....	42
Scope and Methodology.....	43
Abbreviations	46
Exhibit A: Summary of Monetary Results.....	47
Exhibit B: Audit Sites Visited.....	48
Exhibit C: Violations Cited at Dealer Facilities in FYs 2006-2008.....	51
Exhibit D: Additional Photos Taken During Site Reviews.....	52
Agency's Response	55

Animal Care Program – Inspections of Problematic Dealers

Executive Summary

In the last 2 years, there has been significant media coverage concerning large-scale dog dealers (i.e., breeders and brokers)¹ that failed to provide humane treatment for the animals under their care. The breeders, negatively referred to as “puppy mills,” have stirred the interest of the public, Congress, animal rights groups, and others. Accordingly, we conducted an audit of the Animal and Plant Health Inspection Service’s (APHIS) Animal Care (AC) unit, which is responsible for enforcing the Animal Welfare Act (AWA). The audit focused on AC’s inspections of problematic dealers. It is the latest in a series of audits related to AWA.²

In our last audit on animals in research facilities,³ we found that the agency was not aggressively pursuing enforcement actions against violators of AWA and that it assessed minimal monetary penalties against them.⁴ APHIS agreed to take corrective action by incorporating more specific guidance in its operating manual to address deficiencies in enforcement actions. It also agreed to revise its penalty worksheet to generate higher and more appropriate penalties.

In this audit, one objective was to review AC’s enforcement process against dealers that violated AWA. Accordingly, we focused on dealers with a history of violations in the past 3 years.⁵ Another objective was to review the impact of recent changes the agency made to the penalty assessment process. We identified the following major deficiencies with APHIS’ administration of AWA:

- *AC’s Enforcement Process Was Ineffective Against Problematic Dealers.* AC’s enforcement process was ineffective in achieving dealer compliance with AWA and regulations, which are intended to ensure the humane care and treatment of animals. The agency believed that compliance achieved through education⁶ and cooperation would result in long-term dealer compliance and, accordingly, it chose to take little or no enforcement action against most violators.

However, the agency’s education efforts have not always been successful in deterring problematic dealers from violating AWA. During FYs 2006-2008, at the re-inspection of 4,250 violators, inspectors found that 2,416 repeatedly violated AWA, including some that ignored minimum care standards. Therefore, relying heavily on education for serious or repeat violators—without an appropriate level of enforcement—weakened the agency’s ability to protect the animals.

- *AC Inspectors Did Not Cite or Document Violations Properly To Support Enforcement Actions.* Many inspectors were highly committed, conducting timely and thorough

¹ Breeders are those that breed and raise animals on the premises; brokers negotiate or arrange for the purchase, sale, or transport of animals in commerce.

² Refer to the Background section for more information on related prior audits.

³ Audit No. 33002-3-SF, “APHIS Animal Care Program Inspection and Enforcement Activities” (September 2005).

⁴ AWA refers to monetary penalties as civil penalties.

⁵ APHIS synonymously used the terms violations, alleged violations, and noncompliant items in its documents. For simplicity, we used the term violations in this report.

⁶ Education was generally provided through the inspectors’ interaction with dealers during routine inspections as well as periodic seminars.

inspections and making significant efforts to improve the humane treatment of covered animals. However, we noted that 6 of 19 inspectors⁷ did not correctly report all repeat or direct violations (those that are generally more serious and affect the animals' health). Consequently, some problematic dealers were inspected less frequently.

In addition, some inspectors did not always adequately describe violations in their inspection reports or support violations with photos. Between 2000 and 2009, this lack of documentary evidence weakened AC's case in 7 of the 16 administrative hearings involving dealers.⁸ In discussing these problems with regional management, they explained that some inspectors appeared to need additional training in identifying violations and collecting evidence.

- *APHIS' New Penalty Worksheet Calculated Minimal Penalties.* Although APHIS previously agreed to revise its penalty worksheet to produce "significantly higher" penalties for violators of AWA, the agency continued to assess minimal penalties that did not deter violators. This occurred because the new worksheet allowed reductions up to 145 percent of the maximum penalty. While we are not advocating that APHIS assess the maximum penalty, we found that at a time when Congress tripled the authorized maximum penalty to "strengthen fines for violations," the actual penalties were 20 percent less using the new worksheet as compared to the worksheet APHIS previously used.
- *APHIS Misused Guidelines to Lower Penalties for AWA Violators.* In completing penalty worksheets, APHIS misused its guidelines in 32 of the 94 cases we reviewed to lower the penalties for AWA violators. Specifically, it (1) inconsistently counted violations; (2) applied "good faith" reductions without merit; (3) allowed a "no history of violations" reduction when the violators had a prior history; and (4) arbitrarily changed the gravity of some violations and the business size. AC told us that it assessed lower penalties as an incentive to encourage violators to pay a stipulated amount rather than exercise their right to a hearing.
- *Some Large Breeders Circumvented AWA by Selling Animals Over the Internet.* Large breeders that sell AWA-covered animals over the Internet are exempt from AC's inspection and licensing requirements due to a loophole in AWA. As a result, an increasing number of these unlicensed breeders are not monitored for their animals' overall health and humane treatment.

Recommendation Summary

To ensure dealer compliance with AWA, AC should modify its *Dealer Inspection Guide* (Guide) to require enforcement action for direct and serious violations. We also recommend that "no action" be deleted as an enforcement action in the Guide.

⁷ In 2008, AC employed 99 inspectors. We accompanied 19 on their inspections of dealer facilities.

⁸ During this period, administrative law judges or the Department's Judicial Officer rendered decisions in 16 cases involving dealers. We reviewed all 16.

To increase the effectiveness of inspections, AC should provide more comprehensive training and detailed guidance to its inspectors and supervisors on direct and repeat violations, enforcement procedures, and evidentiary requirements (e.g., adequately describing violations).

To calculate more reasonable penalties, APHIS should limit total reductions on its penalty worksheet to less than 100 percent. We also recommend that the agency ensure its penalty guidelines are consistently followed and that it include instructions to count each animal as a separate violation in cases involving animal deaths and unlicensed wholesale activities.

To prevent large breeders from circumventing AWA requirements, APHIS should propose that the Secretary seek legislative change to exclude these breeders from the definition of “retail pet store,” and require that all applicable breeders that sell through the Internet be regulated under AWA.

Agency Response

In its written response, dated April 23, 2010, APHIS concurred with the reported findings and recommendations. APHIS’ response is included at the end of this report.

OIG Position

We accept APHIS’ management decision on Recommendations 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13 and 14. The actions needed to reach management decision on Recommendations 4 and 11 are provided in the OIG Position section after these recommendations.

Background & Objectives

Background

In 1966, Congress passed Public Law 89-544, known as the Laboratory Animal Welfare Act, to regulate the humane care and handling of dogs, cats, and other laboratory animals. The law was amended in 1970 (Public Law 91-579), changing the name to AWA. This amendment also authorized the Secretary of Agriculture to regulate other warm-blooded animals when used in research, exhibition, or the wholesale pet trade. Additional amendments to the law were passed in 1976, 1985, 1990, 2002, and 2008—each adding new regulated activities for warm-blooded animals.

APHIS' AC unit enforces AWA based on the policies established by the Secretary. AC is headquartered in Riverdale, Maryland and has regional offices in Raleigh, North Carolina and Fort Collins, Colorado. The agency employs 99 inspectors,⁹ who are dispersed throughout the country, to conduct inspections of all licensed and registered facilities covered under AWA and to follow up on complaints of abuse and noncompliance. In FY 2008, the inspectors conducted 15,722 inspections on licensed and registered facilities. In FY 2008, APHIS received an appropriation of \$874 million; AC's portion was \$21 million, as specified in the Consolidated Appropriations Act.

In the wholesale pet trade, there are two types of licensed dealers: breeders (those that breed and raise animals on the premises) and brokers (those that negotiate or arrange for the purchase, sale, or transport of animals in commerce). In FY 2008, there were 4,604 licensed breeders and 1,116 licensed brokers.

Before AC issues a license, it conducts a pre-licensing inspection because by law applicants must be in full compliance with AWA and regulations. After a license is issued, AC inspectors perform unannounced inspections at least biennially to ensure the facilities remain in compliance with AWA. If an inspector finds AWA violations, the dealer is given anywhere from a day to a year to fix the problems depending on their severity. During our site visits, the inspectors gave the dealers an average of 16 days to correct their violations.

After inspectors are hired, they receive 5-6 weeks initial training on animal care standards and inspections. Thereafter, they receive annual training in the form of national or regional conferences as well as meetings with their supervisors. To ensure the inspectors consistently apply their training, APHIS also developed field standards, i.e., the *Dealer Inspection Guide*. See table 1 for the number of inspections AC conducted during FYs 2006-2008.

⁹ In FY 2008.

Table 1: Inspections Conducted in FYs 2006-2008

	2006	2007	2008
No. of Inspectors	99	101	99
No. of Inspections*	17,978	16,542	15,722
Average Inspections Per Inspector	182	164	159
* These numbers include inspections on all licensees (i.e., dealers and exhibitors) and registrants (i.e., research facilities) under AWA.			

Since 1994, AC tracked the inspections through its Licensing and Registration Information System (LARIS). LARIS included a risk-based inspection system, which calculated the minimum number of inspections that were needed annually based on a continual risk assessment of each facility's violation history. However, both our 1995 and 2005 audits found that LARIS generated unreliable and inaccurate information.¹⁰ AC agreed with our conclusions and hired a contractor to develop a new system—Online Animal Care Information System (OACIS). Later, AC determined that the OACIS contractor was not meeting the program's requirements and terminated the contract. APHIS then contracted with another system developer to build the Animal Care Information System, which was implemented in March 2009.

ENFORCEMENT PROCESS

When a violation is identified during an inspection of a dealer's facility, AWA authorizes AC to take remedial action against the violator by assessing a fine, suspending or revoking the license, or pursuing criminal penalties.¹¹ Before taking these actions, AC also considers other enforcement options: no action, a letter of information (an informal warning letter), an official warning letter, and an investigation.¹²

Investigations are conducted by APHIS' Investigative and Enforcement Services unit, which carries out enforcement activities and provides support to all APHIS programs. An investigation may result in a stipulation, suspension or revocation of license, or confiscation of animals. A stipulation is an agreement between APHIS and the violator, where the violator can pay a reduced penalty by giving up his right to a formal administrative hearing. APHIS' Financial Management Division in Minneapolis is responsible for collecting the stipulations and monetary penalties.

Cases that warrant formal administrative action undergo Office of the General Counsel review for legal sufficiency prior to issuance of a formal administrative complaint before the U.S. Department of Agriculture's (Department) administrative law judges. If the case is appealed, a final decision is made by the Department's Judicial Officer. Formal actions may result in license suspensions or revocations, cease-and-desist orders, monetary penalties, or combinations of these penalties.

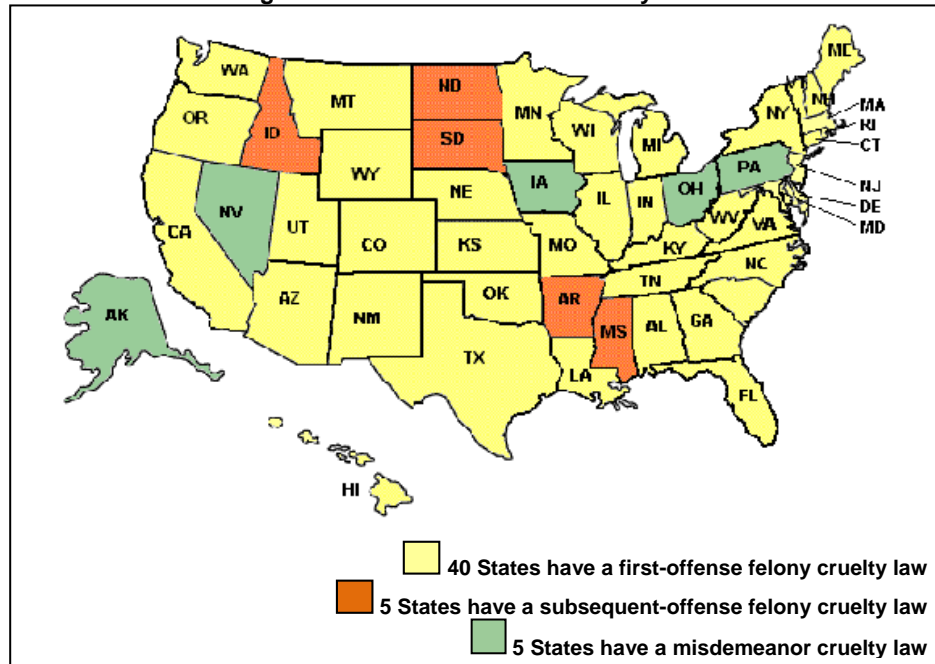
¹⁰ OIG Audit No. 33600-1-Ch, "Enforcement of the Animal Welfare Act" (January 1995) and Audit No. 33002-3-SF, "APHIS Animal Care Program Inspection and Enforcement Activities" (September 2005).

¹¹ 7 *United States Code* (U.S.C.) §2149 (January 3, 2007).

¹² *Dealer Inspection Guide*, ch. 9.3 (May 2002). In 2007, AC discontinued "letter of information" as an enforcement option.

AWA authorizes APHIS to cooperate with the States,¹³ all of which have animal cruelty laws. However, although AC established memoranda of understanding with a few States, it did not establish internal procedures to forward animal cruelty and abuse cases to the State officials. Generally, AC regional management relies on the inspectors' discretion to notify State and local officials because the inspectors may have established relationships with these officials. Figure 1 shows which States have first-offense, subsequent-offense, or misdemeanor cruelty laws.

Figure 1: States With Animal Cruelty Laws



RELATED PRIOR AUDITS

This audit is the latest in a series of audits related to AC's administration and enforcement of AWA. Three of these audits focused on dealers and research facilities:

In 1992, OIG conducted an audit on animal care and concluded that APHIS could not ensure the humane care and treatment of animals at all dealer facilities as required by AWA.¹⁴ APHIS did not inspect dealer facilities with reliable frequency, and it did not enforce timely correction of violations found during inspections. Moreover, APHIS did not timely penalize facilities found to be in violation of AWA.

In 1995, OIG conducted a follow-up audit and reported that APHIS did not fully address problems disclosed in the prior report.¹⁵ APHIS needed to take stronger enforcement actions to correct serious or repeat violations of AWA. Dealers and other facilities had little incentive to comply with AWA because monetary penalties were, in some cases, arbitrarily reduced and were often so low that violators regarded them as a cost of business.

¹³ 7 U.S.C. §2145(b) (January 3, 2007).

¹⁴ Audit No. 33002-1-Ch, "APHIS Implementation of the Animal Welfare Act" (March 1992).

¹⁵ Audit No. 33600-1-Ch, "APHIS Enforcement of the Animal Welfare Act" (January 1995).

In 2005, OIG conducted an audit on animals in research facilities and found that the agency was not aggressively pursuing enforcement actions against violators of AWA and that it assessed minimal monetary penalties against them.¹⁶ Inspectors believed the lack of enforcement action undermined their credibility and authority to enforce AWA. In addition to giving an automatic 75-percent “discount,” APHIS offered other concessions making the fines basically meaningless. Violators considered the monetary stipulation as a normal cost of business rather than a deterrent for violating the law.

Objectives

Our audit objectives were to (1) evaluate the adequacy of APHIS’ controls to ensure dealer compliance with AWA, (2) review the impact of recent changes to the penalty assessment process, and (3) evaluate AC’s new mission critical information system for reliability and integrity. Due to unexpected delays in implementing the new system, we were unable to complete the third objective.

¹⁶ Audit No. 33002-3-SF, “APHIS Animal Care Program Inspection and Enforcement Activities” (September 2005).

Section 1: Enforcement

Finding 1: AC's Enforcement Process Was Ineffective Against Problematic Dealers

During FYs 2006-2008, Animal Care's (AC) enforcement process was ineffective in achieving dealer compliance with the Animal Welfare Act (AWA) and regulations. This occurred because the agency believed that compliance achieved through education and cooperation would result in long-term dealer compliance. Accordingly, the agency chose to take little or no enforcement actions against violators. However, taking this position against serious or repeat violators weakened the agency's ability to protect the animals. As a result, 2,416 of 4,250 violators repeatedly violated AWA, including some that ignored minimum care standards, which are intended to ensure the humane care and treatment of animals.

AWA authorizes APHIS to take remedial action against AWA violators by assessing monetary penalties, suspending or revoking licenses, or pursuing criminal penalties.¹⁷ The *Dealer Inspection Guide* (Guide), AC's field standards, further elaborates on these enforcement actions.

AC administers AWA through the licensing and inspection of dealers (i.e., breeders and brokers). The enforcement process begins when violations¹⁸ are identified during an inspection of a dealer's facility. If AC decides to take enforcement action, it may refer the case to APHIS' Investigative and Enforcement Services (IES) unit. The resulting investigation can lead to a stipulation (an agreement between APHIS and the violator, where the violator can pay a reduced penalty by giving up his right to a formal administrative hearing), suspension or revocation of license, or confiscation of animals. However, AC may elect to take no action or a lesser action, such as a letter of information or an official warning.¹⁹

During the 3-year period, AC inspected 8,289 licensed dealers and found that 5,261 violated AWA (see exhibit C for the number and types of violations that occurred). At the re-inspection of 4,250 violators,²⁰ inspectors found that 2,416 repeatedly violated AWA, including 863 that continued to violate the same subsections.

To evaluate the adequacy of AC's controls over dealer compliance with AWA, we reviewed guidelines, management policies, the inspectors' practices, and enforcement actions against AWA violators. We identified four practices that demonstrate AC's leniency towards dealers that violate AWA:

- No Enforcement Action for First-time Violators. Typically, AC does not take enforcement action against first-time violators, even if the inspector identifies a direct violation (i.e., one that has a high potential for adversely affecting the health of an animal). The Guide states that inspectors "**may** recommend an enforcement action" for violations that are direct or serious, although the Guide does not define serious.²¹ Based

¹⁷ 7 U.S.C. §2149 (January 3, 2007).

¹⁸ APHIS synonymously used the terms violations, alleged violations, and noncompliant items in its documents. For simplicity, we used the term violations in this report.

¹⁹ *Dealer Inspection Guide*, ch. 9.3 (May 2002). In 2007, AC discontinued "letter of information" as an enforcement option.

²⁰ AC did not re-inspect 1,011 violators because some were not scheduled for re-inspection until FY 2009, while others were no longer licensed.

²¹ *Dealer Inspection Guide*, ch. 9.3 (May 2002).

on our observations and analysis, since inspectors were given the choice of not recommending an action, generally they did not.

- Inadequate Enforcement for Repeat Violators. The Guide states that inspectors “**must** recommend an enforcement action” for repeat violators; however, one of the choices is to take no action,²² which is what the inspectors did in 52 percent of the repeat violations we reviewed.

Also, AC narrowly defines a repeat violator as one that consecutively violates the same subsection of the animal welfare regulations. This means that on successive inspections a dealer can violate different sections of the regulations without being labeled a repeat violator and, therefore, the inspector is not required to recommend an enforcement action.

- Written Instructions Not Always Followed. In 2007, the national office provided instructions entitled, “Animal Care Enforcement Action Guidance for Inspection Reports,” to aid its inspectors in selecting enforcement actions. These instructions were never incorporated in AC’s Guide and, therefore, supervisors and regional management did not always ensure that the inspectors followed them. When instructions specified a stronger action, such as a stipulation or litigation, the inspectors were allowed to recommend a more lenient option.
- Delayed Confiscation. AWA allows APHIS to confiscate any animal found to be suffering as a result of a failure to comply with AWA.²³ APHIS added a provision requiring that the violator be given a final opportunity to take corrective action before confiscation can occur,²⁴ even in extreme cases where animals are dying or suffering.²⁵

To evaluate the effect of these practices, we selected 8 States and visited 50 breeders and 18 brokers (68 in total) that had been cited for at least one violation in their previous 3-year inspection history.²⁶ AC generally took little or no enforcement actions against these facilities during the period (see chart 1).

²² *Dealer Inspection Guide*, ch. 9.3 (May 2002).

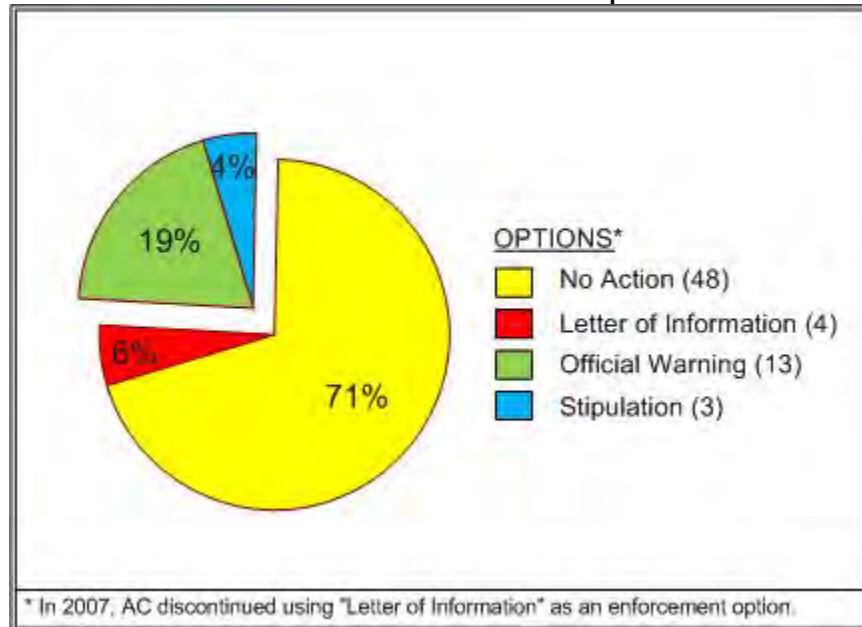
²³ 7 U.S.C. § 2146(a) (January 3, 2007).

²⁴ 9 *Code of Federal Regulations* (CFR) §2.129(a) (January 1, 2005) and *Dealer Inspection Guide*, ch. 8.6.1 (April 2000).

²⁵ AC defines suffering as “any condition that causes pain or distress . . . Examples [include]: animals with serious medical problems that are not receiving adequate veterinary care; animals without adequate food or water; animals exposed to temperature extremes without adequate shelter or bedding; and animals held in enclosures that are filthy. Animals do not need to be in jeopardy of dying to be in a state of suffering.” AC Policy No. 8 (May 8, 2001).

²⁶ We visited a total of 81 dealers in 8 States but 13 had no history of violations and, therefore, were not part of our sample for determining the effectiveness of AC’s enforcement process.

Chart 1: Enforcement Decisions for 68 Sampled Violators



The agency believed that compliance achieved through education and cooperation would result in long-term dealer compliance. Education was generally provided through the inspectors' interaction with dealers during routine inspections as well as periodic seminars. While we agree that teaching dealers the skills to properly care for their animals should improve the animals' health and wellbeing, the quality of the education depends on the inspectors' experience and skills. Also, the seminars were not mandated but attended voluntarily. One inspector told us the dealers that attended the canine care classes were often not the ones that needed them.

Expecting that the dealers would improve their standards of care, the agency chose to take little or no enforcement actions against most violators. However, education efforts have not always been successful in deterring problematic dealers from violating AWA. Although AC might decide on little or no actions when circumstances warrant, taking this position against serious or repeat violators weakened the agency's ability to ensure compliance with AWA.

During our visits, AC cited 20 of the 68 dealers for repeat violations (nearly 30 percent). The following examples demonstrate the agency's leniency towards violators, the ineffectiveness of its enforcement process, and the harmful effect they had on the animals. All of the examples below involve dealers that had a history of violations over at least three inspections before our visit. However, the agency took little or no enforcement actions against them. During our visit, we found 12 dealers (18 percent) with violations that had escalated to the serious or grave levels, which directly affected the animals' health. If AC had taken action earlier, it may have prevented the situation from worsening.

Example 1: At a facility in Oklahoma with 83 adult dogs, AC cited the breeder for a total of 20 violations (including 1 repeat and 1 direct) during 5 inspections from April 2006 to December 2007. The direct violation concerned the lack of adequate veterinary care for three dogs with

hair loss over their entire bodies and raw, irritated spots on their skin.²⁷ Despite the continuing violations, AC did not take enforcement actions due to its lenient practices against repeat violators.

During our visit to the facility in July 2008, AC cited the breeder for another 11 violations (including 1 repeat and 3 direct). One of the direct violations involved a dog that had been bitten by another dog. The first dog was left untreated for at least 7 days, which resulted in the flesh around the wound rotting away to the bone (see figure 2).

Figure 2: Live Dog With Mutilated Leg



The breeder admitted the dog had been in this condition for at least 7 days. The inspector correctly required the dog to be taken to a local veterinarian who immediately euthanized it.

AC did refer the case to IES for investigation, but only after another direct violation was documented in a subsequent inspection after our visit. Based on the results of the investigation, AC recommended a stipulation. However, as of early June 2009—11 months after our visit—the violator had not yet been fined.²⁸

Also, although AWA states that “the Secretary is authorized to cooperate with the officials of the various States . . . in carrying out the purpose of [AWA],”²⁹ AC did not establish procedures to forward animal cruelty cases to these officials. In this case, AC did not notify the State of Oklahoma (which has first-offense felony laws for animal cruelty) of the inhumane treatment the dog received.

²⁷ After the direct violation was cited in December 2007, the inspector re-inspected the facility in January 2008 and found that the attending veterinarian prescribed treatment for the dogs.

²⁸ For stipulation cases closed between October 2006 and April 2008, it took IES an average of 10 months to issue a stipulation.

²⁹ 7 U.S.C. §2145(b) (January 3, 2007).

Example 2: At another facility in Oklahoma with 96 adult dogs, AC cited the breeder for 23 violations (including 12 repeats) during 4 inspections from August 2005 to September 2007. Although national office instructions state, “if compliance [is] not attained quickly, proceed to other enforcement steps,” AC could not explain why it took no enforcement action.³⁰

During our visit to the facility in July 2008, AC cited the breeder for another 11 violations (including 1 repeat). We found numerous dogs infested with ticks. In one case, the ticks completely covered the dog’s body (see figure 3). The dog appeared extremely tired and stressed and did not move, even when we approached it.

Figure 3: Dog with Excessive Ticks



The inspector required the breeder to take only eight of the numerous infested dogs to a veterinarian.³¹ However, since the inspector did not identify the dogs in the inspection report, it is uncertain if this dog was treated.

Although the inspector was concerned that the dogs might be anemic, she cited the ticks as an indirect violation (i.e., not affecting the animal’s health).³² AC referred the case to IES for investigation. As of early June 2009—11 months after our visit—the case was still under investigation.

Example 3: At a facility in Ohio with 88 adult dogs, AC cited the breeder for 23 violations (including 7 repeats) during 3 inspections from August 2005 to January 2008. In July 2007, AC sent an official warning to correct the identified care and cleanliness violations or face a “more severe penalty.” In January 2008, AC found the same violations but, instead of imposing a more severe penalty, sent another official warning.

³⁰ *Animal Care Enforcement Action Guidance for Inspection Reports* distributed to AC staff in 2007.

³¹ According to APHIS, the inspector documented and photographed the violation for enforcement action. However, we did not observe her taking any photos when we were there, and afterwards she could not produce them.

³² See Finding 2 for additional information about indirect and direct violations.

National instructions state that an official warning can be sent if no other enforcement action was taken against the violator in the previous 3 years.³³ In this case, the violator had received an official warning 7 months before so a more serious action was warranted. When we asked AC why a more serious action was not taken, regional management told us that the breeder was making progress. Consequently, national instructions were not followed in order to give the breeder “a reasonable opportunity” to comply with AWA.

Four months later, during our visit to the facility in June 2008, AC cited the breeder for another 9 violations (including 4 repeats). For example, a large amount of feces and urine was pooled under the kennels producing an overpowering odor (see figure 4). The inspector recommended no enforcement action.

Figure 4: Deep Pool of Feces and Urine Under Occupied Kennel



The breeder was cited for cleaning and sanitation violations during this inspection.

Four months later, the breeder was re-inspected and cited for 4 more violations (including 3 repeats). Again, AC took no enforcement action because the violator was “making credible progress,” as noted in AC’s “Enforcement Action Option Worksheet.”

Example 4: At a facility in Oklahoma with 219 adult dogs, AC cited the breeder for 29 violations (including 9 repeats) during 3 inspections from February 2006 to January 2007.³⁴ AC requested an IES investigation in May 2007. However, before the investigation resulted in any enforcement action, the inspector conducted another inspection in November 2007 and found five dead dogs and other starving dogs that had resorted to cannibalism. Despite these conditions, AC did not immediately confiscate the surviving dogs and, as a result, 22 additional dogs died before the breeder’s license was revoked.

³³ *Animal Care Enforcement Action Guidance for Inspection Reports* distributed to AC staff in 2007.

³⁴ The facility was on our original sample list. However, we did not visit it because its license was revoked before our fieldwork. We performed a file review instead.

AWA states, “the Secretary shall promulgate . . . regulations . . . to permit inspectors to confiscate or destroy in a humane manner any animal found to be suffering as a result of a failure to comply with any provision of the [AWA].”³⁵ We asked why the dogs were not confiscated when the inspector first found the dead and starving dogs. AC responded that its regulations require that the violator be given an opportunity to correct the condition before any confiscation can occur.³⁶

In the end, the breeder’s license was revoked and the surviving dogs were placed in new homes within a year. However, our concern was that AC should have confiscated the dogs instead of giving the breeder another opportunity to correct the condition. If AC had the regulatory authority to immediately confiscate any animals in extreme cases such as this, some of the 22 additional dogs may have survived.

In summary, according to AC’s Guide, the goal of the agency’s enforcement is to gain dealer compliance with AWA. However, some of AC’s practices weaken its ability to accomplish this. Specifically, AC generally does not take enforcement action until a dealer is cited for repeat violations, which are narrowly defined. The Guide also lists “no action” as an enforcement action, which it is not. While taking no action may be reasonable at times, national guidance does require stronger enforcement actions in more serious situations. However, AC staff did not always follow the guidance and, consequently, many dealers were undeterred from continuing to violate AWA. See exhibit D for more examples of dealer noncompliance with AWA.

To ensure that animals covered by AWA receive humane care and treatment, the agency should require an enforcement action for direct and serious violations; remove “no action” as an enforcement action; and establish controls to ensure inspectors and their supervisors follow national enforcement action guidance in selecting the appropriate option. Also, the agency should modify its regulations to allow immediate confiscation of suffering animals. Last, in States that have felony laws for animal cruelty, the agency should establish procedures to refer such cases to State government.

Recommendation 1

Modify the *Dealer Inspection Guide* to require an enforcement action for direct and serious violations. Also, define a serious violation in the Guide.

Agency Response

APHIS agrees with this Recommendation. We will provide AC employees with guidance regarding all enforcement action options including direct and serious Non-Compliant Items (NCIs)³⁷ drawn from OIG recommendations, Office of the General Counsel guidance, and legal decisions. APHIS will incorporate the requirements in a new document entitled “Inspection Requirements.” This document will be distributed to and discussed with AC employees during the AC National Meeting, April 19-22, 2010. APHIS will update the *Dealer Inspection Guide* to include the information in the “Inspection Requirements”

³⁵ 7 U.S.C. § 2146(a) (January 3, 2007).

³⁶ 9 CFR §2.129(a) (January 1, 2005).

³⁷ i.e., violations.

document and consolidate it with the *Research Facility Inspection Guide* and the *Exhibitor Inspection Guide* into one comprehensive document. APHIS anticipates completing the document consolidation by September 30, 2010.

OIG Position

We accept APHIS' management decision on this recommendation.

Recommendation 2

Remove "no action" as an enforcement action in the *Dealer Inspection Guide*.

Agency Response

APHIS agrees with this Recommendation. We changed the title of the "Enforcement Action Worksheet" to "Enforcement Action Option Worksheet" and changed the flow chart title to read "Enforcement Actions (EA) Guidance for Inspection Reports." We modified these to clarify that: (1) inspectors will forward to AC management a recommended EA (they believe will be most effective in attaining compliance) for all repeats and directs and any facility with inspection results that cause it to go from a lower frequency to High Inspection Frequency; and (2) taking no immediate action requires Regional Director approval and a 90-day reinspection to determine if compliance was achieved or if EA is necessary. Copies of the modified worksheet and flow chart are attached. AC will retain copies of all EA sheets in the facility files in accordance with records retention guidelines. AC's supervisors verbally directed their employees to utilize the modified EA worksheet beginning on December 1, 2009. In addition, this will be reemphasized at the National Meeting.

OIG Position

We accept APHIS' management decision on this recommendation.

Recommendation 3

Incorporate instructions provided in the "Animal Care Enforcement Actions Guidance for Inspection Reports" into the *Dealer Inspection Guide* to ensure inspectors and their supervisors follow them in selecting the appropriate enforcement.

Agency Response

APHIS agrees with this Recommendation. We will provide AC employees with guidance regarding all EA options to recommend to AC management drawn from OIG recommendations, OGC guidance, and legal decisions. AC will incorporate the requirements in a new document entitled "Inspection Requirements." This document will be distributed and covered for AC employees during AC's National Meeting, April 19-22, 2010. APHIS will update the *Dealer Inspection Guide* to include the information in the "Inspection Requirements" document and consolidate it with the *Research Facility Inspection Guide* and the *Exhibitor Inspection Guide* into one comprehensive document. APHIS anticipates completing the document consolidation by September 30, 2010.

OIG Position

We accept APHIS' management decision on this recommendation.

Recommendation 4

Modify regulations to allow immediate confiscation where animals are dying or seriously suffering.

Agency Response

APHIS agrees with the intent of this Recommendation, but believes that current regulations are sufficient to allow immediate confiscation. We believe that we can effect the intent of the Recommendation by reviewing and clarifying the confiscation processes so that confiscations can be accomplished with maximum speed and effectiveness. We will distribute the clarified guidance to employees during AC's National Meeting, April 19-22, 2010.

OIG Position

We agree with APHIS' corrective action. However, since APHIS' planned action differs from OIG's recommendation, to achieve management decision APHIS needs to provide us with a copy of the clarified guidance on confiscation processes to demonstrate how it will effect the intent of the recommendation.

Recommendation 5

Establish written procedures to refer animal cruelty cases to the States that have such felony laws.

Agency Response

APHIS agrees with this Recommendation. While AWA does not give APHIS the authority to determine if State or local animal cruelty laws have been violated, we do believe that we should work with State and local authorities in our shared goal of eliminating animal cruelty. APHIS will refer issues of mutual interest to appropriate local authorities who enforce State laws and share inspection reports and EAs with several States that have State-level enforcement capability (e.g., Colorado, Iowa, Kansas, Missouri, and Pennsylvania). AC has modified the regional "Enforcement Action Option Worksheet" to include a check box for inspectors to indicate whether or not they contacted local or State authorities. A copy of the modified worksheet is attached. We will reemphasize with inspectors the need to notify appropriate authorities who enforce State humane laws during AC's National Meeting, April 19-22, 2010. APHIS will develop a Standard Operating Procedure to refer suspected animal cruelty incidents to appropriate authorities that have felony laws for animal cruelty. This document will be completed by September 30, 2010.

OIG Position

We accept APHIS' management decision on this recommendation.

Finding 2: AC Inspectors Did Not Cite or Document Violations Properly To Support Enforcement Actions

During their inspections of dealers, 6 of 19 inspectors did not correctly report all direct or repeat violations, which are generally more serious and require more frequent inspections. In addition, they did not always adequately describe violations in their inspection reports or support violations with photos. Although inspectors are allowed to use their judgment when the Guide does not give detailed instructions, some inspectors made poor decisions. In these cases, AC regional management told us that the inspectors may need additional training in identifying violations and collecting evidence. As a result, problematic dealers were re-inspected less frequently, which placed their animals at a higher risk for neglect or ill-treatment.³⁸ Also, between 2000 and 2009, the lack of documentary evidence weakened AC's case in 7 of the 16 administrative hearings decided during the period.

AC's Guide states that its purpose is to "provide APHIS Animal Care personnel with a clear, concise, user-friendly reference for inspecting the facilities of USDA licensed animal dealers. By facilitating the inspection process, the Guide will serve as a useful tool to improve the quality and uniformity of inspections, documentation, and enforcement of the Animal Care Program." However, the Guide does allow inspectors to use their judgment in the decision-making process.³⁹

We accompanied 19 of the 99 inspectors to observe their inspections of dealer facilities. While many inspectors are highly committed, conducting timely and thorough inspections and making significant efforts to improve the humane treatment of covered animals, we noted that six inspectors did not correctly report direct or repeat violations. Also, the inspectors did not always document violations with sufficient evidence.

DIRECT VIOLATIONS WERE NOT REPORTED CORRECTLY

The Guide defines a direct violation as one that "has a high potential to adversely affect the health and well-being of the animal."⁴⁰ These include: "infestation with large numbers of ticks, fleas, or other parasites" and "excessive accumulations of fecal or other waste material to the point where odors, disease hazards, or pest control problems exist." In such cases, the inspector must re-inspect the facility within 45 days to ensure that the violator has taken timely actions to treat the suffering animals.

In contrast, an indirect violation is one that "does not have a high potential to adversely affect the health and well-being of the animal."⁴¹ These minor violations include: "inadequate records" and "surfaces not [resistant] to moisture." In such cases, a re-inspection may not occur for up to a year.

³⁸ AC uses a risk-based inspection system to determine frequency of inspections. If a dealer is not cited for direct or repeat violations, it decreases the frequency of his inspections.

³⁹ *Dealer Inspection Guide*, ch. 1.2.1 (March 1999).

⁴⁰ *Dealer Inspection Guide*, ch. 7.6.1 (April 2000).

⁴¹ *Dealer Inspection Guide*, ch. 7.6.1 (April 2000).

We found that 4 of the 19 inspectors incorrectly reported at least one direct violation as an indirect. After reviewing some of the examples, AC regional management responded that the inspectors may need additional training in identifying violations. Examples follow:

Example 1: At a breeder facility in Oklahoma with 96 adult dogs, we observed numerous dogs infested with ticks. One dog's face was covered with ticks (see figure 5).⁴²

Figure 5: Dog Covered with Feeding Ticks



The inspector required the breeder to take only eight of the infested dogs to a veterinarian. However, she did not identify the dogs in the inspection report or require documentation of the treatment. Therefore, we were not able to determine what happened to this dog.

The inspector reported the ticks as an indirect violation, even though excessive ticks are classified as a direct violation in AC's Guide.⁴³ The inspector told us that "without doing a physical exam on the dogs, it would be hard to tell exactly how detrimental the ticks were." Even so, she reported that some of the dogs "have enough ticks to be concerned about their hematocrit [a red blood cell ratio indicating anemic conditions]."

When we showed figure 5 to a senior veterinarian at AC's national office and the western regional director, they disagreed with the inspector's judgment of the violation. Both stated that it should have been reported as a direct violation in the inspection report.

Several months later, we asked for the treatment records to determine if the tick-infested dogs had received appropriate care, since AC's policy states that "every facility is expected to have a system of health records sufficiently comprehensive to demonstrate the delivery of adequate

⁴² See figure 3 in finding 1 for another dog in this facility with ticks completely covering the dog's body.

⁴³ *Dealer Inspection Guide*, ch. 7.6.1 (April 2000).

health care . . . [including] dates and other details of all treatments.”⁴⁴ The inspector told us she could not require the records because AC “cannot enforce policy” and current regulations do not require breeders to keep them.

We found that although AWA and AC regulations are silent on treatment records, they do require adequate veterinary care;⁴⁵ without these records, the inspector cannot determine if a violator corrected the problem. We also noted that this inspector had required such records at other facilities, as did other inspectors we travelled with.

Last, the inspector did not identify the specific animals in her inspection report. According to APHIS, the inspector documented and photographed the violation for enforcement action. However, we did not observe her taking any photos when we were there and she could not subsequently produce them. Without the documentation, it would be impossible to identify the animals during re-inspection to determine if they were treated or just disposed of.

Example 2: At a broker facility in Oklahoma with 525 adult dogs, we observed and the inspector reported “an excessive number of insects/ cockroaches” crawling on walls, the floor, and the ceiling. Food bowls were also infested with dead and live cockroaches (see figure 6).

Figure 6: Cockroach-Infested Food



The inspector required the broker to correct the contaminated food within 5 days. However, by not designating this as a direct violation, the inspector will not know if the correction occurred since she will not return for a re-inspection for a year.

The inspector cited the violation as an indirect, even though contaminated feed and heavy vermin infestation in storage or feeding area are classified as direct violations in the Guide.⁴⁶ She told us that “cockroaches in the feed [do not necessarily pose] immediate health concerns . . . animals

⁴⁴ AC Policy No. 3 (July 17, 2007).

⁴⁵ 7 U.S.C §2143(a) (January 3, 2007) and 9 CFR §2.40 (January 1, 2005).

⁴⁶ *Dealer Inspection Guide*, ch. 7.6.1 (April 2000).

can eat cockroaches and other bugs with no harm observed to their health.” The inspector’s supervisor supported the inspector’s assessment.

We contacted the directors of the Shelter Medicine Programs at three veterinary schools in California, Massachusetts, and New York to determine if the above situation constituted a direct violation.⁴⁷ All three directors disagreed with AC’s conclusion. The director of the Shelter Medicine Program at the University of California at Davis told us that “cockroaches have been linked to transmission of [parvovirus and] Salmonella and could be a physical . . . carrier of the disease. While it might not be harmful for the animals to eat a bug on occasion, having such a number of cockroaches in a food container (and in the environment generally) would potentially spread serious diseases . . . constituting a threat not only for animals but also for humans.”

The AC supervisor told us that if several inspectors evaluated the same situation, some would document the violation as a direct and others would not. This demonstrates AC’s lack of standardization on how animals and violators are treated. To ensure that inspectors cite direct violations consistently, AC should provide more detailed guidance on direct violations and provide more training to the inspectors in identifying them.

Example 3: At a breeder facility in Arkansas with about 100 adult dogs, we observed an excessive accumulation of fecal or other waste material in the drainage between two animal enclosures with overpowering odor (see figure 7).

The inspector did not cite this as a violation—either direct or indirect—even though excessive accumulations of fecal or other waste material are classified as a direct violation in the Guide.⁴⁸ He told us that the build-up of waste was outdoors and “although the build-up in the drain was unsightly and odorous, there was no evidence that it was affecting the animals adversely.” The inspector’s supervisor agreed with the citation.

The director of the Shelter Medicine Program at the University of California at Davis told us that “dogs’ feces carry bacteria, protozoa and parasites that can constitute a threat to dogs and humans. This is especially true if the feces are allowed to remain in the environment for greater than 12-24 hours, allowing harmful infectious agents to mature to the point that they can be spread (e.g., coccidia, which can cause severe disease in puppies).” The director also stated that it could be worse outdoors because “diseases are more likely to be spread through insects in an outdoor environment.”

⁴⁷ Shelter Medicine Programs advise and educate animal shelters, which are similar to kennels since they care for large numbers of animals in an enclosure, on the proper handling and care of the animals.

⁴⁸ *Dealer Inspection Guide*, ch. 7.6.1 (April 2000).

Figure 7: Excessive Accumulation of Feces and Urine



The inspector cited the breeder for failure to clean and sanitize the kennel, although this area was not included in the citation. Because the breeder was not cited for any direct violations, the inspector will not return for a re-inspection for a year.

In conclusion, by incorrectly reporting direct violations as indirects, AC re-inspected the violators less frequently, leaving the animals at a higher risk for neglect, illness, and ill-treatment.

REPEAT VIOLATIONS WERE NOT REPORTED CORRECTLY

The Guide defines a repeat violation as “a noncompliance cited on the previous inspection or previous consecutive inspections, which has not been corrected, and/or a new noncompliance of the same . . . subsection cited [in] the previous inspection.”⁴⁹ We found that 4 of the 19 inspectors did not follow the Guide in reporting repeat violations.⁵⁰

Example 4: At a facility in Oklahoma with 55 adult dogs, an inspector cited the breeder for 21 violations during 4 inspections from October 2005 to June 2008. One inspection identified a

⁴⁹ *Dealer Inspection Guide*, ch.7.3 (April 2000).

⁵⁰ Two of the inspectors were among the four that did not correctly cite direct violations.

violation involving broken wires in pens that needed repair. The next inspection identified sagging wire flooring that needed repair. While both violations fell under the same regulatory subsection⁵¹—unsafe structures in primary enclosures—the inspector did not report the second as a repeat because the violations were not exactly the same.

We asked the regional directors to comment on what constitutes a repeat violation. The western regional director confirmed that violations with the same citation should be considered repeats. He also stated if the inspectors do not properly identify repeat violations, then they may need more training. The eastern regional director added that in some cases the inspectors need to use their judgment because some subsections are very broad and require interpretation. In this example, however, we believe the citations were very similar and did not require interpretation.

AC requires that enforcement actions be taken against repeat violators. By failing to correctly report a repeat violation, enforcement action may be delayed and future inspections may be less frequent.

VIOLATIONS WERE NOT SUFFICIENTLY DOCUMENTED

In our evaluation of the enforcement process, we reviewed all administrative hearings related to licensed dealers between 2000 and 2009. We found that in 7 of the 16 decisions, the administrative law judges (ALJ) or the Department’s Judicial Officer (JO) dismissed part of the violations because of insufficient evidence, including inadequate description of the violation, lack of photo evidence, etc. In one case, the ALJ stated that APHIS “failed to prove the significant majority of the violations.” As a result, the ALJ reduced the violator’s fine from \$25,000 to \$2,500.⁵² (See finding 3 for additional discussion on this case and others.)

We reviewed the inspection reports for our sampled facilities and found that the 19 inspectors did not always document their inspections with sufficient evidence, as discussed below.

Example 5: We found that photos were not always taken when necessary, even though APHIS issues digital cameras to the inspectors as part of their field equipment. The Guide states that photos should be taken when a violation may result in an enforcement action (or case).⁵³ Therefore, the inspectors only took photos, although not always, when their inspections identified a repeat or direct violation since it is these violations that may result in an immediate enforcement action.

However, even first violations may eventually be used to support an enforcement action and should be supported with photos, whenever possible. For example, if a direct violation results in an ALJ case, AWA allows that all prior violations (including non-repeat and indirect) be considered in the calculation of a penalty. Most likely, these non-repeat or indirect violations were not photographed and may not be sufficiently supported to be included in the case. In an

⁵¹ 9 CFR §3.6 titled “Primary enclosures, General requirements” (January 1, 2005).

⁵² *Karen Schmidt*, AWA Docket No. 03-0024.

⁵³ The Guide does not require photos to be taken for *all* violations. This lack of evidence may weaken APHIS’ cases in future hearings.

ALJ decision dated March 7, 2006, the ALJ dismissed six violations in part because there was a lack of photo evidence.⁵⁴

Example 6: We found some inspectors did not adequately describe some violations in inspection reports. At one facility in Oklahoma, the inspector cited the breeder for inadequate floor space. Although her report stated “several dogs are kept in kennels that are not large enough to satisfy their space requirements,” the inspector provided no further details. This lack of documentation may impact future litigation. In a prior ALJ case, when the Department similarly charged another breeder, the ALJ ruled in favor of the breeder stating “without any documentation as to the size of the shelters in the pen, a determination as to their adequacy cannot be made.”⁵⁵

In summary, the issues and examples discussed above seriously impacted APHIS’ ability to enforce AWA. Using their own judgment, some inspectors did not always report direct or repeat violations correctly according to the Guide and did not always document violations with sufficient evidence. When we discussed this issue with the agency, both the deputy administrator and the western regional director generally agreed that the inspectors should be provided more training. In particular, the deputy administrator suggested additional training in shelter medicine and animal abuse.

To correct these deficiencies, we agree that APHIS should provide more comprehensive training and detailed guidance to its inspectors and supervisors on direct and repeat violations, enforcement procedures, evidentiary requirements (e.g., adequately describing violations), shelter medicine, and animal abuse. Also, the agency should revise the Guide to require photos for all violations that can be documented in this manner.

Recommendation 6

Provide more comprehensive training and detailed guidance to the inspectors and supervisors on direct and repeat violations, enforcement procedures, evidentiary requirements (e.g., adequately describing violations), shelter medicine, and animal abuse.

Agency Response

APHIS agrees with this Recommendation. We have provided training for all inspectors on identifying direct and repeat NCIs and adequately describing NCIs, during fall 2009 meetings between supervisors and their inspector teams. We will provide additional training and guidance (i.e., the “Inspection Requirements” document) to AC’s inspectors and supervisors on identifying direct and repeat NCIs, adequately describing NCIs, enforcement procedures, and common medical conditions seen at commercial kennels during AC’s National Meeting, April 19-22, 2010. In addition, we will provide a training session on shelter medicine at the National Meeting. We will develop a comprehensive technical training plan through the Center for Animal Welfare by November 30, 2010.

⁵⁴ Karen Schmidt, AWA Docket No. 03-0024.

⁵⁵ Karen Schmidt, AWA Docket No. 03-0024.

OIG Position

We accept APHIS' management decision on this recommendation.

Recommendation 7

Revise the *Dealer Inspection Guide* to require photos for all violations that can be documented in this manner.

Agency Response

APHIS agrees with this Recommendation. Our current guidance calls for photographs of: direct NCIs; repeat NCIs; NCIs that may result in EA or an investigation; NCIs that are additional information for ongoing investigations; and transportation violations. In addition, our guidance states that inspectors may choose to take photographs in other circumstances. We will modify our guidance to add NCIs documented on the third prelicense inspection and NCIs documented on inspections that may be appealed. We will reemphasize with inspectors when to take photographs. We will incorporate this information in the new "Inspection Requirements" document, and distribute it to employees during the AC National Meeting, April 19-22, 2010. APHIS will update the *Dealer Inspection Guide* to include the information in the "Inspection Requirements" document and consolidate it with the *Research Facility Inspection Guide* and the *Exhibitor Inspection Guide* into one comprehensive document. APHIS anticipates completing the document consolidation by September 30, 2010.

OIG Position

We accept APHIS' management decision on this recommendation.

Section 2: Stipulations

Finding 3: APHIS' New Penalty Worksheet Calculated Minimal Penalties

Although APHIS previously agreed to revise its penalty worksheet to produce “significantly higher” penalties for violators of AWA, the agency continued to assess minimal penalties for the majority of its stipulation cases. This occurred because the new worksheet allowed reductions up to 145 percent of the maximum penalty. As a result, APHIS continued to assess monetary penalties that were inadequate to deter violators. For the 94 stipulation cases we reviewed, APHIS imposed penalties totaling \$348,994, nearly 20 percent less than the \$434,078 calculated using the old worksheet.

Congress authorized APHIS to enforce AWA and assess monetary penalties to “any dealer, exhibitor, research facility . . . that violates any provision of this chapter, or any rule, regulation or standard promulgated by the Secretary.”⁵⁶ For our sample cases, the maximum penalty ranged from \$2,750 to \$3,750.

IES, in conjunction with AC, developed a worksheet to calculate penalties for violators. The overall goal for this worksheet was “to discourage dealers [and others] from violating the Act.”⁵⁷ In our prior audit report, we found that IES reduced the amount of the penalties for several factors (e.g., gravity of violations, size of business, etc.) authorized by AWA.⁵⁸ After making these adjustments, IES further reduced the penalties by 75 percent, an automatic reduction applied universally to all penalties, as an incentive for violators to pay the stipulation and thereby forego a hearing. However, this lowered penalties to such an extent that violators considered them a normal cost of business. We concluded that the resulting penalties were ineffective deterrents and APHIS agreed to develop a new penalty worksheet.

In April 2006, APHIS implemented a revised worksheet with two significant changes: adding a “good faith” factor⁵⁹ and changing the automatic reduction from 75 to 50 percent, as shown in figure 8.

During the management decision process,⁶⁰ APHIS officials explained that “the new [worksheet] results in significantly higher stipulations than have previously been issued for similar violations. This has not only been seen in current cases, but also in a number of previous cases that the team used to Beta-test the new penalty [worksheet].”⁶¹ They provided two sample cases, which corroborated their explanation.⁶²

⁵⁶ 7 U.S.C. §2149(a) and 2149(b) (January 1, 2007).

⁵⁷ “Determining Penalties under the Animal Welfare Act,” pg. 2 (April 2006).

⁵⁸ OIG Audit No. 33002-3-SF, “APHIS Animal Care Program Inspection and Enforcement Activities” (September 2005).

⁵⁹ Authorized by 7 U.S.C. §2149(b) (January 1, 2007). AC defines good faith as “compliance with standards of decency and honesty” and “sincere integrity in profession and performance.” For purposes of AWA, a person who shows good faith “may be: willing to comply and correct violations; have animals that are in good health that do not suffer as a result of the violations, and; cooperative with IES and AC.”

⁶⁰ Management decision is the agency’s evaluation of the findings, recommendations, and monetary results in an audit report and its issuance of a proposed decision in response to such findings and recommendations, including any corrective actions determined to be necessary.

⁶¹ Memorandum dated September 21, 2006.

⁶² During this audit, we asked APHIS for the entire sample. The agency was unable to provide this information.

Figure 8: New Worksheet with Good Faith and Automatic 50-percent Penalty Reduction

Animal Care Penalty Worksheet				
For Violations that Occurred After June 1, 2005				
Maximum Penalty		Total Violations		Maximum Penalty Violations
\$3,750		8		\$30,000
Gravity of Violations				
Minor (50%)	Significant (35%)	Serious (20%)	Grave (0%)	
0	8	0	0	
0	\$10,500	0	0	
\$10,500				
Size of Business				
Small (20%)		Medium (10%)		Large (0%)
\$6,000		\$3,000		0
\$3,000				
Prior History of Violations				
(Letter of Warning, Stipulation, Consent Decision, Admin. Decision)				
No (25%)		Yes (0%)		
\$7,500		0		
7,500				
Good Faith				
Good Faith (50%)		No Evidence (25%)		Lack of Good Faith (0%)
\$15,000		\$7,500		0
\$7,500				
Total Penalty Amount				
		Agency Recommendation to OGC:		
		\$1,500		
(No less than \$200)		Agency Stipulation Recommendation:		
		\$750		

NEW WORKSHEET REDUCED PENALTIES

To review the impact of APHIS' changes to the penalty assessment process since our last audit, we compared the penalties using both the old and the new worksheets for all 94 stipulation cases closed between October 2006 and April 2008.⁶³ We found:

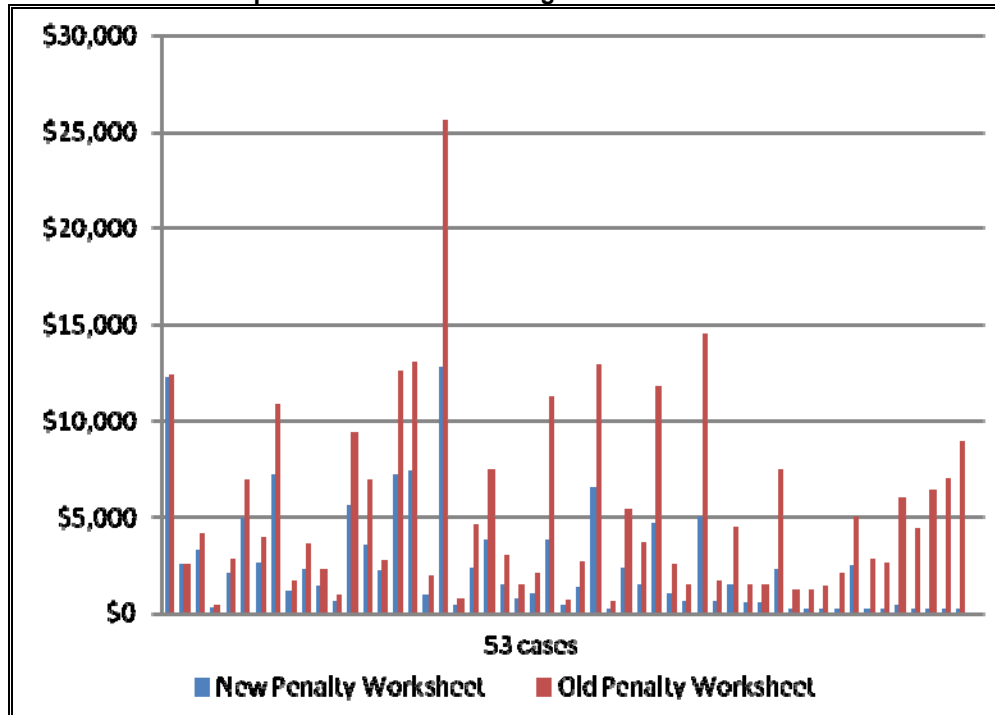
- In 53 cases, the penalties were lower using the new worksheet than they would have been using the old worksheet (see chart 2); in 6 other cases, the penalties were the same.
- In 12 of the 53 cases, the reductions decreased the penalties to such an extent (up to 145 percent of the maximum penalty) that they initially resulted in a *negative* number. In these cases, APHIS arbitrarily changed and inconsistently applied minimum penalties.

The stipulations assessed by APHIS between October 2006 and April 2008 totaled \$348,994. We recalculated the penalties with the old worksheet and found that the stipulations would have been \$434,078. Instead of assessing "significantly higher stipulations," APHIS *lowered* the violators' penalties by \$85,084—a 20-percent decrease.

For one breeder, APHIS imposed a penalty for numerous violations including inadequate veterinary care, feeding, watering, and cleanliness. Due to excessive reductions allowed by the new worksheet, the breeder's penalty was 97 percent lower than if calculated using the old worksheet. Moreover, the reductions were so excessive that in 12 of 94 cases (13 percent), the worksheet generated a negative stipulation. When this occurred, the agency issued a minimum stipulation.

⁶³ To determine the impact of recent changes to the penalty worksheet, we continued to review stipulations because they were the focus of our last audit. Since APHIS issued its new worksheet and revised penalty guidelines in April 2006, we selected cases after FY 2006 to give the agency time to implement the changes.

Chart 2: Comparison of Penalties Using Both Old and New Worksheets



During a 14-month period, IES lacked controls over the minimum stipulation amount in that it changed four times, as shown in table 2.

Table 2: Penalties Calculated with the New Penalty Worksheet

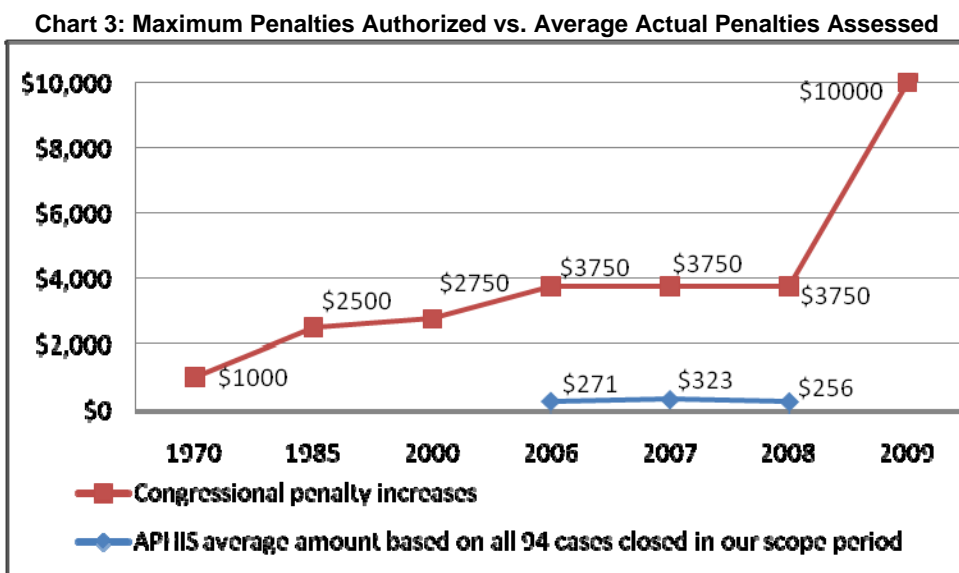
Case No.	Stipulation date	No. of Violations	Maximum Penalties ^a	Stipulation Recommendation ^b	Minimum Stipulation Issued
1	8/25/06	9	\$25,750	(\$231)	\$250
2	10/4/06	16	\$55,000	(\$325)	\$200
3	10/13/06	14	\$46,500	(\$1,163)	\$200
4	11/8/06	44	\$165,000	(\$24,469)	\$250
5	11/22/06	7	\$26,250	(\$937)	\$250
6	2/8/07	7	\$26,250	(\$2,906)	\$250
7	8/3/07	1	\$3,750	(\$281)	\$275
8	8/6/07	31	\$97,500	(\$11,344)	\$250
9	8/30/07	2	\$5,500	(\$412)	\$250
10	9/28/07	5	\$18,750	(\$469)	\$250
11	10/2/07	15	\$56,250	(\$1,406)	\$250
12	10/19/07	2	\$7,500	(\$188)	\$250
<p>a. These amounts were calculated by multiplying the number of violations by the maximum penalty authorized.</p> <p>b. These amounts were calculated by applying so many reductions that the stipulations became a negative number.</p>					

We inquired why IES used different minimums. In March 2009, IES' chief of Enforcement and Operations Branch stated, "it is not possible to glean from the email exchanges between the enforcement specialist and the program official why [this occurred]." Other IES officials also had no explanation about how the different minimums were calculated for the cases.

Based on the discussion above, we concluded that APHIS should limit total penalty reductions on its new worksheet to less than 100 percent and establish a minimum stipulation amount to be consistently applied.

CONGRESS INCREASED MAXIMUM PENALTIES

Since 1970, Congress and the Department have steadily increased the maximum penalty amount for AWA violations (see chart 3).⁶⁴ The most recent increase was an unprecedented \$10,000 per violation, as implemented by the 2008 Farm Bill.⁶⁵ The House Committee on Agriculture stated that this increase was to “strengthen fines for violations of the Animal Welfare Act.”⁶⁶



While Congress and the Department continued to increase the maximum penalty, the average penalties actually assessed by APHIS represented less than 10 percent of the maximum.⁶⁷ Lower penalties could be an indication that the violations were all minor or insignificant; however, we found that this was not the case. Serious violations (e.g., those that compromise animal health) and grave violations (e.g., those that directly harm animals) made up nearly 60 percent of all violations from October 2006 to April 2008.

APHIS CONTENDS THAT ASSESSED PENALTIES ARE APPROPRIATE

We inquired why the new worksheet did not produce the higher penalties that the agency previously told us it would. APHIS officials responded that there is no requirement to impose the statutory maximum penalty for violations. We agree and we are not advocating that APHIS assess the maximum penalty. However, as previously stated, we do recommend that APHIS issue more reasonable stipulations by limiting total penalty reductions on its new worksheet to less than 100 percent.

⁶⁴ From 1970 to 2009, USDA approved two increases to account for inflation; Congress authorized two significant increases that totaled two and a half times the previous maximum amount.

⁶⁵ Public Law 110-246, Sec. 14214 (June 18, 2008). The increased maximum penalty did not apply to the cases we analyzed.

⁶⁶ The Fact Sheet for the Conference Report—2008 Farm Bill Miscellaneous Title.

⁶⁷ For 2006, we used actual data from IES’ annual report. For 2007 and 2008, we averaged the actual stipulation amounts from the 94 cases.

In addition, APHIS stated that stipulations increased using the new worksheet. To support this, the agency compared the average stipulation before our 2005 audit report to the average stipulation after our 2005 audit report. However, the agency did not consider factors that affected the average stipulation, such as the gravity of violations, size of business, violation history, and increases in the authorized maximum penalty.

To determine the impact of these factors, we reviewed stipulation cases collected for our 2005 audit⁶⁸ and found: (1) the violations after 2005 were more serious than those in earlier years;⁶⁹ (2) the size of business of the violators after 2005 was larger;⁷⁰ (3) more violators after 2005 had a violation history;⁷¹ and (4) the maximum penalty increased since our last audit.⁷² Since the above factors increased stipulations, we disagree that stipulations increased because of the new worksheet.

Finally, APHIS stated that OIG recommended it produce higher penalties without regard to penalty precedent established by the courts, which is binding on APHIS. It also stated that the JO routinely imposes a fraction of the statutory maximum penalty even for the most egregious violations.

APHIS' legal proceedings were not the focus of our audit. However, to validate APHIS' statement, we reviewed the seven cases the agency provided. We found:

- In three cases, the JO imposed the same or almost the same penalty that APHIS asked for.⁷³
- In three other cases, the JO reduced the civil penalty because APHIS either did not provide sufficient evidence or used the wrong maximum penalty amount.⁷⁴
- In the last case, the JO did not impose a penalty because he found that AWA and the regulations were ambiguous on the issue.⁷⁵

In 1995 and again in 2005, we reported that the monetary penalties were often so low that violators regarded them as a cost of business and that APHIS reduced the stipulations making them basically meaningless. In our current audit, we found that this problem has not yet been corrected. APHIS continues to impose negligible stipulations by applying excessive reductions (up to 145 percent) to the maximum penalties. To correct this on-going problem, the agency needs to issue stipulations that will serve as a better deterrent for encouraging violators to comply with the law.

⁶⁸ We reviewed 77 of 197 cases closed from 2002 to 2004, the sample selected during our last audit.

⁶⁹ Serious and grave violations made up nearly 60 percent of all violations in our sample after 2005, whereas serious and grave violations only accounted for 11 percent of cases before 2005.

⁷⁰ Large businesses made up 30 percent of all violators in our sample after 2005, whereas large businesses only accounted for 13 percent of cases before 2005.

⁷¹ Over 38 percent of the violators had a violation history in our sample after 2005, whereas only 26 percent of the violators had a violation history of cases before 2005.

⁷² The maximum penalty increased from \$2,750 to \$3,750 in 2005, a 37 percent increase.

⁷³ *Marilyn Shepherd*, AWA Docket No. 05-0005, *Lorenza Pearson*, AWA Docket Nos. 02-0020 and D-06-0002, and *Jewel Bond*, AWA Docket No. 04-0024.

⁷⁴ *Martin Colette*, AWA Docket No. 03-0024, *Jerome Schmidt*, AWA Docket No. 05-0019, and *Karen Schmidt*, AWA Docket No. 03-0024.

⁷⁵ *Daniel Hill*, AWA Docket No. 06-0006

Recommendation 8

Limit total penalty reductions on the new worksheet to less than 100 percent.

Agency Response

APHIS agrees with this Recommendation. We will develop and implement a new worksheet which limits total penalty reductions to less than 100 percent by September 30, 2010.

OIG Position

We accept APHIS' management decision on this recommendation.

Recommendation 9

Establish a methodology to determine a minimum stipulation amount and consistently apply that amount, when appropriate.

Agency Response

APHIS agrees with this Recommendation. We will formally document the "minimum stipulation amount" in the "Determining Penalties Under the Animal Welfare Act" document by September 30, 2010.

OIG Position

We accept APHIS' management decision on this recommendation.

Finding 4: APHIS Misused Guidelines to Lower Penalties for AWA Violators

In completing penalty worksheets, APHIS misused guidelines in 32 of the 94 cases we reviewed to lower the penalties for AWA violators. Specifically, it (1) inconsistently counted violations; (2) applied "good faith" reductions without merit; (3) allowed a "no history of violations" reduction when the violators had a prior history; and (4) arbitrarily changed the gravity of some violations and the business size. APHIS assessed lower penalties as an incentive to encourage violators to pay a stipulated amount rather than exercise their right to a hearing. As a result, APHIS did not consistently assess penalties among violators, which led to some violators not receiving their full penalty according to APHIS' guidelines.

Under AWA, "each violation and each day during which a violation continues shall be a separate offense." However, APHIS "shall give due consideration to the appropriateness of the penalty with respect to the size of the business, . . . the gravity of the violation, the person's good faith, and the history of previous violations."⁷⁶ Based on prior ALJ and JO decisions, APHIS'

⁷⁶ 7 U.S.C. §2149(b) (January 1, 2007).

Monetary Penalty Action Team established guidelines in 2006 that elaborated on the use and amount of penalty reductions.⁷⁷

After AC completes an inspection and considers enforcement action against a violator, it may request an IES investigation generally depending on the severity of the violations. If the investigation confirms the violations, AC may request that a stipulated (i.e., compromised) penalty be offered to the violator, who in return gives up his right to a hearing. IES, in coordination with AC, calculates the penalties while allowing reductions consistent with those listed in AWA.

In 32 of the 94 stipulation cases closed from October 2006 to April 2008, we found that APHIS misused guidelines in completing the penalty worksheet. (Since some individual cases contained multiple errors, the following add up to more than 32 cases.)

- In 18 cases involving animal deaths or unlicensed wholesale activities, APHIS used a smaller number of violations than the actual number.
- In 13 cases, APHIS applied a 50-percent or 25-percent good faith penalty reduction without supporting evidence or with contradictory evidence.
- In 22 cases, APHIS applied a penalty reduction, established for violators with no prior violation history, to violators that had a prior history.
- In 1 case, APHIS arbitrarily reduced the gravity of some violations and the size of the business from what was originally reported on the penalty worksheet.

We concluded that APHIS applied these penalty reductions without merit for the purpose of lowering penalties. AC regional management told us that they wanted to assess penalties that the violators would agree to pay rather than exercise their right to a hearing.

VIOLATIONS INCONSISTENTLY COUNTED

In our prior audit report, we recommended that APHIS calculate penalties on a per animal basis, as appropriate.⁷⁸ In September 2006, APHIS' prior Administrator agreed stating, "the criteria for total number of violations is calculated on a 'per animal, per day' basis."⁷⁹ Our review of the 94 cases disclosed that APHIS used this criterion only in cases involving animal deaths or unlicensed wholesales. However, because APHIS did not include the "per animal" part in its guidelines, this practice was not consistently followed, as discussed below.

In five cases involving animal deaths, APHIS calculated penalties based on one violation even though multiple animals died in each case. For example, in 2006 an airline company transported eight puppies from Europe to New York. Five puppies died because they were not adequately fed or hydrated. APHIS cited the violator for one grave violation for the deaths of the five

⁷⁷ "Determining Penalties Under the Animal Welfare Act" (April 2006).

⁷⁸ OIG Audit No. 33002-3-SF "APHIS Animal Care Program Inspection and Enforcement Activities" (September 2005).

⁷⁹ Memorandum from the Administrator to the Assistant Inspector General (September 21, 2006).

puppies. However, considering previous ALJ and JO decisions, APHIS should have counted each dead animal as a grave violation.⁸⁰

In 13 cases involving unlicensed wholesales,⁸¹ APHIS calculated penalties for unlicensed breeders based on the day the violation occurred even though multiple animals were sold each day. For example, an unlicensed breeder in Indiana sold a total of 19 puppies on 2 separate dates to a pet store. APHIS cited the violator for two violations, one for each date of occurrence instead of one for each animal.

Further, the penalties for wholesaling without a license were so low that in some cases, there was no incentive to be licensed. The penalties represented only a fraction of the amount that the violator would have paid in license fees. As a result, in addition to avoiding inspections, the violator had a financial advantage by not being licensed. For example, an unlicensed breeder in South Dakota was caught wholesaling 24 puppies from 2004 to 2006. APHIS imposed a stipulation of \$200. The license fee for the 3-year period would have been \$695—more than three times the amount of the stipulation.

We also found many cases where IES calculated the penalty two ways—one on a “per animal” basis and the other on “date of occurrence”—allowing AC regional management to choose the one that they believed the violators would pay. However, guidelines should sufficiently detail exactly how penalties are to be calculated. Given a set of circumstances, the worksheet should generate only one penalty amount, regardless of the violators’ willingness to pay.

GOOD FAITH PENALTY REDUCTION

As discussed in the previous finding, APHIS revised the penalty worksheet by adding a good faith factor. Good faith is defined in the guidelines as “a person who shows good faith may be willing to comply and correct violations; have animals that are in good health that do not suffer as a result of the violations. . . . In contrast, [a person who] lacks good faith may: have repeat violations . . . engage in regulated activity after having surrendered their license or after being notified of the Act’s licensing requirements.”⁸²

If the violator demonstrates good faith, APHIS reduces the statutory maximum on the penalty worksheet by 50 percent. If the violator demonstrates a lack of good faith, a penalty reduction is not applied. However, APHIS established a third penalty reduction—25 percent—which it gives to the majority of violators that are unable to show either evidence of good faith or a lack of it—no evidence either way.

We found 13 cases where the agency applied a 50-percent or 25-percent good faith penalty reduction without merit. Two examples are:

- At a facility in Tennessee, AC cited 22 violations, some of which caused animal deaths. When AC re-inspected the facility 5 months later, the inspector cited 12 more violations,

⁸⁰ “Consistent with established Department policy, when a regulated entity fails to comply with the Act, the regulations, or the standards, there is a separate violation for each animal consequently harmed or placed in danger.” (Delta Airlines, Inc. 53 Agric. Dec. 1076 (1994)).

⁸¹ AWA requires wholesale pet breeders to be licensed (7 U.S.C. §2133, January 1, 2007).

⁸² “Determining Penalties Under the Animal Welfare Act,” pg. 4 (April 2006).

4 of which were repeats that caused additional deaths.⁸³ In a letter dated July 3, 2007, the regional director stated that “we have no evidence of good faith.” Nonetheless, when APHIS calculated the penalty for all 34 violations, the violator received a 50-percent good faith penalty reduction. We concluded that the violator had actually displayed a lack of good faith by not correcting previous violations that caused the additional deaths.

- One licensed breeder in Ohio, with no veterinary qualifications, operated on a pregnant dog without anesthesia; the breeder delayed calling a veterinarian and the dog bled to death. The inspector also found that 40 percent of the dogs in the kennel were blind due to an outbreak of Leptospirosis.⁸⁴ The inspector determined that the facility’s water was contaminated and had caused the outbreak.

Guidelines state that “a person who shows ‘good faith’ . . . [has] animals that are in good health that do not suffer as a result of the violations . . .”⁸⁵ Despite the lack of good faith demonstrated by the breeder, APHIS applied a 25-percent good faith penalty reduction to lower the penalty. Four months later, a subsequent inspection continued to document violations at the facility. The inspector reported that “this is a veterinary care issue that continues to be a serious problem—failure to provide adequate veterinary care for over 200 adult dogs.”

HISTORY OF VIOLATIONS

A history of violations is defined as a previous violation of AWA or a “pattern of ongoing violations.”⁸⁶ When there is no prior history of violations, the guidelines allow a 25-percent penalty reduction.

We found that in 22 cases, APHIS allowed a 25-percent reduction of the maximum penalty amounts for “no prior history of violations,” even though the violators had a prior history of violations, as shown in the IES tracking system or through our review of the case files. Two examples are:

- A breeder in Ohio with about 62 adult dogs was cited for 1 minor, 16 significant, and 12 serious violations during 5 inspections between 2005 and 2006. The violations included the breeder’s failure to inform his attending veterinarian that some of his dogs delivered dead puppies, which is important if the puppies died of a disease like Brucellosis.⁸⁷ The breeder was also cited for administering medications to his dogs without his attending veterinarian’s knowledge. Although the breeder was issued an official warning in 2005 for numerous violations including inadequate veterinary care, APHIS gave him a 25-percent penalty reduction in 2007 for “no prior history of violations.”

⁸³ The agency incorrectly used 32 violations on the worksheet when the settlement agreement, which was sent to the breeder, showed 34.

⁸⁴ This is a bacterial disease that affects animals as well as humans and causes damage to the inner lining of blood vessels. The liver, kidneys, heart, lungs, central nervous system, and eyes may be affected.

⁸⁵ “Determining Penalties Under the Animal Welfare Act,” pg. 4 (April 2006).

⁸⁶ “Determining Penalties Under the Animal Welfare Act,” pg. 5 (April 2006).

⁸⁷ This is an infectious bacterial disease, which is spread through contact with aborted fetuses and discharges from the uterus of infected bitches, during mating, through maternal milk, and possibly through airborne transmission in some cases. The bacteria enter the body through mucous membranes and spreads from there to lymph nodes and the spleen. It also spreads to the uterus, placenta, and prostate gland as well as other internal organs at times.

- An unlicensed breeder in Indiana with 200 adult dogs received an official warning in 2002 for wholesaling to pet stores. In 2006, the breeder (still unlicensed) was found wholesaling puppies to a pet store in Florida. When calculating the penalty for this violation, APHIS gave the breeder a 25-percent “no history of violations” penalty reduction, even though the breeder had received an official warning in 2002.

GRAVITY OF VIOLATIONS AND SIZE OF BUSINESS

AWA also allows APHIS to consider the gravity of violations and size of a business when determining a penalty. However, we found one case where APHIS arbitrarily reduced the gravity of the violations and the size of the business in order to lower the violator’s penalty. A broker in North Carolina knowingly purchased puppies from an unlicensed breeder and failed to ensure that the puppies were at least 8 weeks old at the time of purchase. Both are considered serious violations according to guidelines. The violator should have been considered a large business because he purchased and sold over 500 animals a year.⁸⁸

Originally, APHIS assessed the broker a stipulation of \$4,500. After receiving an eight-page letter from the broker claiming hardship in paying the penalty, AC regional management altered the gravity of the violations from serious to both significant and minor to allow an additional 15-percent penalty reduction. It also altered the size of the business from medium to small to allow another 10-percent penalty reduction. As a result, the penalty was reduced from \$4,500 to \$1,687.

Guidelines state that “some factors . . . are not relevant to determining monetary penalties, including, among other things: inability to pay, disability, infirmity, need for income, effect on business or family.”⁸⁹ The regional manager, who participated as a team member in establishing these guidelines, told us that the broker’s letter addressed mitigating factors. However, after reviewing the letter, we saw no evidence to justify the changes made to the penalty.

As these conditions demonstrate, when the worksheet yielded penalties that regional managers considered excessive, they misused guidelines to lower the penalties. This resulted in some violators not receiving their full penalty and penalties not being consistently applied among violators. Therefore, we recommend that APHIS designate a responsible party to ensure that the guidelines established by its Monetary Penalty Action Team are consistently followed. Also, APHIS should include instructions in the guidelines to count each animal as a separate violation in cases involving animal deaths or unlicensed wholesale activities.

Recommendation 10

Designate a responsible party to ensure that “Determining Penalties Under the Animal Welfare Act” (April 2006) is consistently followed by AC and IES and that penalties are properly calculated.

⁸⁸ The guidelines state “dealers [that] purchased, sold, or transported 405 animals during a two-year period” should be considered large-sized.

⁸⁹ “Determining Penalties Under the Animal Welfare Act,” pg. 5 (April 2006).

Agency Response

APHIS agrees with this Recommendation. We recently reorganized the enforcement component of our Investigative and Enforcement Services (IES) to establish two branches: the Animal Health and Welfare Enforcement Branch (AHWEB) and the Plant Health and Border Protection Enforcement Branch. A GS-14 Chief will supervise each branch with full supervisory authority for branch staff. The Chief of AHWEB and his/her subordinate staff are responsible for EAs involving only AC and the APHIS Veterinary Services programs, greatly increasing the level of staff specialization afforded to these programs when compared to that in place during the audit. The Chief of AHWEB will assume responsibility for ensuring that AWA penalty calculations are consistent and in accordance with the instructions included in “Determining Penalties Under the Animal Welfare Act.” In an instance where the AHWEB Branch Chief is unavailable or the position is vacant, the IES Deputy Director will assume this responsibility.

OIG Position

We accept APHIS’ management decision on this recommendation.

Recommendation 11

Include instructions in “Determining Penalties Under the Animal Welfare Act” to count each animal as a separate violation in cases involving animal deaths and unlicensed wholesale activities.

Agency Response

APHIS partially agrees with this Recommendation. The Recommendation is not always practical for unlicensed wholesale activities. We will request an opinion from Office of the General Counsel about a penalty structure for unlicensed wholesale activities by September 30, 2010. However, we will count each animal as a separate violation when an animal death results from NCIs. Specifically, AC will clarify the penalty guidelines by September 30, 2010, to count each animal as a separate violation when an animal death resulting from NCIs is involved.

OIG Position

We agree with APHIS’ corrective action. However, our concern remains whether APHIS will count the violations for unlicensed wholesale activities consistently. To achieve management decision, APHIS needs to provide us with a copy of the Office of the General Counsel’s opinion.

Section 3: Internet

Finding 5: Some Large Breeders Circumvented AWA by Selling Animals Over the Internet

Large breeders that sell AWA-covered animals over the Internet (hereafter referred to as Internet breeders) are exempt from AC's inspection and licensing requirements. This occurred because the AWA section that excludes retail pet stores (i.e., stores that sell directly to the public) from its provisions pre-dates the Internet and creates a loophole for these breeders to circumvent AWA. As a result, an increasing number of Internet breeders are not monitored for their animals' overall health and humane treatment.

AWA requires that "animals intended for use . . . as pets are provided humane care and treatment" and that breeders of such animals be licensed and inspected. AWA exempts small businesses and retail pet stores from its provisions, although it did not define the term "retail pet stores."⁹⁰

AWA was originally passed in 1966, long before the widespread use of the Internet. With the explosion of the Internet in the 1990s, it became possible for large breeders to circumvent AWA by selling directly to the public without an APHIS license and regular inspections. However, these retail breeders should not be categorized as retail pet stores or small businesses and, therefore, should not be exempted from AWA requirements for the reasons discussed below.

- Retail Pet Store Exemption. In 1971, APHIS defined the term retail pet store as "any retail outlet where animals are sold only as pets at retail."⁹¹ At that time, retail pet stores generally sold to local consumers. With the arrival of the Internet, the definition was broadly interpreted to include Internet breeders because they also sell directly to consumers. However, these breeders are no longer limited to local consumers but can sell and transport animals nationwide.

Also, the former Secretary stated that "retail [outlets] are already subject to a degree of self-regulation and oversight by persons who purchase animals from the retailers' homes."⁹² However, for Internet breeders, there is no degree of self-regulation and oversight because consumers do not have access to their facilities. Without consumer oversight or APHIS inspections, there is no assurance that the animals are monitored for their overall health and humane treatment.

- Small Business Exemption. A small business is one that "derive[s] less than a substantial portion of his income (as determined by the Secretary) from the breeding and raising of dogs or cats on his own premises and sells any such dog or cat."⁹³ The Secretary determined that "any person who maintains a total of three or fewer breeding female dogs . . . which were born and raised on his or her premises, for pets or exhibition" or "any

⁹⁰ 7 U.S.C. §2131, §2133, and §2134 (January 3, 2007).

⁹¹ 9 CFR §1.1 (December 23, 1971).

⁹² Doris Day Animal League v. Veneman (August 2003).

⁹³ 7 U.S.C. §2133 (January 3, 2007).

person who sells fewer than 25 dogs and/or cats per year, which were born and raised on his or her premises . . . to any research facility” is exempted.⁹⁴

However, many Internet breeders do not fall in the small business category because they have more than three breeding females. Some are very large breeders that derive a substantial income from the breeding of dogs. For example, one Internet breeder we visited in Iowa had over 140 breeding dogs and generated sales of \$160,000 in 2007.

In April 2009, APHIS publicly acknowledged that not requiring Internet breeders to be licensed and inspected is “a massive loophole.”⁹⁵ To quantify the loophole, we used two search engines to identify how many of these breeders were licensed in two of our eight sampled States. We identified 138 breeders that had more than 3 breeding females or handled more than 25 dogs a year. We found 112 of the 138 (81 percent) were not licensed by APHIS. If these breeders had sold their dogs wholesale (i.e., not retail through the Internet), they would have needed a license.

Without a license, these breeders are not monitored or inspected for their animals’ overall health and humane treatment. With the dramatic increase in online sales, consumers who purchased dogs in this manner sometimes found health problems with their dogs. Examples of some consumer complaints are listed below:

“This one pound puppy was very sick when she arrived . . . my vet informed me that she was suffering from severe hypoglycemia and massive infestations of Giardia, Threadworm, Roundworm and Coccidia. She also had two groin hernias. Her blood glucose level was dangerously low so she was immediately put on an IV.”—source: an OIG Hotline Complaint.

“The [puppies] were mutts with poor body conformation, crooked teeth and were completely unsocialized. No health records came with the dogs and the information on the website was completely false.”—source: a Better Business Bureau sponsored website.

“After suffering from numerous health issues that cost . . . thousands of dollars in vet bills, [the puppy] died when he was just eight months old.”—source: San Francisco Chronicle.

“A breeder with a criminal record for animal cruelty was selling hundreds of puppies on the Internet.”—source: USA Today.

To ensure that large Internet sellers are inspected, APHIS should propose that the Secretary seek legislative change to cover these sellers under AWA. Specifically, the agency should propose that the Secretary recommend to Congress that it exclude Internet sellers from the definition of “retail pet store,” thereby ensuring that large breeders that sell through the Internet are regulated under AWA.

⁹⁴ 9 CFR §2.1 (January 1, 2005)

⁹⁵ “A (Designer) Dog’s Life,” *Newsweek* (April 13, 2009)

Recommendation 12

Propose that the Secretary seek legislative change to exclude Internet breeders from the definition of “retail pet store,” and require that all applicable breeders that sell through the Internet be regulated under AWA.

Agency Response

APHIS agrees with this Recommendation. APHIS is currently providing information (including potential options) to Congress as requested regarding the proposed Puppy Uniform Protection and Safety Act (PUPS). This bill would place dogs sold directly to the public via the Internet, telephone, and catalogue sales within the jurisdiction of the AWA. In addition, APHIS will concurrently draft a legislative proposal for the Secretary by May 31, 2010.

OIG Position

We accept APHIS’ management decision on this recommendation.

Section 4: Information System

Finding 6: Security Controls Need to Be Addressed for AC's New Information System

AC started using the Animal Care Information System (ACIS), its new mission critical system,⁹⁶ before the Department's Cyber Security Office gave its concurrence to operate it. This occurred because APHIS' Chief Information Officer (CIO) believed that the majority of the new system's security controls were operating as intended and recommended that it be implemented. The Cyber Security Office disagreed with the CIO's assessment and identified issues in the concurrency review checklist. As a result, there is no assurance that the new system has the security controls mandated by the Department.

Departmental Manual 3555-001 states, "all USDA IT systems require certification and accreditation prior to the system becoming operational. . . . Certified systems will undergo an independent concurrence review by the ACIO-CS [Associate Chief Information Officer for Cyber Security] prior to submission to the DAA [Designated Accrediting Authority]."⁹⁷ APHIS' condensed guide also states, "the concurrence of ACIO-CS with the [Certifying Official] is mandatory prior to submission to the DAA."⁹⁸

Since 1994, AC has used LARIS (Licensing and Registration Information System) to record licensing and registration of all breeders, exhibitors, and other facilities and to document their inspection and violation histories. After reviewing LARIS in our last audit,⁹⁹ we determined that this mission critical information system lacked certain key features that prevented it from effectively tracking violations and prioritizing inspection activities. Also, it generated unreliable and inaccurate information, limiting its usefulness to AC inspectors and supervisors. APHIS agreed with our recommendation for a new system. However, due to contractor failure, APHIS did not start to develop ACIS (LARIS' replacement) until September 2007.

AC closed down LARIS on September 30, 2008, expecting that ACIS would be certified and accredited the next month. However, the certification and accreditation did not occur the next month; in fact, AC did not have an operating information system for 5 months before launching the new system. Throughout this period, inspectors worked without a system, manually tracking reports and calculating future inspection dates.¹⁰⁰

By January 2009, APHIS' CIO believed that the majority of ACIS' security controls were in place and operating as intended. The CIO recommended that ACIS be authorized for use, disregarding the required departmental concurrence review. Based on the CIO's recommendation, the DAA (in this case, APHIS' deputy administrator) issued the authority to operate ACIS, and AC inspectors started using the new system. Once the system became operational in March 2009, inspectors then had to enter the 5 months of accumulated data into the new system.

⁹⁶ Any system whose failure or disruption in normal business hours will result in the failure of business operations.

⁹⁷ *Departmental Manual 3555-001*, ch. 11, pt. 1 (October 18, 2005).

⁹⁸ *Certification and Accreditation Condensed Guide*, pg. 7 (April 24, 2007).

⁹⁹ Audit No. 33002-3-SF, "APHIS Animal Care Program Inspection and Enforcement Activities" (September 2005).

¹⁰⁰ LARIS and ACIS could not be run simultaneously on the inspectors' computers due to compatibility issues. LARIS had to be removed before ACIS could be loaded.

However, the Department's Cyber Security Office did not concur with the CIO about the security controls and stated, "the documentation is [not] sufficient to support an accreditation decision and [it] will not issue an interim authority to operate . . . the issues we identified [in the checklists relate to the] system security plan, security controls compliance, contingency concurrency, and risk assessment."¹⁰¹ To comply with departmental policy, APHIS should address ACIS' security issues identified by USDA's Cyber Security Office during its concurrency review. Controls should also be established regarding the closing down or launching of mission critical systems.

Recommendation 13

Correct all security issues pertaining to ACIS that were identified by USDA's Cyber Security Office during its concurrency review.

Agency Response

APHIS agrees with this Recommendation. We have already corrected all security issues pertaining to ACIS. Our corrective actions are documented in the attached memorandum entitled "Approval for Interim Authority to Operate for Animal and Plant Health Inspection Service Animal Care Information System (ACIS)," dated October 21, 2009.

OIG Position

We accept APHIS' management decision on this recommendation.

¹⁰¹ Memorandum to APHIS dated February 11, 2009.

Section 5: Debt Management

Finding 7: IES Did Not Adequately Establish Payment Plans for Stipulations

IES did not adequately establish the payment plans for AWA violators that had stipulation agreements. This occurred because IES did not follow the payment plan process that was presented by the Financial Management Division (FMD) during a meeting in 2004. Further, FMD did not provide sufficient oversight or follow up of IES' debt management activities. As a result, 20 payment plans totaling \$92,896 were (1) established without verifying the violators' ability to pay, (2) not legally enforceable, and (3) not always established as accounts receivable.

Overall, FMD provides debt management services for APHIS and other agencies within the Department. According to APHIS' Budget and Accounting Manual, "FMD is responsible for developing and implementing an effective debt management program for the Agency . . . and providing oversight of Agency debt management activities."¹⁰²

To accomplish this, FMD partners with IES, which negotiates payment plans for violators that claim they are unable to pay the full amount of an agreed-upon stipulation. In March 2004, FMD representatives met with IES to discuss the payment plan process and the responsibilities that IES would be expected to assume. FMD did not provide further oversight.

We reviewed all 20 payment plans for stipulation agreements closed from October 2006 to April 2008. In assuming debt management responsibilities, IES did not comply with several regulatory requirements involving all 20 plans—most having overlapping errors. Specifically, we found that IES:

- Did not collect financial information when the violators claimed inability to pay. After IES and a violator agree to a stipulation, the violator may either pay in full or if he is unable to do so, then negotiate a payment plan. For all 20 plans, IES did not verify violators' eligibility to qualify for the plans. Regulations require that plans must be based on debtor's inability to pay in a reasonable time, which should be supported by financial information, such as tax returns and credit reports.¹⁰³ IES told us it was not aware of this requirement.
- Did not obtain legally enforceable written agreements (payment plans) from the violators. After IES and the violator mutually agree to a payment plan, IES signs the document before sending it to the violator. However, for 19 plans, IES did not require the violators to sign.¹⁰⁴ Regulations require that debtors provide "a legally enforceable written

¹⁰² APHIS' *Budget and Accounting Manual*, ch. 12 p. 2 (October 1, 2002).

¹⁰³ 31 CFR §902.2 (July 1, 2006).

¹⁰⁴ For one case, IES did not require the violator to sign the original payment plan. After accepting its terms, the violator asked IES to renegotiate the fine to a lower amount, and IES agreed to do so but required the violator to sign the second payment plan that was generated based on the renegotiated amount.

agreement.”¹⁰⁵ To ensure this, APHIS’ debt management policies require that the plans be signed by the debtor.¹⁰⁶ IES was not aware of this requirement.

- Did not forward documents to FMD to establish accounts receivable. For 7 payment plans, IES did not forward the required documents (i.e., settlement agreement, which includes the stipulation amount and plan) to FMD in order to establish accounts receivable. Although IES’ procedures require plans to be forwarded to FMD, IES could not provide a reasonable explanation why these plans were not. Without establishing accounts receivable for the plans, FMD cannot track and collect the debt.

As these conditions demonstrate, IES did not adequately establish 20 payment plans in accordance with requirements. Therefore, we recommend that FMD ensure that IES follows the payment plan process by conducting additional training and periodic reviews or reassume responsibility for establishing violators’ payment plans.

Recommendation 14

Require FMD to ensure that IES follows the payment plan process by conducting additional training and periodic reviews, or require FMD to reassume its responsibility for establishing payment plans for stipulations.

Agency Response

APHIS agrees with this Recommendation. IES will follow the applicable federal regulations and FMD Guidelines for Establishing Payment Plans when establishing payment plans. Consistent with these authorities, in September 2009, IES and FMD developed the attached Memorandum of Agreement (MOA) for persons who request a payment plan. IES has implemented the MOA in its International Organization for Standardization (ISO) Payment Plan process. In addition, IES and FMD have developed a method to jointly review and reconcile payment plans, stipulations, and orders assessing penalties on a monthly basis. IES’ Chief, Document Control Branch, will train the IES personnel who handle payment plans, in accordance with FMD’s Guidelines for Establishing Payment Plans and IES’ ISO Payment Plan process.

OIG Position

We accept APHIS’ management decision on this recommendation.

¹⁰⁵ 31 CFR §901.8 (July 1, 2006).

¹⁰⁶ “Guidelines for Establishing Payment Plans” (February 12, 2009).

Scope and Methodology

We conducted a nationwide review of AC's inspections of dealers and its enforcement of AWA during FYs 2006 through 2008. We performed fieldwork at the AC and IES national offices in Riverdale, Maryland; the two regional offices in Raleigh, North Carolina, and Fort Collins, Colorado; the FMD Financial Services Branch in Minneapolis, Minnesota; and 81 dealer facilities in 8 States (see exhibit B for a complete list of audit sites). We performed site visits from April 2008 through March 2009.

With data exported from the LARIS database,¹⁰⁷ we judgmentally selected eight States—Arkansas, Iowa, Minnesota, Missouri, Ohio, Oklahoma, Pennsylvania, and Texas—based on the number of licensed dealers operating in the States. We also considered the type of animal welfare laws or inspection programs that had been adopted by the States.

To accomplish our audit, we:

- *Reviewed Criteria.* We reviewed the pertinent laws and regulations governing the AC program and the current policies and procedures AC established as guidance for inspections and enforcement.
- *Interviewed APHIS Personnel.* We interviewed AC and IES national and regional office officials as well as 19 of the 99 inspectors to gain an understanding about the AC program, its inspections, and investigation procedures. We also interviewed FMD personnel to gain an understanding of the penalty collection process.
- *Visited 81 Dealer Facilities.* Using Audit Command Language software, we judgmentally selected 81 of 3,954 licensed dealers in our sampled States (33 in the Eastern Region and 48 in the Western Region). Generally, we selected the dealers based on the largest number of violations or repeat violations cited during our scope, the size of the facility, elapsed time since the last inspection, availability of its regular inspector, and proximity to other dealers in our sample.

We accompanied 19 inspectors on their inspections of these dealers to (1) determine if the dealers were in compliance with AWA and related regulations and (2) evaluate the effectiveness of AC's enforcement actions. Of the 81 dealers we selected, 68 had been cited for violations since FY 2006.

- *Reviewed AC Inspection Reports and Files.* For the 81 dealers we visited, we reviewed inspection reports and other documentation in AC's files to determine if violations had been adequately addressed by the violators at re-inspections and, if not, whether appropriate enforcement action had been taken by AC.
- *Analyzed Total Violations Cited During Inspections.* We obtained nationwide data from LARIS of the violations cited during inspections in FYs 2006-2008. We then used Audit Command Language software to determine if the violators achieved compliance during

¹⁰⁷ The data was exported in April 2008.

re-inspections by comparing the total number of violators that were re-inspected during the period and the total number of those that continued to violate AWA.

- Interviewed Veterinary Schools. We interviewed the directors of the Shelter Medicine Programs at three veterinary schools in California, Massachusetts, and New York to determine if some of the situations we encountered during our site visits constituted direct violations.
- Reviewed Stipulations. At IES' national office, we reviewed all 94 stipulation cases that were closed from October 2006 to April 2008 to determine if (1) reductions offered by APHIS were appropriate and (2) penalties were calculated correctly.¹⁰⁸ We then calculated the stipulation amounts using the old penalty worksheet for comparison.

In addition, we compared the 94 cases in the current audit to the 77 stipulation cases from the 2005 audit to determine the factors that increased the average stipulation amount.¹⁰⁹

- Reviewed ALJ and JO Decisions. We reviewed all 16 AWA cases litigated by the Department where a decision was rendered on a licensed dealer from 2000 to 2009 to determine if AC supported its cases with sufficient evidence.

In addition, we reviewed seven AWA cases (cited by APHIS) to determine the basis for the JO's decision.

- Searched for Breeders Selling Puppies Over the Internet. We used two websites¹¹⁰ to identify breeders that sold AWA-covered animals over the Internet. We focused our search on two States—Missouri and Pennsylvania—based on the large number of breeders operating in these States. We identified 138 breeders that had more than 3 breeding females or handled more than 25 dogs a year. We compared information of these breeders to APHIS' active licensed breeder list to identify those not licensed by APHIS. We also collected examples of consumer complaints related to Internet breeders.
- Reviewed Outstanding AC Receivables. At FMD, we reviewed all outstanding AC receivables as of August 26, 2008, to determine if delinquent receivables were handled properly. We also reviewed all 20 payment plans from the sampled IES stipulation cases to determine if the plans were processed according to requirements.
- Conducted a Limited Review of ACIS. We did not verify the accuracy of AC's information system—ACIS—and make no representation of the adequacy of information generated from it.¹¹¹ We did review the new system's certification and accreditation process, and the timeliness of its implementation.

¹⁰⁸ The stipulation cases included all facilities covered by AWA, such as dealers, research facilities and transporters.

¹⁰⁹ We excluded four stipulation cases from our 2005 sample because we had not obtained the worksheet, which showed the three factors.

¹¹⁰ <http://www.puppysites.com> and <http://puppydogweb.com>.

¹¹¹ APHIS implemented the new system near the end of the audit. Therefore, we did not verify its accuracy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Abbreviations

AC	Animal Care
ACIO-CS	Associate Chief Information Officer for Cyber Security
ACIS	Animal Care Information System
ALJ	Administrative Law Judge
APHIS	Animal and Plant Health Inspection Service
AWA	Animal Welfare Act
CFR	Code of Federal Regulations
CIO	Chief Information Officer
DAA	Designated Accrediting Authority
FMD	Financial Management Division
FY	Fiscal Year (Federal)
IES	Investigative and Enforcement Services
JO	Judicial Officer
LARIS	Licensing and Registration Information System
OACIS	On-line Animal Care Information System
OIG	Office of Inspector General
U.S.C.	United States Code

Exhibit A: Summary of Monetary Results

FINDING NUMBER	RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
3	8	Although APHIS previously agreed to revise its penalty worksheet to produce “significantly higher” penalties for violators of AWA, the agency imposed penalties totaling \$348,994, nearly 20 percent less than the \$434,078 calculated using the old worksheet for the 94 stipulation cases we reviewed.	\$85,084	FTBPTBU* – Management or Operating Improvements/ Savings
7	14	IES did not adequately establish payment plans for stipulations totaling \$92,896.	\$92,896	FTBPTBU – Improper Accounting
TOTAL MONETARY RESULTS			\$177,980	
*Funds to be put to better use				

Exhibit B: Audit Sites Visited

ORGANIZATION	LOCATION
APHIS National Office Animal Care Investigative and Enforcement Services	Riverdale, MD Riverdale, MD
APHIS Eastern Regional Office Animal Care Investigative and Enforcement Services Dealer Facilities: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26	Raleigh, NC Raleigh, NC Goodville, PA Ephrata, PA East Earl, PA Lititz, PA Ephrata, PA Ronks, PA Shippensburg, PA Newburg, PA Belleville, PA Mill Creek, PA Belleville, PA Sugarcreek, OH Sugarcreek, OH Fresno, OH Dundee, OH Millersburg, OH Millersburg, OH Millersburg, OH Millersburg, OH Millersburg, OH Mt. Sterling, OH Columbus, OH Fredericktown, OH Brook Park, MN Remer, MN Nevis, MN

ORGANIZATION	LOCATION
27	Brewster, MN
28	Walnut Grove, MN
29	Luverne, MN
30	Ruthton, MN
31	Reading, MN
32	Walnut Grove, MN
33	Avoca, MN
APHIS Western Regional Office	
Animal Care	Fort Collins, CO
Investigative and Enforcement Services	Fort Collins, CO
Dealer Facilities:	
34	Dardanelle, AR
35	Pleasant Plains, AR
36	Booneville, AR
37	Booneville, AR
38	Everton, AR
39	Green Forest, AR
40	Harriet, AR
41	Mountainburg, AR
42	Hindsville, AR
43	Ozark, AR
44	Agra, OK
45	Jones, OK
46	Jones, OK
47	Atoka, OK
48	Coalgate, OK
49	Lane, OK
50	Tishomingo, OK
51	Atoka, OK
52	Duncan, OK
53	Duncan, OK
54	Lebanon, MO
55	Edgar Springs, MO
56	Edgar Springs, MO
57	Huggins, MO
58	Houston, MO

ORGANIZATION	LOCATION
59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81	Edwards, MO Warsaw, MO Dixon, MO Dixon, MO Cumberland, IA Massena, IA Audubon, IA Thayer, IA Bedford, IA Allerton, IA Humeston, IA Leon, IA Centerville, IA Altoona, IA Whitewright, TX Tom Bean, TX Wills Point, TX Midlothian, TX Wills Point, TX Scroggins, TX Simms, TX De Kalb, TX Simms, TX
APHIS Financial Management Division	Minneapolis, MN

Exhibit C: Violations Cited at Dealer Facilities in FYs 2006-2008

VIOLATION	COUNT
Housing Facilities, General	4,744
Attending Veterinarian and Adequate Veterinary Care	3,537
Cleaning, Sanitization, Housekeeping, and Pest Control	3,504
Primary Enclosures	3,170
Access and Inspection of Records and Property	2,900
Outdoor Housing Facilities	2,678
Records: Dealers and Exhibitors	1,601
Time and Method of Identification	1,260
Sheltered Housing Facilities	731
Sanitation	651
Indoor Housing Facilities	576
Feeding	546
Watering	459
Facilities, General	428
Exercise for Dogs	254
Facilities, Indoor	237
Facilities, Outdoor	165
Notification of Change of Name, Address, Control	124
Procurement of Random Source Dogs and Cats, Dealer	82
Environment Enhancement To Promote Psychological Welfare	71
Employees	69
Minimum Age Requirements	69
Requirements and Application	68
Compatible Grouping	60
Records: Operators of Auction Sales and Brokers	55
Handling of Animals	52
Others (e.g., Health Certification, Space Requirements, Care in Transit, etc.)	352
TOTAL	28,443

Exhibit D: Additional Photos Taken During Site Reviews



Missouri breeder violated AWA: This dog had an injured leg, raw flesh and bones exposed. The inspector correctly cited the breeder for lack of adequate veterinary care (9 CFR §2.40). The dog was eventually treated by a veterinarian.



Texas breeder violated AWA: This dog had an oozing sore on its head. The inspector correctly cited the breeder for lack of adequate veterinary care (9 CFR §2.40), and required the breeder to take the dog to a veterinarian.



Ohio breeder violated AWA: This was an unsuitable kennel for puppies because their paws slipped through the wires, allowing regular contact with feces. The inspector correctly cited the breeder for failure to protect the dogs' feet from injury (9 CFR §3.6).



Texas breeder violated AWA: This dog had cloudy eyes covered with a heavy discharge, matted hair, and skin irritations. The inspector cited the breeder for lack of adequate veterinary care (9 CFR §2.40) and required the breeder to take the dog to a veterinarian for treatment. The inspector did not consider this a direct violation.



Texas breeder violated AWA: Dogs had drinking water that contained algae and feces. The water receptacle was also chewed and unclean. This is in violation of 9 CFR §3.10 for failure to provide clean and sanitized water to dogs and §3.11 for failure to keep water receptacles clean and sanitized. The inspector verbally told the breeder to clean the water receptacle but did not cite these violations.



Arkansas breeder violated AWA: This dog had a torn ear. The inspector correctly cited the breeder for lack of adequate veterinary care (9 CFR §2.40) and required the dog be taken to a veterinarian.

USDA'S

**ANIMAL AND PLANT HEALTH INSPECTION
SERVICE**

RESPONSE TO AUDIT REPORT

MEMORANDUM

TO: Gil H. Harden
Assistant Inspector General
for Audit

FROM: Cindy J. Smith /S/
Administrator

SUBJECT: APHIS Response on OIG Report, "Animal and Plant
Health Inspection Service's - Animal Care Program
Inspections of Problematic Dealers" (33002-04-SF)

The Animal and Plant Health Inspection Service (APHIS) appreciates the opportunity to comment on this report. We appreciate the Office of Inspector General's (OIG) interest in our programs. We have provided a response for each Recommendation.

Recommendation 1: Modify the *Dealer Inspection Guide* to require an enforcement action for direct and serious violations. Also, define a serious violation in the Guide.

APHIS Response: APHIS agrees with this Recommendation. We will provide Animal Care (AC) employees with guidance regarding all enforcement action options including direct and serious Non-Compliant Items (NCIs) drawn from OIG recommendations, Office of the General Counsel (OGC) guidance, and legal decisions. APHIS will incorporate the requirements in a new document entitled "Inspection Requirements." This document will be distributed to and discussed with AC employees during the AC National Meeting, April 19-22, 2010. APHIS will update the *Dealer Inspection Guide* to include the information in the "Inspection Requirements" document and consolidate it with the Research Facility Inspection and the Exhibitor Inspection Guides into one comprehensive document. APHIS anticipates completing the document consolidation by September 30, 2010.

Recommendation 2: Remove "no action" as an enforcement action in the *Dealer Inspection Guide*.

APHIS Response: APHIS agrees with this Recommendation. We changed the title of the "Enforcement Action Worksheet" to "Enforcement Action Option Worksheet" and changed the flow chart title to read "Enforcement Actions (EA) Guidance for Inspection Reports." We modified these to clarify that: (1) inspectors will forward

to AC management a recommended EA (they believe will be most effective in attaining compliance) for all repeats and directs and any facility with inspection results that cause it to go from a lower frequency to High Inspection Frequency; and (2) taking no immediate action requires Regional Director approval and a 90-day reinspection to determine if compliance was achieved or if EA is necessary. Copies of the modified worksheet and flow chart are attached. AC will retain copies of all EA sheets in the facility files in accordance with records retention guidelines. AC's supervisors verbally directed their employees to utilize the modified EA worksheet beginning on December 1, 2009. In addition, this will be reemphasized at the National Meeting.

Recommendation 3: Incorporate instructions provided in the “Animal Care Enforcement Actions Guidance for Inspection Reports” into the *Dealer Inspection Guide* to ensure inspectors and their supervisors follow them in selecting the appropriate enforcement.

APHIS Response: APHIS agrees with this Recommendation. We will provide AC employees with guidance regarding all EA options to recommend to AC management drawn from OIG recommendations, OGC guidance, and legal decisions. AC will incorporate the requirements in a new document entitled “Inspection Requirements.” This document will be distributed and covered for AC employees during AC's National Meeting, April 19-22, 2010. APHIS will update the *Dealer Inspection Guide* to include the information in the “Inspection Requirements” document and consolidate it with the Research Facility Inspection and the Exhibitor Inspection Guides into one comprehensive document. APHIS anticipates completing the document consolidation by September 30, 2010.

Recommendation 4: Modify regulations to allow immediate confiscation where animals are dying or seriously suffering.

APHIS Response: APHIS agrees with the intent of this Recommendation, but believe that current regulations are sufficient to allow immediate confiscation. We believe that we can effect the intent of the Recommendation by reviewing and clarifying the confiscation processes so that confiscations can be accomplished with maximum speed and effectiveness. We will distribute the clarified guidance to employees during AC's National Meeting, April 19-22, 2010.

Recommendation 5: Establish written procedures to refer animal cruelty cases to the States that have such felony laws.

APHIS Response: APHIS agrees with this Recommendation. While the Animal Welfare Act (AWA) does not give APHIS the authority to determine if state or local animal cruelty laws have been violated, we do believe that we should work with state and local authorities in our shared goal of eliminating animal cruelty. APHIS will

refer issues of mutual interest to appropriate local authorities who enforce state laws and share inspection reports and EAs with several states that have state-level enforcement capability (e.g., Colorado, Iowa, Kansas, Missouri, and Pennsylvania). AC has modified the regional “Enforcement Action Option Worksheet” to include a check box for inspectors to indicate whether or not they contacted local or state authorities. A copy of the modified worksheet is attached. We will reemphasize with inspectors the need to notify appropriate authorities who enforce state humane laws during AC’s National Meeting from April 19-22, 2010. APHIS will develop a Standard Operating Procedure to refer suspected animal cruelty incidents to appropriate authorities that have felony laws for animal cruelty. This document will be completed by September 30, 2010.

Recommendation 6: Provide more comprehensive training and detailed guidance to the inspectors and supervisors on direct and repeat violations, enforcement procedures, evidentiary requirements (e.g., adequately describing violations), shelter medicine, and animal abuse.

APHIS Response: APHIS agrees with this Recommendation. We have provided training for all inspectors on identifying direct and repeat NCIs and adequately describing NCIs, during fall 2009 meetings between supervisors and their inspector teams. We will provide additional training and guidance (i.e., the “Inspection Requirements” document) to inspectors and supervisors on identifying direct and repeat NCIs, adequately describing NCIs, enforcement procedures, and common medical conditions seen at commercial kennels during AC’s National Meeting, April 19-22, 2010. In addition, we will provide a training session on shelter medicine at the National Meeting. We will develop a comprehensive technical training plan through the Center for Animal Welfare, by November 30, 2010.

Recommendation 7: Revise the *Dealer Inspection Guide* to require photos for all violations that can be documented in this manner.

APHIS Response: APHIS agrees with this Recommendation. Our current guidance calls for photographs of: direct NCIs; repeat NCIs; NCIs that may result in EA or an investigation; NCIs that are additional information for ongoing investigations; and transportation violations. In addition, our guidance states that inspectors may choose to take photographs in other circumstances. We will modify guidance to add NCIs documented on the third prelicense inspection and NCIs documented on inspections that may be appealed. We will reemphasize with inspectors when to take photographs. We will incorporate this information in the new “Inspection Requirements” document, and distribute it to employees during the AC National Meeting, April 19-22, 2010. APHIS will update the *Dealer Inspection Guide* to include the information in the “Inspection Requirements” document and consolidate it with the Research Facility Inspection and the Exhibitor Inspection Guides into one

comprehensive document. APHIS anticipates completing the document consolidation by September 30, 2010.

Recommendation 8: Limit total penalty reductions on the new worksheet to less than 100 percent.

APHIS Response: APHIS agrees with this Recommendation. We will develop and implement a new worksheet which limits total penalty reductions to less than 100 percent by September 30, 2010.

Recommendation 9: Establish a methodology to determine a minimum stipulation amount and consistently apply that amount, when appropriate.

APHIS Response: APHIS agrees with this Recommendation. We will formally document the “minimum stipulation amount” in the “Determining Penalties Under the Animal Welfare Act” document by September 30, 2010.

Recommendation 10: Designate a responsible party to ensure that “Determining Penalties Under the Animal Welfare Act” (April 2006) is consistently followed by AC and IES and that penalties are properly calculated.

APHIS Response: APHIS agrees with this Recommendation. We recently reorganized the enforcement component of our Investigative and Enforcement Services (IES) to establish two branches: the Animal Health and Welfare Enforcement Branch (AHWEB) and the Plant Health and Border Protection Enforcement Branch. A GS-14 Chief will supervise each branch with full supervisory authority for branch staff. The Chief of AHWEB and his/her subordinate staff are responsible for EAs involving only AC and the APHIS Veterinary Services programs, greatly increasing the level of staff specialization afforded to these programs when compared to that in place during the audit. The Chief of AHWEB will assume responsibility for ensuring that AWA penalty calculations are consistent and in accordance with the instructions included in “Determining Penalties Under the Animal Welfare Act.” In an instance where the AHWEB Branch Chief is unavailable or the position is vacant, the IES Deputy Director will assume this responsibility.

Recommendation 11: Include instructions in “Determining Penalties Under the Animal Welfare Act” to count each animal as a separate violation in cases involving animal deaths and unlicensed wholesale activities.

APHIS Response: APHIS partially agrees with this Recommendation. The Recommendation is not always practical for unlicensed wholesale activities. We will request an opinion from OGC about a penalty structure for unlicensed wholesale activities by September 30, 2010. However, we will count each animal as a separate violation when an animal death results from NCIs. Specifically, AC will clarify the

penalty guidelines by September 30, 2010, to count each animal as a separate violation when an animal death resulting from NCIs is involved.

Recommendation 12: Propose that the Secretary seek legislative change to exclude Internet breeders from the definition of “retail pet store,” and require that all applicable breeders or brokers who sell through the Internet be regulated under AWA.

APHIS Response: APHIS agrees with this Recommendation. APHIS is currently providing information (including potential options) to Congress as requested regarding the proposed Puppy Uniform Protection and Safety Act (or PUPS). This bill would place dogs sold directly to the public via the Internet, telephone, and catalogue sales within the jurisdiction of the AWA. In addition, APHIS will concurrently draft a legislative proposal for the Secretary by May 31, 2010.

Recommendation 13: Correct all security issues pertaining to ACIS that were identified by USDA’s Cyber Security Office during its concurrency review.

APHIS Response: APHIS agrees with this Recommendation. We have already corrected all security issues pertaining to ACIS. Our corrective actions are documented in the attached memorandum entitled “Approval for Interim Authority to Operate for Animal and Plant Health Inspection Service Animal Care Information System (ACIS),” dated October 21, 2009.

Recommendation 14: Require FMD to ensure that IES follows the payment plan process by conducting additional training and periodic reviews, or require FMD to reassume its responsibility for establishing payment plans for stipulations.

APHIS Response: APHIS agrees with this Recommendation. IES will follow the applicable federal regulations and Financial Management Division’s (FMD) Guidelines for Establishing Payment Plans when establishing payment plans. Consistent with these authorities, in September 2009, IES and FMD developed the attached Memorandum of Agreement (MOA) for persons who request a payment. IES has implemented the MOA in its International Organization for Standardization (ISO) Payment Plan process. In addition, IES and FMD have developed a method to jointly review and reconcile payment plans, stipulations, and orders assessing penalties on a monthly basis. IES’ Chief, Document Control Branch, will train the IES personnel who handle payment plans, in accordance with FMD’s Guidelines for Establishing Payment Plans and IES’ ISO Payment Plan process.

Please note that OIG’s characterization of 31 C.F.R. § 901.8 and FMD’s Guidelines for Establishing Payment Plans differs from the plain language of those authorities. For example, OIG asserts that 31 C.F.R. § 901.8 states, “require that plans *must* be based on debtor’s inability to pay in a reasonable time, which should be supported by

financial information,” but the regulation actually states, “Agencies *should* obtain financial statements from debtors who represent that they are unable to pay in one lump sum and independently verify such representations whenever possible.” (emphasis added) Additionally, OIG states, “APHIS’ debt management policies *require* that the plans be signed by the debtor,” but FMD’s Guidelines for Establishing Payment Plans actually state, “Agencies *may* accept installment payments notwithstanding the refusal of the debtor to execute a written agreement or provide financial statements.” (emphasis added)

We hope that with this memorandum you are able to reach management decisions.

Attachments

Enforcement Action Option Worksheet

Licensee / Registrant Name:

License / Registration Number(s):

Customer Number:

Site No.(s):

Date(s) of Alleged Violation(s):

Date of Inspection Report(s):

Photos Included: ☐ Yes ☐ No

Airbill Included: ☐ Yes ☐ No ☐ NA

Local or State Authorities Contacted ☐ Yes ☐ No ☐ NA

Action Taken:

(Check one)

- ☐ **Reinspection within 90 days (complete information below)**
- ☐ **APHIS Form 7060**
- ☐ **Initiate investigation**
- ☐ **Add to current investigation/case**
- ☐ **Other (explain):**
- ☐

Basis for Recommendation of "Reinspection within 90 days":

_____ Violation(s) are not severe enough to necessitate enforcement action at this time

_____ Evidence that facility is making credible progress towards full compliance - to be verified on reinspection.

_____ Other: (Explain)

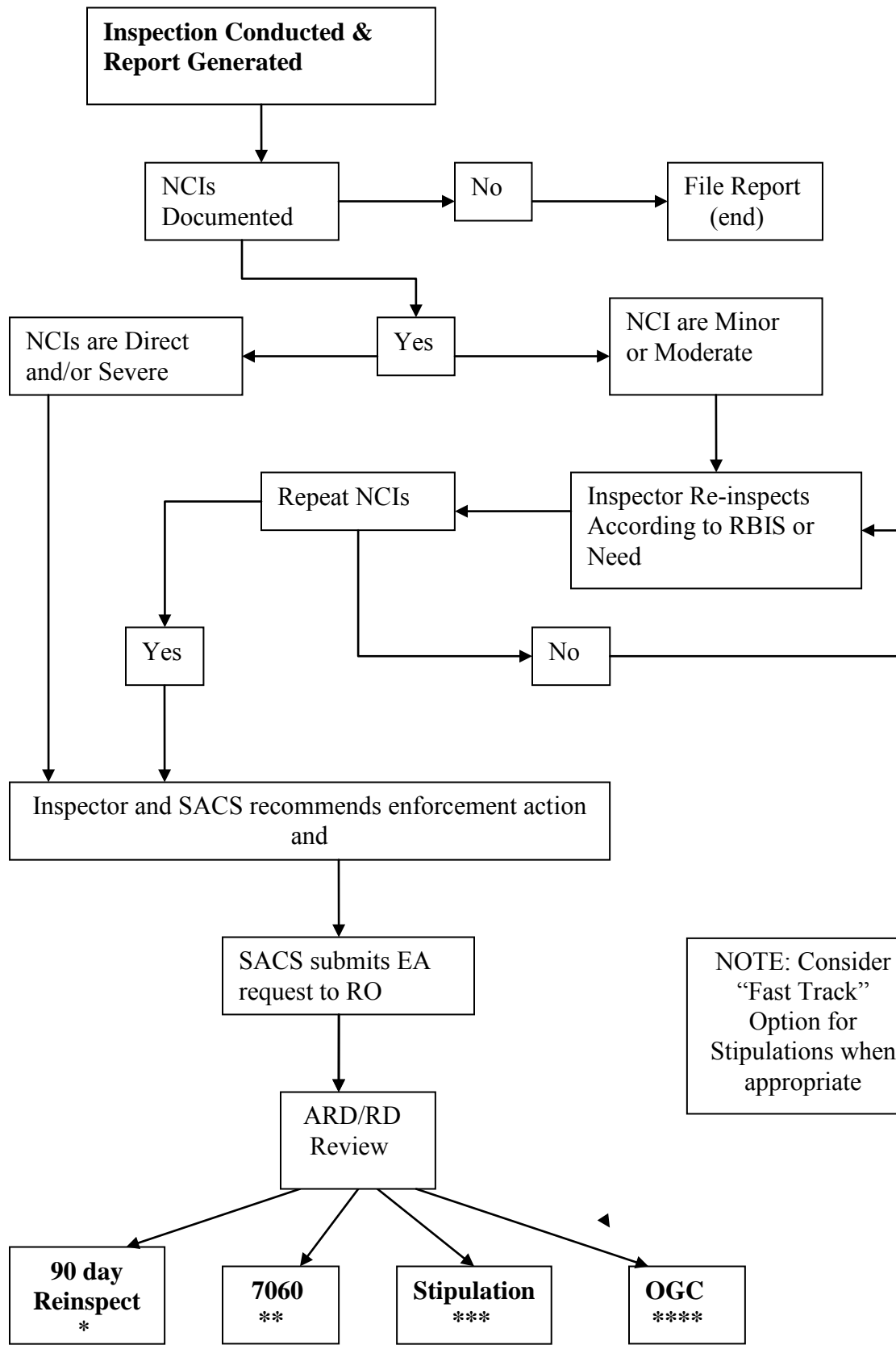
SACS Signature_____

Date_____

RD Concurrence_____

Date_____

**Animal Care
Enforcement Actions (EA) Guidance for Inspection Reports**



October 21, 2009

TO: Marilyn Holland
Chief Information Officer
Animal and Plant Health Inspection Service

FROM: Charles T. McClam /S/ R. Coffee
Deputy Chief Information Officer
Office of the Chief Information Officer

SUBJECT: Approval for Interim Authority to Operate for Animal and Plant
Health Inspection Service (APHIS) Plant Health Information System
(PHIS)

I have reviewed your request dated September 30, 2009, for an Interim Authority to Operate (IATO) for PHIS. I concur with your request for an IATO, effective for 90 days from the date of this memorandum under the following conditions. APHIS will:

- Submit a security categorization document, privacy threshold analysis/privacy impact assessment, risk assessment and system security plan into the Cyber Security and Management (CSAM) system for review.
- Create Plans for Action and Milestones (POAMS) in CSAM that document the accreditation project.
- Operate the system with appropriate security controls in place.
- Submit bi-weekly reports to the Office of Cyber and Privacy Policy and Oversight as to the status of its accreditation activities.
- Continually monitor the security posture of the system to ensure that no security vulnerabilities arise.
- Ensure that any vulnerabilities reported during the continuous monitoring process do not result in any unacceptable risk to USDA operations and assets.
- Accredite the system before the IATO expires.

If you have any questions, please contact Valarie Burks, Associate Chief Information Officer for Cyber and Privacy Policy and Oversight at 202-690-2396 or via e-mail at Valarie.Burks@usda.gov.



United States
Department of
Agriculture

Marketing and
Regulatory Programs

Financial
Management
Division

Minneapolis Financial Services Branch
Debt Management Team
PO Box 3334
Minneapolis, MN 55403

AGREEMENT BETWEEN
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
AND

TIN: _____ CASE # _____

This Agreement, dated this _____ day of _____ is between _____ of _____, and the United States Department of Agriculture, Animal and Plant Health Inspection Services, Financial Service Branch, Minneapolis, MN, hereinafter referred to as APHIS.

_____ acknowledges that a civil penalty debt is owed to APHIS in the principal amount of _____. _____ agrees to pay this amount to APHIS in monthly installments. The first installment payment of _____ shall be due on _____ with subsequent payments of _____ due on the (either 1st or 15th) of each successive month, beginning _____. Please annotate your case number on the payment.

_____ understands the terms of this agreement and agrees as follows:

- In accordance with the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, late payments will be subject to interest and or penalty charges.
- In the event of default on the payment schedule (which default remains uncured for 60 days from the due date thereof), the total unpaid balance shall be immediately due and payable without demand or notice thereof. The balance due will be unpaid principal, interest calculated from the first day following the due date of the payment schedule, and late payment penalty.
- Failure to complete payments agreed to in this payment plan will result in this debt being prepared for referral to the United States Department of Treasury for further collection action.
- The interest rate will be the current value of funds rate established by the Department of Treasury. For late payments, interest will be charged from the first day following the due date of the payment.
- _____ agrees to reference their USDA APHIS account number on all payments, and to remit all installment payments under this Agreement to the USDA APHIS lockbox bank in accordance with either of the following methods:

Mail Address:

USDA, APHIS, (Case #)
P.O. Box 979043
St. Louis, MO 63195

Physical Address:

U.S. Bank (Case #)
Attn: Gvmt Lockbox – P. O. Box 979043
1005 Convention Plaza
St. Louis, MO 63101

Please return the signed agreement to:

USDA, APHIS, IES (Case #)
Attn: (Specialist name)
4700 River Road, Unit 85
Riverdale, MD 20737

APHIS and _____ understand and will abide by all of the terms outlined in this agreement.

USDA Animal and Plant Health Inspection Service

(Signature)
(print name) _____
Date

(Signature)
(Specialist & Phone #.) _____
Date



APHIS - Protecting American Agriculture
Toll Free: (877) 777-2128, Commercial: (612) 336-3400, FAX: (612) 370-2293

An Equal Opportunity Employer

T82 Payment Plan Agreement (11/09)

Exhibit 8

August 25, 2017

Tonya Woods
Director for Freedom of Information
USDA

VIA Online Submission

Dear Ms. Woods:

This is a request for public records made on behalf of People for the Ethical Treatment of Animals (PETA) pursuant to the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, and the accompanying USDA regulations, 7 C.F.R. §§ 1.1-1.25.

PETA requests closed all documents (memos, color photos, videos) for the following inspection reports for The Camel Farm, 86-C-0102:

- March 7, 2017
- March 8, 2017
- March 9, 2017
- May 23, 2017

If records which are responsive to this request are located in other USDA offices, please forward this request to all appropriate offices.

PETA is a non-profit public interest organization and as such PETA requests that all fees be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii). PETA has no commercial interest in the requested information, and its disclosure will contribute significantly to the public's understanding of the USDA's administration of the AWA. For this reason, the USDA has routinely granted PETA a fee waiver. However, should you need additional information to process this request for a fee waiver, please let me know as soon as possible.

If you have any questions about this request, please contact me at 757-962-8323 or TeresaM@petaf.org.

Very truly yours,



Teresa Marshall, Information Officer
Captive Animal Law Enforcement

PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS
FOUNDATION

Washington, D.C.
1536 16th St. N.W.
Washington, DC 20036
202-483-PETA

Los Angeles
2154 W. Sunset Blvd.
Los Angeles, CA 90026
323-644-PETA

Norfolk
501 Front St.
Norfolk, VA 23510
757-622-PETA

Oakland
554 Grand Ave.
Oakland, CA 94610
510-763-PETA

PETA FOUNDATION IS AN
OPERATING NAME OF FOUNDATION
TO SUPPORT ANIMAL PROTECTION.

AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

Exhibit 9



Marketing and
Regulatory
Programs

Animal and Plant
Health Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

May 3, 2018

Teresa Marshall
PETA Foundation
501 Front Street
Norfolk, VA 23510

Email: teresam@petaf.org

SENT VIA ELECTRONIC MAIL

Re: Final Response to FOIA Request No. 2017-APHIS-06296-F

Dear Ms. Marshall:

This is in response to your August 25, 2017, Freedom of Information Act (FOIA) request which was received in the U.S. Department of Agriculture (USDA), Animal and Plant Health Service (APHIS) on the same date. Your request was assigned FOIA tracking number 2017-APHIS-06296-F. Your FOIA request states:

PETA requests closed all documents (memos, color photos, videos) for the the following inspection reports for The Camel Farm, 86-C-0102:

- *March 7, 2017*
- *March 8, 2017*
- *March 9, 2017*
- *May 23, 2017*

Upon receipt, your request was forwarded to the Animal Care (AC) program to conduct a search of their files for records that are responsive to your FOIA request. Agency employees conducted a search of their electronic files and databases using key words that would most likely result in responsive records. As a result of their search, on September 14, 2017, AC provided 255 pages (33 pages of inspection reports, 9 pages of animal care records, 181 photographs, and 32 videos) that are responsive to your request.

The records requested are contained in a Privacy Act system of records. *See*, [APHIS-8: Veterinary Services - Animal Welfare](#). Generally, under the Privacy Act, an agency shall not disclose information contained in a system of records, except pursuant to the written request by or consent of the individual to whom the record pertains, unless an exception applies. There are twelve exceptions under the Privacy Act to this general prohibition to disclosure. *See* 5 U.S.C. § 552a (b). One exception authorizes disclosure when the FOIA requires the release of information contained in a system of records. *Id.* at § 552a (b)(2).

As such, APHIS must release all requested records which are not exempt under the FOIA. Therefore, the records at issue have been reviewed under the FOIA. After a review of the records, it has been determined that 34 pages will be released in part, pursuant to FOIA Exemptions 6 and 7(C). Eight pages of records, 181 photographs, and 32 videos will be withheld in full, pursuant to FOIA Exemptions 6 and 7(C).

The following information provides justifications and precedent for our withholding of information under the applicable FOIA exemptions:

FOIA Exemptions 6 & 7(C)

FOIA Exemption 6 permits the government to withhold from “personnel and medical files and similar files” information about individuals when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” *See 5 U.S.C. § 552 (b)(6)*. FOIA Exemption 7(C), which is the law enforcement counterpart to Exemption 6, permits the government to withhold information compiled for law enforcement purposes about individuals when the disclosure of such information “could reasonably be expected to constitute an unwarranted invasion of personal privacy.” *See 5 U.S.C. § 552 (b)(7)(C)*. We have determined that the records at issue in this case meet the definition of “similar” files because they contain information pertaining to individuals. Additionally, because APHIS is authorized under the Animal Welfare Act (AWA), (*see 7 U.S.C. §§ 2131-2159*), its inspection process is an administrative enforcement action, which is considered a law enforcement purpose covered under Exemption 7.

In order to determine whether a document, or portions thereof, may be withheld under Exemption 6 and 7(C), an agency must undertake a three-step analysis. First, the agency must determine whether a significant privacy interest would be compromised by the disclosure of the record. Second, the agency must determine whether the release of the document would further the public interest by shedding light on the operations and activities of the Government. And third, the agency must balance the identified privacy interests against the public interest in disclosure. The purpose for which the request for information is made does not impact this balancing test because a release of information requested under the FOIA constitutes a release to the general public.

In this matter, we are withholding certain information from the inspection reports, namely, the private address of the licensee, the inspection report number, the month and day of the inspection, the type of inspection, the number and type of animals inspected, names of individual employees, and the actual results of the inspection. We are also withholding all of the photographs and videos that are associated with the inspections, treatment logs, portions of a Program Veterinary Care Form, and the signatures of the Licensee and Veterinarian. We have determined that the licensee whose information is protected in the inspection report has more than a *de minimis* privacy interest in this information because identifying their personal

information, i.e. their address, could open them up to unwanted contact or communications. Individuals have a privacy interest because the facilities are located on the homestead. Additionally, revealing the signature of the licensee and/or Veterinarian could lead to identity theft thus this information must be protected from disclosure.

The withholding of the inspection summary and the other identifying information is appropriate, because the public would be able to compare the publicly available inspection report found in the APHIS Animal Care Public Search database against the requested redacted inspection report which, in this case, reveals the identity of the licensee. As such, the full release of the requested inspection reports and its attachments would be considered an unwarranted invasion of personal privacy.

The only pertinent public interest in the disclosure of this information is whether its release would shed light on the agency's activities and the performance of its statutory duties. While we do find that there is public interest in the withheld information, we have determined that the protection against potential harm to the licensee far outweighs any public interest in revealing the personal information in these records. Because the harm to personal privacy is greater than any minimal public interest that may be served by disclosure, release of this personal information would constitute a clearly unwarranted invasion of the privacy of the individual. Therefore, the protected information is being withheld pursuant to FOIA exemptions 6 and 7(C).

If you are not satisfied with this response, you may administratively appeal by writing to:

Administrator
Animal and Plant Health Inspection Service
Ag Box 3401
Washington, DC 20250-3401

Your appeal must be postmarked or electronically transmitted within 90 days of the date of this response. Please reference case number 2017-APHIS-06296-F in your appeal letter and add the phrase "FOIA APPEAL" to the front of the envelope. To assist the Administrator in reviewing your appeal, please provide specific reasons why you believe modification of this determination is warranted.

This completes APHIS's response to your request. You may contact Tameka Tilliman, the analyst who processed your request, at (301) 851-4033 or by email, at Tameka.L.Tilliman@aphis.usda.gov as well as Mr. James Ivy, our FOIA Public Liaison, at (301) 851-4100. Additionally, you may contact the Office of Government Information Service (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6601
Email: ogis@nara.gov
Phone: (202) 741-5770
Toll Free: (877) 684-6448
Fax: (202) 741-5769

Sincerely,

For:
Tonya G. Woods
Director
Freedom of Information & Privacy Act
Legislative and Public Affairs

Enclosures (255 pages)

Exhibit 10



Inspection Report

Terrill Al-Saihati

Customer ID: 3826

Certificate: 86-C-0102

Site: 001

TERRILL AL-SAIHATI

Type: (b) (6), (b) (7)(C) INSPECTION

Date: (b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0001



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0002



Inspection Report

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

The

inspection was conducted with the animal manager and the exit interview were conducted with the licensee and animal manager on (b) (6), (b) (7)(C) 2017.

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0003



Inspection Report

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0004



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	(b) (6), (b) (7)(C) 17

Count	Species
(b) (6), (b) (7)(C)	



Inspection Report

Terrill Al-Saihati

Customer ID: 3826

(b) (6), (b) (7)(C)

Certificate: 86-C-0102

Site: 001

TERRILL AL-SAIHATI

Type: (b) (6), (b) (7)(C) INSPECTION

Date: (b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Date:

(b) (6), (b) (7)(C) 2017

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

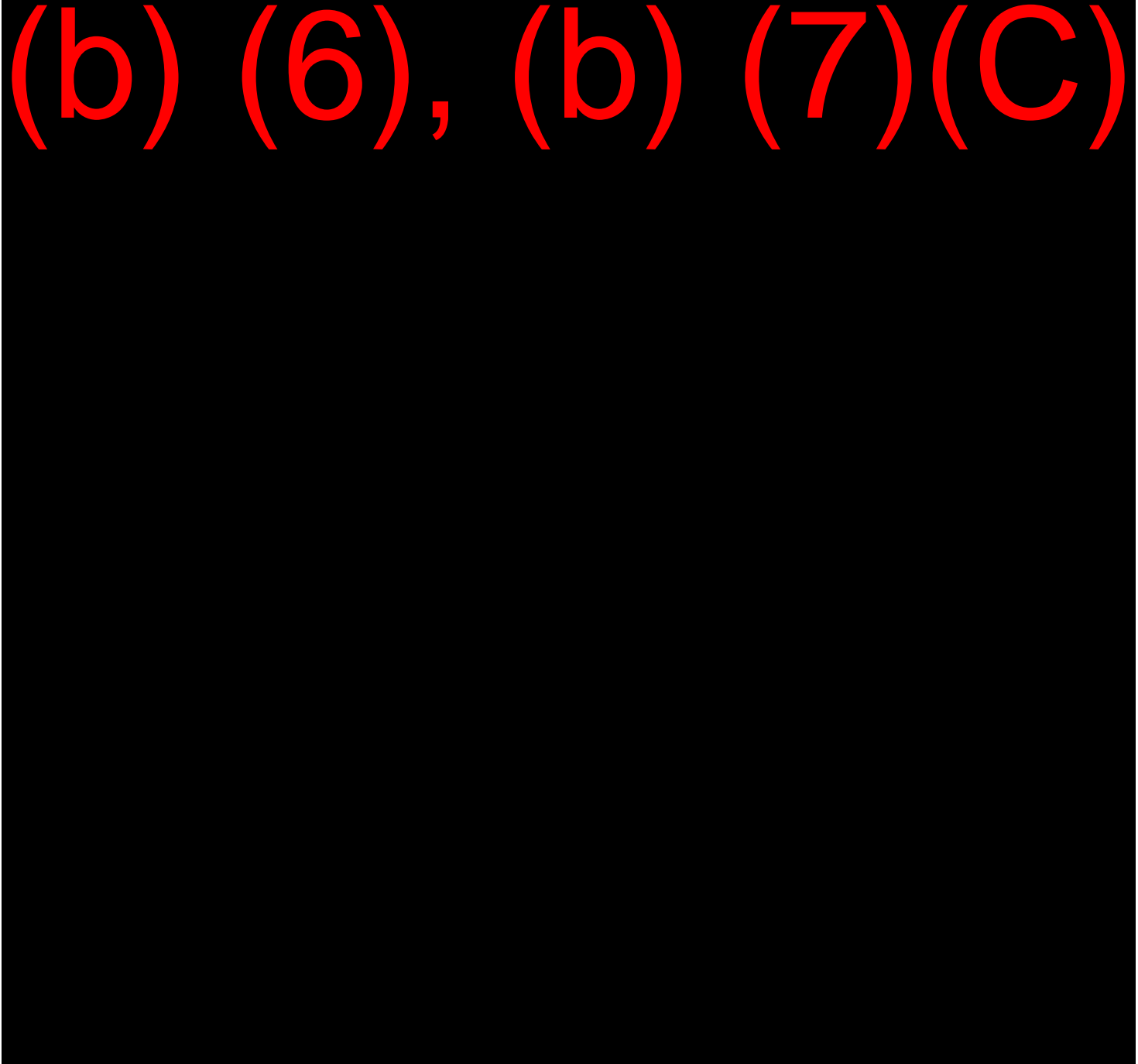
(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0017



Inspection Report

(b) (6), (b) (7)(C)



Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) -2017



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0019



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0020



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0021



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017



Inspection Report

(b) (6), (b) (7)(C)

This inspection was conducted with animal manager and exit briefing was conducted with licensee and animal manager.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0023



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	(b) (6), (b) (7)(C) 17

(b) (6), (b) (7)(C)

The Animal Welfare Regulations, Title 9, Subchapter A, Part II, Subpart C, Section 2.33 and Subpart D, Section 2.40 require a Program of Veterinary Care.

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

OFFICE USE ONLY

DATE RECEIVED:

ANIMAL CARE

(Program of Veterinary Care for Research Facilities or Exhibitors/Dealers)

SECTION I. A PROGRAM OF VETERINARY CARE (PVC) HAS BEEN ESTABLISHED BETWEEN:

A. LICENSEE/REGISTRANT		B. VETERINARIAN	
1. NAME: <u>Terrill Al-Saihati</u>		1. NAME: <u>(b) (6), (b) (7)(C)</u>	
2. BUSINESS NAME: <u>The Camel Farm</u>		2. CLINIC NAME: <u>(b) (6), (b) (7)(C)</u>	
3. USDA LICENSE/REGISTRATION NUMBER: <u>06-C-0102</u>		3. STATE LICENSE NUMBER: <u>(b) (6), (b) (7)(C)</u>	
4. MAILING ADDRESS: <u>(b) (6), (b) (7)(C)</u>		4. BUSINESS ADDRESS: <u>(b) (6), (b) (7)(C)</u>	
5. CITY, STATE, AND ZIP CODE: <u>(b) (6), (b) (7)(C)</u>		5. CITY, STATE, AND ZIP CODE: <u>(b) (6), (b) (7)(C)</u>	
6. TELEPHONE NUMBER (Home): <u>(b) (6), (b) (7)(C)</u>	TELEPHONE NUMBER (Business): <u>928-920-5726</u>	6. TELEPHONE NUMBER (Business): <u>(b) (6), (b) (7)(C)</u>	

This is a form that may be used for the Program of Veterinary Care. Also, this form may be used as a guideline for the written Program of Veterinary Care, as required.

The attending veterinarian shall establish, maintain, and supervise programs of disease control and prevention, pest and parasite control, pre-procedural and post-procedural care, nutrition, euthanasia, and adequate veterinary care for all animals on the premises of the licensee/registant. A written program of adequate veterinary care between the licensee/registant and the doctor of veterinary medicine shall be established and reviewed on an annual basis. By law, such programs must include regularly scheduled visits to the premises by the veterinarian. Scheduled visits are required to monitor animal health and husbandry.

Pages or blocks which do not apply to the facility should be marked N/A. If the space provided is not adequate for a specific topic, additional sheets may be added. Please indicate Section and Item Number.

I have read and completed this Program of Veterinary Care, and understand my responsibilities.

Regularly scheduled visits by the veterinarian will occur at the following frequency:

Annual (minimum annual).

C. SIGNATURE OF LICENSEE/REGISTRANT: <u>(b) (6), (b) (7)(C)</u>	DATE: <u>9/4/15</u>
D. SIGNATURE OF VETERINARIAN: <u>(b) (6), (b) (7)(C)</u>	DATE: <u>9/4/15</u>

CHECK IF N/A ☒**SECTION II. DOGS AND CATS****A. VACCINATIONS – SPECIFY THE FREQUENCY OF VACCINATION FOR THE FOLLOWING DISEASES:**

CANINE			FELINE		
	JUVENILE	ADULT		JUVENILE	ADULT
PARVOVIRUS			PANLEUK		
DISTEMPER			RESP. VIRUSES		
HEPATITIS			RABIES		
LEPTOSPIROSIS			OTHER (Specify)		
RABIES					
BORDETELLA					
OTHER (Specify)					

B. PARASITE CONTROL PROGRAM – DESCRIBE THE FREQUENCY OF SAMPLING OR TREATMENT FOR THE FOLLOWING:

1. ECTOPARASITES (Fleas, Ticks, Mites, Lice, Flies):

2. BLOOD PARASITES (Heartworm, Babesia, Ehrlichia, Other):

3. INTESTINAL PARASITES (Fecals, Deworming):

C. EMERGENCY CARE – DESCRIBE PROVISIONS FOR EMERGENCY, WEEKEND, AND HOLIDAY CARE:**D. EUTHANASIA**

1. SICK, DISEASED, INJURED, OR LAME ANIMALS SHALL BE PROVIDED WITH VETERINARY CARE OR EUTHANIZED. EUTHANASIA WILL BE IN ACCORDANCE WITH THE AMERICAN VETERINARY MEDICAL ASSOCIATION (AVMA) RECOMMENDATIONS AND WILL BE CARRIED OUT BY THE FOLLOWING:

☐ VETERINARIAN☐ LICENSEE/REGISTRANT

2. METHOD(S) OF EUTHANASIA:

E. ADDITIONAL PROGRAM TOPICS – THE FOLLOWING TOPICS HAVE BEEN DISCUSSED IN THE FORMULATION OF THE PROGRAM OF VETERINARY CARE:☐ Congenital Conditions☐ Exercise Plan (Dogs)☐ Quarantine Conditions☐ Proper Handling of Biologics☐ Nutrition☐ Venereal Diseases☐ Anthelmintic Alternation☐ Pest Control and Product Safety☐ Other (Specify) _____☐ Proper Use of Analgesics and Sedatives

CHECK IF N/A ☐

SECTION III. WILD AND EXOTIC ANIMALS

A. VACCINATIONS – LIST THE DISEASES FOR WHICH VACCINATIONS ARE PERFORMED AND THE FREQUENCY OF THE VACCINATIONS (Enter N/A if not applicable):

CARNIVORES:

HOOFED STOCK: Eland, camels - Clostridium C&D, Tetanus - annually
Zebra, Zedonk - EWT - Rino Int - annually

PRIMATES: N/A

ELEPHANTS: N/A

MARINE MAMMALS: N/A

OTHER (Specify): Coati - n/a; Wallaroo - n/a, Kinkajou - n/a, opossum - n/a

B. PARASITE CONTROL PROGRAM – DESCRIBE THE FREQUENCY OF SAMPLING OR TREATMENT FOR THE FOLLOWING:

1. ECTOPARASITES (Fleas, Ticks, Mites, Lice, Flies):

Treat as needed

2. BLOOD PARASITES:

Test as needed or for transport

3. INTESTINAL PARASITES: Ivermectin pour on according to label instructions, worm 2x yearly or greater if needed. Fecal sample for endoparasites annually or as needed.

C. EMERGENCY CARE

1. DESCRIBE PROVISIONS FOR EMERGENCY, WEEKEND, AND HOLIDAY CARE:

A mobile veterinarian

2. DESCRIBE CAPTURE AND RESTRAINT METHOD(S):

Pole syringe, holding pens

D. EUTHANASIA

1. SICK, DISEASED, INJURED, OR LAME ANIMALS SHALL BE PROVIDED WITH VETERINARY CARE OR EUTHANIZED. EUTHANASIA WILL BE IN ACCORDANCE WITH THE AVMA RECOMMENDATIONS AND WILL BE CARRIED OUT BY THE FOLLOWING:

☒ VETERINARIAN

☐ LICENSEE/REGISTRANT

2. METHOD(S) OF EUTHANASIA:

IV injection after tranquilization - depends on species. Generally acepromazine, xylazine, butorphanol. Followed by Beuthanasia.

E. ADDITIONAL PROGRAM TOPICS – THE FOLLOWING TOPICS HAVE BEEN DISCUSSED IN THE FORMULATION OF THE PROGRAM OF VETERINARY CARE:

☐ Pest Control and Product Safety

☐ Environment Enhancement (Primates)

☐ Quarantine Procedures

☐ Water Quality (Marine Mammals)

☐ Zoonoses

☐ Species-specific Behaviors

☐ Other (Specify) _____

☐ Proper Storage and Handling of Drugs and Biologics

☐ Proper Use of Analgesics and Sedatives

F. LIST THE SPECIES SUBJECTED TO TB TESTING, AND THE FREQUENCY OF SUCH TESTS:

Camels, Eland

subject to TB test if needed for a interstate health certificate.

CHECK IF N/A ☐

SECTION IV. OTHER WARMBLOODED ANIMALS

A. INDICATE SPECIES:

Domestic cattle, sheep, goats, goat/ibex hybrids
Domestic ferret, hedgehog

B. VACCINATIONS - LIST THE DISEASES FOR WHICH VACCINATIONS ARE PERFORMED AND THE FREQUENCY OF VACCINATIONS
(Enter N/A if not applicable):

cattle, sheep, goats, water buffalo - clostridium cd, tetanus - annually
zebra, zedonk - EW IT/Rhino, West Nile virus, Fall - Rhino/Inf

C. PARASITE CONTROL PROGRAM - DESCRIBE THE FREQUENCY OF SAMPLING OR TREATMENT FOR THE FOLLOWING:

1. ECTOPARASITES (Fleas, Ticks, Mites, Lice, Flies):

treat as needed

2. INTERNAL PARASITES (Helminths, Coccidia, Other):

Treat with ivermectin pour on 2x yearly as needed (cattle, sheep, goats)
Treat w/ ivermectin paste 2x yearly or as needed (zebra, zedonk)

D. EMERGENCY CARE - DESCRIBE PROVISIONS FOR EMERGENCY, WEEKEND, AND HOLIDAY CARE:

A mobile veterinarian.

owners may treat mild respiratory problems in goats with LA200 according to label instructions.

E. EUTHANASIA

1. SICK, DISEASED, INJURED, OR LAME ANIMALS SHALL BE PROVIDED WITH VETERINARY CARE OR EUTHANIZED, EUTHANASIA WILL BE IN ACCORDANCE WITH THE AVMA RECOMMENDATIONS AND WILL BE CARRIED OUT BY THE FOLLOWING:

☒ VETERINARIAN

☐ LICENSEE/REGISTRANT

2. METHOD(S) OF EUTHANASIA:

IV injection after tranquilization - drugs are species dependent
Beuthanasia

F. ADDITIONAL PROGRAM TOPICS - THE FOLLOWING TOPICS HAVE BEEN DISCUSSED IN THE FORMULATION OF THE PROGRAM OF VETERINARY CARE:

☐ Pasteurellosis

☐ Species Separation

☐ Pododermatitis

☐ Malocclusion/Overgrown Incisors

☐ Cannibalism

☐ Pest Control and Product Safety

☐ Wet Tail

☐ Handling

☐ Other (Specify) _____



Inspection Report

Terrill Al-Saihati

(b) (6), (b) (7)(C)

Customer ID: 3826

Certificate: 86-C-0102

Site: 001

TERRILL AL-SAIHATI

Type: (b) (6), (b) (7)(C) INSPECTION

Date: (b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

(b) (6), (b) (7)(C)

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0099



Inspection Report

(b) (6), (b) (7)(C)



Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

(b) (6), (b) (7)(C)

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C) 2017

2017-APHIS-06296 0100



Inspection Report

(b) (6), (b) (7)(C) The inspection was conducted with the animal manager and IES investigator and the exit interview was conducted with the animal manager, an authorized facility representative, on (b) (6), (b) (7)(C) 2017.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Frank Katharine, Veterinary Medical Officer

Garland Kathleen, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Date:

(b) (6), (b) (7)(C) 2017

Received By:

(b) (6), (b) (7)(C)

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

2017-A (b) (6), (b) (7)(C) 06296 0101



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	(b) (6), (b) (7)(C) 17

(b) (6), (b) (7)(C)



Inspection Report

Terrill Al-Saihati

Customer ID: 3826

Certificate: 86-C-0102

Site: 001

TERRILL AL-SAIHATI

Type: (b) (6), (b) (7)(C) INSPECTION

Date: (b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C)

This inspection was conducted with the animal manager and exit interview was conducted with the animal manager and licensee.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Frank Katharine, Veterinary Medical Officer

Garland Kathleen, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

TERRILL AL-SAIHATI

Title: LICENSEE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0111



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	(b) (6), (b) (7)(C) 17

(b) (6), (b) (7)(C)



Inspection Report

Terrill Al-Saihati

Customer ID: 3826

Certificate: 86-C-0102

Site: 001

TERRILL AL-SAIHATI

Type: (b) (6), (b) (7)(C) INSPECTION

Date: (b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

SENT VIA ELECTRONIC MAIL

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0117



Inspection Report

(b) (6), (b) (7)(C)



Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

SENT VIA ELECTRONIC MAIL

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

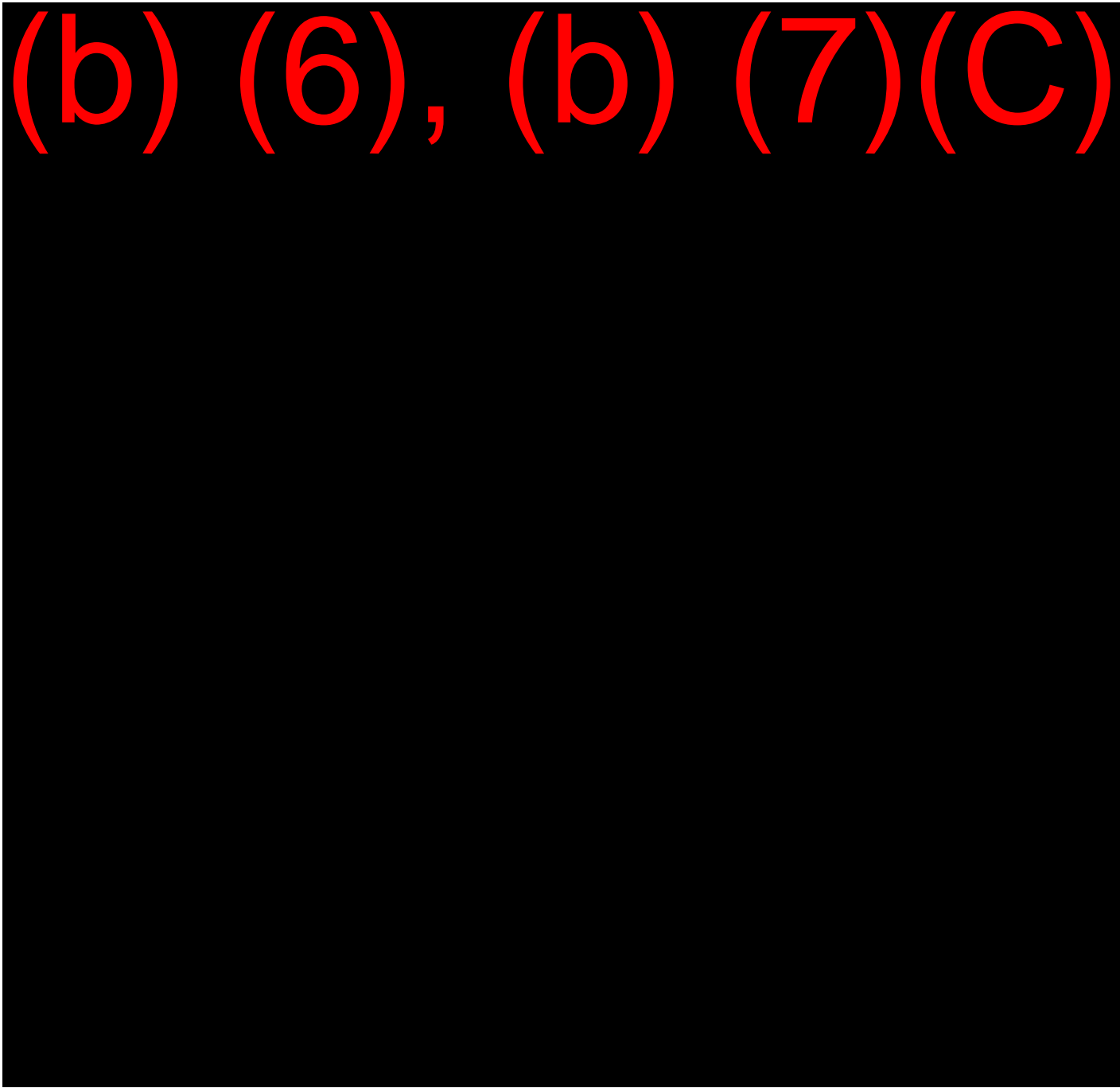
(b) (6), (b) (7)(C) 2017

2017-A-06296 0118



Inspection Report

(b) (6), (b) (7)(C)



Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

SENT VIA ELECTRONIC MAIL

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0119



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

SENT VIA ELECTRONIC MAIL

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0120



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

SENT VIA ELECTRONIC MAIL

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0121



Inspection Report

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) an exit was conducted on (b) (6), (b) (7)(C) 2017 with the licensee and the undersigned inspector.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

SENT VIA ELECTRONIC MAIL

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0122



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	(b) (6), (b) (7)(C) 17

(b) (6), (b) (7)(C)



Inspection Report

Terrill Al-Saihati

(b) (6), (b) (7)(C)

Customer ID: 3826

Certificate: 86-C-0102

Site: 001

TERRILL AL-SAIHATI

Type: (b) (6), (b) (7)(C) INSPECTION

Date: (b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C)

Both the inspection and exit interview were conducted with the licensee and facility representative on (b) (6), (b) (7)(C) 2017.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Date:

(b) (6), (b) (7)(C) 2017

Received By:

HAND DELIVERED

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0221



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	(b) (6), (b) (7)(C) 17

Count Species

(b) (6), (b) (7)(C)



Inspection Report

Terrill Al-Saihati

Customer ID: 3826

Certificate: 86-C-0102

Site: 001

TERRILL AL-SAIHATI

Type: (b) (6), (b) (7)(C) INSPECTION

Date: (b) (6), (b) (7)(C) 2017

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

HAND DELIVERED

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0226



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

HAND DELIVERED

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0227



Inspection Report

(b) (6), (b) (7)(C)

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

HAND DELIVERED

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

Date:

(b) (6), (b) (7)(C) 2017

2017-A 06296 0228



Inspection Report

Both the inspection and exit interview were conducted with the licensee and facility representative on (b) (6), (b) (7)(C) 2017.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Date:

(b) (6), (b) (7)(C) 2017

Received By:

HAND DELIVERED

Title: FACILITY REPRESENTATIVE

Date:

(b) (6), (b) (7)(C) 2017

2017-A (b) (6), (b) (7)(C) 06296 0229



Cust No	Cert No	Site	Site Name	Inspection
3826	86-C-0102	001	TERRILL AL-SAIHATI	(b) (6), (b) (7)(C) 17

Count Species

(b) (6), (b) (7)(C)

Exhibit 11

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Exhibit 12

December 8, 2017

Tonya Woods
Director for Freedom of Information
USDA

VIA Online Submission

Dear Ms. Woods:

This is a request for public records made on behalf of People for the Ethical Treatment of Animals (PETA) pursuant to the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, and the accompanying USDA regulations, 7 C.F.R. §§ 1.1-1.25.

PETA requests the any photos and videos taken during the November 8, 2017 inspection of The Camel Farm in Yuma, AZ: 86-C-0102.

If records which are responsive to this request are located in other USDA offices, please forward this request to all appropriate offices.

PETA is a non-profit public interest organization and as such PETA requests that all fees be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii). PETA has no commercial interest in the requested information, and its disclosure will contribute significantly to the public's understanding of the USDA's administration of the AWA. For this reason, the USDA has routinely granted PETA a fee waiver. However, should you need additional information to process this request for a fee waiver, please let me know as soon as possible.

If you have any questions about this request, please contact me at 757-962-8323 or TeresaM@petaf.org.

Very truly yours,



Teresa Marshall, Information Officer
Captive Animal Law Enforcement

PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS
FOUNDATION

Washington, D.C.
1536 16th St. N.W.
Washington, DC 20036
202-483-PETA

Los Angeles
2154 W. Sunset Blvd.
Los Angeles, CA 90026
323-644-PETA

Norfolk
501 Front St.
Norfolk, VA 23510
757-622-PETA

Oakland
554 Grand Ave.
Oakland, CA 94610
510-763-PETA

PETA FOUNDATION IS AN
OPERATING NAME OF FOUNDATION
TO SUPPORT ANIMAL PROTECTION.

AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

Exhibit 13



Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River
Road
Unit 50
Riverdale, MD
20737-1232

Teresa Marshall
PETA Foundation
501 Front Street
Norfolk, VA 23510
Teresam@petaf.org

April 20, 2018

Dear Ms. Marshall:

This response is in reply to your Freedom of Information Act (FOIA) request dated and received in this office December 8, 2017. Your request was assigned FOIA tracking number 2018-APHIS-01353-F. You requested the following:

- Any photos and videos taken during the November 18, 2017 inspection of the Camel Farm in Yuma, AZ: 86-C-0102.

Upon receipt, your request was forwarded to the Animal Care (AC) Program to conduct a search of their files for records responsive to your request. AC searched their electronic files on January 4, 2018 and located seventeen (17) pages of records responsive to your request.

The records requested are contained in a Privacy Act system of records. See, [APHIS-8: Veterinary Services - Animal Welfare](#). Generally, under the Privacy Act, an agency shall not disclose information contained in a system of records, except pursuant to the written request by or consent of the individual to whom the record pertains, unless an exception applies. There are twelve exceptions under the Privacy Act to this general prohibition to disclosure. See 5 U.S.C. § 552a (b). One exception authorizes disclosure when the FOIA requires the release of information contained in a system of records. *Id.* at § 552a (b) (2).

As such, APHIS must release all requested records which are not exempt under the FOIA. Therefore, the records at issue have been reviewed under the FOIA. After a review of the records, it has been determined that the seventeen (17) pages are exempt from release pursuant to FOIA Exemptions (b) (6) and (b)(7)(c).

The following information provides justifications and precedent for our withholding of information under the applicable FOIA exemptions:

FOIA Exemption (b) (6)

FOIA Exemption 6 permits the government to withhold from “personnel and medical files and similar files” information about individuals when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” As a threshold matter, an inspection report contains

information about an individual licensee and is therefore considered a “similar file.”

In order to determine whether information may be withheld under FOIA Exemption 6, an agency must undertake a three-step analysis. First, the agency must determine whether a significant privacy interest would be compromised by the disclosure of the information. If no privacy interest is identified, the information may not be withheld pursuant to Exemption 6. Second, the agency must determine whether the release of the information would further the public interest by shedding light on the operations and activities of the Government. Third, the agency must balance the identified privacy interests against the public interest in disclosure.

In this matter, we have withheld the photographs in their entirety.

It has been determined that there is a substantial privacy interest in the withheld information. The information in the photographs pertains to individuals. The individuals have a privacy interest because the facilities are located on the homestead. As such, the full release of the requested photographs would be considered an unwarranted invasion of personal privacy.

Under Exemption 6, the only pertinent public interest is whether release of the information would shed light on the agency's activities and the agency's performance of its statutory duties. We do find that there is public interest in the request for this information; however, the established privacy interest the individual has in his homestead, far outweighs any public interest in disclosing of this personal information. Therefore, because the harm to personal privacy is greater than any minimal public interest that may be served by disclosure, release of this personal information would constitute a clearly unwarranted invasion of the privacy of the individual and is therefore exempt from disclosure.

FOIA Exemption (b) (7) (c)

Under Exemption 7, law enforcement purposes cover administrative enforcement actions. APHIS is authorized under the Animal Welfare Act (AWA), (see 7 U.S.C. 2131-2159) (1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; (2) to assure the humane treatment of animals during transportation in commerce; and (3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen. The pertinent regulations enforcing the AWA are found at 9 CFR, Chapter 1, Subchapter A, Parts 1 – 4. The AWA ensures that all regulated commercial animal breeders, dealers, brokers, transportation companies, exhibitors, and research facilities are licensed or registered, and that his or her premises and any animals, facilities, vehicles, equipment, or other premises used or intended for use are in compliance with the AWA. In addition, the AWA

authorizes APHIS to review and investigate and set civil penalties for alleged violations.

FOIA Exemption (b) (7) (c) permits the government to withhold information compiled for law enforcement purposes about individuals, the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." The responsive records at issue were compiled as part of the AWA regulatory compliance process, and were compiled for law enforcement purposes. Therefore, from the responsive records, Exemption (b)(7)(c) is also applied along with Exemption (b)(6).

Please note: No videos were generated during this inspection.

This is our final response. If you have any additional questions regarding this matter, you may contact Tamara Scott, the analyst who processed your request, at (301) 851-4112 or by email, tamara.scott@aphis.usda.gov. You may also contact Mr. James Ivy, our FOIA Public Liaison, at (301) 851-4100 for any further assistance and to discuss any aspect of your request.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; Telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to: Administrator, Animal and Plant Health Inspection Service, Ag Box 3401, Washington, DC 20250-3401. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request.

Please refer to FOIA 2018-APHIS-01353-F in your appeal letter and add the words "FOIA Appeal" to the front of the envelope. To assist the Administrator in reviewing your appeal, provide specific reasons why you believe modification of the determination is warranted.

Sincerely,

For:
Tonya G. Woods
Director
Freedom of Information & Privacy Act
Legislative and Public Affairs

Exhibit 14

March 30, 2018

Tonya Woods
Director for Freedom of Information
USDA

VIA Online Submission

Dear Ms. Woods:

This is a request for public records made on behalf of People for the Ethical Treatment of Animals (PETA) pursuant to the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, and the accompanying USDA regulations, 7 C.F.R. §§ 1.1-1.25.

PETA requests the photos (preferably color) and/or any videos taken during the following inspections of The Camel Farm 86-C-0102:

- August 17, 2017
- July 11, 2017

If records which are responsive to this request are located in other USDA offices, please forward this request to all appropriate offices.

PETA is a non-profit public interest organization and as such PETA requests that all fees be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii). PETA has no commercial interest in the requested information, and its disclosure will contribute significantly to the public's understanding of the USDA's administration of the AWA. For this reason, the USDA has routinely granted PETA a fee waiver. However, should you need additional information to process this request for a fee waiver, please let me know as soon as possible.

If you have any questions about this request, please contact me at 757-962-8323 or TeresaM@petaf.org.

Very truly yours,



Teresa Marshall, Information Officer
Captive Animal Law Enforcement

PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS
FOUNDATION

Washington, D.C.
1536 16th St. N.W.
Washington, DC 20036
202-483-PETA

Los Angeles
2154 W. Sunset Blvd.
Los Angeles, CA 90026
323-644-PETA

Norfolk
501 Front St.
Norfolk, VA 23510
757-622-PETA

Oakland
554 Grand Ave.
Oakland, CA 94610
510-763-PETA

PETA FOUNDATION IS AN
OPERATING NAME OF FOUNDATION
TO SUPPORT ANIMAL PROTECTION.

AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

Exhibit 15



Animal and Plant
Health Inspection
Service

Marketing and
Regulatory
Programs

Animal and
Plant Health
Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

April 27, 2018

Teresa Marshall
TeresaM@peta.org

RE: Your Freedom of Information Act (FOIA) request, 2018-APHIS-03234-F

SENT VIA ELECTRONIC MAIL

Dear Ms. Marshall:

This letter responds to your Freedom of Information Act (FOIA) request, tracking number 2018-APHIS-03234-F, dated March 30, 2018, which was received at APHIS on March 30, 2018. You requested the following information:

"photos (preferably color) and/or any videos taken during the following inspections of The Camel Farm 86-C-0102: August 17, 2017 and July 11, 2017". The date range for records were July 11, 2017 thru August 18, 2017.

Your request was referred to the Animal Care Program (AC) program for a search using the information you provided.

Regarding AC's search for responsive documents under all parts of your request, I can neither confirm nor deny that any records exist. AC conducted a search for records related to your request during the timeframe you specified. Confirmation of the existence of such records would itself reveal exempt information. To acknowledge the existence of records would constitute a clearly unwarranted invasion of personal privacy pursuant to Exemption 6 of the FOIA. Responsive records, if they existed, would be exempt from disclosure under Exemptions 6, and/or 7C.

Because of the obvious possibility of add harm to the licensee here instead of embarrassment, harassment, intimidation, or other personal intrusions, we find that to even acknowledge that responsive records may exist pertaining to any portion of your request would result in a substantial invasion of privacy. While APHIS is strongly committed to keeping the public fully informed about agency operations, we also are concerned about preserving the privacy rights of individuals.

An agency's statement in response to a FOIA request, that it can neither confirm nor deny the existence of records, is commonly called a "Glomar" response. A Glomar response is justified when confirmation of the existence of certain records would itself reveal exempt information and the following four circumstances exist:

1. The request is made by a third party.
2. The request is for information about a person identified by name.
3. The named individual is not deceased.
4. The individual has not given the requester a waiver of his privacy right.

I have determined that all of the above circumstances exist, and therefore, a Glomar response is justified. (space between this sentence and next)

Joel Kerr

Page 2 of 2

This decision may be appealed within 45 calendar days from the date of this letter. Appeals should be addressed to: Administrator, Animal and Plant Health Inspection Service, Ag Box 3401, Washington, DC 20250-3401. The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made and must refer to your tracking number, 2015-APHIS-00714-F. To assist the Administrator in reviewing your appeal, provide specific reasons why you believe modification of the determination is warranted. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where the Department's records are situated, or (4) in the District of Columbia.

If you are not satisfied with this response, you may administratively appeal by writing to:

Administrator
Animal and Plant Health Inspection Service
Ag Box 3401
Washington, DC 20250-3401

Your appeal must be postmarked or electronically transmitted within 90 days of the date of this response. Please reference case number 2018-APHIS-03234-F in your appeal letter and add the phrase "FOIA APPEAL" to the front of the envelope. To assist the Administrator in reviewing your appeal, please provide specific reasons why you believe modification of this determination is warranted.

You may contact Shirley Boyd, the analyst who processed your request, by email, at Shirley.A.Boyd@aphis.usda.gov as well as Mr. James Ivy, our FOIA Public Liaison, at (301) 851-4100. Additionally, you may contact the Office of Government Information Service (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road – OGIS
College Park, MD 20740-6601
Email: ogis@nara.gov / Phone: (202) 741-5770
Toll Free: (877) 684-6448 / Fax: (202) 741-5769

Sincerely,

Tonya G. Woods
Director
Freedom of Information & Privacy Act
Legislative and Public Affairs

Enclosure

Exhibit 16



Animal Welfare Inspection Guide

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of any individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or call (800) 795-3272 (voice) or 720-6382 (TDD). USDA is an equal opportunity provider and employer.

Revised May 2018

Chapter 2. Required Inspection Procedures

Contents

2.1. Required Inspection Procedures	2-3
2.1.1. General Requirements	2-3
2.2. Safety	2-3
2.2.1. Inspector Safety	2-3
2.2.2. Biosafety	2-3
2.3. Inspection Steps	2-4
2.4. Inspection Findings	2-4
2.4.1. No Noncompliant Items (NCIs) Identified	2-4
2.4.2. Incentives for Identifying, Reporting, Correcting, and Preventing Noncompliance	2-5
2.4.3. Teachable Moments	2-6
2.4.4. New NCIs Cited	2-8
2.4.5. Repeat NCI	2-9
2.4.6. Recurring/Chronic NCI	2-9
2.4.7. "Critical" NCI Identified	2-10
2.4.8. "Direct" NCI Identified	2-11
2.4.9. Correction Date Guidelines	2-12
2.4.10. Direct NCI on a New Site Approval Inspection	2-12
2.4.11. "Veterinary Care Direct" NCI Identified	2-12
2.4.12. Handwritten or "Word" Inspection Reports	2-13
2.4.13. Airport Inspections	2-13
2.5. Inspection Photographs	2-14
2.5.1. Photographs/Videos Documenting Noncompliances	2-14
2.5.2. Showing Photos during Exit Interview	2-15
2.5.3. Licensee/Registrant Requesting Photographs	2-15
2.6. Inspection Inventory	2-15
2.6.1. Before the Inspection	2-16
2.6.2. During the Inspection	2-16
2.6.3. After the Inspection	2-18
2.7. Exit Interview	2-19
2.8. Delivery of the Inspection Report	2-20
2.8.1. Signature on the Inspection Report	2-20
2.9. ACI Team Inspection with a VMO after a Veterinary Care Direct	2-21
2.10. Risk Based Inspection System (RBIS)	2-21
2.11. Deciding Not to Conduct an Inspection	2-21
2.12. Attempted Inspection	2-22
2.12.1. Optimal Hours of Inspection	2-22
2.12.2. Optimal Hours Form Letter	2-23
2.13. Prelicense Inspection	2-23

2.13.1. Dealers	2-23
2.13.2. Facility Not in Full Compliance	2-24
2.13.3. Facility in Full Compliance	2-24
2.14. Refusal of Inspection	2-24
2.15. Interference	2-25
2.16. Correcting, Rescinding, and Amending an Inspection Report and/or Inventory	2-25
2.16.1. Correcting an Inspection Report and/or Inventory	2-25
2.16.2. Rescinding and Amending an Inspection Report and/or Inventory	2-26
2.17. Inspection Report and Teachable Moments Review	2-26
2.17.1. Inspection Report Review	2-26
2.17.2. Teachable Moment Review	2-27

DISCLAIMER

The Animal Welfare Inspection Guide is intended to be a reference document to assist the inspector. The Inspection Guide does not supersede the Animal Welfare Act (AWA), the AWA Regulations and Standards, AC policies and other guidance, the Required Inspection Procedures, standard procedures, or the inspector's professional judgment. All inspection decisions must be justified by applicable sections of the AWA and/or the AWA Regulations and Standards.

2.1. Required Inspection Procedures

The procedures set forth in this Chapter are procedures that **must** be followed by the inspector when conducting an inspection. If you, the inspector, are unsure of a required procedure, contact your Supervisory Animal Care Specialist (SACS). For more detailed general inspection procedures, refer to Chapter 3.

2.1.1. General Requirements

When conducting an inspection, the inspector must follow the general requirements listed below:

- Do **not** enter facilities with locked gates and/or “No Trespassing” signs unless you obtain prior approval from the facility
- If you arrive at the facility and determine that it is **not** appropriate to conduct an inspection, refer to [Deciding Not to Conduct an Inspection](#)
- If you do **not** find anyone at the facility, follow the [Attempted Inspection](#) procedure to complete an Attempted Inspection
- Prior to notifying the facility of your presence, inspectors may observe and record findings **without** being accompanied by a facility representative at facilities that are open to the public. Identify yourself to the licensee immediately after the observation. Before documenting findings on an Inspection Report, the inspector must discuss the findings with a facility representative.
- You **must** be accompanied by the licensee, registrant, or the facility’s designated representative (who **must** be at least 18 years of age)
- Conduct a complete exit interview

2.2. Safety

2.2.1. Inspector Safety

If you feel you are in imminent danger, promptly leave the area.

The licensee/registrant/applicant is responsible for ensuring the safety of the inspector during the inspection. If you feel at all unsafe, ask the licensee/registrant/applicant to correct the situation. If the licensee/registrant/applicant does anything you feel is unsafe, state that you will leave the facility immediately unless the situation is corrected.

2.2.2. Biosafety

In all situations, follow the facility’s visitor biosafety procedures, and/or put on recommended protective clothing, gear, and/or boots.

Inspectors **must**:

- Wear disposable shoe covers during dog kennel inspections
- Wear disposable gloves if it is necessary to touch an animal at all facilities
- Change gloves between animals or between enclosures

For more specific biosafety procedures, see Biosafety Measures in Chapter 3 and the *AC Safety & Health Manual*.

2.3. Inspection Steps

Basic steps to follow in conducting a Routine Inspection of a facility include, but are not limited to:

- Review previous Inspection Reports with special attention to Veterinary Care and Direct Noncompliant Items (NCIs) and review previous Teachable Moments and animal inventories
- Review Customer content in ACIS, including but not limited to, status of license, address, comment section and RBIS
- Inspect the animals, premises, building(s), enclosures, equipment, and transportation vehicles/equipment for all pertinent requirements of the Regulations and Standards
- Ensure that all primary enclosures can safely contain the animals
- Review the facility's program of veterinary care, husbandry practices, required records and, when appropriate, the "Exercise Plan for Dogs", and the plan for environmental enhancement for nonhuman primates
- When possible, observe the animal handling techniques of facility personnel
- Consider problems that may occur at other times of the year

NOTICE

Inspection steps are covered in detail in General Inspection Procedures in Chapter 3.

2.4. Inspection Findings

Document inspection findings in the narrative section of the Inspection Report. Do not type any personal identifiable information (PII) or confidential or proprietary business information in the narrative of any Inspection Report, including addresses and phone numbers.

2.4.1. No Noncompliant Items (NCIs) Identified

If all items are in compliance, type the following statement on the Inspection Report: "No noncompliant items identified during this inspection."

For inspections in response to an incident or complaint, further review may be needed to determine compliance. If you are uncertain whether a noncompliance was involved, do not write an Inspection Report. Discuss the findings with your SACS to determine what action is needed.

For Site Approval Inspections, type the following statement on the Inspection Report: “No noncompliant items identified during this inspection. This site is now approved for regulated activity.”

2.4.2. Incentives for Identifying, Reporting, Correcting, and Preventing Noncompliance

Animal Care is committed to encouraging dealers, breeders, exhibitors, research facilities, carriers, and intermediate handlers to proactively identify, report, correct, and prevent issues involving animal welfare that may occur at their facilities. We will **not** cite on an Inspection Report a noncompliance that is identified outside of the inspection process if the criteria below are met.

2.4.2.1. Criteria

Non-Critical Noncompliances

A non-Critical noncompliance will **not** be cited on an Inspection Report if the facility:

- Timely discovers the noncompliance using its own compliance monitoring program (*i.e.*, the facility identifies it on its own and not because of a local, state, federal or third-party inspection program), **AND**
- Immediately takes appropriate corrective action and swiftly establishes measures to prevent recurrence

Critical Noncompliances

A Critical noncompliance occurring outside a Routine or Focused Inspection, if it does not constitute a “Repeat” noncompliance, will not be cited on an Inspection Report, if the facility **at the specific site**:

- Has no Repeat or Critical noncompliance on any Inspection Report for that site during the preceding 12 months, **AND**
- Timely discovers the noncompliance using its own compliance monitoring program, **AND**
- Has not voluntarily reported a noncompliance that falls within the same section and subsection of the AWA Regulations and Standards during the preceding 24 months, **AND**
- Immediately takes appropriate corrective action and establishes measures to prevent recurrence, **AND**
- Promptly reports the incident (*i.e.*, generally within 5 days of discovering a noncompliance), orally or in writing, to its Animal Care inspector or any

Animal Care office and cooperates with the inspector as he/she reviews the incident

2.4.2.2. Facility Reporting an Incident

When a facility reports an incident, the inspector will first assess whether it is an AWA noncompliance. The inspector may discuss the outcome with his/her SACS and, as needed, will reach out to the facility operator by phone or visit the facility for additional information.

If the incident does not involve a noncompliance, the inspector will share the assessment with the facility operator and conclude the review.

If the incident does involve a noncompliance and the facility **meets all factors above**, the inspector will:

1. Not document the noncompliance on an Inspection Report, and
2. Follow the instructions for tracking the facility's self-reporting by notifying Program Support with the following information:
 - Licensee/registrant's CID
 - Site number
 - Date of the incident
 - Section number of the noncompliance, and
3. Share the assessment with the facility operator

If the incident does involve a noncompliance and the facility does not meet one or more of the factors above, the inspector will:

1. Document the noncompliance on the Inspection Report during the next inspection, **and**
2. If not corrected and if not a Repeat noncompliance, include a correction date, **or**
3. Indicate that the issue has been corrected on the Inspection Report

2.4.3. Teachable Moments

Teachable Moments are minor NCIs identified during an inspection that meet certain criteria and are not cited on an Inspection Report. Cite any noncompliance that is adversely impacting the health or well-being of an animal on the Inspection Report. If you identify an area that is not a noncompliant item, but you are concerned that it may become one in the future, discuss the concern with the licensee/registrant, but do **not** list it as a teachable moment.

The inspector should decide if each issue observed on an inspection is (in this order):

1. **In compliance**, but an area of concern or discussion topic that is **not** a teachable moment or an NCI. This could be a talking point during the exit discussion.
2. A **Teachable Moment** that meets **all** the following criteria:
 - Is a minor NCI that is not adversely impacting animal welfare, **and**
 - Is not likely to soon become a serious, Direct or other Critical, or Repeat NCI, **and**
 - Is not a Direct or other Critical, **and**
 - The facility/site is willing and able to correct the issue quickly, **and**
 - Was not previously listed as a Teachable Moment or cited at the site within the last two years
3. An **NCI** that should be cited, includes but not limited to, any issue that:
 - Is noncompliant **and** does not meet the criteria to be a Teachable Moment, **or**
 - Was previously cited or identified as a Teachable Moment at the site, **or**
 - Is a Direct or other Critical, **or**
 - Falls under a section of the Regulations or Standards that is already being cited (for example, if you are already citing 3.10 Watering, then anything that falls under this Standard would be cited and would not qualify as a Teachable Moment)

2.4.3.1. Use of Teachable Moments

Teachable Moments are **not** appropriate, and are **not** to be used:

- During a Preliminary or New Site Approval inspection
- At any facility/site with a poor compliance record. For this facility/site, all NCIs **must** be documented on the Inspection Report. A poor compliance record generally includes a facility/site with:
 - Directs or other Criticals, and/or multiple Repeats
 - Citation(s) for refusal of inspection or interference
 - An investigation or recent enforcement action
 - With an open case(s) at OGC (there may be exceptions to this)

NOTICE

If you are planning to write up four or more Teachable Moments, contact your SACS to verify whether these are all valid Teachable Moments.

2.4.3.2. Special Considerations

Note the following:

- On the first inspection after a license is issued, limit Teachable Moments to recordkeeping and identification issues
- On the first inspection after registration, use of Teachable Moments is appropriate
- Numerous Teachable Moments are a “red flag.” There should be prompt follow-up at these facilities/sites to ensure that compliance is achieved. Therefore, they should be re-inspected or have a courtesy visit within 90 days.

There may be exceptions to these criteria. If you are uncertain about the use of Teachable Moments at a facility/site, contact your SACS.

2.4.3.3. Documenting Teachable Moments

The inspector must enter the Teachable Moments into the Teachable Moments screen in ACIS:

- Check the licensee/registrant’s name, customer ID, certificate number and site to make sure the information is correct
- Enter the inspection date, section number of each Teachable Moment, and a brief description of the Teachable Moment

EXAMPLE Teachable Moment for 3.1(c):

Not enough detail: Dirty den boxes/carpet strings

Too much detail: Two pens in the Yorkie area in the top barn (# 3 and 4) have mild staining around the den box opening and should be cleaned more frequently. In 2 pens in the whelping area, # 6 and 8, housing 2 litters of poodles, there are carpet strings/excessive wear on 25% of each carpet. The owner did not want to disturb the new mother for the last couple days but has a plan to replace the whelping carpets with the pups tomorrow.

Appropriate detail: Two pens with staining at den box door (needs more frequent cleaning) & 2 whelping boxes with worn carpets need carpets replaced.

Provide one copy of the Teachable Moments to the licensee/registrant, and review in ACIS prior to the next inspection.

2.4.4. New NCIs Cited

If an NCI(s) is cited in the Inspection Report narrative, the citation should include the following four parts:

1. The section number and most specific subsection letter/number of each

noncompliance

2. A clear, detailed description of the noncompliance including, when appropriate, the number of animals affected
3. An explanation of why the item is a noncompliance and/or the impact it is having on the animals
4. A correction deadline and a “general” description of what the licensee/registrant should do to correct the problem, and assure that it does not continue/recur. This description should not be worded in such a way that it could be interpreted that AC is mandating how an NCI is going to be corrected. A correction deadline should be appropriate to the severity of the NCI, and unless animal welfare will be put in jeopardy, be realistic as to what the facility can accomplish.

Use “Direct” or “Critical” NCI designation, if appropriate.

NOTICE

If a noncompliant item falls into more than one section or subsection, cite the noncompliance **only** in the most applicable section or subsection for each species affected.

2.4.5. Repeat NCI

NCIs cited in the same section and subsection as on the last inspection or on the last full inspection if the previous inspection was a Focused Inspection should be designated as a “Repeat”. The “Repeat” designation may also be used if the section and subsection have been cited as a Repeat citation multiple times within the last 3 years, even if it was not cited on the last full inspection. You are responsible for checking the NCI and designating as a “Repeat” if ACIS did not.

Remember: Do not include correction dates for Repeat NCIs.

NOTICE

On Prelicense Inspections or New Site Approval Inspections, an NCI should **not** be designated as a “Repeat”.

2.4.6. Recurring/Chronic NCI

A recurring or chronic noncompliant item is the same or a similar noncompliance that is not found on consecutive inspections, *i.e.*, it is cited on one inspection, corrected by the next inspection, then re-occurs on the third and/or a subsequent inspection.

The recurring noncompliance can be:

- A noncompliance of the same section and subsection of the Regulations or

Standards

- The same noncompliance with the same section and subsection of the Regulations or Standards but identified for a different species
- The same or a similar noncompliance as cited earlier

Some factors to consider when deciding if the NCI is recurring or chronic include, but are not limited to:

- Have you discussed the development of an active program or system of maintenance with the licensee/registrant?
- Have you discussed the NCI with a person of higher authority at the facility?
- Have you noticed a pattern?
- How far back was the last time the NCI was cited?
- How many inspections have been conducted between the recurrences?
- What is the severity of the NCI?

Use your professional judgment in deciding what action to take, such as:

- Citing the NCI as a new noncompliant item
- Citing the NCI as a Repeat NCI (Include in the description other inspection dates that this NCI has occurred)
- Discussing the NCI with your SACS

2.4.7. “Critical” NCI Identified

Critical NCIs are the following:

- Direct NCIs (see description below)
- NCIs that had a serious or severe adverse effect on the health and well-being of the animal. Examples include, but are not limited to:
 - Lack of an attending veterinarian with documented adverse effects on the health or well-being of an animal that require immediate veterinary care
 - Studies involving more than momentary pain and distress to an animal that are conducted at research facilities without an approved protocol and without an appropriate response from the Institutional Animal Care and Use Committee (IACUC)
 - Failure of an IACUC to meet and/or conduct facility and program reviews for a period of time equal to or greater than 1 year resulting in documented, adverse effects on the health or well-being of an animal
 - Actions or inactions of unqualified personnel resulting in documented, adverse effects on the health or well-being of an animal
 - Handling violation that resulted in death or serious injury to an animal

- Escape of an animal resulting in adverse effects on the health or well-being of the animal (NOTE: this includes those situations when an animal is not recovered)
- Inspection refusals and situations where APHIS has been unable to inspect the facility for a significant amount of time due to chronic unavailability for inspections
- Records intentionally falsified to mislead APHIS or another government agency
- NCI resulting in an injury requiring immediate medical attention or death to a human
- Handling an animal in a manner that results in an animal attack or physical contact between an animal and a member of the public, depending on the circumstances, such as where the incident adversely affected the health or well-being of the animal, or the circumstances or practices that caused the incident posed a high risk to the animal and/or the human and could have led to serious injury or death to the animal and/ or the human
- Interference with, harassment, abuse, or threatening to harass or abuse an APHIS official in the course of carrying out his or her duties
- Obtained an animal from any person who is required to be licensed but who does not hold a current, valid, unsuspended license and knew both 1) that the person the animal was obtained from does not hold a license, and 2) that the person was required to hold a license
- Knowingly obtaining random source dogs or cats from a prohibited source, or obtaining animals by use of false pretenses, misrepresentation, or deception
- Engaging in regulated activity with a suspended or revoked license

2.4.8. “Direct” NCI Identified

A “Direct” noncompliance is a Critical noncompliance that is **currently (at the time of the inspection) having a serious or severe adverse** effect on the health and well-being of the animal.

The severity of an NCI at the time of a prior adverse incident has no impact on whether an NCI should be marked as a Critical or a Direct. The determining factor for a Direct is whether it has a **current** serious or severe adverse impact at the time of the inspection.

See [Appendix B—Direct Noncompliance Item \(NCI\) Guidance](#) for examples.

NOTICE

On Preliminary Inspections, NCIs should **not** be designated as “Direct.”

2.4.9. Correction Date Guidelines

When assigning a correction date, note the following:

- If the “Direct” NCI was corrected at the time of the inspection, a correction date is not necessary
- For an egregious Direct noncompliance, the correction date should be very short, *e.g.*, 1 day, and the reinspection should occur within a short period of time after the correction date to verify the correction and ensure animal welfare
- The correction deadline for a “Direct” noncompliance should never exceed 14 days

A complete or focused reinspection of a facility with a “Direct” NCI **must** be completed no more than 45 days after the date of the inspection. You must conduct a reinspection at the facility even if the “Direct” NCI was corrected during the inspection.

2.4.10. Direct NCI on a New Site Approval Inspection

If a Direct NCI is identified on a New Site Approval inspection:

- Designate the NCI as a “Direct”, and
- Assign an appropriate correction date, and
- Inform the licensee that an inspection will be conducted on or after the correction date to see if the Direct NCI was corrected

If the licensee contacts the inspector for another New Site Approval inspection prior to the Direct NCI correction date, document the Direct NCI as corrected in the Inspection Report for that inspection.

2.4.11. “Veterinary Care Direct” NCI Identified

Not every veterinary care NCI affecting an animal is a Direct.

A veterinary care noncompliance is a “Direct” if:

- The noncompliance is **currently (at the time of the inspection) having a serious or severe adverse** effect on the health and well-being of the animal, **and**
- The licensee/registrant has **not** sought veterinary care for the animal prior to the inspection

When citing a veterinary care “Direct” NCI:

- Include the ID of the animal if applicable and a description of the animal (species, breed, color, sex, age, etc.) in the NCI narrative
- Take a photo of the entire animal and a photo(s) and/or video of the area cited in the NCI

- A correction date, if given, should be very short, *e.g.*, 1 day
- If the animal(s) has been taken to the veterinarian and care has been provided, including humane euthanasia when directed by the veterinarian, prior to your completion of the inspection, note in the narrative that the animal(s) was evaluated and treated by a veterinarian

Do **not** interfere with the licensee obtaining immediate veterinary care for an animal if needed.

For a **corrected** veterinary care Direct:

- Note that the Direct was corrected on the original Inspection Report if corrected at the time of the inspection, OR
- Note that the Direct was corrected on the follow up Inspection Report

2.4.12. Handwritten or “Word” Inspection Reports

If you are unable to complete the Inspection Report in ACIS, then complete the Word Template on your laptop or handwrite a report. In the event that your laptop is unavailable, carry several hard copies of the template.

If you completed a handwritten or Word Inspection Report:

- You and the licensee/registrant should sign two copies and leave one copy with the licensee/registrant
- Enter the Inspection Report into ACIS as soon as possible but no later than 5 business days after the inspection
- On the ACIS Inspection Report:
 - Do **not** put a statement that this is electronic or transcribed version of the original Inspection Report
 - It is not necessary to change the “prepared by” date in ACIS even though it will not match the date on the handwritten or Word Inspection Report. The original Inspection Report will be available in the event of questions.
- Mail the hard copy of the original Inspection Report to the Fort Collins or Raleigh office, as appropriate
- If the ACIS Inspection Report is exactly the same as the handwritten or Word Inspection Report except for the “prepared by” date, a copy does **not** have to be sent to the licensee/registrant

2.4.13. Airport Inspections

The inspector is **not** required to obtain a signature and deliver airline Inspection Reports with no NCIs at airports at the time of the inspection. The Fort Collins or Raleigh office (as appropriate) will mail these **no NCI** Inspection Reports to the appropriate airline corporate office.

Leave the Received By and Title lines blank on the Inspection Report.

Send a copy of the Inspection Report(s) with a note to send to the airline(s) attached to the Inspection Report or in the email to the attention of the Fort Collins or Raleigh office (as appropriate).

2.5. Inspection Photographs

2.5.1. Photographs/Videos Documenting Noncompliances

Photographs or videos **must** be taken to document photographable noncompliant item(s) in all of the following situations and **only** in these situations unless instructed otherwise by your SACS:

- Direct, Criticals, or Repeats NCIs (if photographable)
- NCIs cited at a facility with an ongoing Investigative and Enforcement Services (IES) investigation and/or case pending with the Office of the General Counsel
- NCIs where there is a disagreement between you and the licensee/registrant and the licensee/registrant has indicated he/she will, or is likely to, appeal the citation

NOTICE

A Prelicense Inspection cannot be appealed. Do **not** take any photographs at a Prelicense Inspection.

- All NCIs cited at commercial airline carrier inspections
- Veterinary Care NCIs involving animals:
 - Photograph(s) or video(s) every animal covered by the citation
 - Photograph(s) or video(s) the entire animal for identification purposes and photo(s) of the issue cited in the NCI
 - Photograph labels must clearly identify the animal

For veterinary care citations, take photograph(s) or video(s) of every animal covered by the citation, including matted dogs.

For facility citations, such as pens with broken wire, take a few representative photographs to prove that there was an NCI but not a photograph of every cage or area.

Photocopy, scan, or photograph **records** that:

- Document a Repeat, Direct, Critical, or transportation noncompliant item
- May be fraudulent

If copies of research facility records, protocols, or IACUC minutes are going to be photographed and removed from the facility, the facility will be afforded the

opportunity to review/redact the records for proprietary business information. The inspector should allow the facility 24 to 48 hours for this purpose.

Label and upload all photograph(s) using the jpeg format or video(s) that are to be retained into ACIS as soon as possible, but **no** later than 2 weeks after the inspection. Delete any inspection photos that you are not uploading into ACIS in connection with an NCI. Do not store or save unused photos.

SACS may have inspectors take additional photographs, in addition to the required photos listed above.

2.5.2. Showing Photos during Exit Interview

The inspector should show the photographs taken during the inspection to the licensee/registrant on his/her laptop at the time of the exit interview. This is to be used as a tool to clarify an NCI(s) for the licensee/registrant and to create an open dialog around correction.

2.5.3. Licensee/Registrant Requesting Photographs

A licensee/registrant may request a copy of the photographs taken during the inspection process. If the licensee/registrant requests a copy of any photograph(s), the inspector should email the requested photographs that were uploaded into ACIS to the licensee/registrant, after they have been uploaded. If the number of photos requested cannot be reasonably emailed due to the size or quantity of the photographs, a flash drive containing the remaining photographs should be supplied by the inspector.

For licensees/registrants without email access, a reasonable number of photographs can be printed by the inspector (no more than three pages of photos). If more photographs were taken than can be reasonably printed by the inspector, a flash drive containing the remaining photographs should be supplied by the inspector. If other reasonable accommodations are needed, the individual accommodation is to be approved by the inspector's SACS prior to distribution of the photographs.

Only photographs that have been uploaded to ACIS should be supplied by the inspectors to the licensee/registrant.

2.6. Inspection Inventory

The animal inventory is an important component of the inspection. This is the formal record of how many animals of each species Animal Care personnel observed/inspected during inspection. It is important that this is accurate and care must be taken both during inspection and when entering this information into ACIS.

NOTICE

Because inventory is a record of what Animal Care inspectors observed, the inventory included with the report may be different than the total number of animals maintained by the facility. For example, differences can occur when conducting a Focused Inspection on a few individual animals or specific taxa only, or if there are animals away from the facility during the inspection (*e.g.*, those away on traveling exhibition or animals at an off-site veterinary clinic for care).

2.6.1. Before the Inspection

- Review and print or download a copy of the last inspection inventory prior to going to the facility
- Familiarize yourself with the natural history and specific needs of any animals that you are likely to encounter on that inspection (if you aren't already)

2.6.2. During the Inspection

2.6.2.1. Countable Species

Whenever possible, inspectors must count the numbers of animals for each species. Make sure to keep accurate notes throughout the inspection. For species that are countable, make sure you compare your numbers to the facility's record of animals on hand.

If there are any discrepancies make sure to ask the facility representative about those differences. It could be that one or more animals are currently away from the facility, but this may also indicate an error in their record-keeping or in the inspector's count.

Compare the current record of animals on hand to the prior inventory. If there are additions or animals that are missing, make sure to carefully check the facility's acquisition/disposition records to make sure those animals are accounted for.

2.6.2.2. Difficult to Count Species

Some animals are difficult to count during inspection. This can occur when:

- Animals are kept in large groups (*e.g.*, herding animals)
- Species that are prone to piling on top of one another (*e.g.*, harem housing for guinea pigs)
- Nocturnal animals in dimly lit enclosures

In these cases inspectors should attempt to count animals during the inspection and keep notes as normally required. Following the physical inspection:

- Evaluate the facility's method of record keeping and compare your numbers to the facility's numbers of animals on hand
- Some discrepancy between these two numbers is likely due to the difficulty in counting
- The inspector's numbers and the facility's numbers should be within 10% of each other
- If there is **greater than a 10% difference**, the inspector should ask the facility follow-up questions, then:
 - If the inspector is satisfied with the facility's explanation, the facility's animal numbers should be recorded on the inventory
 - If the facility and inspector cannot come to agreement on the inventory numbers, the inspector should contact his/her SACS for instructions on how to resolve the disagreement

2.6.2.3. Species/Circumstances where Accurate Counts are Impossible

Occasionally animals are not able to be accurately counted during the inspection. For example this can occur when:

- There are nocturnal animals in nest boxes or hide areas
- There are burrowing animals that are all underground during inspection
- There are large numbers of the same species in expansive habitats (*e.g.*, fallow deer at some drive through parks)

In these circumstances, the animals can and should be included on the inventory provided that they were included in the inspection. As long as the enclosure, diet, food storage/prep areas, veterinary care records, etc., were inspected, those animals should be included on the inventory.

Under these circumstances, the inspector should closely evaluate the facility's required records, including records of acquisition, disposition, and animals on hand. If the facility records are accurate and contain all of the required information, the numbers of animals on hand provided by the facility should be used for inventory purposes.

If the facility does not have the required records, or the records they have are missing required information, this should be documented either as a teachable moment or as a noncompliance on the Inspection Report, consistent with the guidance on Teachable Moments. When this occurs, you should estimate the animal numbers present and use that number on the inventory; it should be made clear in the teachable moment or on the Inspection Report that the numbers were estimated.

Also, if none of the individual animals could be observed during the inspection, consider keeping a brief note in your field file. If that occurs on multiple consecutive inspections, consider ways that you can increase your chances of visualizing animals during the inspection. That may involve inspecting at a

different time of year (*e.g.*, hibernating animals) or coming back to that enclosure later in the day (*e.g.*, for nocturnal animals). Your SACS may have additional suggestions relevant to a particular facility.

2.6.2.4. Inventory on Focused Inspections

When conducting a Focused Inspection, only list those species and animal counts that you inspected on the inventory. Either enter a new inventory for the Focused Inspection or copy the previous inventory and delete the species not inspected. Do not copy the previous animal inventory and leave species that weren't inspected. For inspections that are focused on records only, your inventory should report no animals.

2.6.3. After the Inspection

The inspector is required:

- To enter the animal inventory into ACIS
- To discuss and agree upon animal numbers with the licensee/registrant during the exit interview
- To provide the animal inventory list as part of the Inspection Report
- The inventory must be entered into ACIS and finalized. This should be completed as soon as possible and must be completed no later 5 days following the conclusion of the inspection. SACS may grant an extension to this deadline if there are extenuating circumstances preventing timely finalization of inventory.

2.6.3.1. Difficulty Locating a Species in ACIS

If you are having trouble locating a species in ACIS, here are a few tips:

- Check your spelling. Spelling matters here. Check the spelling and if that doesn't work, try varying any hyphens or apostrophes in the name
- Try searching alternate common names. For example many licensees still use the outdated name "Coatimundi" when referencing the South American Coati (*Nasua Nasua*). If you search Coatimundi, ACIS will not return records.
- Search partial names
- Search the scientific name (genus and/or species)
- If you still can't find a particular species in ACIS, reach out to your SACS for assistance. If together you still can't find it, reach out to the Animal Welfare Operations (AWO) Inventory Support Team. If it turns out that the species is currently missing from ACIS, this team will need to request the addition.

2.7. Exit Interview

An exit interview is **required** for all inspections (complete or focused), unless your personal safety is at risk, or harassment, verbal abuse, or other factors are interfering with the inspection process.

Conduct an in-person exit interview with the draft Inspection Report in hand if the licensee/registrant requests the opportunity to review the NCI narrative(s) prior to finalization of the Inspection Report.

Take as much time as necessary during the exit interview to:

- Discuss animal welfare and the AWA Regulations and Standards with the licensee/registrant
- Summarize everything that occurred during the inspection, and provide the licensee or registrant an opportunity to present additional information that may influence the determination of compliance
- Discuss each noncompliant item in detail with the licensee/registrant or facility representative. If the licensee or registrant provides information or documentation that influences an NCI on the current version of the Inspection Report, modify the report to accurately reflect the compliance of the facility before it is issued.
- Show the licensee or registrant any photos/videos taken during the inspection to communicate exactly what the noncompliance is (See [Licensee/Registrant Requesting Photographs](#))
- Inquire about what the licensee/registrant might consider doing to correct the problem and discuss options with him/her (if asked)
- Discuss the animal inventory and animal counts with the licensee. Ensure all species and numbers are correct prior to finalizing the inventory report and provide a copy of the finalized inventory report to the licensee with the Inspection Report.

Unless an exit interview could not be completed (for example, it is unsafe or there may not be an exit interview for a carrier inspection at an airport), a statement must be included on all Inspection Reports stating, “This inspection and exit interview were conducted with ____.” Do **not** use actual names of facility representative or personnel, only titles. ACIS will put the names of other AC inspectors on the team into the report for you. If you are accompanied by other government personnel (e.g., IES, Security), you do not need to include their names on the report.

NOTICE

If the Inspection Report is to be delivered by email or certified mail, you must still conduct a detailed and thorough exit interview. Any item that you will be citing on the Inspection Report **must** be discussed during the exit interview.

2.8. Delivery of the Inspection Report

You must hand deliver Inspection Reports with Direct NCIs unless you obtain SACS approval to do otherwise.

Hand delivery is preferred for all inspections except for Attempted Inspections. However, Inspection Reports may be delivered via email or certified mail, if necessary.

First Attempted Inspection Reports may be sent by regular first class mail or email. Second Repeat Attempted Inspection Reports must be sent by email or certified mail.

For **all** delivery methods, the Inspection Report **must** be delivered or sent to the facility as soon as possible but no later than 5 business days after the inspection. Obtain SACS approval if you **cannot** meet this deadline.

If sent by email, the inspector **must** convert the Inspection Report to a PDF so it cannot be altered and **must** request an email reply verifying receipt of the Inspection Report by the facility. The email receipt **must** accompany the original Inspection Report into the Fort Collins or Raleigh office (as appropriate). If an email reply is **not** received within 5 business days from the day it was sent, the inspector **must** deliver the report by another method so that receipt can be verified. There is no need to amend the report to remove the email delivery statement. The new delivery method type and “received by” date must be handwritten on the copies of the Inspection Report that will be delivered to the facility and the Fort Collins or Raleigh office (as appropriate).

When sending an Inspection Report by **certified mail**, type the certified mail number in the name line and the statement “Sent by certified mail” in the title line. Be sure to include the CID # on the Green Card and send the Green Card to the Fort Collins or Raleigh office (as appropriate) with your weekly paperwork.

2.8.1. Signature on the Inspection Report

The inspector should sign the Inspection Report and request that the licensee/registrant or his/her representative sign the Inspection Report, as well. The signature of the licensee/registrant or his/her representative certifies that the person received a copy of the Inspection Report. It does not necessarily mean that the person agrees with the findings of the inspection.

If the facility representative declines to sign the Inspection Report:

- Leave the signature block blank, and
- Leave a copy of the Inspection Report with the representative, and
- Send a copy via certified mail

Explain the circumstances of the representative’s decision to decline to sign the Inspection Report in a memo to your SACS, including who said what to whom, when, where, and how, using specific language, **and** send a copy to the Fort

Collins or Raleigh office (as appropriate) for the facility file.

Any licensee/registrant with a disagreement about the inspection findings may follow the inspection appeals process. The inspection appeals process is described in a Tech Note on the AC Website:

https://www.aphis.usda.gov/publications/animal_welfare/2017/AC-Tech-Note-Inspection-Report-Appeals-Process.pdf

2.9. ACI Team Inspection with a VMO after a Veterinary Care Direct

After a veterinary care Direct is identified on an inspection by an ACI:

- A VMO **must** be present on the next full inspection of the facility
- The ACI may choose to take a VMO on the Focused Inspection to follow up on the Direct veterinary care NCI

2.10. Risk Based Inspection System (RBIS)

You **must** inspect the following facilities on or before the deadline date given in ACIS:

- Facilities with Direct NCIs
- Facilities with High Inspection Frequency (HIF)
- Research facilities which **must** be inspected at least once every fiscal year

If you cannot, contact your SACS prior to the deadline so that another inspector can be assigned to conduct the inspection.

2.11. Deciding Not to Conduct an Inspection

In some circumstances when you arrive at the facility, you may determine that it is not appropriate to conduct an inspection. If you are unsure whether you should conduct an inspection, or if this is a recurring issue at this facility, contact your SACS. If you do not conduct an inspection, document this visit on your Time and Attendance Report. Do not cite it as an Attempted Inspection.

Examples of situations where you should not conduct an inspection include, but are not limited to:

- Contagious disease in the animal facility such as parvovirus (you may want to contact the attending veterinarian for more information)
- Illness of the licensee with no other responsible person available
- Personal events such as weddings, funerals, doctor/veterinarian appointments, or family emergencies
- Religious holidays

2.12. Attempted Inspection

An Attempted Inspection occurs when an authorized person is **not** available to accompany the inspector, and **no** inspection is conducted.

If an authorized person is **not** present at the facility, call the phone number(s) provided by the licensee/registrant, and determine if an authorized person can be at the facility within 30 minutes or a reasonable amount of time. Wait for the agreed upon amount of time and if the authorized person or a designee does **not** arrive, leave the facility and cite section 2.126(b) for licensees, carriers and intermediate handlers and section 2.38(b) for registered research facilities. In the citation narrative, write a brief description of what you did to contact the licensee/registrant, *e.g.*, called all the contact numbers provided, knocked at the door, waited 30 minutes, etc.

Send the Inspection Report for the first citation of an Attempted Inspection by regular mail or email only. Send Inspection Reports citing Repeat Attempted Inspections to the licensee or registrant by **both** regular and certified mail or email. **Convert any emailed Inspection Report to a PDF so that it cannot be altered.**

If there is an adult at the facility, they can sign the Attempted Inspection Report and give it to the licensee.

If the inspector returns to conduct an inspection the next day, the licensee can sign the Attempted Inspection Report from the previous day at that time.

If there is more than 1 day between the attempt and the inspection, send the report as above.

2.12.1. Optimal Hours of Inspection

Identify the optimal hours of inspection for:

- Licensee who is not open to the public during normal business hours
- Licensees/registrants who have had two consecutive Attempted Inspections or three Attempted Inspections in 2 years

Record the optimal hours in the ACIS "Customer" tab comment box. Optimal hours are generally 4 hour blocks of time during daylight hours three days per week. This is not, however, a requirement. Use your professional judgment to consider two entire days per week, or another set of optimal hours, that will facilitate the unannounced inspection. If, after discussion, the suggested optimal hours still seem unworkable, contact your SACS.

If the licensee is **not** at home during the designated hours, cite as an Attempted Inspection as above. If you stop by the facility at other times and the licensee is **not** home, record the visit on your Time and Attendance sheet, but do **not** cite as an Attempted Inspection.

2.12.2. Optimal Hours Form Letter

Use the [Optimal Hours Form Letter](#) (OHFL) when the inspector and the licensee/registrant cannot agree on acceptable hours of inspection. **Prior to sending the letter**, you **must** discuss the problem with your SACS.

If it is determined that the OHFL is appropriate, the inspector should:

- Complete the letter
- Note in the licensee/registrant's ACIS "Customer" tab comment box that the OHFL was sent and the date
- Send a copy of the letter to the Fort Collins or Raleigh office, as appropriate
- Send the letter to the licensee/registrant by certified, return receipt mail

If the licensee/registrant later contacts the inspector with acceptable hours of inspection, you should record the optimal hours in the ACIS "Customer" tab comment box.

2.13. Prelicense Inspection

An applicant's facility **must** meet all applicable Regulations and Standards to obtain a license. Prelicense Inspections are scheduled at a time agreeable to the applicant and the inspector. Do **not** conduct a Prelicense Inspection until all of the applicant's paperwork has been processed by the Program Section and the inspector has been informed that the applicant may be inspected.

In addition to determining if a facility is in full compliance, Prelicense Inspections are the best time to help the applicant learn more about the AWA Regulations and Standards **using the enhanced prelicense process**. Required written records (e.g., a written program of veterinary care for part-time attending veterinarian or consultant arrangements and a plan for environmental enhancement for nonhuman primates) **must** be completed and inspected during a Prelicense Inspection to consider the facility in compliance. There **must** be a written record of animals on hand with as much of the required information completed as possible.

2.13.1. Dealers

On every Prelicense Inspection that includes dogs, the inspector **must**:

- Have the applicant pull all dogs showing signs of medical issues so that you can evaluate whether veterinary attention is needed and/or is already being provided, **and**
- Also select ten percent of the remaining dogs (up to a maximum of 10 dogs) for the applicant to pull so that you can look for medical issues associated with their mouths, teeth, ears, eyes, skin, general condition, etc. Do not just focus on one area; take the opportunity to look at the entire dog for medical issues.

Remember, wear a new pair of gloves before touching a dog(s) in a different enclosure.

If you identify a veterinary care issue that would normally be cited during a Routine Inspection, it **must** be cited on the Inspection Report for the Prelicense Inspection.

2.13.2. Facility Not in Full Compliance

If the facility is **not** in full compliance, cite all noncompliant items using the first three components of the four-part citation description found in [New NCIs Cited](#) but do **not** give correction dates.

NOTICE

Do **not** designate any noncompliance as a Direct or Repeat.

See Prelicense Inspection in Chapter 4 for the statements to include after the exit interview statement.

If a third Prelicense Inspection is necessary, a second inspector (ACI or VMO), a Compliance Specialist or a SACS **must** be present during the inspection.

2.13.3. Facility in Full Compliance

If the facility is in full compliance, generate a no noncompliance Inspection Report and include the statements in the narrative as follows:

No non-compliant items identified during this inspection.

Inspection and exit interview conducted with _____. (See [Exit Interview](#))

See Prelicense Inspection in Chapter 4 for the statements to include after the exit interview statement.

2.14. Refusal of Inspection

If a licensee or registrant refuses to allow an inspection, ensure that you have clearly identified yourself as a USDA Animal Care inspector, and that the licensee/registrant is aware of the serious nature of this noncompliance of AWA Regulations. If you are sure that you are safe, ask this question **once**, “Are you refusing to allow the inspection?” If the licensee/registrant still refuses to allow an inspection, leave the premises and complete an Inspection Report designating this as a Routine Inspection. Cite section 2.126(a) for licensees or registered transporters, section 2.38(b) for registered research facilities.

Document the specific circumstances of the refusal in the Inspection Report narrative: be specific as to date, time, and the identification of the person who refused to allow the inspection. Include any pertinent statements made by the licensee or registrant.

If two or more APHIS officials are present for the inspection and one is denied entry, document this as a refusal of inspection. Do **not** conduct an inspection.

Send the Inspection Report for a refusal to the licensee or registrant by both regular and certified mail.

Communicate any “refusal to allow inspection” with your SACS to develop a plan for a follow-up inspection.

2.15. Interference

If you are being harassed, abused (including verbally abused), or interfered with in the course of carrying out an inspection, inform the licensee or registrant that the inspection can only continue if the harassment, abuse, or interference stops. If the activity or behavior continues, **you must discontinue** the inspection process and leave the premises and cite it.

Write a Routine Inspection Report citing section 2.4 for licensees, section 2.25(c) for registered transporters, or section 2.30(d) for registered research facilities. In the narrative, be specific as to date, time, and the identification of the person(s) involved, including details of the harassment and/or verbal abuse, and/or interference.

Send the Inspection Report to the licensee or registrant by regular and certified mail. For any “interference with the inspection,” communicate with your SACS to develop a plan for follow-up inspections.

SAFETY

If you are being threatened, follow procedures to ensure your safety including, but not limited to, leaving the premises and calling 911, if necessary. After your personal safety is ensured, consult with your SACS with regard to future steps.

2.16. Correcting, Rescinding, and Amending an Inspection Report and/or Inventory

Correcting, rescinding, or amending an Inspection Report and/or Inventory is done on a case-by-case basis under the direction of your SACS or the Animal Welfare Operations leadership team.

2.16.1. Correcting an Inspection Report and/or Inventory

An Inspection Report and/or Inventory that has been finalized **and a copy has not been given to the licensee/registrant yet**, may be corrected by requesting through your SACS or SOTW that the Inspection Report and/or Inventory be reset to draft.

2.16.2. Rescinding and Amending an Inspection Report and/or Inventory

An Inspection Report and/or Inventory that has been finalized and **a copy has been given to the licensee/registrant**, may be corrected by requesting through your SACS or SOTW that the Inspection Report and/or Inventory be rescinded so it can be amended.

NOTICE

You may **not** add a Direct, Critical, or Repeat designation or an additional citation to an Inspection Report after it has been given to the licensee or registrant.

For an amended Inspection Report and/or Inventory:

- Do not put any statement on the Inspection Report that this is an amended Inspection Report
- Complete the Amended Inspection Report Letter using the template in Appendix A - [Amended Inspection Report Letter](#)
- Deliver the amended Inspection Report with the Inventory and Letter to the licensee/registrant using the approved methods of delivery
- If only the Inventory is amended, send a copy of the Inspection Report with the Amended Inventory and Letter

2.17. Inspection Report and Teachable Moments Review

The SACS or his/her designee **must** review the Inspection Reports and Teachable Moments in the SACS Review section of ACIS as soon as possible but no longer than 21 days from the date the report is finalized.

2.17.1. Inspection Report Review

Review Inspection Reports to ensure that, at a minimum:

- All required information is included and correct
- All subparts of the citation are included in the narrative
- NCI narrative provides facts supporting each element of the requirement, is objective and free of significant errors
- Directs, Criticals and Repeats are designated correctly
- The exit interview statement is included in the narrative section
- No information that should not be on the Inspection Report is in the narrative
- Photographs/videos are included if required
- Animal Inventory is included

Use the [Inspection Report Review Checklist](#) in Appendix A as a guideline for reviewing Inspection Reports.

2.17.2. Teachable Moment Review

Review the Teachable Moments to ensure that, at a minimum:

- The facility meets the criteria for the use of Teachable Moments
- The NCI is appropriate to be a Teachable Moment
- The description of the Teachable Moment is appropriate
- The Teachable Moment Form is completed properly

Use the [Teachable Moments Review Checklist](#) in Appendix A as a guideline for reviewing Teachable Moments.

Exhibit 17



Retail Pet Store Rule and Importation of Live Dogs Rule – Guidance for Breeders, Brokers and Importers

This document, meant to be a reference for you, contains many of the questions asked by breeders, dealers, shelters and rescue groups regarding the Retail Pet Store Rule and the Importation of Live Dogs Rule. If you have a specific question that is not addressed here, please discuss it with the appropriate USDA Animal Care regional office -- either Fort Collins, Colo. (970-494-7478) or Raleigh, N.C. (919-855-7100).

Table of Contents

The table of contents lists the major topic headings and related questions and answers. Click on the links to view the pertinent information.

Abbreviations

General Questions

Page

1. [What is the Animal Welfare Act?](#)
1. [What Is APHIS' and what does it do?](#)
1. [Why was the definition of retail pet store \(RPS\) changed in the regulations?](#)
2. [How do these changes protect consumers better than the alternatives?](#)
2. [How do Face-to Face transaction help USDA ensure humane treatment?](#)
2. [What is the definition of a retail pet store?](#)
3. [What specific changes were made to the AWA Regulations?](#)
3. [What is the history of the development of the changes?](#)
3. [Can I get a copy of the AWA and the Regulations?](#)
3. [What is a wholesale transaction?](#)
4. [Does APHIS regulate all wholesale transactions?](#)
4. [What changes are there for retail pet stores?](#)
4. [What changes are there for current USDA licensees?](#)
4. [What changes are there for boarding kennels?](#)
4. [How did you estimate how many people the change would affect?](#)
5. [How many licensees does the USDA expect to lose by raising the *de minimis* standard?](#)
5. [How many additional breeders will require a license under the RPS rule?](#)
5. [How many comments did you receive on the proposed rule?](#)
5. [How do I know if this rule covers me?](#)
5. [Do I need a license if I show regulated animals?](#)
5. [When did the RPS rule go into effect?](#)

Rescues, Shelters and Pounds

Page

6. [What is the definition of a "rescue facility" and which of these are included in the changes?](#)
6. [Does the rule mean rescue groups, humane societies and shelters need a license?](#)
6. [Can you clarify how USDA handles groups that collect adoption fees for animals?](#)
6. [How will the RPS rule affect groups that hold off-site adoption events?](#)
6. [How do you inspect a group that has foster homes all over the country and only uses an individual home occasionally?](#)
6. [Do volunteers that transport regulated animals to their new homes need a USDA license?](#)

Breeders Who Adopt

Page

7. [Do breeders who assist adoption groups, placing adopted animals in their new homes sight-unseen, need a USDA license?](#)
8. [Will breeders who transport adopted animals to their new homes need a USDA registration?](#)
8. [I own three breeding females and take in dogs for adoption. Can I ship an animal from one of my breeding females sight-unseen that, although bred to preserve bloodlines, does not have the qualities for use in a breeding program?](#)
8. [Does the sight-unseen exemption for four or fewer breeding females apply if I place adopted animals?](#)
8. [I have females I breed and dogs that are owned by a non-for-profit 501\(c\)\(3\) adoption group. I sell the dogs I breed to preserve breeding stock and bloodlines. The adoption group places the dogs as pets after neutering. I do not receive compensation for their care - although the adoption group pays for some of their care directly. If I sell my dogs face-to-face, do I need a license if I have adoption dogs on my premises that the group sells sight-unseen?](#)

“Face-to-Face” vs. “Sight-Unseen” Sales

Page

9. [If I already have a USDA AWA license, but I sell some animals sight-unseen, do I need to get another USDA license?](#)
9. [Do you regulate sight-unseen sales of pets to buyers in foreign countries under the RPS rule?](#)
9. [Can I sell within my state sight-unseen without a license?](#)
9. [Why is it important for a buyer to observe an animal personally before taking custody?](#)
9. [Do sellers who breed pets at their homes have to allow buyers in if they have a USDA license?](#)
9. [Does the use of video or other electronic means to view pets for sale constitute a “face-to-face” transaction?](#)
10. [Can the seller come with the animal to the buyer’s location to meet the face-to-face requirement?](#)
10. [Does the RPS rule mean that no one can sell regulated animals over the Internet?](#)
10. [If a person cannot personally observe an animal before buying it, can someone else stand in? If so, who can qualify to be a stand-in buyer?](#)
10. [Can the seller’s veterinarian stand in for a family buying over the Internet?](#)
10. [Can an employee of the seller or a volunteer represent the seller at a face-to-face sale?](#)

Importing Dogs For Resale or Adoption

Page

11. [There are thousands of animals imported into the United States by adoption groups for sale. This is a threat to American business as competition in the market and animals and people from to illnesses and parasites carried by these dog. What is the USDA doing to regulate this activity?](#)
11. [I cannot import dogs younger than 6 months for resale, but can I import dogs to use in my breeding program?](#)
11. [What if I import a puppy for my breeding program and then as it matures I do not believe it should be used for breeding? May I then sell it without violating the regulations?](#)
11. [Do I need a permit to import dogs if I sell or adopt dogs to new owners before they are imported?](#)

Shipping Animals

Page

11. [When do breeders need a license to ship animals?](#)
12. [Can I sell pets face-to-face and still ship animals for exempt purposes sight-unseen?](#)
12. [Did USDA consider the effect of the rule on the disabled obtaining suitable pets?](#)
12. [How will USDA enforce the RPS rule?](#)
12. [How will shippers, for example airlines, know if the animal is being shipped legally?](#)
12. [Can a transporter deliver an animal on my behalf if I sell animals sight-unseen?](#)
13. [What Is an Intermediate Handler?](#)

Exempt Sales Purposes

Page

13. [How do you define a working dog?](#)
13. [What does "breeding purposes" mean?](#)
14. [Why are sales of animals sight-unseen for hunting, breeding, etc., exempt even if they have more than four breeding females?](#)
14. [Does USDA have a specific list of purebred dogs that they consider 'security' dogs, therefore exempting breeders of those dogs from licensing?](#)
14. [We sell our puppies used as pets face-to-face, so that is exempt. We sell those used for hunting, security or breeding sight-unseen, so that is exempt. Is that correct?](#)
14. [If I breed animals for show purposes and sell them sight-unseen, do I need a license?](#)
15. [Are racing greyhounds exempt?](#)
14. [If I sell my puppy/dog to a buyer for "security" purposes am I exempt from licensing?](#)
15. [What animals does the \\$500 exemption cover?](#)
15. [Why are you removing restriction on the source of gross income from the licensing exemption for people who breed certain species and derive no more than \\$500 in annual sales](#)
15. [Why isn't the \\$500 adjusted for inflation?](#)
15. [Do you require that a dog and cat breeder make no more than \\$500 on a litter to be exempt and allowed to own more than the four-dog limit?](#)
15. [Is the \\$500 limit just for the sale of animals or anything I may sell? We also require a deposit, this is part of the total cost but it is not the cost of the animal itself. Is this included?](#)

What Is A "Breeding Female"

Page

15. [What is the definition of a "breeding female?"](#)
16. [Will a veterinarian determine the breeding status of a female?](#)
16. [If I am a "show breeder" and have more than four breeding females, can I still ship my "show quality" puppy sight-unseen without a license since they technically are "breeding stock?"](#)
16. [Do you count spayed females or ones that I have not bred as breeding females?](#)
16. [Will you consider a retired female who has not yet been spayed, yet no longer cycles, as a breeding female? How will this affect a 4-6 month old female who is not yet cycling and too young to breed?](#)
16. [Are visiting breeding females included in the count of breeding females in a kennel?](#)

What is the “4 or Fewer” Exemption?

Page

17. [What are my premises?](#)
17. [Why do you allow people with up to four breeding females to sell sight-unseen without a license under the AWA?](#)
17. [How will the 4-breeding-females exemption apply to breeders with a partial ownership interest in a number of breeding animals?](#)
17. [What does “born and raised,” mean in the context of the breeding female exemption?](#)
18. [Many breeders purchase animals for breeding from other breeders or get a puppy in lieu of a stud fee. When the animals retire animals, they sell them as pets. With the sale as a pet of a retired animal that was obtained from another breeder change the licensing requirements?](#)
18. [Does an occasional sale of a dog not born and raised on my premises require a license?](#)
18. [How does this apply to handlers who breed?](#)
18. [If I have four breeding female dogs, and my daughter raises show rabbits do her numbers count against mine if they are housed on one premise?](#)

Applying for a License

Page

18. [Where does the rule apply?](#)
18. [Can I raise and socialize regulated animals in my home if I am licensed?](#)
19. [Can I raise regulated animals with adults other than the mother?](#)
19. [Why are breeding females the standard instead of dogs in commerce?](#)
19. [Why is the federal government involved?](#)
19. [How can I get a license application packet?](#)
19. [How quickly will covered breeders have to come into compliance?](#)
20. [Where are breeder, dealer and exhibitor defined?](#)
20. [Other agencies, such as states, that require licensing conduct the same kind of inspections as USDA. It seems like duplication for you to do the same inspections. Will you offer exemptions to those engaged in regulated activities that other agencies inspect?](#)
20. [Will you work with state agencies to identify those needing licensing?](#)
20. [Do I need both a state and an APHIS license?](#)
20. [What do I need to do to prepare for the pre-inspection?](#)
21. [What happens if I do not pass the first pre-inspection?](#)
21. [If I fail the first pre-inspection, can I continue to sell animals?](#)
21. [How long after I apply will the inspection occur?](#)
21. [When is the annual license renewal due?](#)
21. [Once an applicant is licensed, when do inspections occur?](#)
22. [Do you take photos during the pre-license inspection?](#)
22. [Can I withdraw my application without a penalty?](#)
22. [If I don't breed each year, when do I need a license?](#)
22. [What is the cost of licensing?](#)
22. [What are license fees based on?](#)
22. [Where can I find the fee schedule?](#)
22. [What is the total cost for licensing, tags, and recordkeeping?](#)
23. [What is the cost for covered breeders?](#)
23. [Will it cost a lot to upgrade facilities?](#)

Compliance With Regulations

Page

- 23. [How will you enforce the regulations?](#)
- 23. [What steps does USDA take when it believes it has found an unlicensed activity? What are the options – both if it needs a license, and if it is operating within the law?](#)
- 24. [What outreach did you do?](#)
- 24. [How do you investigate complaints?](#)
- 24. [How many complaints have you received?](#)
- 24. [Is this a “one size fits all” rule?](#)
- 25. [Can breeding females be kept in a home?](#)
- 25. [Can an Inspector give advice about correcting problems?](#)
- 25. [Will an Inspector issue a citation if the carpet in the room housing animals is soiled with urine and feces?](#)

USDA Inspections

Page

- 25. [What specific coordinate identification must an authorized USDA Inspector present before gaining access to the residence?](#)
- 25. [How will USDA verify which areas are for regulated activities?](#)
- 25. [Will Inspectors photograph my home and its interior and make those pictures available to anyone on the Internet?](#)
- 26. [When an Inspector arrives, will enforcement focus on the written rules or the “intent” stated in the various conference calls, commentary and FAQ?](#)
- 26. [How do you document information on the regular inspection reports?](#)
- 26. [What do Inspectors need to see during an inspection?](#)
- 26. [How do you coordinate between your Inspectors and the Investigative and Enforcement Service \(IES\)?](#)
- 27. [What are your standard operating procedures for bio-security?](#)
- 27. [Can Inspectors come to my house if I am not home to conduct a regular inspection or responding to a complaint?](#)
- 27. [How can small breeders be licensed and comply with unannounced inspections when most have jobs outside the home?](#)
- 27. [How often do inspections usually take place?](#)
- 28. [Is there a logo that can be placed on a website to show that facility complies with the USDA and AWA regulations?](#)
- 28. [What is the appeals process if a situation comes up during the inspection or if I disagree with the report?](#)

Inspectors

Page

- 28. [What specific identification must an authorized USDA Inspector present before gaining access to the residence?](#)
- 28. [What does the ID look like?](#)
- 28. [Can we verify the Inspector's ID?](#)
- 29. [Who do you permit to accompany an Inspector?](#)
- 29. [Are members of the ASPCA or a humane society ever part of an inspection team?](#)
- 29. [How will this change the Inspector's workload?](#)
- 29. [Will I get the same Inspector all the time?](#)
- 29. [Is there a different Inspector for each species?](#)
- 29. [What background do Inspectors have and what training do they receive?](#)

Availability of Inspection Information

Page

- 30. [How can the public monitor licensees?](#)
- 30. [Are inspection reports available on-line?](#)
- 30. [Since the Inspection report lists number of animals, can this information to be used against the licensees by outside organizations? What is included in a report under the Freedom of Information Act \(FOIA\)?](#)
- 30. [Do you share the information on USDA licensed pet dealers with local governments that have dealer-regulating agencies?](#)

What is the Effect on Other Species?

Page

- 30. [Birds](#)
- 31. [Cold-Blooded species](#)
- 31. [Farm animals used for food, fur or fiber](#)
- 31. [Rabbits raised for food, fur or fiber](#)
- 31. [Farm animals for other uses](#)
- 31. [Internet sales of small pocket pets](#)
- 31. [Sales of rabbits as pets](#)
- 31. [Does this affect 4-H projects?](#)
- 31. [Rodents \(Rats and Mice\)](#)

Contact Information

Page

- 32. [Where can we contact Animal Care?](#)
- 32. [How can I request an application packet?](#)
- 32. [What is the best number for additional information?](#)

Abbreviations

APHIS	Animal and Plant Health Inspection Service
AWA	Animal Welfare Act
AWO	Animal Welfare Operations
IES	Investigative and Enforcement Service
IR	Import Rule
OIG	Office of the Inspector General
RPS	Retail Pet Store
USDA	United States Department of Agriculture

General Questions

Question. What is the Animal Welfare Act?

Answer. The Animal Welfare Act (AWA) (7 U.S.C. §§2131-2159), originally passed by Congress in 1966, sets general standards for humane care and treatment required for certain animals sold at wholesale or through a broker, publicly exhibited, used in biomedical research, or commercially transported. The AWA does not apply to coldblooded animals or to farm animals used or exhibited for agricultural purposes. People licensed under the AWA must comply with its standards for housing, sanitation, nutrition, water, and veterinary care for their animals. They must also protect their animals from extreme weather and temperatures. Congress gave the United States Department of Agriculture (USDA) the authority to administer the AWA and issue regulations under it. It is important to note, however, that USDA only has authority over animal abuse by those who USDA regulates or require regulation under the AWA. The laws in the individual states control all other animal abuse.

Question. What is APHIS and what does it do?

Answer. USDA consists of several agencies. The Animal and Plant Health Inspection Service (APHIS) is part of the USDA and has a number of program units. One of its programs is Animal Care (AC), which protects and promotes animal welfare and administers the AWA and the Horse Protection Act (HPA).

The AWA requires humane care and transportation of certain animals used for biomedical research, teaching, testing, or experimentation; used for exhibition, such as in circuses or zoos; or sold by breeders or other dealers for use as pets, for research or for exhibition. AC has four main offices. The headquarters office is in Riverdale, Maryland; the Center for Animal Welfare is in Kansas City, Missouri; and the two Animal Welfare Operations (AWO) Offices are in Raleigh, North Carolina; and Fort Collins, Colorado. Inspectors are located throughout the country.

The Mississippi River serves as the major boundary. If you live east of the Mississippi River, please contact the AWO Office in Raleigh, NC. If you live West of the Mississippi (with the exception of Minnesota), please contact the AWO Office in Ft Collins, CO. The Raleigh Office supervises facilities in the state of Minnesota.

USDA employs more than 120 Inspectors nationwide to enforce the AWA and HPA. They are experts on animal care and husbandry, with formal training and a background in animal-related fields, such as veterinary medicine, animal science, and biology. They have extensive experience and training on the inspection of all types of facilities, such as zoos and kennels. They are trained to recognize pain and suffering in animals and are kept informed of new information related to animal welfare and health. Experts continually evaluate our Inspectors to ensure that inspections are fair, consistent and accurate.

In addition to Inspectors, Animal Care also employs experts on the care and handling of dogs and cats in kennels, birds, elephants, marine mammals, large exotic cats, and nonhuman primates.

[Back to the Table of Contents](#)

Question. Why was the definition of a retail pet store (RPS) changed in the regulations?

Answer. APHIS wrote the previous regulatory definition of a RPS more than 40 years ago. It included traditional pet stores, hobby breeders, and other retail businesses where customers could personally observe an animal for sale prior to purchasing and/or taking custody of it. USDA did not regulate such establishments under the AWA because it considered the ability of customers to view animals before purchasing or taking custody of them provided sufficient oversight of their welfare. At that time, large-scale, commercial breeders primarily sold directly to pet stores at wholesale.

With the increasing use of the Internet as a marketing and sales tool, some commercial breeders began selling sight-unseen at retail without public oversight. Over the years, USDA received an increasing number of public complaints about the lack of monitoring and oversight of the health and humane treatment of dogs and other pets sold sight-unseen — often over the Internet.

The Office of the Inspector General (OIG) conducted an audit in 2010 that found that more than 80 percent of sampled large breeders avoided licensing under the AWA because they claimed RPS status, but sold pets sight-unseen. The OIG found that some buyers received unhealthy pets, especially dogs, since there was no monitoring or inspection to ensure their animals' overall health and humane treatment. The OIG recommended that such operations should not enjoy RPS status if there were no consumer oversight and should be subject to USDA inspections.

The primary goal of the regulation is to ensure that USDA monitors and regulates pets sold at retail sight-unseen for health and humane treatment under the AWA. To do that, APHIS revised the regulatory definition of RPS to regulated and inspect animals involved in sight-unseen transactions under the AWA.

Question. *How do these changes protect consumers any better than being state licensed, inspected, and having a health certificate by a licensed veterinarian to travel?*

Answer. This rule focuses on the welfare of the animal. It is not a consumer protection law. However, improving the health and welfare of pet animals does provide a benefit for the purchaser.

Question. *How do face-to-face transactions help USDA ensure humane treatment?*

Answer. By personally observing the animal, the buyer provides public oversight over the animal and helps to ensure the animal's health and humane treatment. Members of the public can notify local law enforcement or USDA if they observe dogs subject to inhumane treatment. Our primary goal is to ensure that we monitor pets sold to the public, at retail, sight-unseen for health care and humane treatment. The definition of RPS now requires that these animals receive the basic standards of care.

[Back to the Table of Contents](#)

Question. *What is the definition of a retail pet store?*

Answer. A RPS is a place of business or residence at which the seller, buyer, and the animal available for retail sale are physically present so that the buyer may observe the animal in person before purchasing and/or taking custody of it. Only the following animals for sale or offered for sale are included: dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchillas, domestic ferrets, domestic farm animals, birds, and coldblooded species. It is important to note, however, that USDA does not regulate coldblooded species or domestic farm animals used for food and fiber.

- Retailers who sell their pet animals to customers in face-to-face transactions do not need a USDA license because the animals are subject to public oversight, which helps ensure their health and humane treatment.
- The number of breeding females you have on your premises is not relevant if you sell all your pet animals in face-to-face transactions.
- A facility that has a combination of four or fewer breeding female dogs, cats and or small exotic or wild mammals, is not subject to the USDA regulation as long as all of the animals offered for retail sale (for pets or exhibition) were born and raised on the seller's premises.

- Anyone who sells or negotiates the sale or purchase of any animal, *except wild or exotic animals, dogs or cats*, and who derives no more than \$500 gross income from the sale of such animals (for example, rabbits) is exempt from regulation. The 2014 amendments to the AWA removed this from the statute, but the Secretary has the discretion to exempt *de minimis* activities from licensing. Therefore, the regulations are still in effect. APHIS is working to specify *de minimis* exemptions. It will provide information in the *Federal Register* when the review is complete.
- Groups that participate in face-to-face transactions, such as off-site adoptions, are subject to public oversight. Therefore, they do not need a license for those transactions. However, they will need a license if they have any pet animal transactions that are not face-to-face or are wholesale for which they receive compensation of any kind. The activity conducted is what determines whether the USDA will regulate a facility, not the for-profit or nonprofit tax status of the enterprise.

Question. What specific changes were made to the AWA Regulations?

Answer. The AWA regulations had the following changes:

- To qualify for the RPS exemption, all sales of animals for use as pet, such as dogs, cats, rabbits, guinea pigs, hamsters, gophers, chinchillas, and domestic ferrets, must be face-to-face. The buyer, seller, and animal must be in the same place at the same time before the purchase and/or transfer of the animal.
- Shipping even one animal to a buyer sight-unseen can disqualify the seller from the RPS exemption.
- The former direct retail sales exemption in section 2.1(a)(3)(vii) for domestic pet animals was removed from the regulations.
- The exemption for having only three breeding females (dog, cat, and small exotic/wild pocket pet) increased to four breeding females.
- The \$500 exemption in 2.1(a)(3)(ii) for sales of animals other than dogs, cats, and wild/exotic animals still applies. However, an amendment to the AWA gives the Secretary the discretion to exempt *de minimis* activities from licensing. APHIS is in the process of developing those exemptions. It will provide information in the *Federal Register* when the review is complete.

Question. What is the history of the development of the changes?

Answer. The regulation and its history are located at <https://www.aphis.usda.gov/aphis/resources/lawsandregs>

Question. Can I get a copy of the Animal Welfare Act and the Regulations?

Answer. The AWA and current regulations [*Blue Book*] are available on the Internet at https://www.aphis.usda.gov/animal_welfare/downloads/AC_BlueBook_AWA_FINAL_2017_508comp.pdf

The AWO offices maintain a limited supply of hard copies to minimize our environmental impact and to provide them to those that cannot access the electronic version.

[Back to the Table of Contents](#)

Question. What is a wholesale transaction?

Answer. A wholesale transaction is the transfer of a regulated animal for compensation to a person or business that resells that animal to the end consumer. For example, a sale to a Dealer or to a RPS is a wholesale transaction because the purchaser is selling the animal again to the end consumer. The sale of regulated

animals at auction is also wholesale activity.

Question. Does USDA regulate all wholesale transactions?

Answer. Anyone who has four or fewer breeding females and only sells animals born and raised on his or her premises may sell at wholesale without a license. However, anyone with five or more breeding females or selling regulated animals not born and raised on their premises at wholesale needs a license as a Dealer.

Question. What changes are there for retail pet stores?

Answer. The regulatory change does not affect a traditional RPS that sells regulated animals in face-to-face transactions. Most “brick and mortar” stores will continue to be exempt from Federal regulation under the AWA just as they have been. If they sell animals sight unseen, they will require either a class A license if they sell only dogs born and bred on their premises or a class B license if they sell dogs obtained from others.

Question. What changes are there for current USDA licensees. Is there anything additional that they need to do under the RPS revision?

Answer. No. If you were already USDA licensed, you would just need to continue to meet or exceed all of the AWA requirements.

Question. What changes are there for boarding kennels?

Answer. No. Typical or traditional boarding facilities, where people board privately owned animals while the owners are away, are exempt from regulation under the AWA. However, if they take in animals in conjunction with their transport, they must register as an Intermediate Handler.

[Back to the Table of Contents](#)

Question. How did you estimate how many people the change would affect? Can you give the breakdown by species?

Answer. This represents breeders we identified through online breeder registries and those additional dog breeders not included in those registries that sell and ship dogs sight-unseen. This does not include breeders who are exempt from regulation under the rule because they do not sell pets, because they do not have more than four breeding females, or because they sell pets face-to-face.

Since a very small percentage of cats in the United States are purebred and raised by breeders — and even fewer appear breeders sell over the Internet sight-unseen — we assumed the number of affected cat breeders would be a small portion of those we identified.

It is uncommon for rabbit breeders to sell offspring as pets or sight-unseen. Generally, breeders sell rabbits face-to-face at auctions, exhibits, and fairs where buyers are physically present. The rule also affects some currently licensed wholesale breeders.

Most shelters and rescue groups sell or adopt regulated animals in face-to-face transactions. Those who conduct sight-unseen sales or adoptions or sell at wholesale need a license.

Question. How many current licensees does USDA expect to lose with the raising of the de minimis standard?

Answer. Expanding the licensing exemption from three to four breeding females could reduce the number of wholesale licensees. The number of current licensees that fall below the exemption threshold will be very small.

Question. How many additional breeders will require a license under the RPS rule?

Answer. We originally estimated that the rule would affect between 2,600 and 4,640 dog breeders, about 325 cat breeders, and no more than 75 rabbit breeders.

Based on input from commenters, we were able to revise and strengthen our analysis of the number of breeders that would come under regulation and the likely financial impacts. Compared with our earlier analysis, we expect more regulated breeders and others transferring regulated pets will require licensing and inspection. The costs should be relatively low for most, probably only for recordkeeping, licensing, and identification tags.

Further analysis based on FY2013 data showed that raising the “de minimis” level from three to four breeding females affected a much smaller number of Class A license holders. More than 90 percent of the Class A dog breeders had well over five breeding females in this period.

Question. How many comments did you receive on the proposed rule?

Answer. USDA published the proposal on May 16, 2012, and extended the comment period from 60 to 90 days at the request of stakeholders. The comments period closed on August 15, 2012. We received more than 210,000 comments for the proposed rule: There were 75,584 individual comments, 134,420 signed form letters and 213,000 signatures on petitions submitted by organizations supporting or opposing the proposed rule. We reviewed every comment and made a number of changes to the final rule based on stakeholder feedback.

Question. How do I know if this rule covers me?

Answer. Reach out to us. Let’s talk. By discussing how you operate and how you sell or place your animals, we can make a determination whether you may need a license from USDA or you may decide to change your method of sale or placement so that you do not require licensing.

Question. Do I need a license if I show regulated animals?

Answer. No. You do not need a license to show your animals. The AWA and its regulations apply to the sale of dogs in commerce, their use in research and entertainment (e.g., circuses and zoos), and other defined areas. The term exhibition does not govern participation in shows or state fairs where people show breeding stock or farm animals in competition.

Question. When did the RPS rule go into effect?

Answer. USDA published the rule on September 18, 2013 and it went into effect on November 18, 2013. To get more information, click on the link: <http://tinyurl.com/lhm4h3z>.

[Back to the Table of Contents](#)

Rescues, Shelters and Pounds

Question. What is the definition of a "rescue facility" and which of these are included in these changes.

Answer. There is no definition for a rescue in the AWA or regulations. The regulations apply to the activity or the group's method of sale or placement, not to the types of organization conducting the activity. Groups that participate in face-to-face transactions are subject to public oversight and do not need a license. Anyone that has any transactions involving regulated animals, for use as pets, that are not face-to-face or are wholesale transactions may need a license.

Question. Does the rule mean that rescue groups, humane societies, and shelters need a license?

Answer. It depends. The final rule does not apply to government owned or operated shelters or to agents of the government.

The for-profit or not-for-profit status of the organization does not create an automatic exemption from regulation. Governmental agents operating under a contract with the government are exempt with respect to those activities, unless they take ownership of the animals. It applies to government contract facilities conducting non-contract regulated activities and to others that conduct regulated activities with regulated species. For those facilities, if all of the retail transactions occur face-to-face, they are exempt.

For private adoption groups performing other than government-contracted functions, the need for a license depends on the way they conduct their transactions. If the group receives compensation for the animals, whether it is an "adoption fee" or "donation," they may need licensing. If the transactions are at wholesale or are sight-unseen at retail, then they will need a license for the group or person, other than a government, receiving compensation for the animal.

Question. Can you clarify how USDA handles groups that collect adoption fees for animals?

Answer. USDA considers groups that perform any of the activities listed in the definition of dealer, including transporting or offering animals for compensation at retail, to be dealers unless they sell all animals in face-to-face transactions or meet one of the specific exemptions in the regulations. Any adoption group that conducts sight-unseen or wholesale transactions of regulated species requires a license.

USDA considers acts of compensation to include any remuneration for the animal, regardless of whether it is for profit or not for profit. Remuneration includes, but is not limited to, sales, adoption fees, donations, or other benefits received for related activities. An organization or individual would be exempt from regulation based on their method of sale or placement. If they receive any remuneration, they may meet the definition of a dealer.

Question. How will the RPS rule affect groups that hold off-site adoption events?

Answer. Anyone engaging in transactions at a place other than their premises, which includes offsite adoption events, are subject to public oversight and do not need to obtain a license if they transfer all animals face-to-face and they do not transfer any at wholesale.

[Back to the Table of Contents](#)

Question. What is the effect of sight-unseen sales?

Answer. If adoption agencies conduct face-to-face transaction, they are exempt from licensing, since they meet the definition of a RPS. If they conduct sight-unseen transactions or transfer animals for compensation at wholesale, they need a license.

When you receive payment does not affect the need for a license if you conduct sight-unseen or wholesale transactions. Groups have different methods of sale or placement, and it would be best for each group to contact AC to discuss the specifics of their individual operating methodology if they have concerns about licensing.

Question. How do you inspect a group that has foster homes all over the country and only uses an individual home occasionally?

Answer. This depends on how the group operates. If there were sight-unseen transactions of animals, any group would be required to be licensed, unless specifically exempt. They would have to list all of the sites housing animals so USDA could conduct inspections to be certain that they comply with the standards for humane care and treatment of the animals. If all sales were face-to-face, they would be exempt from licensing.

Question. Do volunteers that transport regulated animals to their new homes need a USDA license?

Answer. The volunteers may need to registration as Intermediate Handlers or Carriers.

A Carrier is “the operator of any airline, railroad, motor carrier, shipping line, or other enterprise which is engaged in the business of transporting any animals for hire.”

An Intermediate Handler is “any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce.”

If you provided compensation to the volunteer for the transportation, including reimbursement of expenses, the volunteer will need registration, if not otherwise exempt. If the group uses an Intermediate Handler or Carrier to transport the regulated species, then the sales for compensation would not be face-to-face. The group would need a license and inspection and the Intermediate Handler or Carrier would have to meet USDA standards and be subject to inspection.

Breeders Who Adopt

Question. Do breeders who assist adoption groups, placing adopted animals sight-unseen in their new homes need a USDA license?

Answer. If there were sight-unseen transactions of regulated animals, the group or the breeder would need a license. All sites housing animals would require listing and inspection to be certain that they comply with the standards for humane care and treatment of the animals.

[Back to the Table of Contents](#)

Question. Will breeders who transport adopted animals to their new homes need a USDA license?

Answer. Anyone transporting animals in commerce for compensation in conjunction with a business may need to registration as an Intermediate Handler. See the last answer [above](#) under preceding section.

Question. I own three breeding females and take in regulated animals for adoption. Can I ship an animal from one of my breeding females sight-unseen that, although bred to preserve bloodlines, does not have the qualities for use in a breeding program?

Answer. You may need a license:

- If any of the dogs for adoption meet the definition of breeding females, they count in your total of breeding females.
- If the total number of breeding females on your premises, including dogs for adoption, is four or fewer and you sell only their offspring born and raised on your premises, you do not need a license. If you sell all other dogs sold face-to-face, you do not need a license.
- If you sell or adopt dogs for non-regulated purposes sight-unseen, you do not need a license.
- If all your sales or adoptions are face-to-face, regardless of how many breeding females you have or where they are born and raised, you do not need a license.
- If you sell or adopt dogs not born and raised on your premises, you are not exempt under the four or fewer exemption, if you sell them sight-unseen.

Question. Does the sight-unseen exemption for four breeding females apply if I place animals for adoption?

Answer. Any sale or transfer of an animal not born and raised on your premises removes the exemption for four or fewer breeding females. You may sell these animals in face-to-face retail transactions without a license. If you sell them in wholesale transactions or at retail sight-unseen, you will need a license. You should discuss this with your local APHIS AWO Office.

[Back to the Table of Contents](#)

Question. I have females I breed and dogs that are owned by a non-for-profit 501(c)(3) adoption group. I sell the dogs I breed to preserve breeding stock and bloodlines. The adoption group places the dogs as pets after neutering. I do not receive compensation for their care - although the adoption group pays for some of their care directly. If I sell my dogs face-to-face, do I need a license if I have adoption dogs on my premises that the group sells sight-unseen?

Answer. If you and the adoption group sell all the dogs face-to-face, you do not need a license.

If you or the adoption group place dogs not born and raised on your premises for a fee, sight-unseen to the new owners, then you (or the group) will need a license. The license will list the premises so that USDA Inspectors can see it to evaluate if it complies with the standards for humane care and treatment of the animals under the AWA.

The “four breeding female exemption” applies only if all regulated animal sales for regulated purposes are of animals born and raised on your premises. It does not apply if you sell any dogs not born and raised on your premises, unless you sell them face-to-face.

Face-To-Face vs. Sight-Unseen Sales

Question. *If I already have a USDA AWA license, but I sell some animals sight-unseen, do I need to get another USDA license?*

Answer. No. You may have only one USDA license. It is for your main activity. If you are licensed, a USDA Inspector already inspects you. Just let your AWO office know about your additional activities.

Question. *Do you regulate sight-unseen sales of pets to buyers outside of the United States under the RPS rule?*

Answer. Sales of regulated animals at retail sight-unseen requires regulation. If the seller is in the United States and meets the other criteria, they need a license. The rule applies regardless of where those animals are going.

Question. *I sell dogs sight-unseen, but all are sold within my state of residence and their transport does not go through any place outside the state. Am I exempt from licensing as a dealer, since I am not involved in interstate commerce as defined in the Animal Welfare Act?*

Answer. You are not exempt from needing a license as a dealer. Section 1.1 in the Code of Federal Regulations (CFR) covering the AWA (9 CFR Chapter 1 Subchapter A- Animal Welfare) states: "Commerce means trade, traffic, transportation, or other commerce: (1) Between a place in a State and any place outside of such State, including any foreign country, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia; or (2) Which affects the commerce described in this part." Courts have held that commerce includes activities conducted entirely within one state that affect the commerce described between states. Therefore, this is regulated activity and you require a license.

Question. *Why is it important for a buyer to observe an animal personally before taking custody?*

Answer. Personal observation of an animal is an important way that a buyer can evaluate the health and humane treatment of the animal. This requirement was implicit in the original definition of RPS in our regulations; this rule makes it explicit.

Question. *Do sellers who breed pets at their homes have to allow buyers in if they have a USDA license?*

Answer. No. The regulation allows sales to take place at any location agreed upon by the seller and the buyer. This location could be a home or any other mutually agreeable location.

Question. *Does the use of video or other electronic means to view pets for sale constitute a "face-to-face" transaction?*

Answer. No. The buyer, seller, and the pet available for sale must all be physically present at the time of purchase or before taking custody of the animal in order to meet the definition of a face-to-face transaction and be exempt from licensing. Photos, webcam images, Skype sessions or other electronic means of communication are not a substitute for the buyer or their designee personally observing the animal.

Question. Can the seller come with the animal to the buyer's location to meet the face-to-face requirement?

Answer. Yes.

Question. Does the RPS rule mean that no one can sell regulated animals over the Internet?

Answer. No. This rule does not restrict advertising animals for sale. Breeders with five or more breeding females or those who sell animals they have not bred at retail may advertise their animals on the internet and sell them without a USDA license if the buyer is able physically to observe the animal before selling or taking custody of it. Breeders with four or fewer breeding females may still sell animals born and raised on their premises over the Internet and ship them sight-unseen without a license.

If breeders with five or more breeding females or those who sell animals they have not bred choose to sell regulated animals at retail sight-unseen, they must obtain a USDA license to do so. Any wholesales transactions also require a license and inspection.

Question. If a person cannot personally observe an animal before buying it, can someone else stand in? If so, who can qualify to be a stand-in buyer?

Answer. Yes. Some commenters noted that it is difficult for some people — for instance, foreign, disabled, or elderly customers — to observe personally the animals they wish to buy. We consider the buyer of a pet animal in a retail transaction to be the person who takes custody of the animal after purchase, even if this person is not the ultimate owner of the animal. This may be a family member or friend. This person cannot be a dealer, commercial transporter, intermediate handler, agent, or employee of the seller and must meet the requirements for a face-to-face transfer. If the individual receives any compensation for the transaction, the seller will need a license and the stand-in purchaser will need licensing or registration.

Question. Can a seller's veterinarian qualify as a representative for a family buying over the Internet?

Answer. While we understand the need for an intermediary buyer or agent to act in the place of the final buyer in some cases, the agent for the buyer must not be an agent of the seller. It may be a family member or friend of the buyer. However, a veterinarian in a veterinarian-client-patient relationship with the seller and his or her animals does not qualify as a representative of the ultimate purchaser. A local veterinarian will certainly examine the animal and write a health certificate, but cannot be an agent for both the buyer and for the seller.

Question. Can an employee of the seller or a volunteer represent the seller at a face-to-face sale?

Answer. We would have to see what type of arrangement is being set up. AC needs additional information as to what is going on because that person may become a broker, a handler, etc. We need to see exactly what is happening and what type of transaction is being set up.

[Back to the Table of Contents](#)

Importing Dogs for Resale or Adoption

Question. There are thousands of animals imported into the United States by adoption groups for sale. This is a threat to American business as competition in the market and animals and people from to illnesses and parasites carried by these dog. What is the USDA doing to regulate this activity?

Answer. USDA amended the Animal Welfare Act regulations in 2014 to create oversight of dogs imported into the United States for resale or adoption, veterinary treatment or research. You cannot import any dog under 6 months of age for resale or adoption. All must have current rabies and other vaccinations before import and must not show signs of an infectious disease or physical abnormality that would endanger the dog, other animals or public health. You can read our press release at <http://tinyurl.com/osezhfz> and can access the rule at <http://tinyurl.com/kj59dyb>.

Question. I cannot import dogs younger than 6 months old for resale, but can I import a dog to use in my breeding program?

Answer. The USDA does not require a permit to import a dog for personal use, including breeding. Under USDA rules, you cannot import a dog younger than 6 months old into the United States for resale or adoption and must have a justification to import them at that age for research or veterinary treatment. All dogs imported for any of those purposes must have a valid vaccination against rabies, have certain other vaccinations, a veterinary health certificate and not show signs of disease on import.

The Centers for Disease Control (CDC) prohibits the importation of dogs into the United States without valid rabies inoculation given after three months old and more than 30 days prior to entry unless they are from a rabies free country. The CDC will not permit dogs to enter the country in violation of their rules and will return them to the country of origin. In addition, each state may have other requirements for import into that state.

Question. What if I import a puppy for my breeding program and then as it matures I do not believe it should be used for breeding? May I then sell it without violating the regulations?

Answer. That will depend on a number of factors. It is best to check with your local AWO Office for a determination based on your individual situation.

Question. Do I need a permit to import dogs if I sell or adopt dogs to new owners before they are imported?

Answer. Where the sale occurs is not important. Their owners are not importing the dogs. You need a permit to import these dogs. You may need registration as an Intermediate Handler or licensing as a B dealer, depending on your involvement in the transportation and sale or adoption.

[Back to the Table of Contents](#)

Shipping Animals

Question. When do breeders need a license to ship dogs?.

Answer. Breeders need a license if they maintain five or more breeding females (dogs, cats, or wild/exotic pocket pets), sell regulated animals as pets and ship them sight-unseen. Breeders with four or fewer breeding females may continue to ship animal's sight-unseen without a license if all the animals they sell are born and

raised on their premises. If anyone sells any animals not born and raised on their premises, they do not qualify for the four or fewer exemption.

Question. Can I sell pets face-to-face and still ship animals for exempt purposes sight-unseen?

Answer. If you ship regulated animals for exempt purposes (e.g., for use as breeding stock or for hunting), at retail, you do not need a license.

Question. Did USDA consider the effect of this rule on the disabled obtaining suitable pets?

Answer. The regulation does not prevent anyone from shipping animals to buyers. It does require breeders to have a license if they maintain five or more breeding females (dogs, cats, or wild/exotic pocket pets), sell the offspring of these animals as pets, and ship those pets sight-unseen. In addition, anyone else selling regulated animals at wholesale must have a license, if not otherwise exempt.

Breeders with four or fewer breeding females may continue to ship animals born and raised on their premises “sight-unseen” without a license if they sell only the offspring of those animals. If they sell any animals not born and raised on their premises, the 4 or fewer exemption does not apply.

Dogs sold at retail for use as working, service or therapy dogs or for breeding or for other unregulated purposes are exempt from the rule. Breeders who regularly sell some dogs at retail for unregulated purposes and others as pets, have five or more breeding females, and engage in sight-unseen transactions of the pets, will need to obtain a USDA license.

Question. How will the USDA enforce the RPS rule?

Answer. If we have verifiable information that people are conducting regulated activity and do not have a USDA license, we will pursue appropriate enforcement actions once we determined that they do not comply with the AWA requirements and do not have a license or registration, whichever is appropriate for their activity. Penalties vary, depending on the type and severity of noncompliance.

Question. How will shippers, for example airlines, know if the animal is being shipped legally?

Answer. It is not the responsibility of the airlines to determine whether a person needs a USDA license. As carriers, they have to register and comply with the AWA requirements for transporting animals humanely and safely. The owners are responsible for obtaining a license and complying with their AWA requirements. If they have any questions or concerns about whether they need a license, they should call the Regional or Headquarters Offices and we would be happy to help clarify it. We do not expect the airlines or any other carrier or transporter to enforce the licensing requirements of the AWA.

Question. Can a transporter deliver animals on my behalf if I sell sight-unseen?

Answer. Yes. If you are exempt from licensing due to having four or fewer breeding females or if you have obtained a USDA license, you may certainly use a registered Carrier or Intermediate Handler to transport your animals.

[Back to the Table of Contents](#)

Question. What is an "intermediate handler."

Answer. An Intermediate Handler is defined in the regulations as "any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce."

An Intermediate Handler is the person or business that has custody of the animal during transport to the buyer in commerce. A private agent, acting on behalf of a buyer, is required to register with the USDA if they transport animals or take custody of them in commerce. If they are an employee or volunteer acting on your behalf, they might need to be registered. Please contact your local AWO Office to discuss your specific situation.

Transporting regulated animals for compensation requires registration, not licensing. Anyone, not otherwise exempt, would need a license if he or she sells regulated animals as pets, sight-unseen, using a Carrier, an Intermediate Handler or a dealer. Anyone who negotiates the sale of the animals for compensation or for a fee for conducting the transaction is a class B dealer.

[Back to the Table of Contents](#)

Exempt Sales Purposes

Question. How do you define a "working" dog?

Answer. The term refers to a dog sold for a specific purpose, such as herding, guarding, hunting, breeding, racing, sledding, security, service, therapy, etc. Dogs transferred at retail only for these types of purposes are exempt under the regulations, which apply to dogs transferred as pets. The primary purpose of dogs sold for participation in agility, flyball, and weight pull competitions is as a pet. Anyone transferring animals for these purposes at retail, having five or more breeding females and selling sight-unseen would need to obtain a USDA license.

Anyone who regularly sells some dogs at retail as working animals and others as pets must have a USDA license unless the sale of all the pet animals is face-to-face or that person is a breeder, has four or fewer breeding females and sells only dogs born and raised on his or her premises.

[Back to the Table of Contents](#)

Question. What does "breeding purposes" mean?

Answer. A person is exempt from USDA licensing if they sell the animals for breeding purposes. We recognize that breeders are preserving a bloodline when they sell their animals for breeding purposes. Dogs sold at retail only as breeding dogs are exempt from regulation under the rule. You may ship breeding dogs sight-unseen.

Individuals who intend to breed and sell animals at retail for breeding purposes may occasionally raise an animal that lacks the characteristics that would enable it's sale or for its intended breeding purpose. As long as the individual originally intended to raise and sell animals at retail for that purpose and the individual continues to market his or her animals for that purpose, the breeder could sell the occasional individual animal at retail sight-unseen as a pet without needing a license from USDA.

We will evaluate the occasional sales on a case-by-case basis. However, a breeder who regularly sells some dogs as breeding animals and others as pets, has five or more breeding females, and engages in sight-unseen transactions will need to obtain a USDA license.

Question. Why are sales of animals sight-unseen for hunting, breeding, etc., exempt even if they have more than four breeding females?

Answer. Retail sales of dogs used for hunting, security, or breeding purposes are exempt in the AWA. Only Congress can change the AWA.

Question. Does USDA have a specific list of purebred dogs that they consider 'security' dogs, therefore exempting breeders of those dogs from licensing?

Answer. The purpose of the sale creates the exemption, not the dog's breed. If you sell dogs for hunting or security purposes, that is a non-pet purpose and will not need a license. If you sell the same dog as a pet, it is not a sale for exempt purposes. In that case, you would need a license.

Question. We sell our puppies used as pets face-to-face, so that is exempt. We sell those used for hunting, security or breeding sight-unseen, so that is exempt. Is that correct?

Answer. That is correct, yes. You would be exempt. All retail sales of dogs intended for hunting, security, or breeding purposes are exempt, and face-to-face retail sales of dogs intended for pets are exempt.

Question. If I breed animals for show purposes and sell them sight-unseen, do I need a license?

Answer. If you breed and sell dogs as show dogs, you may need a license. If you intend for the animals that the buyer is showing to be breeding animals once they have achieved a certain goal in the show ring, you may be exempt from licensing. A breeder that sells dogs at retail for breeding purposes is exempt from regulation under the rule, which applies to dogs sold as pets. However, a breeder who has five or more breeding females and regularly sells some dogs (born and raised on their premises) as breeding animals and others as pets and engages in sight-unseen transactions of the pets will need to obtain a USDA license.

Question. Are greyhounds sold for racing purposes an exempt activity?

Answer. USDA considers dogs born and raised as part of the greyhound racing industry to be working dogs. If you sell them for purposes of breeding or racing (working), you are exempt from licensing. If you sell their offspring, sight-unseen, as pets, the activity is not exempt and would require a Class A (breeder) license if the breeder has five or more breeding females on the premises.

Question. If I sell my puppy/dog to a buyer for "security" purposes am I exempt from licensing?

Answer. A breeder that sells dogs at retail for security purposes is exempt from regulation under the rule, which applies to dogs sold as pets. However, a breeder who regularly sells some dogs (born and raised on their premises) as security animals and others as pets, has five or more breeding females and engages in sight-unseen sales of the pets will need a USDA license. In addition, a breeder who sells security dogs at wholesale and who has five or more breeding females will need a license.

[Back to the Table of Contents](#)

Question. What animals does the \$500 exemption cover?

Answer. Any person who does not sell or negotiate the purchase or sale of any wild or exotic animal, dog, or cat and who derives no more than \$500 gross income from the sale of other animals during any calendar year is exempt from the definition of a Dealer.

The 2014 amendments to the Farm bill removed this provision from the AWA, but not from the regulations. The change granted the Secretary discretionary authority to exempt those activities that have a *de minimis* impact on interstate commerce and the welfare of animals. USDA is in the process of determining the impact of this change on the current regulations. Until this process is completed, the current regulations will continue in effect. We understand that this can be a complex issue and encourage you to contact AC to discuss your unique situation.

Question. Why are you removing restriction on the source of gross income from the licensing exemption for people who breed certain species and derive no more than \$500 in annual sales?

Answer. This change gives breeders of rabbits, guinea pigs, and certain other animals the ability to sell those animals at retail (subject to the \$500 annual gross income limit written into the CFR) and remain exempt from AWA licensing and inspection requirements.

Question. Why isn't the \$500 limit on gross income being adjusted for inflation?

Answer. A number of commenters said that given inflation, the \$500 limit on gross income sales is too low; others said it was too high. In 2014, Congress removed this from the AWA and replaced it with a provision providing the Secretary with the discretion to exempt activities that have a minimal impact. USDA is developing new regulations to implement that change and we will add them when finalized.

Question. Do you require that a dog and cat breeder make no more than \$500 on a litter to be exempt and allowed to own more than the four-dog limit?

Answer. The \$500 limit applies ONLY to certain domestic animals – not wild or exotic animals, dogs, or cats. The animals the \$500 limit applies to include, but are not limited to, rabbits, hamsters, guinea pigs, ferrets, chinchillas, and other domestic animals that are NOT dogs, cats or wild or exotic animals.

Question. Is the \$500 limit just for the sale of animals or anything I may sell? We also require a deposit, this is part of the total cost but it is not the cost of the animal itself. Is this included?

Answer. The \$500 limit applies only to the money received for the sale of the animals, other than dogs, cats and wild or exotic animals. This applies to deposits received for the animals but not for the cages, toys, or equipment for the animals.

[Back to the Table of Contents](#)

What Is A Breeding Female?

Question. Under the rule, what is the definition of a Breeding Female?

Answer. Only female animals with the capacity to breed are breeding females. To determine the need for a license, we count any intact female capable of breeding in deciding if there are four or fewer breeding females on

premises. If there is some medical or physical reason the animal is not able to breed (such as age, infirmity, illness, or other issues), it is up to the owner to provide the inspector with evidence, so the USDA Inspector can make an appropriate decision

Question. Will a veterinarian determine the breeding status of a female?

Answer. USDA hires Veterinary Medical Officers and Animal Care Inspectors to perform inspections. We train all of them extensively in interpreting the regulations and standards and in evaluating facilities for compliance with the AWA. The Inspector assigned to you may not be a veterinarian. The AWA does not require that an Inspector be a veterinarian to determine whether you need a license.

Question. If I am a “show breeder” and have more than four breeding females, can I still ship my “show quality” puppy sight-unseen without a license since they technically are “breeding stock?”

Answer. Many “show quality” puppies are sold as pets. You would not be exempt from licensing if that were the case. However, if you intend for the animals that you sell as show dogs to be breeding animals once they have achieved a certain goal in the show ring, you may be exempt from licensing. A breeder that sells dogs at retail for breeding purposes is exempt from regulation under the rule, which applies to dogs sold as pets. However, a breeder who regularly sells some dogs (born and raised on their premises) as breeding animals and others as pets, has five or more breeding females, and engages in sight-unseen transactions will need to obtain a USDA license.

Question. Do you count spayed females or ones I have not bred as breeding females?

Answer. Only female animals (dogs, cats, and small wild or exotic pocket pets) with the capacity to breed are breeding females. Deciding not to breed a specific animal does not alter its ability to breed, nor does the decision to wait until a specific age.

Females that a USDA Inspector determines cannot breed due to age, infirmity, illness, or other issues are not “breeding females.” If you have had a female spayed by a veterinarian, providing veterinary records of that procedure will aid the Inspector in making the correct determination.

Question. Will you consider a retired female who has not yet been spayed, yet no longer cycles, as a breeding female? How will this affect a 4-6 month old female who is not yet cycling and too young to breed?

Answer. Only female animals with the capacity to breed are breeding females. To determine the need for a license, we count any intact female capable of breeding in deciding if there are four or fewer breeding females on premises. If there is some medical or physical reason the animal is not able to breed, it will be up to the owner to provide appropriate evidence of the fact.

Only female animals with the capacity to breed are breeding females. Females that a USDA Inspector determines cannot breed due to age, infirmity, illness, or other issues are not breeding females.

Question. Are visiting breeding females included in the count of breeding females for a kennel?

Answer. Yes, if regulated activity is occurring, all breeding females on the premises count towards the *de minimis* limit. If there are five or more breeding females and regulated activity is occurring with regulated species, the exemption does not apply.

[Back to the Table of Contents](#)

Four or Fewer Breeding Females Exemption

Question. What are my premise?

Answer. We define premises as any single address.

Question. Why do you now allow people with up to four breeding females to sell sight-unseen without a license under the AWA?

Answer. We always provided an exception under our previous regulations. We considered hobby breeders who owned three or fewer breeding females (dogs, cats, or small exotic or wild mammals) to provide sufficient care to their animals without our oversight. Based on a recent review of compliance among facilities we regulate, we believe that even with the addition of another breeding female, these hobby breeders are likely to conform to minimum AWA standards and their exemption does not pose a significant risk to the welfare of their animals.

Hobby breeders should remain aware, however, that the 4 or fewer exemption from AWA regulation applies if they sell only the offspring born and raised on their premises for pets or exhibition. They may sell these animals at retail or wholesale without a license. However, regardless of the number of breeding females you have, if you sell only in face-to-face transactions, you are exempt.

Question. How will the 4-breeding-females exemption apply to breeders with a partial ownership interest in a number of breeding animals?

Answer. The regulations do not specify or define ownership of an animal. Our concern is who maintains the animals and what activities they do with them. If a person maintains more than four breeding females on their premises, they are not exempt from licensing based solely on the number of animals.

If a person co-owns many animals, but does not maintain them on their premises, they may not be exempt from licensing. It would depend on their involvement with the negotiation or sale of the animals and if those were regulated sales. They could possibly require a Class B license, which is a license for those (not otherwise exempt) whose activity includes selling or negotiating the sale of any regulated animal.

This term includes brokers, and operators of an auction sale, since such individuals negotiate or arrange for the purchase, sale, or transport of animals in commerce. Such individuals do not usually take actual physical possession or control of the animals, and do not usually hold animals in any facilities.”

Question. What does “born and raised” mean in the context of the 4-or-fewer-breeding-female exemption from USDA licensing?

Answer. For the exemptions in section 2.1, the dogs have to be born and raised on your premises. If you sell dogs not born and raised on the premises, you may no longer avail yourself of that license exemption. However, if you sell those dogs face-to-face, you are still exempt.

[Back to the Table of Contents](#)

Question. Many breeders purchase animals for breeding from other breeders or get a puppy in lieu of a stud fee. When the animals retire animals, they sell them as pets. With the sale as a pet of a retired animal that was obtained from another breeder change the licensing requirements?

Answer. The sale of animals not born and raised on your premises requires licensing if you do not meet the definition of a RPS. If all sales of these animals were in face-to-face retail transactions, you would not require licensing. If these transactions are sight-unseen and you sell the animals as pets, you would require licensing. The four or fewer female exemption would not apply since the animals are not born and raised on the premises.

Question. Does an occasional sale of a dog not born and raised on my premises require a license?

Answer. This can vary depending on the actual situation. It is best if you contact the AWO Office to discuss your specific circumstances.

Question. How will these rules apply to handlers who may occasionally breed a litter of their own but also routinely carry multiple intact breeding females and routinely deliver puppies or dogs they have not bred to new homes?

Answer. The handler may require licensing depending on the number of females on the premises, if the sales are as pets, and if they are sight-unseen or face-to-face sales. If the handler is transporting animals in commerce, they will need registration with USDA as an Intermediate Handler. If they are transporting animals that they are handling in a show that is not regulated activity.

Question. If I have four breeding female dogs, and my daughter raises show rabbits do her numbers count against mine if they are housed on one premise?

Answer. Rabbits fall under the \$500 exemption (see discussion above). The number of breeding females of those species does not count toward the four breeding female exemption. If you have only four breeding female dogs and sell sight-unseen only their offspring born and raised on the premises, you would remain exempt from licensing, if your daughter does not sell more than \$500 worth of her rabbits

Applying for a License

Question. Does the rule apply US wide or just in certain states?

Answer. US wide.

Question. How will USDA identify those needing a license?

Answer. USDA is using various methods to access publicly available information to identify and inform those individuals who may need a Dealer's license. These methods include evaluating customer complaints against breeders, dealers and Internet retailers, as well as reviewing their marketing and promotional materials. In addition, we will review public information available online to identify sellers that potentially meet the definition of Dealer under the AWA. By viewing publicly available information, USDA can educate individuals about the AWA, and if needed, assist them with obtaining licenses.

[Back to the Table of Contents](#)

Question. Studies show that puppies raised in home situations are well socialized and healthy. Can I raise and socialize animals in my home if I am licensed?

Answer. The regulations do not stop you from raising animals in the home. Our Inspectors have guidance on inspecting in a home, including focusing on the health of the animals and any direct hazards to their health or safety, particularly in areas not dedicated to housing animals. For example, in the living room, we would be looking at the health of the animals and such potential hazards as access to electric wires, bleach, choking or ingestion hazards or significant waste disposal issues.

There are some restrictions. Except when you keep them in breeding colonies, you may not keep bitches with litters in the same primary enclosure with other adult dogs. You cannot keep puppies less than four months of age in the same primary enclosure with adult dogs, other than the dam or foster dam. In other words – if your adults or adolescents (over four months of age) are running loose in the house only the dam or foster dam may be in the same room or area or in contact with animals four months old.

Question. Why is USDA regulating breeders based on the number of females they own as opposed to whether they sell animals in commerce?

Answer. The AWA regulates only activities that are in commerce. To determine whether you need a license under the AWA, we use the number of breeding females that produce the animals that you sell in commerce because that is what we can verify. We cannot verify how many animals you sell, but we can verify the number of females that you have and use to produce the animals that you sell. Basing this regulation on the number of breeding females at the facility rather than the number of animals you sell allows us to ensure the health and welfare of the adults, as well as the puppies sold, at facilities that need a license.

Question. Why is the federal government involved?

Answer. The employees of the USDA are responsible for enforcement of the federal law; that is, the AWA. We conduct inspections of facilities that require licensing under the federal law.

Question. How can I request a license application packet? (Also under contact information)

Answer. You may request a license application packet electronically at https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_Regulated_Businesses/SA_Request_License_Registration_Application_Kit or contact your respective Regional Office (Raleigh, NC at 919-855-7100 and Fort Collins, CO at 970-494-7478) for assistance. A map of the states covered by each Office is available at <http://tinyurl.com/mdrfwsy>

[Back to the Table of Contents](#)

Question. How quickly will covered breeders have to come into compliance? May covered breeders continue to sell puppies while actively working towards compliance?

Answer. APHIS' AC program implements the regulations under the RPS rule. Contact the AWO Office in your area and request an application kit. We have been licensing people for many years and it is user-friendly. The rule took effect on Nov. 18, 2013, and entities that may need regulation under the AWA should request and complete a license application. If, after notification of the need for a license, you do not submit an application and continues to make covered sales, USDA may pursue enforcement action.

We communicate extensively with applicants to help them understand what is required for them to comply and to maintain compliance. Once you have submitted your application for licensing and the \$10.00 application fee, you will be contacted by the Inspector assigned to your area and they will discuss the process with you.

Depending on our workload, it may take time after we receive your completed application and \$10.00 fee before we can schedule a pre-license inspection. An Animal Care Inspector will contact you to discuss compliance and to schedule a pre-license inspection. Once you have submitted a completed application, you may conduct regulated activity until you have your pre-inspection unless you are the cause of the delay in conducting the pre-inspection.

Question. Where can we find written descriptions and definitions for breeder, dealer or exhibitor?

Answer. You will find the definitions for “Class A” (breeders), “Class B” (dealers), and “Class C” (exhibitors) licenses at (<http://tinyurl.com/largc6w>), where you can download a copy of the “Blue Book.”

Question. Other agencies, such as states, that require licensing conduct the same kind of inspections as USDA. It seems like duplication for you to do the same inspections. Will you offer exemptions to those engaged in regulated activities that other agencies inspect?

Answer. Congress authorized the USDA to ensure that regulated entities meet the AWA requirements. We do not have the authority to look at State or other similar inspections whose standards are not the AWA standards.

Question. Will you be working with state agencies to obtain lists of breeders who may fall under the rule?

Answer. Our focus is helping those requiring a license to comply with the regulations and standards. We will also reach out to previously licensed entities that need a license under the RPS rule. As we progress through the implementation of the rule, we may eventually work with state agencies if we determine it to be necessary.

Question. If my State Department of Agriculture licenses me, do I still need to a license from USDA?

Answer. You are required to comply with the AWA as well as state and local laws. The AWA and state laws are separate laws and, therefore, the person who is conducting activities needing regulation under the federal law has to meet the federal requirements. If the state law has oversight over the same activity, you are going to have to meet state requirements also.

You are required to comply with all applicable laws and regulations. If you live in a jurisdiction that has animal welfare, animal care, licensing or other animal related laws, you have to comply with those laws and requirements. You must meet the most restrictive standards, whether that is federal or state law. This ensures that you comply with the AWA, as well as all applicable state and local laws.

[Back to the Table of Contents](#)

Question. What do I need to do to prepare for the pre-inspection?

Answer. After you submit your application, you will have an extensive conversation with an Inspector, who will talk through all of the requirements with you during a phone conversation to educate you on the requirements and our expectations as we do our inspection. After that phone conversation, the Inspector will set up a time for a pre-licensing inspection.

While no detailed, formal checklist covers all regulatory requirements, there is a set of PowerPoint presentations on dog and cat commercial breeders at

https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/caw/education+and+training/ct_commercial_dog_breeders.

These review many of the licensing requirements and standards for veterinary care, exercise, transport, husbandry,

and facilities that apply generally to regulated animal activities. During this inspection, the Inspector will meet with you, discuss all of the requirements in specific areas that are unique to your situation, answer all of your questions, then do a walk-through of the areas where your animals are kept and talk to you about those areas that might not be meeting the minimum standards under the Animal Welfare Act. The Inspector will discuss with you what changes you need to make to meet those standards. Once that is determined, you will let the Inspector know when you are ready for a second inspection to evaluate whether you comply with the requirements of the AWA and its regulations after making those changes.

Question. What happens if an applicant doesn't pass the initial pre-licensing inspection?

Answer. The first pre-licensing inspection will be scheduled at a mutually agreed upon date and time. If you fail that inspection, the Inspector will identify areas requiring improvement. You will have two more opportunities within a 90-day period to demonstrate compliance. Our Inspectors will make every effort to re-inspect a facility or home promptly when an applicant requests the re-inspection to confirm full compliance with the AWA requirements. An applicant who fails to achieve compliance within the 90-day period must wait 6 months before re-applying for a license and cannot conduct regulated activities during that time.

Question. After the pre-license inspection, if I have to make changes to be in compliance, do you allow me to sell puppies while making the requested changes? What if I sell the puppies face-to-face?

Answer. Most of the facilities are going to meet or exceed the requirements. If you fail the first pre-license inspection, you cannot to conduct any regulated activities until you comply with the standards and regulations and you are licensed. Face-to-face sales of animals (including puppies) are exempt and are not regulated activity.

Question. What is your estimate about how long will it be between when an application is submitted and an Inspector being able to visit?

Answer. We do not have a time estimate. It all depends on when we receive the application and when the Inspector can add it to the schedule. The Inspector will contact you within ten days of the time that they receive the completed and processed application from the AWO Office. They will, at that time, discuss the pre-license process and work on finding a date for the first inspection that works for you and the Inspector.

Question. Do I need to license at the beginning of that year or can I get a license in June if that is when I decide to engage in regulated activity? Are the licenses annual (January to December) or do they cover one full year from the date of issue, in this case, from June to June?

Answer. USDA licenses are renewable on an annual basis, based on the issuance date of the license. However, a licensee that cancels or fails to renew a license and later needs to reapply will have to go through the full pre-licensing process again.

Question. Once an applicant is licensed, when do inspections occur?

Answer. After a person receives a USDA license, all of the inspections are unannounced and are during normal business hours. The Inspector will discuss optimal hours of inspection during your pre-license inspection.

[Back to the Table of Contents](#)

Question. Do you take photographs during the pre-licensing process?

Answer. Our Inspectors do not take photographs of noncompliant items found during pre-license inspections. During routine inspections of already licensed facilities, licensees AC expects you to understand and abide by the standards and regulations. We take photographs as a visual way to document noncompliant items. Pre-license inspections, in contrast, are to provide an educational opportunity for applicants to learn about the standards that they must meet in order to obtain a license.

Question. If I apply for a license then after the initial inspection process and decide to change my mind, is there some sort of penalty?

Answer. No, you can cancel your application with no penalty, but AC will not refund your \$10 application fee. If you do not conduct regulated activity, you would not be subject to USDA requirements for licensing and you would not be subject to USDA inspections.

Question. Do licensees need to maintain their USDA license if in some years their activities don't meet the threshold for licensing? For example, if they only engage in regulated activities once every three years, do they only need a license once every three years or every year regardless of engaging in regulated activities?

Answer. A licensee who is not conducting regulated activities can decide not to renew a license. Licenses are only required when regulated activity is conducted. However, if they subsequently need a license, they will have to go through the pre-license process again.

Question. What are the costs of licensing and how are they determined?

Answer. There are different levels. For those who breed and only sell the offspring of their animals, we calculate the license fee based on 50% of your gross income from regulated activity. There is a sliding scale based on annual gross revenue. For example, if you sold \$2000 worth of animals in the previous business year, we base the license fee on 50% of that, which would be \$1000. Your license fee would then be about \$75. The annual license fee is between \$40 and \$760, with the maximum fee for selling more than \$200,000 in regulated animals in that business year.

Question. What are licensing fees based on? Is it an annual or one-time fee?

Answer. For the "Class A" license, we base the fee on 50% of the gross income; for the "Class B" license, we base it on the income received for the animals minus the money paid for them by the Dealer. It is an annual fee -- the license period is for 12 months.

Question. Where can I find the license fee schedule?

Answer. Yes. The AWA and its Regulations (Blue Book) are on the Website at <http://tinyurl.com/largc6w>. Section 2.6 of the Regulations details annual license fees and shows a table of the fees.

[Back to the Table of Contents](#)

Question. What is the total cost for licensing, identification tags, and recordkeeping?

Answer. Based on information from current licensees, the typical annual cost for licensing, identification tags, and recordkeeping would be about \$4 to \$7.50 per dog.

Question. What will the costs be for regulated entities that need to upgrade their facilities or change their facilities to comply?

Answer. It depends on what is not in compliance. We believe that the vast majority of entities affected by the rule already maintain standards of housing, cleanliness and care that well exceed minimum AWA standards. However, some will need to upgrade their facilities and/or change their operations to meet the basic AWA standards of care. We acknowledge that, in some cases, these upgrades and changes will cost them more than the minimal costs of licensing, identification tags, and recordkeeping.

Question. Now that I need a license, will I have to spend thousands of dollars to build or make my kennels meet USDA standards?

Answer. No. USDA found that most applicants already comply with or exceed the AWA's basic standards, including those breeders who currently keep their animals in their homes. The AWA standards ensure that those engaged in regulated activities provide basic care and shelter for their animals at a level that they can easily achieve and maintain. Regulated businesses have a variety of ways in which they can meet the standards. The standards are not overly prescriptive, nor does it cost a lot, in most cases, to meet them. USDA Inspectors and personnel can answer questions in this regard and work with licensees as they make decisions regarding enclosures and related issues.

Compliance

Question. How will USDA enforce the retail pet store rule?

Answer. APHIS AC enforces the AWA, primarily through inspections of regulated facilities. To ensure that you comply with the AWA, all facilities that keep animals regulated under the Act must have a USDA license or registration. USDA officials — veterinarians or qualified Inspectors employed and trained by USDA to identify potential violations of the AWA and its regulations — conduct unannounced inspections of every licensed or registered facility in the country.

During an inspection, the USDA Inspectors must have full access to all areas where you maintain regulated animals as well as to all records required under the AWA and regulations. If the Inspector observes that the facility is not in full compliance with the AWA requirements, he or she will explain to you all deficiencies noted. Once the inspection is completed, the Inspector documents any noncompliant items or issues that require correction in an inspection report and takes photographs as needed. For each issue that requires correction, the Inspector will cite the specific applicable regulation, describe the problem, and set a deadline by which you must correct the issue.

If deficiencies remain uncorrected at subsequent inspections, USDA considers legal action. Repeat non-compliances and serious incidents may warrant enforcement actions such as letters of warning, monetary penalties, license suspensions, revocations, and the confiscations of animals.

[Back to the Table of Contents](#)

Question. What steps does USDA take when it believes it has found an unlicensed activity? What are the options – both if it needs a license, and if it is operating within the law?

Answer. AC has developed a protocol to ensure that we fully inform unlicensed dealers and breeders of the change to the regulations and provide opportunities to apply for a license voluntarily. If AC determines, based on available evidence, that you are conducting regulated activity, we will provide you with an opportunity to present information disputing the evidence we have obtained.

If you cannot do this and you continue to conduct regulated activity without a required license, AC may begin enforcement action, which includes letters of warning and the potential for fines and penalties. AC does not issue these lightly and it will not do so without documented proof of unlicensed, regulated activity. AC works closely with IES (see questions under **USDA Inspections** below) on this issue and there is an appeals process readily available for you.

Question. Has USDA explored various means to inform breeders, dealers and consumers about the requirements, including reaching out to the websites that are major advertisers of puppy sales (Puppyfind.com, Nexdaypets.com, Pupsusa.com, and Dogsnow.com)?

Answer. We conducted four webinars with the industry and stakeholders about the rule. We have encouraged everyone affected by the rule to contact us about getting a license. We also reached out to specific stakeholder groups. Our focus is to help the entities requesting a license to comply with the regulations and standards.

We had an extensive outreach program that included a formal press release; conference calls with our stakeholders; a dedicated web page for information regarding the regulatory change; a Frequently Asked Questions fact sheet that is continuously updated; topic-specific webinars; and many other outreach methods. We regularly evaluate these for additional outreach opportunities.

Question. How will USDA investigate complaints: what is the process, who is involved, how long does it take, and how many complaints are there in the process right now?

Answer. AC evaluates each complaint on an individual basis based on the information that we receive. The handling of the complaint is not affected by whether the complaint is anonymous or we identify the complainant or whether it is the first one or a repeat complaint. The number of complaints in process at any one time varies.

We have no standard timeframe to resolve a complaint. It depends on how complex it may be. The staff at the AWO Office will determine if the individual is licensed or not. The appropriate Inspector and their supervisor reviews it for further investigation to determine if regulated activity is occurring and if the complaint has merit. Once they compile all the findings, the information is sent to the AWO Office for follow up.

Question. How many complaints has USDA already received regarding alleged unlicensed breeders that need inspection and possibly licensure?

Answer. We do not keep records of the number of complaints on unlicensed facilities that relate to the changes associated with this RPS rule. We do receive complaints about animal welfare concerns throughout the year on licensed facilities and we keep track of that. Nationally, we receive about 600 complaints each year.

Question. Does the USDA expect the "one size fits all" rule to work for the in home/hobby breeders?

Answer. All those engaged in regulated activity need to comply with the regulations and minimum standards of humane care for their animals. We believe, however, that the vast majority of those affected by the rule already maintain standards of housing, cleanliness, and care that well exceed minimum AWA standards. The regulations allow for innovative and creative housing designs for the animals. Please discuss your specific concerns with your assigned Inspector.

[Back to the Table of Contents](#)

Question. Will regulated breeders who keep their breeding females in their homes have to put them in a kennel?

Answer. No. AC does not require that they be in a kennel building. However, you will need to keep them in housing that meets the intent of the regulations, and provides for their safety and welfare. You can view and download a copy of our guidance to Inspectors on regulated animals cohabitating in a home with the breeder at https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf. See pages 4-22 and 4-23.

Question. If an Inspector finds what they consider an issue, can they also give me advice to correct the issue? For example, an Inspector does not like the gauge of wire on a kennel. Can they recommend what USDA would prefer?

Answer. As they go through the inspection, Inspectors will discuss best methods to comply with the facility operator. The Inspectors, however, will not recommend specific commercial brands or products. We encourage you to discuss these inspection specific issues and concerns with your assigned Inspector.

Question. Will an Inspector issue a citation if the carpet in the room housing animals is soiled with urine and feces?

Answer. If you do not maintain the facility properly and it is a potential jeopardy to the health and welfare of the animals, it would not comply with the AWA. Therefore, it would result in a citation on the inspection report that you would need to correct.

USDA Inspections

Question. "The AWA does not require retail pet sellers to allow customers to enter their property. A seller exempted as a retail pet store can indicate a place of business separate from his or her premises at which to sell pet animals at retail." Does this mean that the seller does not have to allow USDA to enter their property either, simply by indicating to USDA that there is a separate place of business?

Answer. All areas that you use to conduct regulated activities must be available for inspection. If the seller is exempt from licensing, then USDA will not conduct inspections at that facility. If you use separate and distinct areas for regulated and non-regulated activities, only those areas involved in regulated activities are subject to inspection.

Question. How will USDA verify which areas are used for regulated activity?

Answer. We will verify the areas necessary for inspection based on observation, questions, and the responses of the breeder.

[Back to the Table of Contents](#)

Question. Will Inspectors photograph my home and its interior and make those pictures available to anyone on the Internet?

Answer. We take photographs as a visual way to document noncompliant items (NCI's) during routine inspections of already licensed facilities. We also may take overview photographs to place the NCI into perspective. Our Inspectors are aware of the sensitive nature of taking photographs at a licensed facility. They will take only the minimum number necessary in the specific situation. Our information is accessible to the public and any other person through the Freedom of Information Act.

For more information on FOIA and e-FOIA, click on the link: <https://www.aphis.usda.gov/aphis/resources/foia>

Question. *When an Inspector arrives, will enforcement focus on the written rules or the “intent” stated in the various conference calls, commentary and FAQ?*

Answer. AC bases all citations on the regulations. AC develops policies as guidelines for the Inspectors and regulated entities. These policies help clarify regulations, but non-compliances that are cited on an inspection report are directly tied to the regulations.

Question. *How do you document information on the regular inspection reports?*

Answer. Inspection reports now include the following information:

- the citation for the most pertinent subsection of the regulation,
- a clear, detailed description of the noncompliant item,
- an explanation of why the item is being cited as noncompliant and/or the impact the item is having on the animal, and
- a deadline for correction of a new noncompliant item, along with a general description of how the licensee can correct the item. If AC identifies the same noncompliant item on a subsequent inspection, we will cite it as a repeat noncompliance and we will not grant further time for correction.

Question. *What do the Inspectors need to see during an inspection?*

Answer. The Inspectors focus is on the health and welfare of the animals and ensuring that the housing facility and required paperwork are compliant with the regulations. The Inspector must have access to all regulated animals and areas used to house regulated animals, required records and vehicles used to transport regulated animals. If you keep animals, medications, or animal feed in the home, those areas of the home need to be available for inspection.

Question. *How do you coordinate between your Inspectors and the Investigative and Enforcement Services (IES)?*

Answer. IES is a support program within USDA that investigates violations of the USDA regulations, including the AWA. AC employs Inspectors responsible for inspections that determine compliance with the AWA. If a facility does not comply with the AWA, the Inspector will help you understand how to comply and document those findings on the inspection report.

If there is a continuing or serious noncompliance, then USDA will make a decision about what to do. The AC program managers decide whether to request an official investigation of those alleged violations to determine if more stringent enforcement action is necessary. IES takes the information that we provide and does that formal investigation.

[Back to the Table of Contents](#)

Question. What are your standard operating procedures for bio-security?

Answer. Inspectors will wear clean boot or shoe covers to enter the facility, including a home. They will not use the same boot or shoe covers in which they have inspected any previous kennel buildings. They will wear disposable gloves when handling any animals and change gloves between animals.

Question. Can Inspectors come to my house if I am not home to conduct a regular inspection or in response to a complaint?

Answer. No. In order to conduct an inspection, a responsible adult must accompany the Inspector and he or she must have full access to all required records as well as all areas where you keep regulated animals. If no one is available, the Inspector will attempt to contact you to determine if an authorized individual (18 years of age or older) can arrive at the facility or home within 30 minutes. No one will enter your facility or house unless accompanied by you or an authorized individual. An attempted inspection occurs when an Inspector arrives at a facility but no authorized individual is available to accompany the Inspector.

Question. *How can small breeders be licensed and comply with unannounced inspections when most have jobs outside the home?*

Answer. If the inspection cannot take place, the Inspector documents that no authorized individual was available. The Inspector makes every effort to consult with the licensee regarding future availability and conduct the next unannounced inspection at a time when an authorized individual is likely to be present.

We expect that the facility and licensee make themselves available for inspection for a reasonable number of hours between 7 a.m. and 7 p.m., Monday through Friday, except for legal Federal holidays, each week of the year. Your Inspector will discuss optimal hours of availability with you during the pre-license process.

We have an unacceptably high number of attempted inspections where no one is available to accompany the Inspector. When we cannot conduct an inspection, we cannot determine the welfare of the animals. Our goal is to conduct unannounced inspections in an efficient and effective manner that best utilizes our resources.

[Back to the Table of Contents](#)

Question. How often do inspections usually take place?

Answer. AC uses a risk-based inspection system to support its focused inspection strategy, allowing more frequent and in-depth inspections at problem facilities and fewer at those that are consistently in compliance. The system, initiated in 1998, uses several objective criteria, including past compliance history, to determine the inspection frequency at each licensed and registered facility

We do not conduct inspections related to your license renewal. Facilities determined by USDA to require high-frequency inspections have inspections as often as every 3 months. Those in the middle category are inspected about once per year, while those meeting the criteria for low-frequency inspection are inspected less frequently.

Factors we consider to determine when and how frequently inspections take place include, but are not limited to:

- whether you have applied for a USDA license;
- whether you are already subject to some degree of State, county, or local oversight, and the nature of that oversight; and
- whether you are the subject of a legitimate complaint and the nature or severity of that complaint.

We will conduct periodic compliance inspections based on a risk-based inspection system that calculates the level of risk of noncompliance.

Question. Is there a logo that can be placed on a website to show that facility complies with the USDA and AWA regulations?

Answer. The licensee does receive a certificate from the Local Regional Office. How he or she chooses to display that certificate is up to the licensee.

Question. What is the appeals process if a situation comes up during the inspection or if I disagree with the report?

Answer. Animal Care has established a process to appeal a citation on the USDA inspection report for a licensed entity. The appeals process does not apply to pre-license inspections since AC does not require full compliance during a pre-license inspection. You will need to be fully compliant to pass a pre-license inspection.

The goal for the appeal process is threefold:

- to bring about quicker appeals resolutions;
- to maintain consistency in the appeals process; and
- to ensure that subject matter experts are involved in reviewing each appeal.

You can find out the specific about this process and appeals at <http://tinyurl.com/myslzvd>.

Inspectors

Question. What identification must an authorized USDA inspector present before gaining access to the residence?

Answer. Our Inspection Guide describes the identification process we require that the Inspectors follow. Before conducting the actual inspection, they are required to meet the licensee or designated representative at the facility. They are to introduce themselves, state the purpose of their visit, provide their USDA identification if requested, and provide a business card if appropriate.

Question. What does the ID look like?

Answer. For information and an example of the official USDA Identification that all Inspectors carry, please copy this link and paste it into your browser: <http://tinyurl.com/oyb5few>.

Question. Can we verify the inspector's ID?

Answer. Yes, you can also call the AWO Offices or our Riverdale Office to verify identification. See how to reach us under [Contact Information](#) in this document.

[Back to the Table of Contents](#)

Question. Who do you permit to accompany an inspector?

Answer. The Inspector is there to conduct an inspection to determine your compliance with the AWA. The AWA authorizes USDA officials to conduct inspections. Only USDA officials, State officials, or sworn government Law Enforcement officers or agents will accompany an Inspector on an inspection. We expect that you will grant **all** of the USDA officials that are with the Inspector access to conduct the inspection. This requirement does not apply to the other officials mentioned above, unless they have separate legal authority to conduct a search.

If you have concerns, please have that conversation with the Inspector. However, if you refuse to allow an inspection by USDA officials, for whatever reason, the Inspector is required to ensure that you understand that refusal to allow an USDA official to conduct an inspection is in itself a significant violation of the AWA. If there are two or more USDA officials present and you deny one entry, then the Inspector will not conduct an inspection and we will cite you for refusing an inspection.

Question. Are members of the ASPCA or a humane society ever a part of an inspection team?

Answer. No. The AWA authorizes only USDA officials to conduct inspections under the AWA. No one other than USDA officials, State officials with whom we have a Memo of Understanding, or sworn government Law Enforcement officers or agents will accompany an Inspector on an inspection.

Question. How will this rule affect inspector workload?

Answer. We estimate 3,000 to 5,000 dog and cat breeders nationwide. AC has seriously considered this issue. We understand that there may potentially be an increase in the number of facilities seeking licensing. The AWO Office Directors and the Supervisors will address the effect that this will have on individual Inspector workloads.

Question. Will I get the same inspector all the time?

Answer. The same Inspector will not always perform inspections at a facility. Generally, AC assigns an Inspector to a geographic territory. However, this assignment can fluctuate and you may have different Inspectors over time.

Question. Is there a different inspector for each species?

Answer. Our Inspectors are knowledgeable about all species that are regulated under the AWA, so there would not be a separate Inspector for a cattery in one area and a kennel with dogs in that same area. The Inspector that covers that geographic area would conduct the inspection.

Question. What background do inspectors have and what training do they receive?

Answer. All of our Inspectors are either Veterinary Medical Officers or Animal Care Inspectors. They have extensive backgrounds in evaluating the health and welfare of animals as well as being subject matter experts in the AWA, the regulations, Animal Care Policies, and helping licensees to gain compliance. They receive ongoing education and training and have access to many resources to assist them in ensuring consistent and fair inspections.

[Back to the Table of Contents](#)

Availability of Inspection Information

Question. How can the public monitor licensees?

Answer. They can view the list of licensees and the inspection reports through our On-line Animal Care Information System (ACIS) at <https://acis.aphis.edc.usda.gov/ords/f?p=116>

Question. Will inspection reports be available on-line?

Answer. The information will be in ACIS. However, AC does not distinguish between a licensee that might sell only at retail or only at wholesale. We have three classifications of dealer licensees: 1) a license for a breeder that sells offspring of his or her own dogs as a sole business, 2) a license for buying animals and selling animals as a part of the business, which may also include breeding and selling the offspring and even exhibiting animals, and 3) an exhibitor's license.

Question. Since the inspection report lists the number of animals, can this information to be used against the licensees by outside organizations? What is included in a report under the Freedom of Information Act (FOIA)?

Answer. The federal government has records that are accessible to the public. Through FOIA, people can request an inspection report and any other documents that we have. Our inspection reports are one of the most frequently requested records that APHIS produces. One of the things that the President has requested executive branch programs to do is to make frequently requested records proactively available. Therefore, we have proactively posted our inspection reports on our website through the ACIS search tool. After 21 days, to permit time for an appeal, the inspection report is available for anyone to review.

In that report is the business address that the licensee submits, the findings of the Inspector from the inspection, and the animals that are inspected during that inspection. That information is public information. We do not have control over how people use the information that we provide. We hope that people will use the information appropriately, responsibly and within the context that we have provided it.

To request information under FOIA, you can obtain contact information at https://www.aphis.usda.gov/aphis/resources/foia/ct_foia_reading_room

Question. Do you share information on USDA licensed pet dealers with local governments that have dealer-regulating agencies?

Answer. Our information is accessible to anyone through the FOIA. USDA provides inspection information proactively through ACIS. Inspection reports are frequently requested documents, so we provide that information without a formal FOIA request. If a state agency is interested in any of our information, its personnel can obtain inspection information through our ACIS search tool or obtain other information through a FOIA request. For more information on FOIA and e-FOIA see: <http://tinyurl.com/nvxkwq2>

[Back to the Table of Contents](#)

Other Species

Question. Will this rule affect bird breeders?

Answer. We currently do not have standards specific to birds, so this rule has no effect at this time.

Question. What will this rule mean for domestic farm animals?

Answer. Normal farm-type operations that breed, buy, and sell animals only for food and fiber (including fur) are exempt from regulation.

Question. What does the rule mean for sellers of coldblooded animals? **Answer.**

Businesses that deal only in fish or other coldblooded animals are exempt.

Question. How does the rule affect rabbit breeders who raise rabbits for food, fur, or preservation of bloodlines?

Answer. The final rule does not change our regulation of breeders who sell rabbits or other animals for use as food or fiber (including fur). Anyone selling animals only for food or fiber is exempt under the AWA. People selling rabbits at retail for breeding purposes (such as preservation of bloodlines) are exempt under the AWA.

Question. Regulated animals include the term domestic farm animals, please be specific which species this covers?

Answer. The AWA covers all warm-blooded species, but the definition of animal excludes some animals based on the use of that animal. Normal farm-type operations that breed, buy, and sell animals only for food and fiber (including fur) — as well as businesses that deal only with fish and other coldblooded animals — are exempt from regulation.

Question. Does this rule mean that no rabbits, guinea pigs, or domestic pocket pets can be sold over the Internet?

Answer. No. Those selling rabbits or small pocket pets and gross less than \$500.00 in sales per year are exempt from licensing with the USDA and may sell their animals sight-unseen. The same breeders who have more than \$500.00 in sales per year and choose to sell their animals sight-unseen may do so as long as they obtain a USDA license. We are developing regulations to implement changes to the USDA's authority. We will publish them for comment when we are finished.

Question. If you are an at-home rabbit breeder and you do sell your animals directly to the new owners as pets, would you need to have a license?

Answer. If all the sales are face-to-face, you do not need a license. If you sell less than \$500 gross per year, you do not need a license. Otherwise, you will need a license. We are developing regulations to implement changes to the USDA's authority. We will publish them for comment when we are finished.

Question. Will children who raise rabbits as part of a 4-H project have to be licensed under the final rule?

Answer. No. 4-H participants who sell their rabbits for food or fiber (including fur) do not need a license. If you are selling rabbits for an agricultural event, USDA does not regulate that activity.

[Back to the Table of Contents](#)

Q9. Will this rule affect breeders of rats and mice?

Answer. We do not have standards specific to mice and rats, so this rule has no effect at this time.

Contact Information

Question. Are people to use the regional contact numbers for questions they may have, or may they contact their local USDA inspectors?

Answer. You may contact the AWO Offices if you have questions. You can reach the Fort Collins Office at 970-494-7461 and the Raleigh Office at 919-855-7100.

Question. How can I request a license application packet? (Also under USDA inspection)

Answer. You may request a license application packet electronically from our website at <http://tinyurl.com/onza59d> or contact your respective AWO Office (Raleigh at 919-855-7100 and Fort Collins at 970-94-7478) for assistance.

A map of the states covered by each Office is available at <http://tinyurl.com/mdrfwsy>

Question. What is the best way to contact us for follow-up questions?

Answer. You can email us at ace@aphis.usda.gov, call our headquarters at (301) 851-3751, or call the APHIS Stakeholder Program Specialists toll free at 844-820-2234 Monday through Friday from 8:30 a.m. to 5:00 p.m. Eastern time to be directed to someone to answer your question.

[Back to the Table of Contents](#)

Exhibit 18

Exhibit 19



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 07-MAR-2017

2.40(a)(1) CRITICAL REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***The written Program of Veterinary Care (PVC) on file is still inadequate, as it does not contain sufficient provisions for emergency care. The current program, under the emergency care section, simply states "mobile veterinarian". The facility uses their attending veterinarian (AV) for emergency care but has no provision for veterinary care when their AV is unavailable. From 11/18/16-3/07/17, while their AV was unavailable, one female coati and one female goat requiring veterinary care, (according to facility records and personnel) did not receive veterinary care or treatment. This is the critical noncompliance for this section.

*** The written Program of Veterinary Care (PVC) on file is incomplete. The attending veterinarian last signed the PVC on 09/04/15.

Failure to have a complete PVC could jeopardize the health and well-being of the animals. The facility should establish and maintain a PVC to include all the regulated animals at the facility and regularly scheduled visits to the premises. Facility visits are necessary to ensure that the Program of Veterinary Care is being understood and followed by the licensee, to check the health and well-being of the animals and to determine if changes in the Program of Veterinary Care are needed.

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***There are three female adult pigs, housed in an indoor barn, that are in need of hoof trims, which were pointed out to the animal manager during the inspection. The hooves on the animals were excessively long, extending out approximately four to six inches. Failure to appropriately maintain hooves/nails can cause gait abnormalities which could be painful or cause injuries. As part of the facility's programs of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof and nail care in a timely manner.

The licensee must ensure that all animals showing potential signs of veterinary medical problems are evaluated in a

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

timely manner by a veterinarian as part of the facility's programs of adequate veterinary care and that the facility use appropriate methods to prevent, control, diagnose, and treat diseases, and injuries at all times. Additionally, veterinary and behavioral observations and evaluations by the veterinarian and facility staff must be documented and readily available to APHIS upon request and include sufficient detail to demonstrate the provision of adequate veterinary care.

2.40(b)(3) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***An adult female Coati named "Shyla" still has an abnormal left eye which has significantly worsened in severity since the previous inspection. The eye is protruding and extremely swollen, approximately the size of a golf ball. It is an extremely reddened mass of tissue and has a dark crusty scab on approximately one third of the surface area. Fluid appeared to be leaking out of the eye onto her face. There were flies observed in the open wound around and on the eye. APHIS staff observed the animal clacking its teeth loudly and pacing up in the top corner of the enclosure. The overall condition of the animal has changed since the last inspection. The animal now has a dull hair coat and appears to have lost weight. The animal was shaking her head and pawing at the injured eye frequently during the inspection. She appeared to be suffering, as she exhibited signs of extreme stress and discomfort for the species.

The last time the attending veterinarian examined the animal was on November 18, 2016. On January 27, 2017 the licensee noted in her log that she spoke to the attending veterinarian and discussed the eye problem, but that the AV was out of town and would come by to see the animal when she gets back. There was no notation of any attempt to contact an emergency or alternate veterinarian at any time during the months of November through March the animal's deteriorating condition.

As of today, March 7, 2017 the coati has still not been seen by any veterinarian despite the condition of the eye continuing to worsen as noted and observed by the facility staff. They have also completely stopped providing any treatment and have discontinued recommended treatment by the AV. Failure to properly communicate animal health issues to the attending veterinarian in a timely manner can result in prolonged pain and suffering for the animal and potentially worsen a current medical condition.

***An intact adult male tricolor goat was non-weight bearing on his right front limb. The goat was lame at the walk. The animal manager had not noticed that the goat was lame until the time of the USDA inspection. Lameness and non-weight bearing is an indicator of disease and often pain. It can result from numerous causes including both infectious and non-infectious. Failure to contact the attending veterinarian regarding the diagnosis and treatment

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

can result in delays of appropriate care and prolong suffering of the animal.

***A juvenile female goat had abnormal skin covering the tips of her ears. The skin was crusty and dry, with large areas of hair loss. Her overall hair coat appeared dull and she was seen to be scratching her shoulder along the chain link fencing. The animal manager stated that he had not noticed this skin condition prior to the USDA inspection. Skin disease can be caused by a variety of problems, including infection, allergies, injuries, irritation, or other medical conditions and can be painful and distressing to the animal.

***In an enclosure containing three fallow deer and a camel, a female fallow deer had a fresh wound over the left point of the shoulder. The wound was approximately two inches in diameter. There was complete hair loss at the site of the wound, with reddened tissue exposed. A clump of white hair was seen beside a metal feeder. The animal manager stated that he had introduced the deer and the camel into the same enclosure two days ago. Injuries, diseases, and medical conditions that are not treated properly (as directed by a veterinarian) may be painful and can lead to prolonged suffering.

***A young gray and white female goat, which was being housed alone in the barn, was unable to straighten her front legs at the knees. This inability to straighten her front legs caused her to place all of her weight on her toes. She was unable to stand or walk normally. The animal manager mentioned that he noticed the condition two weeks ago but the condition has worsened since then. The animal manager stated that he thought the licensee had contacted the veterinarian regarding this animal, however they "have trouble getting the vet out here." The goat has not been seen by a veterinarian nor received any medical treatment. Upon further questioning with the licensee, she stated that she had not had a chance to discuss this specific animal with the veterinarian. Failure to properly communicate animal health issues to the attending veterinarian in a timely manner can result in prolonged pain and suffering for the animal and potentially worsen a current medical condition.

Daily observation of all animals is critical to ensuring that conditions that can adversely affect health and well-being are recognized in a timely manner. Additionally, when observed, problems relating to animal health or behavior must be conveyed to the attending veterinarian so that appropriate methods can be employed to ensure adequate care. Failure to properly observe and communicate health problems, in a timely manner, can result in prolonged pain and suffering and the increase risk of development of serious medical conditions. The facility must conduct daily observations of all animals to ensure that all health and behavioral concerns are found in a timely manner and appropriately communicated with the attending veterinarian.

2.131(d)(2) REPEAT

HANDLING OF ANIMALS.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

***Upon arriving to the facility, while still in the car, APHIS inspectors saw three members of the public feeding alfalfa pellets to regulated animals. There were no facility representative in direct view of the members of the public. There are not an adequate number of attendants present at all times when the public is allowed contact with the animals. The public is allowed to walk through the facility unescorted on designated paths. The public is allowed to contact and feed the animals. At the time of inspection, only three employees were present to watch the public (approximately 15 people throughout entire facility). Of these three employees, one employee was escorting APHIS personnel on inspection, one was collecting money at the entrance with limited view of the animals, and the third employee was at the back of the property or in the barn with no view of the public. Furthermore, during the inspection, several other members of the public were seen feeding several goats and adult camels alfalfa pellets provided by the facility.

An adequate number of attendants is needed to ensure the health and safety of the animals and to decrease the likelihood of activities (rough handling, improper feeding, etc) that are harmful to the animals.

A responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during periods of public contact.

3.125(a) REPEAT

FACILITIES, GENERAL.

***A goat was sticking his head out through the wiring of his enclosure, through the gap in the wood paneling of the adjacent camel enclosure.

***The gate in the young male Dromedary camel enclosure that separates his enclosure from an adjacent empty enclosure is in disrepair. The gate is leaning inward and is attached to the structural post by baling twine. The metal bar at the top of the gate is broken at one side and entangled in the wire of the gate.

***In the goat enclosure containing a combination of eight goats and sheep, there were several nail heads sticking out of the wooden fence boards.

***In one corner of the eland enclosure, the wire fencing along the bottom is curving in an upward direction, creating a large gap between the ground and the fencing.

***In the goat enclosure containing 30 goats a section of the wood panels is elevated off of the ground. In the space between the ground and the bottom of the panel, a 10 foot long portion of the chain link fence is coming through, with the wires protruding into the enclosure.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

***In an enclosure containing eighteen sheep and goats a metal uprights of the shade structure were in disrepair. Two legs were completely rusted through, creating sharp points that could come into contact with the animals in the enclosure.

***In an enclosure containing eighteen sheep and goats, a particle board housing structure was in disrepair. Portions of the particle board had been worn and rough, causing screw heads to be visible and protrude from the wood.

***In an enclosure containing twenty goats and one pig, a roughly four foot long gap approximately 6-9 inches in height was created between the ground and the bottom of the chain-link fence. Two sharp point were also pointing downward, where the goats could come into contact with them.

***In the enclosure of "Pinkie," a female Dromedary camel, there was a deep hole roughly a foot in diameter dug by the Sulcata tortoise. The animal manager put his foot into the hole, illustrating that the depth was a minimum of two feet.

***The sheet metal in the stall containing three pigs was rusted and in disrepair, peeling off of the wall. It formed numerous sharp edges that could come into contact with the animals.

All enclosures must be kept in good repair and free of sharp points, protruding edges, or gaps/openings in order to protect the animals from injury. A system of timely identification, facility repair, and maintenance must be in place.

3.127(a) REPEAT

FACILITIES, OUTDOOR.

***A two and a half month old female Dromedary camel was in an outdoor enclosure that did not provide any shade to protect the animal from direct sunlight. The animal manager stated that the camel is placed in this enclosure daily at 9:00am and is taken out of the enclosure at 5:00pm. Inadequate protection from direct sunlight may lead to overheating or discomfort from squinting.

Sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

The camel was removed from this enclosure at the time of inspection and placed in an enclosure with adequate

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

shade structures.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

***A two and a half month old female Dromedary camel spends the night in an enclosure that is not surrounded by a perimeter fence. The camel is transferred from her night enclosure to her daytime primary enclosure by being let loose and running between the two enclosures without being led by a handler. The perimeter fence only surrounds the daytime primary enclosure. The area between the two enclosures is not surrounded by a perimeter fence. Allowing the camel to run loose without a perimeter fence in place jeopardizes the safety of the animal as she has the potential to run off of the facility premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

The animal manager moved the camel into a different enclosure at the time of inspection and told inspectors that the camel would be staying in that enclosure permanently. The perimeter fence surrounds the enclosure that the camel has been moved to.

3.128

SPACE REQUIREMENTS.

***A two and a half month old female Dromedary camel was in an enclosure that was approximately 6ft by 12ft. The animal manager stated that the camel was in this enclosure daily from 9:00am to 5:00pm. The camel was only able to stand and turn around due to the size of the enclosure. The enclosure that contained the camel at night was approximately twelve square feet in size. She was not able to exhibit normal species specific behaviors in either enclosure.

Enclosures shall be constructed and maintained as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement.

After the inspection, the animal manager moved the camel into another enclosure that was approximately 1800

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

square foot enclosure. The licensee informed inspectors that the animal began running around and bucking upon introduction to the new permanent enclosure.

3.131(a) REPEAT

SANITATION.

***In the indoor barn housing three adult female pigs, there was an excessive accumulation of excreta on the ground. Large portions of the enclosure were heavily saturated with urine and feces buildup. When APHIS inspectors opened the stall door, there was an overwhelming odor of ammonia coming from the enclosure. Excessive accumulation of animal waste can increase risk of diseases and affect the well-being of the animals.

Animal enclosures must be cleaned routinely in order to provide for appropriate animal husbandry standards, to reduce disease transmission, and to prevent animals from becoming contaminated or soiled. The licensee must clean this enclosure and ensure that all enclosures housing animals are cleaned as often as necessary to promote normal husbandry standards.

This inspection was conducted with animal manager and exit briefing was conducted with licensee and animal manager.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 07-MAR-2017

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***An adult female Coati named "Shyla" still has an abnormal left eye which has significantly worsened in severity since the previous inspection. The eye is protruding and extremely swollen, approximately the size of a golf ball. It is an extremely reddened mass of tissue and has a dark crusty scab on approximately one third of the surface area. Fluid appeared to be leaking out of the eye onto her face. There were flies observed in the open wound around and on the eye. APHIS staff observed the animal clacking its teeth loudly and pacing up in the top corner of the enclosure. The overall condition of the animal has changed since the last inspection. The animal now has a dull hair coat and appears to have lost weight. The animal was shaking her head and pawing at the injured eye frequently during the inspection. She appeared to be suffering, as she exhibited signs of extreme stress and discomfort for the species.

The animal manager stated she was eating normally, but could not describe what he considered to be normal or any changes in diet or feeding. The animal manager stated to APHIS staff that the eye has gotten much worse since November and continues to deteriorate. He described the animal as continuing to become more aggressive and that she has become dangerous to handle. He stated that the last time that any veterinarian has examined the animal was on November 18, 2016 when she came to the facility and administered injectable antibiotics and used a needle to inject "something" directly into the eye. He noticed that the eye was a little better after the veterinary treatment on November 18, 2016 and it initially reduced in size and appeared to heal. On that same date, the veterinarian discussed a plan of treatment to include daily administration of BNP eye ointment and possibly stitching the eye shut to allow it to heal if treatment didn't result in improvement.

According to the animal manager, he continued to apply eye ointment as directed for approximately 10 days. They noted on their logs on November 28, 2016 that the eye was back down to a normal size, mainly dark, with milky opacity in the center. The eyeball was also no longer red or swollen. They continued to apply eye ointment on a daily basis as directed by the veterinarian.

On December 6, 2016 staff made a notation on the animal treatment log that the eye had deteriorated again, and

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

07-MAR-2017

Date:

07-MAR-2017



Inspection Report

was "very bad." The licensee wrote in her log that she spoke to the attending veterinarian on that date and was advised that the animal needed follow up. The facility continued eye ointment and noted that the condition of the eye was worsening throughout December and January. Despite the recommendation by the attending veterinarian to have the animal reexamined, there is no record that it ever was.

On January 27, 2017 the facility noted on the treatment logs that they had ceased giving eye ointment. When questioned further, the animal manager stated that they felt "the eye looked better without it". He stated due to the aggressive behavior of the animal it was becoming difficult to administer the ointment or to even capture the animal. The licensee made the decision to discontinue use of the eye ointment on their own accord and admitted that this was not approved by the AV. The animal manager stated that after watching the AV inject the eye during her visit on November 18, 2016 he decided that he would also try to "pop" the eye on his own, in an attempt to improve the overall condition of the eye. He stated that on several occasions over the last few months he has confined the animal, popped the eye both manually with his fingers and also with a needle, and then applied Gentamicin ointment to the eye. During his self-prescribed procedure of the eye, he stated that there was a red fluid that came out with resembled "watered down blood" and that he did not notice any pus.

On January 27, 2017 the licensee again noted that she spoke to the attending veterinarian and discussed the eye problem, but that the AV was out of town and would come by to see the animal when she gets back. There was no notation of any attempt to contact an emergency or alternate veterinarian at any time during the months of November through March the animal's deteriorating condition.

As of today, March 7, 2017 the coati has still not been seen by any veterinarian despite the condition of the eye continuing to worsen as noted and observed by the facility staff. They have also completely stopped providing any treatment and have discontinued recommended treatment by the AV.

Eye issues can be caused by a variety of problems including infection, allergies, injury, irritation, or other medical conditions. This animal is already exhibiting signs of pain and distress. The delay in providing necessary follow up veterinary care appears to have resulted in unnecessary pain and suffering. In addition the 'care' provided without veterinary approval may have resulted in unnecessary distress and contributed to worsening of the condition.

***A young gray and white female goat, which was being housed alone in the barn, was unable to straighten her front legs at the knees. This inability to straighten her front legs caused her to place all of her weight on her toes. She was unable to stand or walk normally. The animal manager mentioned that he noticed the condition two weeks ago but the condition has worsened since then. The animal manager stated that he thought the licensee had contacted the veterinarian regarding this animal, however they "have trouble getting the vet out here." The goat has not been seen by a veterinarian nor received any medical treatment. Upon further questioning with the licensee,

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

07-MAR-2017

Date:

07-MAR-2017



Inspection Report

she stated that she had not had a chance to discuss this specific animal with the veterinarian.

***An intact adult male tricolor goat was non-weight bearing on his right front limb. The goat was lame at the walk. The animal manager had not noticed that the goat was lame until the time of the USDA inspection. Lameness and non-weight bearing is an indicator of disease and often pain. It can result from numerous causes including both infectious and non-infectious. Failure to contact the attending veterinarian regarding the diagnosis and treatment can result in delays of appropriate care and prolong suffering of the animal. Injuries, diseases, and medical conditions that are not treated properly (as directed by a veterinarian) may be painful and can lead to prolonged suffering.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The licensee was notified verbally that she must have both goats (the male and female listed above) and Shyla, the coati, examined by a veterinarian by no later than 6:00pm on March 7, 2017 to obtain accurate diagnosis and appropriate treatment plans for the leg problems cited above. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests and the outcome of those tests that were performed by the veterinarian, any medications prescribed along with the dosing instructions and entries on a log and/or calendar and/or animal health record that list when the medication is administered to the animal.

There should also be an entry at the end of the treatment to document the health status and condition of each animal at that point, to indicate a time frame to address current issues that require further veterinary treatment, and the need for follow-up and any further veterinary care prescribed.

Additionally, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

A complete routine inspection was conducted on March 7, 2017. This report is limited to the direct noncompliant items identified on that inspection. A second inspection report containing indirect noncompliant items will follow. The inspection was conducted with the animal manager and the exit interview were conducted with the licensee and animal manager on March 7, 2017.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

07-MAR-2017

Date:

07-MAR-2017



Inspection Report

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:
07-MAR-2017

Date:
07-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: FOCUSED INSPECTION

Date: 08-MAR-2017

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

A focused inspection was conducted on March 8, 2017 by APHIS inspectors and an IES investigator. The three pigs with the excessively long hooves noted on the previous inspection had received hoof trimming and had been moved into a different enclosure.

The coatimundi, Shyla, was not on the premises at the time of inspection. Licensee stated that she had taken the coatimundi to the veterinary clinic at approximately 8:30 am this morning. The licensee called the clinic at approximately 10:30 am and spoke with the assistant. At the time of the inspection, the licensee did not know what the veterinarian's plan regarding the diagnosis and treatment of the coatimundi.

The APHIS inspector contacted the veterinarian regarding the coatimundi at 2:37pm on March 8, 2017. The veterinarian stated that she had not given any pain medication to the coatimundi and that no medical treatment had been provided that day. The veterinarian stated that she had given the coatimundi antibiotics last night but sent the animal home as she did not have adequate facilities to house a coatimundi. The veterinarian stated to the inspector via phone that the animal was "very aggressive" and that the "eye is pretty bad". No other diagnostics, treatments, medications or pain control have been given at the time of this inspection. The veterinarian stated to the inspector via phone that she was planning to anesthetize the coatimundi and try to clean the eye out and that she would "try to do it today," however she was unable to confirm when the coatimundi would be examined and treated.

The young gray and white female goat which was unable to straighten her front legs at the knees during the previous inspection was still in her enclosure in the barn. Her condition had not changed from yesterday and she was still unable to stand or walk normally. Licensee stated that the goat had not received any veterinary treatment.

In addition, the intact adult male tricolor goat that was non-weight bearing on his right front limb during the previous inspection had been moved into the same enclosure as the gray and white female goat that was cited. The buck's condition was unchanged from the previous inspection and he was still non-weight bearing on the right forelimb and

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

lame at a walk. A veterinarian visually examined the goat yesterday and made a presumptive diagnosis. The inspector spoke with this veterinarian regarding these 2 goats previously identified by the inspectors as needing veterinary care on the night of March 7. He stated that he had recommended to the licensee that the goats in question should receive diagnostic testing in order to give a diagnosis and recommended a non-steroidal anti-inflammatory agent for pain control, however animal manager at the facility declined diagnosis and treatment.

The female fallow deer that had a fresh wound over the left point of the shoulder during the previous inspection had not been seen by a veterinarian and licensee had not provided any treatment.

Injuries, diseases, and medical conditions that are not treated properly (as directed by a veterinarian) may be painful and can lead to prolonged suffering. The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The facility representative was notified verbally that he must have both goats (the male and female listed above) examined and receive medical treatment by a veterinarian by no later than 10:00am on March 9, 2017 to obtain accurate diagnosis and appropriate treatment plans for the leg problems cited above. In addition, the results of the examination and treatment of the coatimundi should be made available to the inspection. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests and the outcome of those tests that were performed by the veterinarian, any medications prescribed along with the dosing instructions and entries on a log and/or calendar and/or animal health record that list when the medication is administered to the animal.

There should also be an entry at the end of the treatment to document the health status and condition of each animal identified on inspection, to indicate a time frame to address current issues that require further veterinary treatment, and the need for follow-up and any further veterinary care prescribed.

Additionally, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian in the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

A focused inspection was conducted on March 8, 2017. This report is limited to the direct noncompliant items

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

identified on that inspection. The inspection was conducted with the animal manager and IES investigator and the exit interview was conducted with the animal manager, an authorized facility representative, on March 8, 2017.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Frank Katharine, Veterinary Medical Officer

Garland Kathleen, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

08-MAR-2017

Date:

08-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: FOCUSED INSPECTION

Date: 09-MAR-2017

A focused inspection was conducted by APHIS inspectors at 10:30am on March 9, 2017. Animal manager informed the inspectors that a veterinarian had visited the facility this morning and provided veterinary care to the animals.

The veterinarian had euthanized Shyla, the coatimundi, and the young gray and white female goat which was unable to straighten her front legs at the knees during the previous inspection. Documentation left by the veterinarian showed that the coatimundi had received sedation consisting of ketamine, midazolam, and sedivet, before being administered Fatal Plus euthanasia solution. The document showed that the female goat had been sedated with Sedivet before being given Fatal Plus euthanasia solution. APHIS personnel were able to verify the disposition of the coatimundi.

The veterinarian gave the intact adult male tricolor goat that was non-weight bearing on his right front limb during the previous inspection an injection of Firocoxib. The animal manager informed us that the veterinarian had rushed off to complete other calls but would be coming back to re-evaluate the animals and fill out the program of veterinary care, as the new attending veterinarian.

This inspection was conducted with the animal manager and exit interview was conducted with the animal manager and licensee.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Frank Katharine, Veterinary Medical Officer

Garland Kathleen, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Date:

09-MAR-2017

Received By:

Title:

Date:

09-MAR-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 23-MAY-2017

2.126(a)(4) CRITICAL

ACCESS AND INSPECTION OF RECORDS AND PROPERTY; SUBMISSION OF ITINERARIES.

The licensee stated that four animals, an adult male coati named Cody, an adult hedgehog named Pickles, an adult female Fennec fox named Foxy, and an adult female ferret named Sally, were housed in a separate area from the other animals at the facility. The licensee refused to allow APHIS personnel to inspect these animals while in their primary enclosures.

To ensure the health and welfare of the animals, APHIS personnel must be able to observe all regulated animals, their primary enclosures, and the surrounding premises.

Each dealer, exhibitor, intermediate handler, or carrier, shall during business hours, allow APHIS officials to inspect and photograph the facilities, property, and animals, as the APHIS officials consider necessary to enforce the provisions of the Act, the regulations and the standards in this subchapter.

A complete routine inspection was conducted on May 23, 2017. This report is limited to critical noncompliant items identified on that inspection. A second inspection report containing indirect noncompliant items will follow.

Both the inspection and exit interview were conducted with the licensee and facility representative on May 23, 2017.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

23-MAY-2017

Date:

23-MAY-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 23-MAY-2017

2.40(a)(1) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***The applicant uses a veterinarian under consulting arrangements to provide veterinary care for the animals but does not have a written Program of Veterinary Care. The applicant does not have written guidance from an attending veterinarian to provide preventative care or treatment for routine and common veterinary problems. In order to ensure problems of animal health are addressed in an adequate and timely manner, a written program of veterinary care must be maintained and followed.

During this inspection it was observed that several animals are in need of immediate veterinary care. A male Dromedary camel, Zo, has a large growth around his chest pad. The licensee was unable to provide evidence of a physical exam, diagnosis, or treatment plan provided by her attending veterinarian. Three female pigs and a sheep, with ear tag 00384, had excessively overgrown hooves that were in need of trimming. Foxy, a female Fennec fox, had hair loss over the knuckles of all four feet and had excessively long nails. A female coati, Tuffy, had a large, golf-ball sized growth in her abdominal region. Tuffy was also repeatedly moving in a fixed pattern of jumping from one platform to the next and then crawling on the roof of the enclosure back to the first platform. A sheep was observed to have a distended abdomen, nasal discharge, labored breathing, and a humped back. The sheep had not been examined by a veterinarian. A female Ibex, Pixie, had a dull, rough haircoat, and was underweight, with her hip bones visibly protruding. Pixie has not been examined by a veterinarian.

Each applicant shall employ an attending veterinarian under formal arrangements. In the case of a part-time attending veterinarian or consultant arrangements, the formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the premises of the applicant.

The program of veterinary care should address appropriate methods to prevent (vaccination guidelines), control (parasite), diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care. The applicant and the attending veterinarian must also discuss and develop a plan regarding the diet and nutrition, including any supplements, for the animals at the facility.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Date:

23-MAY-2017

Received By:

Title:

Date:

23-MAY-2017



Inspection Report

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During this inspection, it was observed that several animals are in need of immediate veterinary care.

***A male Dromedary camel, Zo, has a large growth on his chest pad that was irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth was covered with flies. The licensee was unable to provide documentation of a physical exam, diagnosis, or treatment plan provided by the attending veterinarian. The licensee periodically applies fly spray to the area.

***An adult female Fennec fox, Foxy, had hair loss over the knuckles of all four feet. A facility representative stated that he had noticed the hair loss, however the fox has not been evaluated by a veterinarian and is not receiving treatment of any kind. The fox also had excessively long nails that needed to be trimmed.

***A female Ibex, Pixie, was observed to have a patchy, dull haircoat. She appeared to be underweight, as evidenced by protruding hip bones and a prominent spine. The facility representative stated that she had always been like that. Pixie has not been examined by a veterinarian.

***APHIS employees observed a large, golf ball sized mass on the abdominal region of a female coati named Tuffy. The licensee stated that this was the first time that she had noticed the mass. In addition, the coati was repeatedly moving in a fixed pattern of jumping from one platform to the next and then crawling on the roof of the enclosure back to the first platform. This behavior was not interrupted by the position or distance of the observers or when an attendant entered the enclosure. The coati has not received veterinary evaluation or treatment.

*** A sheep with ear tag 00384 had excessively overgrown hooves on her hind feet and was in need of a hoof trim.

***Three female adult pigs, housed in an indoor barn, are in need of hoof trims. The hooves on the animals were excessively long, extending out approximately four to five inches. Failure to appropriately maintain hooves/nails can cause gait abnormalities which can be painful or cause injuries. As part of the facility's programs of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof and nail care in a timely manner.

***An adult black and white female sheep was observed by APHIS employees to be standing with her head down, neck extended and breathing heavily. She had discharge coming from her nose that had dripped onto her front leg. Her abdomen was extremely distended and her back was hunched up. When the APHIS inspector pointed this out to the licensee, she stated that when she walked up to the enclosure she had noticed the hump on the sheep's back

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

23-MAY-2017

Date:

23-MAY-2017



Inspection Report

and felt she should call the veterinarian. The sheep has not been evaluated by a veterinarian.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing. The facility representative provided documentation showing that the veterinarian had examined and treated the goat on March 9, 2017. The licensee stated that the veterinarian had rechecked the goat on March 16, 2017, however did not have any documentation regarding that visit. A facility representative stated that he had been injecting the goat with pain medication provided by the veterinarian. The licensee confirmed that pain medication he had been injecting the goat with was an oral medication prescribed for a coati and was not intended to be used on the goat. The veterinarian has not examined this goat since March 2017.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests, and the outcome of those tests that were performed by the veterinarian, any medications prescribed along with the dosing instructions and entries on a log and/or calendar and/or animal health record that list when the medication is administered to the animal.

There should also be an entry at the end of the treatment to document the health status and condition of each animal at that point, to indicate a time frame to address current issues that require further veterinary treatment, and the need for follow-up and any further veterinary care prescribed.

From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

A complete routine inspection was conducted on May 23, 2017. This report is limited to direct noncompliant items identified on that inspection. A second inspection report containing indirect noncompliant items will follow.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

23-MAY-2017

Date:

23-MAY-2017



Inspection Report

Both the inspection and exit interview were conducted with the licensee and facility representative on May 23, 2017.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:
23-MAY-2017

Date:
23-MAY-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 23-MAY-2017

2.40(b)(3)

REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During the inspection, the following animals were in need of veterinary attention:

- adult male Dromedary camel, "Zo"
- adult female Fennec fox, "Foxy"
- female Ibex, "Pixie"
- female coati, "Tuffy"
- adult sheep with ear tag 00384
- three female adult pigs located in the barn
- adult black and white female sheep
- adult male tricolor goat located in the barn

The facility failed to observe that these animals were in need of veterinary attention. Facility representatives informed APHIS personnel that the attending veterinarian had not examined these animals and were unable to provide any documentation indicating that the attending veterinarian was notified about the condition of the animals.

Daily observation of all animals is critical to ensuring that conditions that can adversely affect health and well-being are recognized in a timely manner. Additionally, when observed, problems relating to animal health or behavior must be conveyed to the attending veterinarian so that appropriate methods can be employed to ensure adequate care. Failure to properly observe and communicate health problems can result in prolonged pain and suffering and the increase risk of development of serious medical conditions. The facility must conduct appropriate daily observations of all animals to ensure that all health and behavioral concerns are found in a timely manner and appropriately communicated with the attending veterinarian.

3.125(a)

REPEAT

FACILITIES, GENERAL.

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

***In one corner of the eland enclosure, the wire fencing along the bottom is curving in an upward direction, creating a large gap between the ground and the fencing. This is unchanged since the previous inspection.

***There was a strand of broken metal fencing lying on the ground in the eland enclosure, with a sharp point facing upward.

***In the eland enclosure, the base of a metal pole that serves as part of the fence is rusted through, thus compromising its structural integrity.

***The gate in the young male Dromedary camel enclosure that separates his enclosure from an adjacent empty enclosure is in disrepair. The gate is leaning inward and is attached to the structural post by baling twine. The metal bar at the top of the gate is broken at one side and entangled in the wire of the gate. This is unchanged since the previous inspection.

***The sheet metal in the stall containing three pigs was rusted and in disrepair, peeling off of the wall. It formed numerous sharp edges that could come into contact with the animals. This is unchanged since the previous inspection.

***In an enclosure containing 12 sheep, multiple screws were sticking out of the wooden boards into the enclosure.

***In the enclosure containing an adult male goat, Gozar, there was a metal pole lying on the ground along the fence. There was a hole in the pole with sharp, rusted edges that could injure the animal.

***In an enclosure containing 8 goats, there was a metal stall with one of the walls in disrepair. The bottom portion of the far wall of the stall contained sharp and rusted metal edges.

All enclosures must be kept in good repair and free of sharp points, protruding edges, or gaps/openings in order to protect the animals from injury. A system of timely identification, facility repair, and maintenance must be in place.

3.127(a) REPEAT

FACILITIES, OUTDOOR.

***Several enclosures did not have adequate shade to protect all of animals from direct sunlight.

-An enclosure containing 9 goats

-An enclosure containing five goats and two pigs

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

- An enclosure containing 11 La mancha goats and 1 Boer goat
- An enclosure containing 2 adult water buffalo

The areas of shade provided were not large enough to allow all of the animals within the enclosure to be protected from direct sunlight. At the time of inspection, the temperature registered on the Kestrel 4000 was 106.1 degrees Fahrenheit. Several of the goats and sheep were exhibiting signs of a heat stress, as indicated by the animals standing or lying down with extended necks and panting.

Inadequate protection from direct sunlight may lead to overheating or discomfort from squinting.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

***Near the eland enclosure, a large portion of the perimeter fence was in disrepair. One of the metal poles stabilizing the chain link was leaning outward, away from the property at approximately a 30 degree slant. Another metal stabilizing pole was leaning inward. Along one section of the fence, the metal bar at the top of the fence was broken into two pieces.

*** At the front of the property, near the hinny and sheep enclosure, an approximately 100 foot long segment of the perimeter fence was less than 6 feet tall.

***Near the enclosures containing the coati and Fennec fox, a tree was leaning on the perimeter fence.

All of the issues cited above decrease the efficacy of the perimeter fence to function as a secondary containment system for the regulated animals and to protect them from outside animals entering the premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

3.129(a)

FEEDING.

***In the center aisle of the barn there were two open bags of feed. They were next to a pile of building materials

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

and feed bags, which were covered in dust, rodent feces, and spider webs. There were a few flies flying in and out of the opened feed bags.

Contaminated food may harbor pathogens and cause disease in the animals. Also, the nutritive value of contaminated food is unknown. The licensee must ensure that all food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health.

To be corrected by: May 30, 2017

3.130 REPEAT

WATERING.

Several enclosures had dirty water receptacles.

***In an enclosure containing 3 adult camels there was a buildup of a green substance on the interior surface of the water receptacles along with debris floating on top of the water.

***The drinking water in an enclosure containing 5 juvenile goats and two pigs, as well as the drinking water in an enclosure containing 2 adult water buffalo was a brown liquid.

***In the enclosure containing a combination of 22 sheep and goats there was a buildup of green substance on interior surface of receptacle.

Water receptacles must be maintained in a clean and sanitary condition in order to ensure that animals are provided with clean, potable water, to minimize disease hazards and to ensure that they maintain adequate hydration. Water receptacles should be cleaned at a frequency that is adequate to maintain standard husbandry practices.

3.131(a) REPEAT

SANITATION.

***In an enclosure containing one adult zebra and two adult donkeys, there was an excessive accumulation of manure under both of the shade structures. Excessive accumulation of animal waste can increase risk of disease and affect the well-being of the animals.

***In an enclosure containing two adult water buffalo, there was a mud wallow. There was a green substance floating on the water. APHIS personnel noticed a foul odor when they approached the wallow. Dirty water can pose a health risk to the animals as it can contain bacteria and parasites.

Animal enclosures must be cleaned routinely in order to provide for appropriate animal husbandry standards, to

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

reduce disease transmission, and to prevent animals from becoming contaminated or soiled. The licensee must clean this enclosure and ensure that all enclosures housing animals are cleaned as often as necessary to promote normal husbandry standards.

3.131(c)

SANITATION.

***In the center aisle of the barn, alongside the stall containing three adult pigs, there was an accumulation of building materials, feed bags, buckets, debris, and a skull, all covered in dust, spider webs, and rodent feces.

***In the stall containing three adult pigs there was an accumulation of cobwebs along the walls.

Accumulation of materials and debris make it difficult to maintain husbandry standards, can be areas for harboring pests which can transmit disease to the regulated animals and may be an indication of substandard husbandry practices. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart.

To be corrected by: May 30, 2017

3.131(d)

REPEAT

SANITATION.

***There were numerous flies on the growth on the chest pad of the adult male Dromedary camel, Zo.

***A female camel and her newborn (born on Sunday) had numerous flies on their hind legs. The adult had several flies on and around her face. Additionally, there were numerous flies around the umbilicus on the newborn.

***There were numerous flies in the enclosure containing an adult male goat, called Gozar. The flies were crawling along the wooden panels that were against the metal fencing.

There were several fly traps placed along different fence lines, however they were filled with dead flies and not adequately controlling the pest problem. Excessive amounts of flies on or around the animals can be stressful to the animal. Additionally, disease can be transmitted by the pests to the animals and they can contaminate feed and water.

The licensee must establish and maintain an effective program for the control of pests to promote the health and

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

well-being of the animals and reduce contamination by pests in all animal areas.

This report is a continuation of the previous report issued on May 23, 2017 and contains the indirect citations from the routine inspection conducted at that time. An additional report containing the direct citations was previously delivered to the licensee on May 23, 2017 and an exit interview was conducted at that time. With respect to the noncompliant items contained within this report, an exit was conducted on May 23, 2017 with the licensee and the undersigned inspector.

Additional Inspectors

Meek Elizabeth, Asst Regional Director

Bolinger Jean, Compliance Specialist

Tims Tanya, Supervisory Animal Care Specialist

Prepared By:

ENGEL DOMINIQUE

ENGEL DOMINIQUE USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6113

Received By:

Title:

Date:

25-MAY-2017

Date:

25-MAY-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ATTEMPTED INSPECTION

Date: 11-JUL-2017

2.126(b)

ACCESS AND INSPECTION OF RECORDS AND PROPERTY; SUBMISSION OF ITINERARIES.

A responsible adult was not available to accompany APHIS Officials during the inspection process at 1200 PM on 11-JUL-17.

Inspectors arrived at the facility (which was closed to the public) and spoke to an adult male, who advised us to call the authorized persons on the license. We attempted to call both authorized persons listed and left messages at both numbers. The adult male is a member of the family and had access to the animal facility, but not the records and wanted to get permission to conduct the inspection from the licensees by phone. After multiple attempts to call (by both parties) and waiting for a call back from either of the licensees, no contact was made with the licensees and the adult male needed to leave the facility and we left the property at 1 PM.

Additional Inspectors

Rosendale Marcy, Veterinary Medical Officer

Prepared By:

FRANK KATHARINE, D V M

FRANK KATHARINE, D V M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6091

Date:

12-JUL-2017

Received By:

Title:

Date:

12-JUL-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 17-AUG-2017

2.40(a)(2) CRITICAL REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***On May 23, 2017 during a previous inspection conducted by other APHIS inspectors, a female Ibex, Pixie, was observed to have a patchy, dull haircoat. She appeared to be underweight, as evidenced by protruding hip bones and a prominent spine. The facility representative stated that she had always been like that. At that time Pixie had not been examined by a veterinarian. On the current inspection conducted on August 17, 2017, we saw paperwork by the current veterinarian that Pixie was seen on May 27, 2017. In the veterinarian's report it was recorded that Pixie had a low body condition score and was thin and not thriving, it was the veterinarian's recommendation to cull the animal. The licensee did not cull the animal and the animal was found dead in her pen 2 weeks later.

The licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries and provide a method for humane euthanasia. The licensee is required to follow the guidance of their attending veterinarian.

3.125(a) REPEAT

FACILITIES, GENERAL.

An enclosure that housed a female Dromedary camel and her baby was lined with broken fencing that had sharp points that were poking straight up and some points were poking straight into the pen. All enclosures must be kept in good repair and free of sharp points and protruding edges in order to protect the animals from injury. A system of timely identification, facility repair, and maintenance must be in place.

3.127(a) REPEAT

FACILITIES, OUTDOOR.

The enclosure housing the eland did not have adequate shade to protect the animal from direct sunlight during

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

28-AUG-2017

Date:

28-AUG-2017



Inspection Report

certain times of the day. The areas of shade provided was not large enough to allow the animal within the enclosure to be protected from direct sunlight throughout the entire day. During the time of inspection a majority of the shade provided by the structure was on the outside of the pen and not benefiting the eland in providing an adequate amount of shade. Inadequate protection from direct sunlight may lead to overheating or discomfort from squinting.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

***Near the eland enclosure, a large portion of the perimeter fence was in disrepair. One of the metal poles stabilizing the chain link was leaning outward, away from the property at approximately a 30 degree slant. Another metal stabilizing pole was leaning inward. Along one section of the fence, the metal bar at the top of the fence was broken into two pieces.

*** Near the camel and sheep enclosure, an approximately 100 foot long segment of the perimeter fence was less than 6 feet tall due to the amount of dirt and land that was leaning against it.

***Near the enclosures containing the coati, a tree was leaning on the perimeter fence causing the fence to lean downward.

All of the issues cited above decrease the efficacy of the perimeter fence to function as a secondary containment system for the regulated animals and to protect them from outside animals entering the premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

This inspection and exit interview were conducted with the facility representatives.

Additional Inspectors

Hammel Kurt, Supervisory Animal Care Specialist

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

28-AUG-2017

Date:

28-AUG-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 17-AUG-2017

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During this inspection, it was observed that several animals are in need of immediate veterinary care.

***A male Dromedary camel, Zo, has a large growth on his chest pad that was irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth was covered with flies. The licensee was still unable to provide documentation of a physical exam, diagnosis, or treatment plan provided by the attending veterinarian. The licensee periodically applies fly spray to the area.

***An adult female Fennec fox, Foxy, has cloudy yellow liquid draining from her left ear and it is drying up and covering her inner ear. A facility representative stated that she has called and emailed (this email was shown to the VMO) her veterinarian about the ear discharge that she noticed 5 days ago. During the inspection, the facility representative was able to make an appointment with her veterinarian for August 21, 2017. The fox still has hair loss over the knuckles of all four feet and has excessively long nails that need to be trimmed.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing. The facility representative provided documentation showing that the veterinarian had examined and treated the goat on March 9, 2017. The licensee stated that the veterinarian had rechecked the goat on March 16, 2017, however did not have any documentation regarding that visit. The goat is still not weight-bearing during the inspection conducted today on August 8, 2017. The goat was rechecked on May 27, 2017 by the veterinarian and it was his recommendation that 1) more diagnostic work needs to be done (radiographs, bloodwork, appropriate serology), or 2) if the facility representatives do not want to proceed with more diagnostics then it is his recommendation to cull the animal. The veterinarian stated in his report that the animal did not appear to be in pain and the NAIDS used previously provided no improvement.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

17-AUG-2017

Date:

17-AUG-2017



Inspection Report

veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility.

The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. The outcome of this consultation must be provided, in writing, to the inspector upon request. This documentation should include the veterinary diagnosis, all diagnostic tests, and the outcome of those tests that were performed by the veterinarian.

From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries. The licensee is required to follow the guidance of their attending veterinarian.

A complete routine inspection was conducted on August 17, 2017. This report is limited to the direct non-compliant items identified on the inspection. A second inspection report containing indirect non-compliant items and one critical non-compliant item will follow.

This inspection and exit interview were conducted with the facility representatives on August 17, 2017.

Additional Inspectors

Hammel Kurt, Supervisory Animal Care Specialist

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Date:

17-AUG-2017

Received By:

Title:

Date:

17-AUG-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 08-NOV-2017

2.40(b)(2)

REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

During this inspection, it was observed that several animals are in need of veterinary care.

***A male Dromedary camel, Zo, has a large growth on his chest pad that was irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth was covered with flies. The licensee provided documentation of a physical exam provided by the attending veterinarian, which stated that a surgical resection should be performed at a facility that can address all surgical and postoperative concerns. The licensee periodically applies fly spray to the area.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing. The facility representative provided documentation showing that the veterinarian had examined and treated the goat on March 9, 2017. The goat was rechecked on May 27, 2017 by the veterinarian and it was his recommendation that 1) more diagnostic work needs to be done (radiographs, bloodwork, appropriate serology), or 2) if the facility representatives do not want to proceed with more diagnostics then it is his recommendation to cull the animal. The veterinarian stated in his report that the animal did not appear to be in pain and the NSAIDS used previously provided no improvement. In addition to the lameness observed, it was also observed that the goat was bleeding from his left horn, which appears to be damaged. The licensee did not notice this prior to us pointing it out.

***Nine goats, seven sheep, and one cow had overgrown hooves due to a lack of recent hoof trimming. Failure to appropriately maintain hooves can cause gait abnormalities which could be painful or cause injuries. As part of the facility's program of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof care in a timely manner.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. The

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

09-NOV-2017

Date:

09-NOV-2017



Inspection Report

program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries. The licensee is required to follow the guidance of their attending veterinarian.

2.131(d)(2) REPEAT

HANDLING OF ANIMALS.

***The public is permitted to walk directly up the primary enclosure and feed the animals. There are no barriers or signs present to discourage public contact and the guests are encouraged to feed food that is sold on the premises. There was only one attendant present during this inspection and he wasn't supervising all the public interactions or contact the guests had with the animals when they walked directly up to the enclosures to feed the animals. Continued unattended public contact does not ensure safe public interaction with these animals. Licensees must ensure that during periods of public exhibition, a responsible, knowledgeable employee or attendant is present at all times during periods of public contact.

3.125(a) REPEAT

FACILITIES, GENERAL.

***Two enclosures that housed Dromedary camels had fencing in disrepair. One had a hole with broken fencing that had sharp points that were poking straight up and some points were poking straight into the pen. The other pen had fencing that was falling down and created gaps and sharp points that were pointing into the enclosure.

***Two enclosures that housed some sheep and goats had broken fencing with sharp points and there were gaps large enough that the animal's horns or head could get stuck and therefore poses the risk of injury to animals in the enclosure.

***The enclosure housing the goats in the barn had rust along the lower parts of the walls, which was 10 inches or greater in height. In one corner there was a hole that was large enough for the animal's horns or head to get stuck and therefore poses the risk of injury to animals in the enclosure.

All enclosures must be kept in good repair and free of sharp points and protruding edges in order to protect the animals from injury. A system of facility monitoring and maintenance should be in place and to ensure all animal facilities are structurally sound and in good repair to protect the animals from injury and/or escape.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

09-NOV-2017

Date:

09-NOV-2017



Inspection Report

***Near the eland enclosure, a large portion of the perimeter fence was in disrepair. One of the metal poles stabilizing the chain link was leaning outward, away from the property at approximately a 30 degree slant. Another metal stabilizing pole was leaning inward. Along one section of the fence, the metal bar at the top of the fence was broken into two pieces.

***Near the camel and sheep enclosure, an approximately 100 foot long segment of the perimeter fence was less than 6 feet tall due to the amount of dirt and land that was leaning against it.

***Near the enclosure containing the coati, a tree was leaning on the perimeter fence causing the fence to lean downward.

All of the issues cited above decrease the efficacy of the perimeter fence to function as a secondary containment system for the regulated animals and to protect them from outside animals entering the premises.

The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

This inspection and exit interview were conducted with the facility representative.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

SISMOUR NAOMI

SISMOUR NAOMI USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

09-NOV-2017

Date:

09-NOV-2017



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 06-FEB-2018

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

One brown and black, adult, female sheep was observed to be excessively thin, with protruding hip bones, spine, and ribs. The bones of her spine, hips, and each rib were easily felt by both APHIS inspectors upon palpation. She had a rough, unthirfty hair coat with multiple patches of hair loss along her back and right and left sides. She also had overgrown toes on her right front foot. Poor body condition can be an indication of health issues, including parasitism, poor dentition, malnutrition, and systemic disease.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and appropriate holiday care for all of the animals at the facility. The animal mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problem cited above. The licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

3.130 DIRECT

WATERING.

A lactating, adult female camel, "Camela," and her nursing baby did not have access to drinking water. The water receptacle had a hole in the bottom of the bowl and the hose leading to it was broken. The facility representative was unaware when the water was turned off for these animals; he believes it was turned off the evening of February 5th. When the facility representative provided water for this camel, she was drinking and searching for water sources for approximately 8 minutes (with approximately 4 minutes of it being filmed). Lack of adequate water intake can lead to dehydration and other health issues.

If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health

Prepared By:

SISMOUR NAOMI,D.V.M

SISMOUR NAOMI,D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

08-FEB-2018

Date:

08-FEB-2018



Inspection Report

and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal.

Date to be Corrected: This was corrected by the facility representative at the time of inspection.

A complete routine inspection was conducted on February 6, 2018. This report is limited to the direct non-compliant items identified on the inspection. A second report containing indirect non-compliant items will follow.

This inspection and exit interview were conducted with the facility representatives on February 6, 2018.

Additional Inspectors

Engel Dominique, Veterinary Medical Officer

Prepared By:

SISMOUR NAOMI,D.V.M

SISMOUR NAOMI,D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

08-FEB-2018

Date:

08-FEB-2018



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 06-FEB-2018

2.40(a)(1)

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***There was no Program of Veterinary Care available for review at the time of the inspection.

The written Program of Veterinary Care is needed to ensure that the facility understands the expectations of the attending veterinarian in regards to the veterinary care of regulated animals. It outlines preventive veterinary care practices, such as deworming and vaccinations. The facility should ensure that the written program of veterinary care is available for review during all USDA inspections.

To be corrected by: February 16, 2018

2.40(b)(2)

REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***An adult, male, Dromedary camel, Zo, has a large growth on his chest pad that is irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth had numerous flies crawling on it. At the time of inspection, the licensee was still unable to provide documentation of a physical exam, diagnosis, or treatment plan provided by the attending veterinarian.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing on this limb. The most recent veterinary exam occurred on May 27, 2017. The attending veterinarian recommended in his documentation that 1) more diagnostic work needs to be done (radiographs, bloodwork, appropriate serology), or 2) if the facility representatives do not want to proceed with more diagnostics then it is his recommendation to cull the animal. To date, the licensee has not followed the veterinary recommendations.

***A brown and white female goat has overgrown right front and right hind hooves. Additionally, she was exhibiting an abnormal gait with her hind legs. She was walking in a stiff manner on her hind limbs.

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

16-FEB-2018

Date:

16-FEB-2018



Inspection Report

***Five goats and three pigs have overgrown hooves due to a lack of recent hoof trimming. Failure to appropriately maintain hooves can cause gait abnormalities which can be painful or cause injuries. As part of the facility's program of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof care in a timely manner.

***A adult black goat had an area of hair loss underneath the left eye. The hairless region was white and the skin was dry and flaky. This area was swollen compared to the same area underneath the right eye.

***An adult female Fennec fox, Foxy, has hair loss over the knuckles of all four feet and has excessively long nails that need to be trimmed.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility. The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

2.75(b)(1)

RECORDS: DEALERS AND EXHIBITORS.

***At the time of inspection, the facility representatives were unable to locate any animal records. They were unable to present the records that contained the required information regarding the acquisition and disposition of animals, as well as a record of "animals on hand".

Records containing the required information for animals acquired for use in regulated activities, including those offspring born on premise, are necessary in order to accurately track animals being used in regulated activities to ensure their humane care and use. Records must be maintained that fully disclose the acquisition and disposition of animals whether purchased, owned, held, born on premises, or leased. They shall include the age or birth date of the animals, their acquisition date, the name and address of the person from whom the animals were obtained or to whom they are sold, the number of animals, species, USDA license number or registration (if licensed). A record of the animals on hand shall be created, maintained and made available for review during USDA inspections.

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

16-FEB-2018

Date:

16-FEB-2018



Inspection Report

Date to be Corrected: February 16, 2018

2.131(d)(2) REPEAT

HANDLING OF ANIMALS.

***The public is permitted to walk directly up the primary enclosures and feed the animals. There are no barriers or signs present to discourage public contact and the guests are encouraged to feed food that is sold on the premises. There was only one attendant present during this inspection and when APHIS inspectors arrived at the facility, she was inside the office with a member of the public. At that time, three visitors were seen to be petting and feeding the sheep. The attendant failed to supervise the visitors' interaction with the animals.

Continued unattended public contact does not ensure safe public interaction with these animals. Licensees must ensure that during periods of public exhibition, a responsible, knowledgeable employee or attendant is present at all times during periods of public contact.

3.125(a) REPEAT

FACILITIES, GENERAL.

***In an enclosure housing nine goats, two portions of the chain linked fencing were in disrepair. The bottom of the chain linked fence along two opposing sides of the enclosure was not secured to the ground, creating a gap between the bottom of the fence and the ground. The sharp points at the bottom of the fence were facing into the enclosure where the animals could come into contact with them.

***A portion of the ceiling of the coati enclosure was in disrepair. Several of the wires were broken, creating gaps in the structure. Additionally, there were loose metal wires with sharp points that were protruding into the enclosure. These damaged wires are in close proximity to the top of the coati's night house, where the animal was observed to be laying during the inspection.

***On the bottom of the back side of the nesting box in the coati enclosure there were several exposed screw tips that could injure the coati.

***The fencing surrounding the enclosure of one male camel, "Humphrey," was in disrepair. Parts of the enclosure consisted entirely of four metal cables that were strung horizontally in order to contain the camel. The bottom most strand of cable was loose in some areas and either hanging low or entirely on the ground. These structural issues cause the fence to be less effective in containment of the animal and can lead to entrapment or escape of the animal. Other portions of the enclosure had a wire mesh surrounding the metal cable. This wire was not securely

Prepared By: SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:
16-FEB-2018

Date:
16-FEB-2018



Inspection Report

fastened to the fence either at the top of the bottom in numerous areas, allowing it to curl and fold over, creating gaps and sharp points that were pointing into the enclosure.

***An enclosure that housed both sheep and goats had a broken wood board that was hanging down into the enclosure. The edges of the broken wood boards were jagged and splintered, and were directly exposed to the animals in the enclosure and present a risk of injury.

***An enclosure that housed eighteen sheep had broken metal fencing with sharp points and broken wooden boards with jagged, splintered edges. There were gaps in both the metal and wooden fencing that were large enough for the animals' horns, head, or limbs, could become stuck.

***In the enclosure housing two pigs, there was an exposed nail head on the lower portion of the night house that was pointing outward where the pigs could easily come into contact with the edge.

***An enclosure housing one Dromedary camel, "Coco," contained sharp points and had fencing in disrepair. Metal wires, which were in place to tie wooden boards to the bottom of the chain linked fence for support, had sharp points that were protruding out into the enclosure. A segment of the lower portion of the chain linked fence on the opposite side of the enclosure was not secured to the cable running along the ground. This created gaps between the ground and the chain linked fencing large enough for the animal's limb to become entrapped.

***An enclosure that housed a Dromedary camel, "Pinkie," had fencing in disrepair. A metal wire panel was attached to a portion of the fencing separating "Pinkie's" enclosure from the enclosure containing two adult female Dromedary camels, "Freya" and "Alexa". The top of this wire was damaged, creating sharp points that pointed upward and outward, into the enclosure containing "Freya" and "Alexa".

***In an enclosure housing seventeen sheep, a portion of the metal fencing material, along the bottom, was bowing out of the base of the pen. This has created a gap large enough for the animal's horns or head to become stuck and therefore poses the risk of injury to animals in the enclosure.

***In an enclosure housing seventeen sheep, one of the metal legs stabilizing the shade structure was severely rusted, creating sharp edges which could injure the animals, as well as potentially affecting the stability of the structure.

***In an enclosure housing seven goats a portion of the wire fencing was in disrepair. The lower edges of the metal fence was bent upward with sharp points protruding toward the animals that could cause injuries.

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

16-FEB-2018

Date:

16-FEB-2018



Inspection Report

***In an enclosure housing seven goats, there was an exposed screw head on the lower portion of a wood structure in the exhibit that could come into contact with the animals.

***The enclosure housing nine goats in the barn had rust along the lower parts of the metal walls, which extended up the wall at least 10 inches in height in some areas. The rusted metal exposed many areas of jagged, splintered piece of wood underneath. In the areas where the metal was rusted through, sharp metal edges were created and pointed into the enclosure.

***There was a hole in the floor along one side of the indoor enclosure housing nine goats. The hole was several feet long and approximately 2 feet deep. A facility representative had placed a wooden beam across the hole, however, portions of the hole remained uncovered and were large enough for an animal to become entrapped or injured.

***In an enclosure housing fifteen goats, several panels of the chain linked fencing were in disrepair. The bottom of the chain linked fence was not secured to the ground, creating a gap between the bottom of the fence and the ground. The sharp points at the bottom of the fence were facing into the enclosure where the animals could come into contact with them.

***In the enclosure housing fifteen goats, there was a blue plastic bin in the middle of the pen. This bin was cracked, had holes, and broken sides with jagged edges which could injure the animals.

All enclosures must be kept in good repair and free of sharp points, protruding edges, holes, and gaps/openings in order to protect the animals from injury. A system of facility monitoring and maintenance should be in place and to ensure all animal facilities are structurally sound and in good repair to protect the animals from injury and/or escape.

3.127(a) REPEAT

FACILITIES, OUTDOOR.

***An enclosure containing two adult camels, "Freya" and "Alexa" did not have adequate shade to protect the two animals from direct sunlight.

The areas of shade provided were not large enough to allow both of the animals within the enclosure to be protected from direct sunlight. During the inspection, the shade structure provided two small strips of shade inside the enclosure, however the majority of the shade provided was outside of the enclosure and not benefitting the animals. At the time of inspection, the temperature registered on the Kestrel 4000 was 81.2 degrees Fahrenheit.

Prepared By: SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:
16-FEB-2018

Date:
16-FEB-2018



Inspection Report

Inadequate protection from direct sunlight may lead to overheating or discomfort from squinting. Sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

3.127(c) REPEAT

FACILITIES, OUTDOOR.

***There were pools of standing water around the water receptacle in an enclosure containing one zebu and two sheep. The animals were unable to drink from the receptacle without standing in the mud.

***In an enclosure containing two adult water buffalo, the area surrounding the water receptacle consisted of mud and pools of standing water. The animals were unable to drink from the receptacle without standing on the wet ground. The plastic water receptacle had a large rip in the material, which caused the receptacle to continuously leak, creating the standing water.

Standing water can pose a health risk to the animals as it can contain bacteria and parasites. Additionally, animals standing in water for excess periods of time are at risk for foot/hoof rot. The facility must have a suitable method to prevent the water from initially accumulating in the enclosure or rapidly eliminate excess water from the enclosure.

3.127(d) REPEAT

FACILITIES, OUTDOOR.

***Near the camel enclosure, containing "Camela" and her baby, a portion of the perimeter fence is approximately five feet tall.

***Near the eland enclosure, a large portion of the perimeter fence is in disrepair. One of the metal poles stabilizing the chain link is leaning outward, away from the property at approximately a 30 degree slant. Another metal stabilizing pole is leaning inward. Along one section of the fence, the metal bar at the top of the fence is broken into two pieces.

*** At the front of the property, near the mini-hinny and sheep enclosure, an approximately 100 foot long segment of the perimeter fence is less than 6 feet tall.

***Near the enclosure containing the coati, a tree is leaning on the perimeter fence.

All of the issues cited above decrease the efficacy of the perimeter fence to function as a secondary containment

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

16-FEB-2018

Date:

16-FEB-2018



Inspection Report

system for the regulated animals and to protect them from outside animals entering the premises. The perimeter fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from having contact with the animals, and so it can function as a secondary containment system. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the perimeter fence.

3.131(c) REPEAT

SANITATION.

***A gopher carcass was observed to be lying in an enclosure housing seven goats. A dead animal has the potential to transmit disease to the regulated animals. The facility representative removed the carcass at the time of inspection.

***In the enclosure housing twelve goats, there was a bundle of baling twine on the ground. This is a hazard, as the twine could be consumed by the animals in the enclosure.

***In an enclosure containing five goats, baling twine was used to tie panels of the metal fencing together. Five strands of the twine were running into the enclosure along the ground. This twine could be consumed by the animals in the enclosure.

***In the barn housing nine goats, an accumulation of cobwebs was present in the corners of the enclosure and on the feeders. Cobwebs can be areas for harboring pests which can affect the health of the regulated animals and may be an indication of substandard husbandry practices.

Animal enclosures must be kept clean and in good repair to protect the animals from injury and to facilitate good husbandry practices. A regular program of housekeeping in and around all animal enclosures needs to be implemented and maintained.

This report is a continuation of the previous report on February 6, 2018 and contains the indirect citations from the routine inspection conducted at that time. An additional report containing the direct citations was previously delivered to the licensee on February 6, 2018 and an exit interview was conducted at that time. With respect to the non-compliant items contained within this report, an exit was conducted on February 6, 2018 with facility representatives and the undersigned inspector.

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

16-FEB-2018

Date:

16-FEB-2018



Inspection Report

Additional Inspectors

Engel Dominique, Veterinary Medical Officer

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

16-FEB-2018

Date:

16-FEB-2018



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: FOCUSED INSPECTION

Date: 20-FEB-2018

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

*** An adult male coatimundi, Cody, was observed to be non-weight bearing on his right rear leg. When asked, the licensee stated this animal was having climbing issues 2-3 years ago and was taken off exhibit due to possible arthritic issues. This animal has not been recently evaluated by a veterinarian and the condition may have progressed. Lameness can be caused by a variety of problems including infection, injury, or other medical conditions and can be painful and distressing and affect the health and well-being of the animal.

***An adult female Fennec fox, Foxy, had hair loss with red and inflamed skin on the knuckles of all four feet. This animal was cited for this problem on the inspection report dated February 16, 2018. It is the APHIS inspector's opinion that the skin appears to be more red and inflamed than what was observed during the inspection on February 6, 2018. The most recent veterinary exam occurred on February 11, 2018. The attending veterinarian recommended in his documentation to commence a regiment of medication that will continue for 2-3 months. To date this animal has not received this medication. A facility representative stated that he had noticed the animal's condition getting worse and continues to itch at his feet. The fox also had excessively long nails that needed to be trimmed.

***An intact adult male tricolor goat that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing on this limb. The most recent veterinary exam occurred on May 27, 2017. The attending veterinarian recommended in his documentation that 1) more diagnostic work needs to be done (radiographs, bloodwork, appropriate serology), or 2) if the facility representatives do not want to proceed with more diagnostics then it is his recommendation to cull the animal. Currently, this animal is off exhibit but still has not received proper veterinary care for the further diagnostic workup and treatment of his lameness. To date, the licensee has not followed the veterinary recommendations.

***A male, adult Ibex hybrid, walked with an abnormal gate. The hooves on all legs were excessively long, to the point that they were curling causing the toes to rotate up and out and the heel to drop. Failure to appropriately

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Date:

22-FEB-2018

Title:

VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

22-FEB-2018



Inspection Report

maintain hooves/nails can cause gait abnormalities which could be painful or cause injuries. As part of the facility's program of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof and nail care in a timely manner.

In addition, a few months ago the licensee wrapped this animals legs because they were bowing out and the wraps were left on for too long and got wet, this caused open wounds on the legs, which are currently healing.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility. The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

2.75(b)(1) REPEAT

RECORDS: DEALERS AND EXHIBITORS.

The records of animals on hand were not up to date at the time of inspection. The licensee presented the APHIS Form 7019 as his record of animals on hand. The count of the number of goats (including the Ibex hybrids) and sheep on the premises did not match the number recorded on APHIS Form 7019, which had a lower number recorded. Correct records are necessary to facilitate the inspection process and track animal movement. Records must be maintained that fully disclose the acquisition and disposition of animals whether purchased, owned, held, born on premises, or leased. They shall include the age or birth date of the animals, their acquisition date, the name and address of the person from whom the animals were obtained or to whom they are sold, the number of animals, species, USDA license number or registration (if licensed). A record of the animals on hand shall be created, maintained and made available for review during USDA inspections.

This was a focused inspection on the veterinary care issues for animals observed on previous inspections.

This inspection and exit interview were conducted with the facility representatives on February 20, 2018 and another verbal exit interview was conducted on February 22, 2018.

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

22-FEB-2018

Date:

22-FEB-2018



United States Department of Agriculture
Animal and Plant Health Inspection Service

Inspection Report

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:
22-FEB-2018

Date:
22-FEB-2018



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 10-APR-2018

2.40(b)(2) DIRECT REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***An adult male coatimundi, Cody, was observed to be limping on his right rear leg. This animal was non-weight bearing during the inspection on February 20, 2018 and was cited for this problem on the inspection report. This animal still has not been evaluated or treated by a veterinarian. Lameness can be caused by a variety of problems including infection, injury, or other medical conditions and can be painful and distressing and affect the health and well-being of the animal.

***An adult female Fennec fox, Foxy, still has hair loss with red and inflamed skin on the knuckles of all four feet. This animal was cited for this problem on the inspection report dated February 20, 2018. Since the last inspection the alopecia and skin appears to not be improving. A facility representative stated that he had noticed the animal's condition not improving and continues to itch at his feet. The fox also had excessively long nails that needed to be trimmed.

***An intact adult male tricolor goat, Thor, that had been non-weight bearing on his right front leg during the APHIS inspection on March 9, 2017 was observed during this inspection to still be non-weight bearing on this limb. The most recent veterinary exam occurred on May 27, 2017. The attending veterinarian recommended in his documentation that 1) more diagnostic work needs to be done (radiographs, bloodwork, appropriate serology), or 2) if the facility representatives do not want to proceed with more diagnostics then it is his recommendation to cull the animal. Currently, this animal is off exhibit but still has not received proper veterinary care for the further diagnostic workup and treatment of his lameness. To date, the licensee has not followed the veterinary recommendations.

This goat was seen by the attending veterinarian on April 13, 2018 and was euthanized.

***One brown and black, adult, female sheep, Goldberry, was observed to be excessively thin, with protruding hip bones, spine, and ribs on February 6, 2018 and was cited for this problem on the inspection report. Since the last inspection, it appears that her condition is not improving with the change of diet that was recommended by the

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Date:

18-APR-2018

Received By:

Title:

Date:

18-APR-2018



Inspection Report

attending veterinarian. The bones of her spine, hips, and each rib were easily seen by both APHIS inspectors. She had a rough, unthrifty hair coat with multiple patches of hair loss along her back and right and left sides. Also, she now has some lameness seen in her right front forelimb. Poor body condition can be an indication of health issues, including parasitism, poor dentition, malnutrition, and systemic disease. Lameness can be caused by a variety of problems including infection, injury, or other medical conditions and can be painful and distressing and affect the health and well-being of the animal.

This sheep was seen by the attending veterinarian on April 13, 2018 and was euthanized.

***One black and white baby sheep, which was approximately 2 months old, was having trouble walking and standing. The facility representative claims the baby sheep was stepped on by the adult sheep when he went into the enclosure at the time of inspection. The sheep was removed from the enclosure and placed into a private enclosure in the barn. The sheep was circling, stumbling, and had trouble getting up and standing. It was advised by the APHIS inspectors to have this sheep seen by a veterinarian and evaluated that day.

This sheep was brought to the attending veterinarian on April 10, 2018 by the facility representative and the animal was euthanized that day due to having suffered a possible spinal injury.

***The facility representative is using two antibiotics Liquamycin LA-200 and Penicillin off-label and without consulting the attending veterinarian before use. A licensee cannot treat any animal without consulting their attending veterinarian first to get the proper medication, dosage, and treatment plan for the animal. Using drugs that are not first approved by the attending veterinarian can yield unanticipated reactions when used off labeled and at an incorrect dose.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility. The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

2.40(b)(3) DIRECT REPEAT

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Date:

18-APR-2018

Received By:

Title:

Date:

18-APR-2018



Inspection Report

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***A male, adult Ibex hybrid, has a 1 cm in diameter dark red mass above his right eye. The right eye appears to be red, inflamed and bulging out of the eye socket. This animal was seen by the attending veterinarian about 7 days ago and was given Terramycin to treat an eye infection. The facility representative claims the mass above the eye was not present during the attending veterinarian's evaluation and he believes the condition is getting worse.

Daily observation of all animals is critical to ensuring that conditions that can adversely affect health and well-being are recognized in a timely manner. Additionally, when observed, problems relating to animal health or behavior must be conveyed to the attending veterinarian so that appropriate methods can be employed to ensure adequate care. Failure to properly observe and communicate health problems can result in prolonged pain and suffering and the increase risk of development of serious medical conditions. The facility must conduct appropriate daily observations of all animals to ensure that all health and behavioral concerns are found in a timely manner and appropriately communicated with the attending veterinarian.

3.130 DIRECT REPEAT

WATERING.

Two pot-belly pigs and one goat did not have access to drinking water, the water receptacle was empty. Lack of adequate amount of water can lead to dehydration and other health issues. If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal.

This inspection and exit interview were conducted with the facility representatives.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

18-APR-2018

Date:

18-APR-2018



Species Inspected

Cust No	Cert No	Site	Site Name	Inspection
[REDACTED]	[REDACTED]	001	[REDACTED]	10-APR-18

Count	Scientific Name	Common Name
000001	<i>Bos primigenius indicus</i>	ZEBU
000002	<i>Bubalus bubalis</i>	ASIATIC WATER BUFFALO
000010	<i>Camelus dromedarius</i>	DROMEDARY CAMEL
000071	<i>Capra hircus</i>	DOMESTIC GOAT
000003	<i>Dama dama</i>	FALLOW DEER
000002	<i>Nasua narica</i>	WHITE-NOSED COATI
000048	<i>Ovis aries aries</i>	SHEEP INCLUDING ALL DOMESTIC BREEDS
000003	<i>Sus scrofa domestica</i>	DOMESTIC PIG / POTBELLY PIG / MICRO PIG
000001	<i>Taurotragus oryx</i>	COMMON ELAND
000001	<i>Vulpes zerda</i>	FENNEC FOX
000142	Total	



Inspection Report

YUMA, AZ

Customer ID:

Certificate:

Site: 001

Type: ROUTINE INSPECTION

Date: 10-APR-2018

2.40(b)(2)

REPEAT

ATTENDING VETERINARIAN AND ADEQUATE VETERINARY CARE (DEALERS AND EXHIBITORS).

***An adult, male, Dromedary camel, Zo, has a large growth on his chest pad that is irregular in shape, approximately 4 inches by 8 inches extending approximately 6 inches down from the body wall. The growth had numerous flies crawling on it. The licensee claims this camel will be going to a veterinary specialist to be evaluated, to date this has not happened.

***Eight goats, two sheep, and one zebu have overgrown hooves due to a lack of recent hoof trimming. Failure to appropriately maintain hooves can cause gait abnormalities which can be painful or cause injuries. As part of the facility's program of preventative veterinary care, the licensee must ensure that all animals receive appropriate hoof care in a timely manner.

The facility must ensure that all animals showing potential signs of veterinary medical problems are evaluated by a veterinarian in a timely manner in order to receive an accurate diagnosis and appropriate treatment plan. Additionally, the facility must ensure the availability of emergency, weekend, and holiday care for all of the animals at the facility. The animals mentioned above must be examined by a veterinarian to obtain accurate diagnosis and appropriate treatment plans for the problems cited above. From this date forward, the licensee must ensure that all animals at the facility are provided with adequate veterinary care, as described by the attending veterinarian and the program of veterinary care. The program for providing adequate veterinary care shall include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

3.125(a)

REPEAT

FACILITIES, GENERAL.

***In an enclosure housing eleven goats, two portions of the chain linked fencing were in disrepair. The bottom of the chain linked fence along two opposing sides of the enclosure was not secured to the ground, creating a gap between the bottom of the fence and the ground. The sharp points at the bottom of the fence were facing into the

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

17-APR-2018

Date:

17-APR-2018



Inspection Report

enclosure where the animals could come into contact with them.

***A portion of the ceiling of the coati enclosure was in disrepair. Several of the wires were broken, creating gaps in the structure. Additionally, there were loose metal wires with sharp points that were protruding into the enclosure.

***An enclosure that housed both sheep and goats had a broken wood board that was hanging down into the enclosure. The edges of the broken wood boards were jagged and splintered, and were directly exposed to the animals in the enclosure and present a risk of injury.

***An enclosure that housed seventeen sheep had broken metal fencing with sharp points and broken wooden boards with jagged, splintered edges. There were gaps in both the metal and wooden fencing that were large enough for the animals' horns, head, or limbs, could become stuck.

***An enclosure housing one Dromedary camel, "Coco," contained sharp points and had fencing in disrepair. Metal wires, which were in place to tie wooden boards to the bottom of the chain linked fence for support, had sharp points that were protruding out into the enclosure. "Coco" was observed by the APHIS inspectors, eating the wood board that was on the goat side of the fence. Ingestion of this wood can present a risk of injury to the animal.

***The enclosure housing eleven goats in the barn had rust along the lower parts of the metal walls, which extended up the wall at least 10 inches in height in some areas. The rusted metal exposed many areas of jagged, splintered piece of wood underneath. In the areas where the metal was rusted through, sharp metal edges were created and pointed into the enclosure.

All enclosures must be kept in good repair and free of sharp points, protruding edges, holes, and gaps/openings in order to protect the animals from injury. A system of facility monitoring and maintenance should be in place and to ensure all animal facilities are structurally sound and in good repair to protect the animals from injury and/or escape.

3.131(d) REPEAT

SANITATION.

There were many flies around the animals on the premises. They were primarily on the chest pad growth of the adult, male, Dromedary camel, Zo, the eland, and the water buffalo. These insects can potentially transmit bacteria, viruses, and parasites that can have a negative impact on the health and well-being of the animals. There needs to be an effective program for control of insects and other pests where the animals and their food are being stored to prevent the spread of disease and maintain the animals overall health and well-being.

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

17-APR-2018

Date:

17-APR-2018



Inspection Report

This inspection and exit interview were conducted with the facility representative.

Additional Inspectors

Bolinger Jean, Compliance Specialist

Prepared By:

SISMOUR NAOMI, D.V.M

SISMOUR NAOMI, D.V.M USDA, APHIS, Animal Care

Title: VETERINARY MEDICAL OFFICER 6121

Received By:

Title:

Date:

17-APR-2018

Date:

17-APR-2018



Species Inspected

Cust No	Cert No	Site	Site Name	Inspection
[REDACTED]	[REDACTED]	001	[REDACTED]	10-APR-18

Count	Scientific Name	Common Name
000001	<i>Bos primigenius indicus</i>	ZEBU
000002	<i>Bubalus bubalis</i>	ASIATIC WATER BUFFALO
000010	<i>Camelus dromedarius</i>	DROMEDARY CAMEL
000071	<i>Capra hircus</i>	DOMESTIC GOAT
000003	<i>Dama dama</i>	FALLOW DEER
000002	<i>Nasua narica</i>	WHITE-NOSED COATI
000048	<i>Ovis aries aries</i>	SHEEP INCLUDING ALL DOMESTIC BREEDS
000003	<i>Sus scrofa domestica</i>	DOMESTIC PIG / POTBELLY PIG / MICRO PIG
000001	<i>Taurotragus oryx</i>	COMMON ELAND
000001	<i>Vulpes zerda</i>	FENNEC FOX
000142	Total	

Exhibit 20



Photographer: Gloria S. McFadden

Legal Name:

58-C-0288

Photo Taken: Sat, May 22, '10

HUGO LIEBEL

Inspection: 142101608550414

Description: "NOSEY" - Rear

Exhibit 21



Photographer: Dr Tami Howard

Legal Name:
HUGO LIEBEL

58-C-0288

Photo Taken: Wed, Nov 10, '10

Inspection: 315101549490012

Description: 2.131 (c) (1) During a 4:30 pm performance in Greenville, MS licensee allows member of the public to enter behind barricade and have direct contact with Nosey the elephant.



Photographer:	Dr Tami Howard	Legal Name:	58-C-0288
Photo Taken:	Wed, Nov 10, '10	HUGO LIEBEL	
Inspection:	315101549490012		
Description:	2.131 (c) (1) During a 4:30 pm performance in Greenville, MS, the licensee allowed members of the general public to feed the elephant, Nosey. He often had his back turned when this took place.		

Exhibit 22



Photographer:	Dr Tami Howard	Legal Name:	58-C-0288
Photo Taken:	Wed, Feb 23, '11	HUGO LIEBEL	
Inspection:	59111836190407		
Description:	2.40 (b) (2) "Nosey", African elephant. Animal's skin has a dry appearance over the back, sides and rump.		