



APHIS' Animal Care Report

United States Department of Agriculture • Animal and Plant Health Inspection Service

With 1997 behind us, it is appropriate to reflect back on a few of the significant activities that our program undertook during the past year. Accordingly, this edition of the report includes articles on topics such as our enforcement efforts during 1997 and our newly launched, user-friendly inspection report.

This edition also brings you up to date on many of our current activities. These initiatives include our implementation of a risk-based inspection system, our public meeting scheduled for later this year, and our issuance of final rules pertaining to temperature and wire-flooring requirements.

As always, this report aims to promote two-way communication between our program and representatives of industry and interest groups like you. We want to know if you find the report helpful, and we welcome your comments. Call (301) 734-5175 to share your ideas.

W. Ron DeHaven
Acting Deputy Administrator

AC Facilitates Exam of "Free Willy" Star

In November 1997, the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) Animal Care (AC) program solicited marine mammal experts from around the country to participate in a unique independent panel to assess the health of Keiko, the orca whale that starred in the movie "Free Willy." The health status of Keiko, who is owned by the nonprofit Free Willy Foundation and housed within the Oregon Coast Aquarium, had been disputed by the two organizations. AC helped to establish and coordinate the panel to obtain an impartial and comprehensive assessment of Keiko's current health.

Dr. Barbara Kohn, AC's marine mammal expert, was the USDA liaison with the foundation, the aquarium, and the members of the panel. Working closely with everyone, Kohn facilitated the evaluation—the first-ever such study of an orca—and acted as spokesperson for the group.

The study concluded that Keiko is in good health but could benefit from companionship and increased exercise. The data collected will help advance the knowledge of marine mammals throughout the world.

AC To Hold Public Meeting

AC will hold a public meeting on May 12 at APHIS' headquarters building in Riverdale, MD, to discuss the many regulatory and management initiatives that the program is undertaking. The forum will provide attendees with valuable insights into initiatives such as AC's new risk-based inspection system and Doris Day Animal League petition.

The meeting is open to anyone who wants to attend, but advance registration is necessary due to limited space. If interested, you may fax your registration request to (301) 734-4328 or send your request to AC's E-mail address. For additional information, contact Sue Gallagher on (301) 734-8877.

Wire Flooring and Temperature Standards Amended

- In January 1998, AC amended the Animal Welfare Act (AWA) standards pertaining to wire flooring. Under the new rules, AC now requires that floors in primary enclosures for dogs and cats be constructed of coated wire if the wire is less than or equal to 1/8 of an inch in diameter. The coating must be made of a material such as plastic or fiberglass. AC also requires that any such wire floor, whether coated or uncoated, be constructed so that the floor does not bend or sag between the supports.

- In March 1998, AC revised the AWA temperature requirements. The amendments clarify the current climatic conditions allowed for dogs and cats in indoor, sheltered, and mobile housing facilities; in primary conveyances used for transportation; and in animal holding areas of airport terminal facilities.

AC will also require that animals covered under the AWA not be exposed to combinations of time, temperature, and humidity that would adversely affect the animal's health and well-being. The responsible party must take into account the animal's health status, breed, age, and other pertinent factors.

Class B Dealer Traceback Reaps Benefits

Random-source, class B animal dealers have long been the subject of intense public scrutiny for allegedly trafficking in stolen animals. Accordingly, since 1993, AC has conducted an intensive traceback effort to ensure that the dogs sold by these dealers are acquired from legitimate sources, such as pounds and shelters or other dealers. To support this effort, AC has conducted quarterly inspections of all random-source dealers.

The fruits of the traceback initiative have been tremendous. From fiscal year 1993 through 1997, the percentage of animals traced to their original source has increased from slightly more than 40 percent to more than 95 percent.

At the same time, the number of random-source dealers has decreased from more than 100 to fewer than 40, largely due to AC's stringent enforcement efforts. Moreover, the number of class B dealer investigations has decreased from a high of 260 in 1992 to just over 50 in fiscal year 1997. We are confident that this effort will continue to yield significant results in the coming years.

Class A Dealer Workgroup Established

AC has formed a class A dealer workgroup to examine enforcement of the AWA at commercial breeding facilities throughout the country and make recommendations for improvement. The group is modeled on the highly successful approach that was used to improve enforcement of class B dealers over the past several years. The group's first meeting was in St. Louis in early December 1997. The team toured breeding facilities in the area and identified several possible ways to improve enforcement. These recommendations are still under review by AC management.

Tuberculosis (TB) Testing Now Required

In January, APHIS began requiring that all captive elephants in the United States be periodically tested for TB. This requirement will be enforced under the adequate veterinary care standard in the AWA regulations. Approximately 515 regulated elephants will be affected by this new requirement. Any animals found positive will have to undergo quarantine and/or treatment.

To support this policy, AC is offering a protocol called "Guidelines for the Control of Tuberculosis in Elephants," dated November 1997. This protocol provides specific testing, surveillance, and treatment guidelines for meeting the new requirements. Licensees must either follow the protocol or provide a comparable testing and monitoring program that ensures the welfare of captive elephants and prevents the spread of the disease to other animals. Copies of the protocol have been sent to all licensees who own elephants and are available upon request by calling (301) 734-7833.

New Inspection Reports Being Used

To make them easier to read and understand for all users, AC has developed a new narrative format for its inspection reports. These reports now provide a list of any items that are not in compliance (either newly or previously cited) and a narrative description of the citation. They also reference the specific

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section of the AWA regulations under which the noncompliant item has been cited.

Equally beneficial, AC is automating these new report forms so that inspectors enter data by typing, not handwriting, it. The days of having to interpret an inspector's writing are finally long gone.

Risk-Based Inspection System Takes Effect

In February, AC implemented its new risk-based inspection system. As noted in previous reports, this system uses several objective criteria, including past compliance history, to determine the inspection frequency of each licensed and registered facility.

Facilities that meet all of the criteria qualify for low inspection frequency and are subject to inspections once every 2-3 years. Facilities that meet few or none of the criteria qualify for high inspection frequency and are subject to inspections at least every 6 months. Those in the middle qualify

for medium inspection frequency and will be inspected once a year.

AC, of course, remains committed to inspecting research facilities once a year, as required under the law. AC must maintain confidentiality of the inspection frequency of all licensees and registrants to ensure the integrity of the system.

AC Enforcement Efforts Yield Results

In 1997, AC achieved tremendous success regarding AWA enforcement. The program's efforts included innovative settlements where AC allowed licensees and registrants who showed an interest in improving the conditions for their animals to invest part or all of their monetary sanctions in facility improvements. The efforts also included stringent sanctions, such as severe monetary penalties and/or license revocations.

These two approaches enabled AC to obtain significant monetary penalties while reducing its backlog of AWA cases. The examples below highlight cases from 1997 that illustrate both components of AC's enforcement strategy.

- In February 1997, APHIS settled a case with a large registered research facility for a \$30,000 fine, \$20,000 of which was required to be spent on facility improvements and training for employees. AC had cited each of these areas as being in need of improvement to ensure compliance with the AWA.
- In a landmark case still pending at the end of 1997, APHIS obtained a \$200,000 monetary penalty and permanent revocation of an exhibitor's license for AWA violations pertaining to the movement of elephants and llamas across the Southwestern United States in the summer of 1997. The movement of the animals resulted in the death of one of the elephants.

The case is significant not only in terms of penalties sought but also in the swift manner in which it was handled. By making this case a top priority, APHIS was able to complete its investigation and file formal charges within 3 weeks. This process typically takes several months. APHIS was also able to obtain a decision from an administrative law judge within 4 months, a process that normally takes more than a year. The judge's decision is currently under appeal to the USDA judicial officer.

New Format for AWA Report to Congress

This year, we will be revising the format of our annual AWA enforcement report. The new layout will include significant information on our strategic direction activities and other special initiatives, such as our class B dealer traceback project. The format will also feature a more user-friendly layout, with pictures, graphs, and sidebars to highlight important pieces of information. We believe that, in making the

report more comprehensive and user friendly, we will be able to provide readers with an accurate picture of the many initiatives that we are pursuing.

AC Highlights From the Field

- The fall 1997 edition of the report discussed the efforts of AC inspector Ron Zaidlicz to ensure the health and welfare of two harbor seals at a defunct aquarium in Maine. At the time, Zaidlicz was working with the owner of the facility to assure that the animals were placed together in a safe location. Since then, Zaidlicz has continued to work with the owner of the animals and the Department of Commerce's National Marine Mammal Fisheries Service. As a result of his efforts, the seals have been relocated safely to the Detroit Zoo.
- Last fall, AC inspector Karla Wills took an active role in ensuring the health and welfare of animals at a zoo in New Jersey. The zoo had repeated problems involving facility conditions and animal husbandry. Although Wills and State officials worked to bring the zoo into compliance, the facility ultimately failed to operate within the law.

Accordingly, officials from New Jersey Fish, Game, and Wildlife shut down the zoo and ordered that all of the animals be relocated. They then called on Wills to help them with the relocation effort. Wills, in turn, worked with AC inspectors throughout the country to find suitable homes for the animals. She also assisted USDA officials in successfully settling its case against the zoo for a 20-year license disqualification and a \$27,500 fine.

Update on Training and Handling Notice and Doris Day Petition

- On December 12, 1997, AC closed the extended comment period on its request for information concerning practices currently used for handling and training potentially dangerous exotic or wild animals. Program personnel are now evaluating the more than 400 comments that were received during the comment period to determine whether guidelines, regulations, or a combination of both will be issued.
- AC has reviewed the nearly 36,000 comments submitted on the Doris Day Animal League (DDAL) petition, which would amend the AWA definition of "retail pet store" and require that breeders of hunting, security, and breeding dogs be licensed under the AWA. AC is developing a rulemaking initiative in response to the comments received.

Address Correction

The fall edition of the report listed the address of APHIS' Center for Epidemiology and Animal Health as 55 South Howes Street in Fort Collins, CO. The correct address is actually 555 South Howes Street, Fort Collins, CO 80521.

Regulatory News

The items listed below are either under consideration and not yet published in the Federal Register, published in the Federal Register and open for comment, or previously open for comment and now under review by the Department.

Notices:

- Advance Notice of Public Meeting (under review)
- Handling and Training of Potentially Dangerous Wild and Exotic Animals Used for Exhibition (under review)
- Veterinary Care for Captive Elephants (under review)

Proposed Rules:

- Revisions to AWA Licensing Requirements (under consideration)
- Response to Doris Day Animal League Petition (under consideration)
- Standards for Animal Auctions (under consideration)
- Exotic Canids and Felids: Minimum Age for Transport (under consideration)
- Standards for Farm Animals (under consideration)
- Standards for Marine Mammals (under consideration)
- Importation of Euthanized Animals (under consideration)
- Veterinary Medical Records (under consideration)

Final Rules

- Swim-With-the-Dolphins Human Interactive Programs (under consideration)
- Perimeter Fencing (under consideration)