



Summer 1998

# APHIS' Animal Care Report

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

A little more than a year ago, we launched this quarterly report. At that time, we had about 600 subscribers. Today, we have more than 1,700, and the number is growing. This tells me the level of interest in our program is increasing and more people are learning about this report.

I welcome both trends, and I am pleased to issue this fifth edition of the report. This edition provides you with an overview of our May 12 public meeting and highlights some of our field activities and innovative Animal Welfare Act (AWA) settlements over the past several months. It also offers updates on our regulatory initiatives.

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

## Animal Care Public Meeting Exceeds Expectations

On May 12, the U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Animal Care (AC) program held its landmark public meeting at APHIS' headquarters building in Riverdale, MD. The meeting, which focused on the many regulatory and management initiatives that the program is undertaking, was attended by approximately 250 members of the general public, industry, and animal welfare groups.

The program included a morning general session and afternoon breakout sessions devoted to the specific regulated business types—researchers, dealers, exhibitors, and animal transporters. The agenda featured speakers from USDA as well as industry and animal welfare organizations.

Overall, participants rated the meeting a success and stated that additional forums should be held in the future at least once every 2 years. USDA officials were also pleased with the meeting and look forward to holding similar ones in future years. A synopsis of the meeting is posted on AC's home page on the World Wide Web. The synopsis is also available upon request. To receive a copy, you may send an e-mail message to [ace@usda.gov](mailto:ace@usda.gov), send a fax message to (301) 734-4978, or call (301) 734-8877.

## "Doris Day" Advance Notice Published

In late June, AC published its long-awaited advance notice of proposed rulemaking on the regulation of dog and cat dealers. This notice announces USDA's formal consideration of amending the AWA definition of "retail pet store" and requiring that breeders of hunting, security, and breeding dogs be licensed. Both of these changes were contained in the Doris Day Animal League Petition that AC published as a notice in the Federal Register last year.

Recognizing that these rule changes could severely strain available AWA enforcement resources by adding numerous new licensees, USDA is considering increasing the number of breeding female dogs and cats that may be owned without obtaining an AWA license. At the same time, we feel the intent of the law is to regulate commercial breeders. Accordingly, the advance notice also requests input on the number of breeding female dogs and cats that dealers should be allowed to own without being licensed and the impact that these rule changes would have on currently licensed and unlicensed dealers.

The extended comment period on the notice closes September 23. For those interested, the notice is available on APHIS' website (<http://comments.aphis.usda.gov/>). At the site, you can both submit comments and review those made by other individuals.

## Petition on Regulating Rats, Mice, and Birds Under Review

Earlier this year, the Alternative Research and Development Foundation, a group affiliated with the American Antivivisection Society, filed a petition that would have USDA exercise its authority under the AWA to regulate rats, mice, and birds. To do so, AC would have to amend the AWA regulations to include these species under the regulatory definition of "animal." The petition is currently under review.

## AC Continues To Pursue Innovative Settlements

Over the past several months, AC has negotiated a number of innovative settlements. These agreements have enabled 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 and personnel

enhancements as well as research to improve the well-being of animals. Below are three examples of these innovative settlements.

- In April, APHIS settled a case against a research facility charged with violations pertaining to the handling of animals and protocol review procedures for \$50,000. Of that amount, \$20,000 must be donated to an APHIS-approved nonprofit organization for the study of alternatives to animal testing; \$20,000 must be spent on improving housing facilities; and \$10,000 is payable to the Treasurer of the United States. The lab must also contract with an outside consultant to review its animal care program.

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- In April, an airline settled charges involving several cases of animal death and illness aboard various flights around the country. In the settlement, the airline agreed to donate \$25,000 to an APHIS-approved organization to study methods to promote the safe and humane handling of animals during transportation. The results of this study will be disseminated to all carriers registered under the AWA.

- In July, AC settled a case against a circus pertaining to the death of a baby elephant. Under the settlement, the circus agreed to donate \$10,000 to a nonprofit elephant sanctuary and \$10,000 to an outside organization for research relating to gastrointestinal or infectious diseases of elephants. Both the sanctuary and the research organization must be approved by APHIS. The circus also agreed to enhance its training programs for animal handlers.

## **Animal Welfare Report on Web in Full Color**

APHIS' annual report to Congress on the agency's animal welfare activities is now available on AC's Web page in full color. As noted previously, the report's format has been completely revised this year to include significant information on AC's strategic direction activities and other management initiatives. The report also features a more user-friendly layout, with pictures, graphs, and sidebars to highlight important pieces of information.

In early July, a black-and-white edition of the report was mailed to all subscribers receiving this quarterly report. The color Web edition was unveiled at the same time. For those who have access, the version is worth a gander.

## **Safe Pet Travel Campaign in Full Swing**

AC's public affairs campaign on safe pet travel, which was launched in September 1997 to educate the general public about traveling with their pets, has been a tremendous success. AC has already distributed its entire press run of 20,000 full-color brochures! The program has also passed out thousands of factsheets on safe pet travel and stickers labeled "Live Animals" that are designed to be placed on kennels to meet the AWA requirements. Recipients of these materials have included members of the general public, veterinary clinics, travel agents, and State Veterinarians.

AC thanks the many organizations that have helped distribute the materials and is pleased to announce that "Traveling With Your Pet" is being reprinted and will be available this fall.

In the meantime, you can view the brochure on AC's Web page and order the other materials by calling (301) 734–7687.

## **AC Highlights From the Field**

- During a routine inspection in Tennessee, Dr. Michael Guedron observed two small pens containing six pigs. Upon closer inspection, Guedron noticed that the pigs were emaciated and obviously suffering from malnutrition. While pigs, as agricultural animals, are not covered under the AWA, Guedron decided to go the extra mile and called local authorities.

The next day, Guedron accompanied several local and State law enforcement officers to the facility to confiscate the pigs and arrest the owner. Unfortunately, a worker at the facility had killed four of the pigs after learning of Guedron's visit. The remaining pigs, however, were safely removed from the premises and sent for treatment at the University of Tennessee.

- Several AC officials, including Western Region Director Robert Gibbens, worked extensively throughout June and July to find homes for three marine mammals from the Depoe Bay Aquarium in Oregon. In a settlement between APHIS and the aquarium, Depoe Bay officials agreed to turn over two sea lions and a harbor seal to APHIS for relocation. The officials also agreed to a permanent revocation of their license and a \$7,000 fine—\$6,000 of which is suspended provided Depoe Bay officials do not conduct any AWA-regulated activities.

In seeking new homes for the animals, AC personnel contacted aquariums throughout the United States. The animals will be temporarily relocated from Depoe Bay to the Oregon Coast Aquarium in early September. Subsequently, the sea lions will take up permanent residence at the Indiana Children's Zoo, and the harbor seal will stay at California's Sea World.

## **Strategic Direction Update**

AC continues to move forward with its numerous strategic direction activities. Besides the public meeting mentioned earlier in this report, the activities also include the following accomplishments and ongoing projects.

- In March, AC held its second national work conference for field personnel. The weeklong meeting was attended by AC field personnel from Hartford to Honolulu and focused on ensuring uniformity of inspections. Specific training sessions included inspecting traveling exhibitors and neonatal nutrition.

- AC is planning three training courses on elephant care and handling to improve AWA inspections and enforcement regarding these animals. By fiscal year 2000, 45 members of AC's field force will have completed these courses.

- AC is currently developing specific primate enrichment guidelines and a manual on inspecting animal dealers. These documents will serve as resources to both inspectors and licensees and registrants. Look for them in the coming year.

## **MOA on Marine Mammals Goes Into Effect**

On July 18, APHIS, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service signed a formal memorandum of agreement regarding the enforcement of the Marine Mammal Protection Act (MMPA). The agreement codifies the roles and responsibilities of each agency in enforcing the MMPA and clarifies areas where there are questions of jurisdiction. The MOA replaces the original agreement, which was signed nearly 20 years ago.

## **AC Makes Horse Protection a Priority**

Last November, AC unveiled its new strategic plan for the Horse Protection Act (HPA) program. This voluntary plan seeks to increase industry's role in enforcing the HPA. If adopted by horse industry organizations, the plan would give industry primary responsibility for imposing HPA sanctions, and APHIS would evaluate the organizations to ensure they are correctly identifying violations and issuing appropriate penalties. In turn, APHIS would pursue significantly fewer formal cases against alleged HPA violators.

Although the plan was developed in cooperation with industry and seemed like a win-win for all involved, it was met with reservations by certain industry organizations. Accordingly, while the plan went into full effect (with the exception of the "scar rule" penalties) on July 1 of this year, only one industry organization has adopted its provisions. The rest are subject to the previous enforcement system where APHIS pursues formal AWA cases. Nevertheless, AC remains committed to working with all industry organizations to develop a mutually acceptable plan.

## **AC Makes DQP List Available**

AC has posted on its Web page the list of individuals who enforce the HPA as designated qualified persons (DQP's). DQP's work for horse industry organizations that are certified by APHIS to oversee horse shows and sales. DQP's are typically farriers, trainers, or individuals with significant knowledge of horses and the equine industry. The DQP list contains the names of all DQP's employed by the six certified industry organizations.

## Interim Rule on Dog and Cat Resting Surfaces Issued

On July 13, AC published an interim rule that amended the AWA requirements pertaining to flooring in dog and cat enclosures. The rule, effective July 14, removes the requirement that a solid resting surface is necessary in primary enclosures with flooring made of mesh or slotted construction. This requirement was inadvertently contained in the final rule on wire flooring published in January of this year. The comment period on the interim rule closes September 11.

## 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:

- Handling and Training of Potentially Dangerous Wild and Exotic Animals Used for Exhibition (under review)

### Advance Notices of Proposed Rulemaking:

- Licensing Requirements for Dogs and Cats: Response to Doris Day Animal League Petition (open for comment until September 23)

### Interim Rules:

- Resting Surfaces for Dogs and Cats (open for comment until September 11)

### Proposed Rules:

- Clarifying Meaning of "Field Study" (open for comment until September 29)
- Revisions to AWA Licensing Requirements (under consideration)
- Identification of Unweaned Puppies and Kittens (under consideration)
- Exotic Canids and Felids: Minimum Age for Transport (under consideration)
- Standards for Farm Animals (under consideration)
- Standards for Marine Mammals (under consideration)
- Veterinary Medical Records (under consideration)
- Confiscation of Animals (under consideration)
- Nomenclature Changes (under consideration)
- Horse Protection (under consideration)

### Final Rules

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

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