

## CONFISCATION PROCEDURES

Any animal found by an APHIS official to be suffering as a result of failure to comply with the AWA regulations and standards may be confiscated. [2.129 and Policy #8]

### Criteria

If the licensee takes no action to alleviate the suffering, APHIS may confiscate the animal(s) following the procedures outlined in Policy #8. An animal does not have to be in jeopardy of dying to be in a state of suffering.

You should consider starting confiscation procedures if conditions are such that:

- an animal's health and well being is severely compromised
- an animal is in need of immediate care
- an animal may shortly be in need of immediate care

Conditions which can compromise an animal's health/well-being or require immediate care include, but are not limited to:

- lack of appropriate veterinary care for the medical conditions that you observe
- no food and water
- inadequate shelter or bedding for extreme weather conditions
- enclosures with:
  - excessive accumulations of feces or old food
  - dead, decaying animals
  - extremely soiled or wet bedding

Clinical signs indicative of an animal that is suffering and in need of immediate care include, but are not limited to:

- self-damaging stereotypic behavior, such as:
  - self-biting
  - hair pulling
  - head banging
- poor appearance, such as:
  - prominent bony processes
  - loss of hair coat
  - glassy or sunken eyes

- excessively matted hair resulting in:
  - skin lesions
  - difficulty defecating
  - vision problems
- hypothermia, such as:
  - shivering
  - frost-bitten extremities
  - huddling or piling of animals
  - loss of interest in surroundings
- severe injuries and wounds
- severe emaciation
- severe dehydration
- severe diarrhea or vomiting
- moribund condition, such as:
  - inability to stand up
  - labored breathing
  - little or no response to stimuli
- agonal respiration

NOTE: Animals may mask the clinical signs of pain and distress, therefore animals may be in more pain and distress than exhibited by their behavior. You should assess both the animal and its conditions carefully.

Before confiscating any animal, you must:

1. make a reasonable effort to notify the exhibitor or representative of the condition of the animal [2.129(a)]
2. if the exhibitor/representative is located, request that the condition be corrected by: [2.129(a)]
  - adequate care being given, or
  - euthanasia of the animal
3. if the exhibitor/representative cannot be located or notified: [2.129(b)]
  - contact the Regional Office
  - contact local police or other law officers to accompany you to the premises
  - provide for adequate temporary care for the animal

If the exhibitor/representative refuses to comply with this request or the condition cannot be corrected by temporary care, you should:

- contact your SACS (or Regional Director, if your SACS is not available)
- confiscate the animal following Policy #8 - *Guidelines for the Confiscation of Animals* (Issued May 8, 2001).

NOTE: Take photographs (digital photographs preferred) of the animals to support confiscation actions. These photos should be sent or transmitted to the Regional Office (see Section 6.3 - Inspection Photographs) as soon as possible.

The exhibitor from whom the animals were confiscated is responsible for all costs incurred in the placement or euthanasia of the animals. [2.129(c)]

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**Placement of animals**

Confiscated animals may be: [2.129(c)]

- placed, by sale or donation, with other USDA licensed dealers, exhibitors, or registered research facilities that:
  - comply with the AWA regulations and standards, and
  - can provide proper care, **or**
- placed with persons or facilities who are **not** USDA licensed or registered if they can offer a level of care equal to or exceeding the standards and regulations, as determined by APHIS (see below), **or**
- euthanized

**A non-USDA licensed/registered person or facility that wants to or is willing to accept confiscated animals must** be inspected prior to the placement of the animals to determine if the regulations and standards are met.

In situations where the regulations/standards are not exactly met, you should use your professional judgment to determine if the intent of the Animal Welfare Act regulations and standards is being met.

When assessing a facility for the placement of confiscated animals, you should take the following factors into account:

- APHIS will not have legal jurisdiction for routine re-inspections
- the facility owner will be requested to sign an agreement stating that he/she will:
  - ensure continual humane care and treatment of the animals
  - allow an inspector to occasionally check on the animals
  - allow an inspector to check on the animals if warranted by a complaint or other observations
  - give the animals back to the USDA if the USDA finds that the health and welfare of the animals is endangered

Although a non-licensed facility is expected to meet or exceed the regulations and standards, the following guidelines may be used when evaluating areas of a non-USDA licensed or registered facility that may meet the intent of the regulations and standards but not the specifics:

**Housing Facilities:**

- Separation of Businesses - use your professional judgment
- Cleaning - if a private home, it should be fit for human occupancy
- Interior Surfaces - if a private home, it should meet acceptable average home sanitation conditions if animals are kept in the house
- Outdoor Housing - should have an adequate perimeter fence when required

**Primary Enclosures - Space**

- primary enclosures should be the proper size for the confiscated animals
- performance standards may be acceptable if the enclosures do not meet the exact physical measurements required by

the standards. For example, an animal is allowed free access

to a roaming area during the day and is kept only at night in an enclosure that does not meet the standards  
· innovative primary enclosures may be used to meet the space requirements

### **Veterinary Care**

- the animals currently at the facility should be:
  - healthy **and**
  - in good condition, **or**
  - under appropriate veterinary care
- the facility should use the services of a veterinarian familiar with the animals to be placed there. NOTE: The facility is not required to contract with an “attending veterinarian” or have a formal “Program of Veterinary Care.”

### **Records**

- facility should keep basic records on the animals, such as
  - acquisition records
  - disposition records
  - birth and death records

If you have any questions or concerns about a facility where animals may be placed, you should:

- contact your SACS to discuss the facility
- take photographs if appropriate