

**United States Department of Agriculture
Center for Veterinary Biologics**

Standard Operating Procedure

Refusal of Entry for Inspection, Assault, and Bribery Procedures

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Refusal of Entry for Inspection, Assault, and Bribery Procedures

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Refusal of Entry for Inspection, Assault, and Bribery Procedures

1. Purpose

This standard operating procedure (SOP) is to provide procedures for Center for Veterinary Biologics (CVB) employees to follow in cases involving assault, bribery or refusal of entry for inspection or investigation purposes.

2. Refusal of Entry to Inspect

If after the Biologics Specialist (Specialist) or Inspector has made proper identification as stated in the current version of [ICSOP0013](#), *The Inspection Proper*, the firm denies the Specialist or Inspector access to the licensed premises, to areas of the premises, or to documents that are germane to the inspection, then the following actions should be taken.

2.1 Specialist or Inspector

- Verify through the Supervisor that Animal and Plant Health Inspection Service (APHIS) does have the authority to inspect the premises, area or document (site applicable regulations).
- Explain to the liaison or site contact the authority to inspect (21 U.S.C. 151-159 and 9 CFR Part 115). Be polite, assertive and patient, but not belligerent. If possible, explain this in front of another APHIS employee acting as a witness.
- Immediately notify the Inspection and Compliance (IC) Director, if the firm still denies access. Be prepared to provide specifics.
- Follow the directions of the Director. If a witness was not present during the explanation of the authority to inspect, the Specialist or Inspector may be required to contact the area office and arrange for an APHIS witness to accompany them for another attempt to gain access.
- Continue to maintain a polite and patient attitude. Help facilitate communication between the firm, their legal counsel (if involved) and the United States Department of Agriculture (USDA).

2.2 IC Director

- Verify that the Specialist or Inspector was properly identified to the firm.
- Verify that the premises, area or document is under APHIS authority to inspect.

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Depending on the circumstances and seriousness of the situation, the Director will decide what procedures are to be followed and coordinate all activities. Some options available are:

- Consult with USDA OGC on authorities and/or before regulatory action is taken against the firm. In some cases the firm may already have their legal counsel involved and may be asking to speak to USDA Counsel. OGC will in some cases communicate directly with the firm's legal counsel to try and resolve the impasse.
- Telephone the liaison or the person in charge of the firm. Discuss the problem, explain the authority and seek approval to allow access.
- If required, contact the APHIS Investigative and Enforcement Services (IES) or the VS Area Veterinarian in Charge (AVIC) of the area and arrange for an APHIS witness to accompany the specialist or inspector for another attempt to gain access or review documents.
- Issue an APHIS-mandated stop distribution and sale on all products made by the firm until access is allowed.
- Issue an APHIS-mandated stop distribution and sale on all products associated with recalls.
- Notify the CVB Director.
- Keep the Specialist or Inspector informed of events.

3. Assault upon APHIS Employees

This section expands on the procedures that are set forth in United States Department of Agriculture (USDA) Secretary's Memorandum 4430-2, USDA Departmental Regulation 4200-001, and the USDA Handbook on Workplace Violence Prevention and Response.

3.1 Policy

APHIS is committed to protecting employees from intimidation, interference, threats or assaults in the performance of official duties, and in maintaining a safe and productive work environment.

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3.2 Employee Coverage

Coverage under the "Assault" statute (18 U.S.C. 111) extends to the following categories of employees:

- Any APHIS employee who is assigned to investigative or inspection functions.
- Any APHIS employee who is carrying out any function connected with the control or eradication or the prevention of dissemination of animal diseases.

3.3 Incidents

- Employees must report all incidents that involve bodily harm, attempts to cause bodily harm, or threats of bodily harm to the employee or a member of their family as a result of performance of official duties. Employees must also report verbal attacks, threats of assault (including telephone and electronic), intimidation, interference, property damage, or other actions which can be interpreted as an attempt to intimidate or interfere with performance of official duties, regardless of duty status.
- Perceived threats or any indication of unsafe circumstances, the employee should immediately leave the situation.

3.4 Reporting Requirements

The employee (or person acting for the employee) should:

[Note: If the assault involves employees from both CVB units (i.e., employees on inspection), the IC Director will serve as the point of contact for all employees involved for the purposes of this SOP.]

- Immediately leave premises and seek medical assistance if physically assaulted.
- Immediately inform the IC Director and local authorities, especially if the incident involved forcible assault. Be as detailed as possible. The employee should inform their immediate supervisor as soon as possible.
- Follow the instructions of the IC Director for further procedures.
- Within 48 hours, submit a written report of the incident through the immediate supervisor to the IC Director, by completing APHIS Form 259-R, Workplace Incident Report.
- Comply with instructions received from the IC Director.

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The IC Director should:

- Assure that medical assistance is available to the employee, if necessary.
- Immediately notify the Regional Director, Office of the Inspector General (OIG), USDA. Follow OIG instructions on actions to take, especially if re-entry to the premises is required.
- Immediately notify the employee's supervisor.
- Use state and local uniformed law enforcement personnel as needed.
- Keep the employee's supervisor informed of the investigation and results. The OIG will keep the IC Director informed of the investigation and results. The scheduling and degree of investigation by the OIG is determined by the severity of the assault.
- Submit a written report to the employee's supervisor upon completion of the investigation.
- Complete any necessary reports of injury in accordance with applicable APHIS directives.

4. Bribery

Bribery is a criminal violation of 18 U.S.C. 201. This law covers either the offering or giving of a bribe, as well as solicitation or acceptance of a bribe. Two elements must be met to constitute a bribe.

- There must be an offer of something of value.
- The person offering the bribe must intend that the employee receiving it will do something improper, or will fail to take proper action, violating his/her official duty.

4.1 Recognizing Bribery

Since every bribe situation has its own unique set of circumstances and scenario, it is possible that an employee may fail to recognize the overture for what it is – an attempt to corrupt that employee.

In order to determine whether a bribe has been offered, the employee must analyze each situation in terms of the individual they are facing, the language used, and the body language employed. The employee may be approached directly or indirectly.

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4.2 Reporting Bribery

Any APHIS employee who is offered a bribe or who believes that a bribe was offered, solicited, or accepted by another employee, shall:

- Respond in a noncommittal way to the person offering the bribe.
- Immediately call the USDA's OIG Hotline number at (800) 424-9121, to report the incident.
- Follow the OIG's instructions to avoid jeopardizing any subsequent investigation.
- Be prepared to cooperate in any investigation by providing information, documentation or testimony with regard to the matter.

As employees of a regulatory agency, we may find ourselves in a position of being offered gifts, gratuities entertainment and favors, some of which may seem innocent. However, acceptance of these seemingly innocent items may be regarded as employee misconduct. Additional information on bribery and principles of ethical conduct can also be found using these sources:

- The USDA Handbook on Workplace Violence Prevention and Response, Chapter 2, Responsibilities (<http://www.usda.gov/news/pubs/violence/wpv.htm>)
- The USDA Ethics Website (<http://www.usda-ethics.net/rules/index.htm>)

5. References

- [USDA Secretary's Memorandum 4430-2](#)
- [USDA Departmental Regulation 4200-001](#)
- [USDA Handbook on Workplace Violence Prevention and Response](#)
- [APHIS Form 259-R, Workplace Incident Report](#)