United States Department of Agriculture
Animal and Plant Health Inspection Service

Third-Party Inspection and Certification
Listening Session

Thursday, February 22, 2018
9:00 a.m. to 1:00 p.m.

USDA, APHIS
6501 Beacon Road
Kansas City, MO 64133
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MR. MIKE TUCK: Good morning everyone, and welcome to the Listening Session APHIS, Animal Care is holding to gather your comments to aid in the development of criteria for recognizing the use of Third-Party Inspection and Certification Programs as a positive factor when determining APHIS Inspection frequencies at facilities licensed or registered under the Animal Welfare Act.

My name is Mike Tuck, and I am from the APHIS Center for Animal Welfare and will be facilitating this session. One of my rules is to start on time. I already failed that, but we’ll try to proceed as we can.

In addition to this session, we previously have held sessions in Santa Clara, California and Riverdale, Maryland. We have future in-person sessions planned for March 8th in Tampa, Florida and Columbus, Ohio on March 22nd. We also will have a phone-in session scheduled for March 14th for those who are unable to attend in
person. Additional details for these sessions can be found on the APHIS, Animal Care webpage. Also, written comments can also be sent to regulations.gov, Docket ID Aphis-2017-0102.

For this session, my role as facilitator is to make sure everybody has an opportunity to express their views. Therefore, it is important and vital that everyone remains quiet during the talks. This includes turning your cell phone off or putting it on mute. If you need to take a call, please do so out in the hallway. Hopefully, everyone registered at the table and has indicated whether you would wish to speak. I will call you up to the podium, and you will have 5 minutes for your comments. I will stand to let you know you have 30 seconds left to finalize your comments. In addition, your comments will be recorded, and a transcription will placed on the Animal Care web page within a couple of weeks.

We are lucky today to have Dr. Betty Goldentyer, our Associate Deputy Administrator for Animal Care, and Dr. Nora Wineland, who is the
Director of the Center for Animal Welfare here in Kansas City. At this time, we are here to listen to your comments and will not be responding to any comments or any questions.

Deputy Goldentyre would like to give a short overview of the third-party program. Betty.

BETTY GOLDENTYRE: Thanks, Mike. And, thank you so much for making the trip out here. Between the weather and the security, we’re really glad you got through it all to join us today. It’s really a great opportunity for Animal Care to be able to spend some time listening to our stakeholders. So, we really value that opportunity, and we’re glad you’re here.

Bernadette Juarez, our Deputy Administrator for Animal Care, was going to be here. She got to the airport last night, and her flight was cancelled. So, there was no way to rebook. She sends her appreciation as well for all of you making the trip in here.

I’m not going to spend too much time talking because really this is a listening
session, and we mean it, but I did want to just spend a couple minutes clearing up a couple of areas of confusion or maybe some misunderstanding that we encountered at the first couple of listening sessions, and people have called us and that kind of thing with just some concerns. So, we’ll just kind of go through those quickly.

First, with this consideration of third-party certification as part of our decisions on the frequency of inspection. Animal Care has no intention of stopping our routine unannounced inspections. We have no intention of handing our inspections over to anyone. So, this is -- what you want to do is think about this as an additional factor, but in no way are we giving over the inspections to anyone.

Our purpose in doing this is to see if there is any way we could possibly leverage some of our resources -- some things that are out there in the community that help us know whether facilities are in compliance or not -- so that we can move resources where they are most needed.
And, everyone knows there are limited resources. We want to do this as efficiently as possible, most bang for the buck, and if there’s a better way to do that, that’s what we want to hear from you.

I want to make sure everyone is clear that whatever we might come up with would be completely voluntary on the part of the licensees and registrants, and also that nothing has been decided. So, we’re here to listen. We haven’t made any decisions. We don’t have any direction in mind. We have put together a committee of internal Animal Care employees. We’re going to read through all these transcripts again. We’re going to look at the written comments that have come in. We’re going to take everything we can that comes in to us, and then we’ll start thinking about what path might work for us, if any. But, there really have been no decisions made at this time.

And those are kind of the three most common misconceptions. So, hopefully we can kind
of start out those and can’t want to hear what everyone has to say. So, thank you again for coming.

MIKE TUCK: All right. Thank you, Betty. I would like to call three people up at the same time. Just have a seat here, and then you can come to the microphone. Bernadette Basham, Kevin Beauchamp, and Rodney Blosser.

And, I just want to remind everybody when they come up here to state your name and any affiliation you have, and also if you have written comments, please leave them with us at the table. Thank you.

BERNADETTE BASHAM: All right. Well, nothing like being first. Thanks. My name is Bernadette Basham, and I’m representing myself as a private taxpayer.

So, good morning, and thank you for allowing me to voice my request on the decision of whether the USDA should allow third-party programs to inspect facilities regulated under the Animal Welfare Act. I strongly oppose the use of the
proposed third-party inspections by the USDA, and here’s why.

Since 1966, the USDA has been charged by Congress with the enforcement of the Animal Welfare Act by conducting inspections and ensuring compliance with licensed and registered facilities including zoos, commercial dog breeders, and research facilities. So, for the past 50 years, we as a nation have valued the independent nature of these government-led inspections.

Any plan to shift federal oversight to third parties blurs the lines between the regulators and the regulated community and creates a dangerous environment of industry self-policing that will harm animals and shortchange taxpayers, like me, who expect the agency to carry out its responsibilities it promised me.

Additionally, the third-party programs will be businesses, even if they are made accountable to the USDA. There are critical differences between a government agency and a business. A government agency is more likely to
be transparent and work outside of the industry it is governing. A business is usually run for profit and needs to be part of an industry in order to succeed. As businesses, the third-party programs will need to hire people in their industry who have ties to the industry, resulting in a potential conflict of interest. They will have no incentive or reason for transparency. Some third-party programs may need to charge dues to keep up with expenses. This may impose a hardship upon the facility and create a club-like atmosphere that needs members to sustain itself instead of an independent body of professionals, such as the USDA.

Another crucial difference between a government agency and a private business is that business can and do influence laws. Many business organizations have political action committees with lobbyists who influence legislators and bills. If the third-party program can influence laws, it can never be an independent organization. Concern over weakening the Animal Welfare
Act and its enforcement has been strongly voiced by lawmakers, participants in regulated industries who want to be able to show that they have clean records because they take animal welfare seriously, and a wide range of private citizens, such as myself, concerned about good government. As a reminder, just eight years ago, as you well know, in 2010, an audit was done by the USDA Inspector General, and it exposed how flawed the system of self-policing is. The audit recommended that the USDA abolish the program altogether and resume its full oversight authority.

Congress and the American people have instructed the agency through the Animal Welfare Act to protect animals. We ask you to maintain the integrity of this responsibility and take into consideration the tens of thousands of animals who would be detrimentally impacted by the privatization and out outsourcing of federal animal welfare inspectors.

In summary, I ask you to oppose this third-party proposal. It is impossible to uphold
the Animal Welfare Act standards when your
organization is not the one doing it and
inspecting it. Only the USDA can do the job that
Congress has instructed it to do. Thank you.

KEVIN BEAUCHAMP: Kevin Beauchamp with
Missouri Pet Breeders Association. I just want to
be here to say that I believe that the states
should be the third-party inspections. They’ve
already got better rules -- Missouri does -- than
USDA, so they should be the first in line to be
the third party. That’s all I’ve got to say. I
really don’t like it to be a business because you
never know who they’re going to hire in or what
people is going to apply. They’ll be in there
inspecting us.

RODNEY BLOSSER: Rodney Blosser from
Missouri Pet Breeders Association. I am kind of
the same way. I don’t like to see the third party
come in if it’s going to be run by just the Humane
Society or something like that. But, the state is
doing their job. They’re the ones that are doing
-- they are a higher standard than a lot of the
other places have. So, I would say if they do
that, we’re in good shape. Thank you.

MIKE TUCK: Okay. Can I have Janet

Donnelly, Amanda Good, and Susan Kaufmann. Janet.

JANET DONNELLY: My name is Janet

Donnelly. I represent Oklahoma Pet Professionals,
the Breeder Leadership Council, myself personally
as a taxpayer, and as a long-time carer and raiser
of animals. I was raised on a farm. I learned
early on how to take care of animals, and I
learned the difference between animal welfare and
animal rights.

Everybody that raises animals know they
have to take care of their animals in order to
have a thriving business. There is no good
business model that dictates bad treatment of our
animals.

So far as the third-party inspection, I’m
also involved professionally with environmental
business. A number of years ago, the EPA was the
primary licensing agent for all water and
wastewater systems. Over time, they have
migrating toward giving states what they call primacy. So, every state through their Department of Health, Department of Environmental Quality, whatever department they decided to name themselves in order to take over the oversight of the water and wastewater systems -- they had to prove that they were capable of doing it, that they had the manpower, and they had the legislative support to make their laws equal to or greater than the Environmental Protection Agency.

During that transition, any facilities that were noncompliant with their EPA inspections were not eligible to be overseen by the state agencies. Over a period of time -- whether it was five years or ten years -- as those noncompliant participants gained compliance, then they moved into the mainstream oversight from the state.

I see this as a successful model. On the other side of that, EPA sends some of their money to the states to administer their programs, which that makes sense also because we can’t ask states to regulate without the federal funding to do it.
I have a lot of other thoughts on it. I don’t really have them put together yet. I will prepare thoughts and put it on the website. But, as for now, I think that’s all I have to say.

AMANDA GOOD: Hello. Thank you for the opportunity to speak today. My name is Amanda Good, and I’m the State Director for the Humane Society of the United States. I wanted to talk briefly today about animals and research.

The Association for Assessment and Accreditation of Laboratory Animal Care, AAALAC International, is currently the only private nonprofit organization that runs a voluntary accreditation and assessment program for facilities engaged in animal research. They do not use the Animal Welfare Act and corresponding regulations as the basis for evaluating research facilities and their animal care and use programs. Relying on them to fulfill requirements of the Animal Welfare Act inspection would not insure consistently with applicable laws and regulations. AAALAC’s Accreditation Program has
several disadvantages for protecting animal welfare when compared with the USDA inspections. Because they are a private organization, there is no public accountability or oversight of their decisions. The results of site visits at individual institutions are not available to the public, unlike USDA inspection reports. Additionally, the AAALAC Council on Accreditation are members of the research community.

Therefore, relying on AAALAC site visits and accreditation means that the community would be policing itself. Self-policing is an utter failure when it comes to protecting animals.

In contrast with annual USDA inspections, AAALAC only visits research facilities every three years, making their accreditation a wholly unreliable and insufficient gauge of current animal welfare concerns. These site visits are also scheduled in advanced as opposed to unannounced, giving facilities the opportunity to clean up or cover up potential areas of noncompliance.
If problems are identified during AAALAC site visits, not only are these findings not accessible to the public, but there are no consequences for the facility other than the possibility of losing accreditation. Because there is no way to review the findings of AAALAC site visits, we must rely on information from USDA inspections to determine the adherence to Animal Welfare standards by accredited facilities.

A review of recent USDA inspection reports reveals that AAALAC-accredited facilities have been cited for violations such as inadequate veterinary care, improper animal handling, and problems with institutional animal care and use committee oversight. Even after information is made available to the public about a research facility’s substandard conditions and animal welfare violations, facilities are able to maintain AAALAC accreditation.

It is clear that AAALAC accreditation cannot and should not be the substitute for thorough annual USDA inspections at research
facilities. USDA may wish to examine AAALAC site visit results and other AAALAC documents as part of inspections, but in order to fulfill the agency’s responsibility to enforce the Animal Welfare Act and its corresponding regulations, you must maintain a constant commitment to regular unannounced inspections at least annually, as required by the Animal Welfare Act. Additional inspections by USDA should be carried out for the facilities that have direct violations of impact on animal welfare. Thank you.

SUSAN KAUFMANN: Hi. May name is Susan Kaufmann, and I’m here as a concerned taxpayer. I’m also on the Board of Directors for a local animal shelter and rescue organization. So much of what I want to say echoes what our first speaker said, so I’m just going to focus on a couple of additional points to what she said.

The USDA has in its own past experienced -- sorry, let me start again. The USDA has its own past experience to learn from in delegating animal welfare monitoring to private third-party
inspectors. Under the Horse Protection Act, inspections at Tennessee Walking Horse Shows are conducted by private inspectors who are industry employees and exhibitors. These inspectors were supposed to help eliminate the cruel practice of soring horses, but instead have served mostly to help cover up its continued use. One can easily see similar problems arising if federal inspections of puppy mills were substituted for inspections by American Kennel Club, an organization that collects dues from its accredited members and routinely fights against states and federal laws designed to improve the living conditions for dogs. We already know of instances where dog breeders have failed USDA inspections despite remaining accredited by the AKC.

And, I echo this gentleman’s point that it does make a lot of sense at the state level, as long as it’s a government entity working with the USDA to enforce the Animal Welfare Act. That makes a lot of sense to me. I hadn’t really
thought about it that way.
So, I think it’s really more of having
the inspectors be those who are actually making
money in that same industry. So, that would be my
concern. Thank you very much the opportunity to
talk with you all.

MIKE TUCKER: Okay. Could I have Steve

STEVE KRUSE: I’m Steve Kruse, and since,
I guess, they’re not going to give inspections
over to anyone, what’s the point of having third-
party inspection and costing taxpayers more money?
And, also in the state of Iowa, APHIS doesn’t care
what our state says anyway. I’ve already had a
state veterinarian out there, the compliance
officer, and a livestock specialist, but they
could care less what they say because APHIS is
going to have the last say. So, why waste
taxpayer’s money with third-party inspection if
USDA, APHIS has last say anyway? It’s just going
to cost more money.

GARY PHILLIPS: I’m going to do the best
I can. This ice storm brought me more than just ice. My name is Gary Phillips, and I’m with the Oklahoma Pet Professionals. I’m also a taxpayer and a professional breeder and have been for 20+ years. I’ve raised animals all my life.

I’m kind of, like Kevin said, in favor of states doing the third-party inspection. I also think that they should inspect all of the entities that are dealing with the puppy industry such as the rescues and anyone -- anyone involved in it -- because they become an unlicensed broker at that point. At this time, I think I’m done. Thank you.

MIKE TUCK: Okay. Can I have Bill Jordan, Lynne Rees, and Susie Reid. Lynne Rees and Susie Reed. Is Susie here?

LYNNE REES: Hello. My name is Lynne Rees. I’m from Kansas City, and I’m an advocate for humane treatment of all animals, and I’m a private taxpayer and citizen.

APHIS has proposed the use of third-party inspectors for APHIS-licensed facilities
presumably for budget and staffing reasons. I want to address the issue — this issue, specifically talking about puppy mills or commercial dog-breeding operations.

I guess we’re all familiar here in the room of what we are referring to when we’re talking about commercial dog breeding or puppy mills. But, these puppy mills many times — many, many times are poorly run. They lack basic care and sanitation, and the dogs within them suffer from illness, injury, and disease in spite of the Animal Welfare Act and the USDA and APHIS oversight and inspection process.

Because sick and diseased puppy mill dogs are sold directly or through pet shops or via the Internet, 250 municipalities have banned the sale of commercially raised puppies and kittens in pet stores. In October, California became the first state to enact such a ban, and half a dozen other states are considering similar legislation this year. There are also 22 states that have enacted puppy lemon laws to protect consumers who have
paid for healthy puppies but instead have received a sick or diseased puppy, which then caused them to spend lots of money to try to make this puppy well.

It should also be noted that USDA’s removal of the Animal Welfare Inspection Reports from its website has further placed the public in an untenable position, which has further encouraged such measures as I have just discussed.

My point here is that third-party inspectors is not a solution to the failure to provide proper oversight and inspection of the Animal Welfare Act. In fact, it will further exacerbate a system that has failed to ensure the enforcement of the Animal Welfare Act.

The largest third-party inspection and certification program is run by the American Kennel Club, or the AKC. The AKC used to be thought of as a champion for dogs and was associated with quality dog breeding. Today, it is so closely tied or aligned to the industry, that it is not any longer impartial. It routinely
opposes any and all regulation of dog breeders.

A 2015 overview of AKC lobbying reveals that the AKC has opposed more than 150 different state bills designed to regulate dog breeders or require the most basic standards of care of dogs.

The reason for this is clear. The bulk of AKC revenue is made up from registering of dogs. Every time there’s a litter born, a dog or an individual puppy is registered with the AKC. They receive a registration fee. Puppy mills are, in fact, their customers -- the AKC’s customers -- and the AKC makes a lot of money registering their litters and puppies. Allowing an entity that profits from an industry to be involved in the enforcement of the Animal Welfare Act completely undermines the federal regulation, and I oppose it vehemently.

Likewise, allowing an industry group, like a professional dog breeders group or a national dog club, also is inappropriate. An example is of the Missouri Pet Breeders Association right here in Missouri. Their
president, according to the USDA’s own records, has been warned repeatedly for violating Animal Welfare Act regulations, and an official complaint was lodged against him for failing to allow federal inspectors to inspect his kennel. Numerous times he has failed to allow inspectors on his property. When his kennel was finally inspected, two emaciated Boxers were found, a Bulldog with a mass around his eye, and a Lhasa Apso was weak and lethargic. And, this is the leader of the most visible pet breeder association in Missouri -- one that hundreds of members belong to.

Many breeders belong to industry groups, which one would think would mean that they are conscientious breeders; however, many of these same breeders have subpar records and play a part in lobbying against stronger laws or enforcement of existing laws. We must not place Animal Welfare Act regulatory oversight and enforcement in the hands of industry groups or the AKC for the above reason.
In summary, my main point is to keep the public’s confidence in the integrity of the USDA and APHIS oversight and inspection and to ensure that animals are cared for humanely and in accordance with the Animal Welfare Act, we must have the most impartial inspection process possible, and this means one which the inspectors have no financial, professional, or even social ties to the operations they are inspecting. Thank you.

MIKE TUCKER: Okay. Can I have Angela Shubert, Kevin Stamps, and Delcianna Winders. Angela.

ANGELA SHUBERT: I’m Angela Shubert. I am a taxpayer and a concerned citizen. I have been -- I have provided a packet with evidence to support my findings regarding the info on the third-party request. I’ll be brief on questions 1-4, and I’m mainly going to address and offer solutions within the 5th request.

There is no legal benefit for the use of third parties other than bragging rights as pet
stores or online sale sources would not be able to use it, as they are required to use APHIS results only. There is an obvious risk of animal rights groups infiltrating the program. Third parties are highly susceptible to corruption. But, the utmost concern should be the biohazards resulting from ill-trained inspectors.

My first suggestion to question 5 is to offer the option to pay double our fees as to receive two professional APHIS inspections a year. I’ll have the security of a professional inspector, and it looks good on paper.

The second this is, this program has got to stop using the word violation. We need another way or word in which to grade our performance. I suggest a five-star merit-based system like used to grade a restaurant.

The third thing is USDA is failing to protect its inspectors and licensees by allowing animal rights groups to continue to violate the ___ Act with false advertising about the Animal Welfare Act, USDA breeders, zoos, circuses, and
our food animals. This is creating a mob mentality toward our legal entities, leading to terroristic activities. We now live in fear.

Why?

The fourth thing is there has been uptick of illegal seizures from rogue animal rights groups who are stealing our animals under the guise of neglect and cruelty. Without black and white definitions of these words, their opinions are all that’s needed to violate our 4th Amendment rights, mishandle, kill, and sell our seized animals before we receive a day in court.

In my packet, I have provided language for an illegal seizure bill. I believe that if you implement this language into federal law, more unlicensed kennels would participate in the USDA Program as to be protected from the animal rights activists.

The fifth thing is APHIS needs to actively address the current proposed bills in Congress designed to revise the Animal Welfare Act standards. The first one is the WOOF Bill that
violates the 14th Amendment. The second bill is called the Puppy Protection Act and is based on Purdue studies that was paid for by HSUS and USDA to prove that Animal Welfare Act standards were inferior. Have you read the results for these studies? Most of the findings favor the current Animal Welfare Act. The rest of the words used may or could and is as inconclusive as I may get cancer from drinking milk.

These animal rights groups are trying to harm our animals by implementing their beliefs of what they feel is more humane care while completing ignoring veterinarians and scientists. The proposed Canine Care Certification Program is an attempt to monopolize the industry. It is financially unsustainable and medically unsound. Therefore, it’s only a rouse of superior canine welfare.

Why are we licensed and what is the purpose of this program? Is it for animal welfare and public protection? As I am for animal welfare, I want to address the 6th thing. APHIS
must now mandate rescue facilities to become Animal Welfare Act compliant and provide the same humane standards of care for their animals that we must uphold, as they are now meeting the requirements of breeding and selling their animals online and in pet stores around the US. This Act alone will greatly participate -- greatly increase the participation in your program. USDA breeders are responsible for providing less than 350,000 regulated pets annually.

Did you know in 2017, Americans acquired 3.2 million pets from shelters and 4.5 million pets from unregulated rescue facilities? Did you know that because these rescue facilities have no oversight and no care standards, there has been more animal cruelty rates on rescues than backyard breeders? Did you know in 2016, rescues were allowed to import over 574,000 dogs from unregulated foreign sources into the United States? This unchecked importing is bringing foreign diseases -- refer to the links I’ve provided -- as they have no enforced quarantine
procedures, creating an urgency to protect our public and our own animals from zoological diseases.

I have noticed that USDA posted a reminder of proper import procedures, and I am hopeful that it will be enforced. Is it your objective to improve or close this program? You answered that question, and I personally would like to continue this, or do we just need to call ourselves rescues to be exempt for everything? Thanks.

KEVIN STAMPS: Good morning. My name is Kevin Stamps. I’m a taxpayer and concerned citizen. I’d like to thank everyone for the opportunity to address this panel -- this listening session in this issue.

Specifically, I’d like to address the proposal on whether the USDA should recognize inspections by third-party programs when determining the frequency of federal inspections for facilities regulated under the Animal Welfare Act.
There are many, many accreditation programs for zoos and sanctuaries with as many differing standards and implementation, and the list continues to grow. With so many of these programs, the quality and professionalism can vary drastically, and while many of them have high standards, none of them should be considered a replacement for inspections conducted by federal Animal Care inspectors and Veterinary Medical Officers who are trained in interpreting the Animal Welfare Act. Accreditation should complement USDA enforcement, not replace it.

Any time an industry can police itself, the accrediting organizations naturally have a built-in industry bias, and while some are more successful than others at mitigating that bias, none are as impartial as inspectors from a federal agency.

Under the proposal, bias would also be amplified since an accreditation inspection would take on new meaning -- not only determining whether a facility gains accreditation, but also
the possibility of impacting whether a facility should retain USDA licensing or face other enforcement actions. Accreditation committee members would be less likely to take punitive actions against a colleague if doing so would contribute to federal fines, warnings, or surprise inspections.

Some accrediting organizations oppose proposals for stronger Animal Welfare Act standards that were, in fact, later adopted. This also affects the bias. For example, those related to public handling of tiger cubs. The USDA determined that licensees who do not house neonatal wild cats in a controlled sanitary, temperature-controlled environment and expose them to public contact are considered noncompliant with the veterinary care and handling requirements of the Animal Welfare Act. Can we really expect an accreditation organization that opposed these stronger standards to strictly monitor such interactions and requirements?

Accrediting organizations use the appeal
of less federal oversight as a marketing tool to generate greater membership. To gain a wider audience, these accrediting organizations may also lower their standards so that more facilities can become accredited. We have already seen accrediting organizations delay implementation of stronger standards to accommodate facilities that refuse or fail to comply. And, this is honestly my largest concern when it comes to this, is that rather than holding everyone accountable to the highest standard, we will end up representing the best practices and standards of the weakest accredited facilities with unsafe and outdated practices.

Unlike USDA inspections, third-party accreditation inspections are conducted on scheduled dates after a facility has had months to prepare. This does not capture a realistic picture of day-to-day operations. Accreditation inspections are also based on the individual accrediting organization’s standards rather than Animal Welfare Act standards. Further, there may
be a three- to five-year gap between accreditation inspections, and this gap is insufficient to determine a facility’s ongoing AWA compliance.

Despite accreditation, there are countless examples of facilities with troubling records of dangerous incidents, poor animal care, abusive handling, and Animal Welfare Act violations. Third-party inspection, which is essentially self-policing, would lead to the lack of accountability, a lack of transparency, and failure to ensure adherence to the Animal Welfare Act.

I’m also concerned -- a little off-book here -- I mean, everyone in this room is a pretty information citizen, especially on this issue. I mean, that’s why we’re all here. But, your average Joe is not, and if we put more meat behind these third-party inspections and roadside zoos and bad actors out there, who will slap stickers on their doors and logos on their websites saying they’re accredited by some organization that to your average citizen may mean a lot more than it
really is and paint their own picture as well.
Thank you.

DELCIANNA WINDERS: Hi. I’m Delcianna Winders. I’m Vice President and Deputy General Counsel for Captive Animal Law Enforcement with the PETA Foundation. I’m also a visiting scholar at the Elisabeth Haub School of Law at Pace University, and over the last several years, my primary area of research has been the Animal Welfare Act. So, I’m here today both in my capacity as an expert and scholar on the Animal Welfare Act and its enforcement, and also on behalf of PETA’s more than 6.5 million members and supporters to strongly opposed consideration of third-party accreditation programs when determining Animal Welfare Act inspection frequency.

The USDA has specifically asked for comments on the disadvantages of third-party programs and the risks associated with those programs, and these disadvantages and risks cannot be overstated. As Senator Mike Monroney of
Oklahoma stated at the 1966 committee hearing that passed the Animal Welfare Act, the reason the statute was necessary in the first place was, “the shocking failure of self-policing by the medical community.” Senator Monroney expressly discussed Congress’ rejection of suggestion that deference should be given to the Association for the Assessment and Accreditation of Laboratory Animal Care Internation, or AAALAC. Specifically, he underscored that AAALAC, “seems hardly adequate to the problem, especially since the inspectors would be drawn from the same scientific community involved in being inspected, a situation where there would be no serious impartiality.”

AAALAC is no less partial today than it was 52 years ago, and similar conflicts of interest plague virtually every other program that will be clamoring for recognition and deference if USDA opens this floodgate. Just as AAALAC is comprised of regulated research facilities, the Zoological Association of America is comprised of regulated exhibitors and the American Kennel Club
is comprised of regulated breeders. These self-interested parties cannot seriously be expected to provide rigorous oversight. Animal Care, more than anyone else, should know this after its experience allowing third-party inspections under the Horse Protection Act.

APHIS has also asked for comments on what other methods it could use to encourage facilities to achieve and sustain compliance with the Animal Welfare Act and where there is the greatest opportunity for APHIS to improve the consistency and effectiveness of its Animal Welfare Act program. There are a number of things that APHIS could do here -- most of them things that the USDA’s own Office of Inspector General has urged for decades.

In 1992, the OIG found that the USDA was failing to ensure humane care and treatment -- the core stated purpose of the Animal Welfare Act -- in large part because licenses were renewed for facilities known to be in violation of the Animal Welfare Act. The OIG urged the USDA to ensure
that, “facilities are in compliance with the intent of the Animal Welfare Act prior to the renewal of licenses.” But, 26 years later, the agency has still failed to do so. It routinely renews licenses even though it knows the applicants are in violation of the minimum standards. Conditioning license renewal on compliance would go a very long way toward incentivizing compliance and increasing the effectiveness of the Animal Welfare Act much, much further than decreasing inspection frequency ever possibly could.

Similarly, for decades the Office of Inspector General has been urging the USDA to make Animal Welfare Act penalties meaningful. Despite the availability of significant statutory penalties, the USDA routinely discounts fines to just pennies on the dollar, even for repeat and egregious offenders. The regulated community views these meager penalties as nothing more than a cost of doing business, as the OIG has found repeatedly. Unsurprisingly, this fails to
incentivize compliance.

In addition, the vast, vast majority of cases in which the USDA has determined enforcement action is warranted don’t result in any penalties. Warnings are by far the most prevalent form of “enforcing the Animal Welfare Act,” and were more than 90 percent of all Animal Welfare Act enforcement actions taken in fiscal year 2017.

As I’ve written about in an article that will be published shortly by the Ohio State Law Review, these warnings frequently fail to motivate compliance, and even when the warnings are disregarded and violations continue, the repeat violators very rarely face meaningful enforcement action.

So, if the USDA is serious about increasing compliance, consistency, and effectiveness in the context of the Animal Welfare Act, it will address the longstanding enforcement problems outlined by the Office of Inspector General in audit reports released in 1992, 1995, 2005, 2010, and 2014. Rather than spending time
on actions like reducing inspection frequency
based on industry-beholden accreditation programs
that are only likely to aggravate these issues, I
urge the USDA to take its charge seriously to
ensure the humane care and treatment of animals.
The agency can start by carefully reviewing the
OIG audits and implementing some of the many
specific recommendations to improve Animal Welfare
Act enforcement. Thank you.

MIKE TUCKER: Okay. Could I have Gregory
Woody, not here? Barb York, Ron Miller, Matt
Thompson, and Ann Quinn all please come up.

RON MILLER: My name is Ron Miller. I’m
here because everybody else is here for the same
reason -- to try to look at this as a taxpayer and
as a funding situation that will benefit all and,
you know, I just came in this meeting to see and
find out what’s happening in our industry and
everything.

And, I guess the first thing I have to
state is whenever they talk about the third-party
inspections, you know -- in our state, it’s the
toughest by the state regulators as opposed to USDA. And so, if they’re tougher, take the toughest one that’s going to be the most critical one to do the inspection. But, when it refers to PETA and HSUS and the type of things that they try to publicize when they were talking about putting sad-eyed dogs or rescue dogs and things like that on TV to gain support whenever -- those dogs are not representing the industry at all. They’re representing somebody’s dog that has been dumped, and a lot of times those have been rescue dogs that have been bought, sold for profit, placed in homes, and then they just don’t like them and don’t care for them, and that’s where they come back with what you see.

In our facilities in our industry, it does not profit us any to be harmful to our dogs, to be unclean to our dogs, to be unhealthy conditions. And when you start thinking about those dogs in most people’s apartments -- it’s a 2x3 Kennel Cab that they put those animals in and say stay there until I get back from work 10 or 12
hours later with no food, no water, no toys, no roommates to be housed like that compared to a kennel facility where they’ve got two or three roommates, they’ve got a lot bigger exercise runs, they’ve got toys, bones, and things like that they can play with. I want to really declare the fact of where are they really being mistreated when they’re locked up like that for 10 or 12 hours. But, it’s okay because they’re pets for people, you know, but those dogs are not being okay because how would you like that same standard for your own life? When they start doing that and thinking that way instead of seeing where they’re really coming from, we need to recognize who is being better taken care of through the facilities and through the industry that we represent. And I think that the stringent state regulations -- if they’re more stringent than the USDA, give the stringent one the opportunity to do the inspection. It wouldn’t matter what state it is. But, I would consider that all are the same as far as USDA from state to state if they’re equal --
they’re supposed to be because it’s the United States Department of Agriculture, not State Department of Agriculture. And so, I think that that’s what we need to look at when we think of third-party inspections as to who represents the toughest inspection for that state. Okay. Thank you.

BARB YORK: Hello. Most of you know who I am. I am Barb York. I am here today commenting on the third party, and I am representing the Missouri Animal Husbandry Association, the Professional Pet Association, as well as Missouri Federation of Animal Owners.

There have been a few statements made here that I want to address. Professional breeders who are licensed and regulated by USDA as well as state are not puppy mills. If you want to call a puppy mill a substandard facility, that is different. That is someone who is not doing their job and are not regulated. I believe USDA as well as the state of Missouri are doing an excellent job. I believe the professional breeders in the
state are doing an excellent job. I just find a problem with people at HSUS and PETA doing the same thing. They say all the deplorable things that we’re doing, the things that should be done, and yet, they do not tell the truth about they are not regulated by USDA.

Shelters, rescues, humane societies are not registered and regulated by the USDA. They are in the state of Missouri, which we are very thankful for. If these entities want and are truly concerned about animal welfare, then they, too, should be pushing the issues that all of them should be regulated also.

When it comes to the pet stores, I believe that USDA will do something about that because part of the Animal Welfare Act is pet stores have -- anybody that sells to your pet stores have to be regulated, so that will include them.

The statement about AKC as an inspection group -- no, they are not. They are a registry. They are not an inspection facility. Our
inspectors are USDA and state.
The other thing I want to speak about --
I can go on and on and on. I’ve raised dogs for
17 years. I no longer do that because I believe
what I do today is more important to protecting
the rights of everyone to raise animals in humane
fashion.

With that, on our third-party
inspections, I believe that our third party -- for
at least the state of Missouri -- should be our
state agriculture program, which is ACFA. I
believe they are -- they’re a government group,
obviously state, but they do basically the same
thing. Yes, our regulations are stronger, but
they do do unannounced visits, and I believe
that’s the way to do it. I believe one of the
things that USDA could look at is instead of
seeing those facilities that do it right over and
over and over again, and truly work very hard at
what they do, those facilities that do not have
direct violations and repeat over and over that
maybe they’re having a little bit of an issue -- I
believe those people should be rewarded by being —
- by using state inspections and their reports —
working closely with Animal Welfare Act or USDA —
I think would be the best way to go. They ask for
incentives. Incentive to me would be that, okay,
you don’t see them two, three, four times a year.
If the inspections are good, then they rely on the
state program to make this is being done
correctly. But, I do believe that our breeders in
the state of Missouri are professional, and I
believe that is because of 1) our breeders are
very good, and 2) our state program also does a
good job. Thank you.

ANN QUINN: My name is Ann Quinn. I’m a
proud citizen of the state of Missouri. I raise
puppies, and I’ve raised horses all my life, and
I’m going to tell you that we have the best state
program of anyplace I have been, and I traveled to
nine states last year. I am the Director of
Publicity for Missouri Pet Breeders Association,
and I find great offense to the attack on our
President. The facts that were stated are not
true. I was with this gentleman right up through
the appeals process, and I can tell you that if a
booger in an eye or a toenail that’s too long is a
response to write up a direct violation that can
put someone on the hundred most list, we’re in
trouble, folks. Tomorrow it may be your kennel.

Since in Missouri, we have the strictest
laws with the exception of Pennsylvania, in
Pennsylvania they’re pretty much related to
humidity and to reporting yourself if you have a
crisis -- that’s the only extra ones -- I very
much believe that Matt Rold and his crew and the
state of Missouri are capable for monitoring all
of our kennels with the assistance of the
veterinarians that come to our kennel annually and
put their hands on every dog. I resent totally
the rescues, the PETA people, the Humane Societies
that have no regulation -- none. In the state of
California, we’ve put the breeders out of business
there so we can import dogs with diseases that we
now have never had in the United States. So, was
this law good?
I know of a situation in Florida right now where the rescues are trying to take a bunch of dogs. They may get them. They’ll probably be sick.

Folks, my feeling. I’m a taxpayer. I am a licensed USDA, state, and a former teacher of special education children. I don’t ever want a puppy to go into the home where there are children that get sick and dies. Where is the most possibility that might happen? From unregulated facilities. We are regulated in Missouri. Puppy mills -- there are no regulated puppy mills in the state of Missouri. Yes, there are lots of unregulated facilities -- some of them are research facilities. I sit at the auctions. You buy bred dogs. What do you do, knock them in the head when they come, or do you sell them? In Missouri, with our state inspectors -- very well trained -- and our annual veterinarians, that’s all we need because when USDA comes along, their laws aren’t quite as strict, and that is a second inspection.
Now, if Matt and his crew or our veterinarian has a problem and they need more muscle, then call the USDA. But, if we have to stretch our monies, that’s what we need to do. Take the state of Missouri -- we’re good, and we will continue to raise the best puppies in the United States, and our transporters will transport them according to law, according to the USDA regulations, and there won’t be any children tonight crying because the puppy their parent picked up for them at the rescue died. Thank you.

MATT THOMPSON: My name is Matt Thompson, and I come here today as an individual citizen, not representing any organization. I came here to listen. I had no intention to speak, but some of you brought up some issues, which I thought I would address, because I believe there is an assumption on the side of all the people on all different sides of these issues being discussed that I believe is wrong. So, I think there is something I have to say specifically about one issue that I think most of the people in this room
might find quite shocking.

It’s my belief -- I believe in the rule of law, not in the rule of man, and I believe it’s very important that we have a system of laws that apply equally to all and that the laws are clear, and that if you violate those laws, you’re punished. A lot of times, unfortunately, today, we see that laws and regulations contradict each other. So, what I want to address today is this issue of primacy. I’ve heard it discussed several times today, primacy.

To me, the Constitution -- the states are sovereign states, and they signed onto the Constitution and became a party of the Union. They became party to the United States of the American and the Constitution of the United States has primacy over other laws, in my opinion. And the Constitution grants the federal power -- the federal government certain powers, and it reserves the rest of those powers to the states. So, no state has the power to declare war, no state has the power to decide about naturalization issues,
and no state can make treaties with foreign
governments. These are powers expressly granted
to the federal government and prohibited to the
states. But, all powers not expressly granted to
the federal government are reserved to the states,
and that includes regulating animal handling.
So, to me this question about primacy --
its not up to any agency of the federal
government to decide that the states can have
primacy on this issue. The states have primacy.
If the federal government comes in there to
regulate animal handling, it is at the invitation
and blessing of the state government. And that's
clearly the rule of law, and any Federal Congress
in 1966 -- the only power that the Federal
Congress of 1966 had was granted to it by the
Constitution. Therefore, the Constitution has
primacy, and they cannot pass a law that's in
violation of the Constitution, and the
Constitution grants primacy on this issue to the
state. Thank you.

MIKE TUCK: Okay. Can I have Daryl
Graves. All right. Are there any other people here who would like to speak who haven’t registered? All right. Well, that concludes our listening session then. Please drive safely home. I know the weather out there is pretty iffy. We appreciate your interest and comments today. Thank you and have a great day.

(Listening session concluded -- off the record.)
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