



May 2018

Incentives for Identifying, Reporting, Correcting, and Preventing Noncompliance with the Animal Welfare Act¹

Animal Care is committed to encouraging dealers, breeders, exhibitors, research facilities, carriers, and intermediate handlers to proactively identify, report, correct, and prevent issues involving animal welfare that may occur at their facilities. Animal Care inspectors are available to engage with facilities whenever they discover a potential noncompliance, and offers a variety of other tools to assist facilities with addressing compliance challenges, such as compliance support services and learning materials. In addition, to provide incentives for facility operators to take these measures, Animal Care will not cite on an inspection report an Animal Welfare Act (AWA) noncompliance that is identified outside of the inspection process if the criteria in this Tech Note are met.

Benefits

- ✓ Recognizes facility operators that establish and maintain programs to routinely monitor compliance and take appropriate and timely action when noncompliance occurs.
- ✓ Encourages facility operators to minimize costs and the risk of harm to their animals by proactively identifying and swiftly fixing noncompliance.
- ✓ Promotes open, two-way communication between facility operators and Animal Care personnel.
- ✓ Allows Animal Care to focus its inspection resources on facilities with unresolved compliance challenges.

Criteria

Non-Critical Noncompliances

Animal Care will not cite on an inspection report a noncompliance, other than a critical noncompliance, if the facility:

- Timely discovers the noncompliance using its own compliance monitoring program (*i.e.*, the facility identifies it on its own and not because of a local, state, federal or third-party inspection program), AND
- Immediately takes appropriate corrective action and swiftly establishes measures to prevent recurrence.

¹ This Tech Note consolidates, refines, and supersedes Animal Care's previously-issued guidance on this topic.

Critical Noncompliances

Animal Care will not cite on an inspection report a critical noncompliance occurring outside a routine or focused inspection, if it does not constitute a “repeat” noncompliance and the facility:

- Has no repeat or critical noncompliance on any inspection report for the relevant approved site during the preceding 12 months, AND
- Timely discovers the critical noncompliance using its own compliance monitoring program; AND
- Has not voluntarily reported a noncompliance that falls within the same section and subsection of the AWA regulations and standards during the preceding 24 months for the relevant approved site; AND
- Immediately takes appropriate corrective action and establishes measures to prevent recurrence; AND
- Promptly reports the incident (*i.e.*, generally within 5 days of discovering a noncompliance), orally or in writing, to its Animal Care inspector or any Animal Care office and cooperates with the inspector as he/she reviews the incident.

When a facility reports an incident, Animal Care will first assess whether it is an AWA noncompliance. The inspector may discuss the outcome with his/her supervisor and, as needed, will reach out to the facility operator by phone or visit the facility for additional information.

- If the incident does not involve a noncompliance, Animal Care will share its assessment with the facility operator and conclude its review.
- If the incident does involve a critical noncompliance and the facility meets all factors above, Animal Care will not document the noncompliance on an inspection report and will make a note of the voluntary-reporting using the facility’s customer number, the date the voluntarily-reported incident occurred, and the section and subsection of the applicable AWA regulation or standard. Animal Care will share its assessment with the facility operator.
- If the incident does involve a critical noncompliance and the facility does not meet one or more of the factors above, the Animal Care inspector will document the noncompliance on the inspection report during the next inspection involving the relevant approved site and, if not corrected and if not a repeat noncompliance, include a correction date or indicate that the issue has been corrected in the inspection report.

Questions and Answers

Q. What is the purpose of a compliance monitoring program?

A. The purpose of a compliance monitoring program is to ensure a facility is regularly observing its facilities, animals, and records, at least as often as timeframes prescribed by the regulations, to discover, correct, and prevent potential noncompliances with the AWA and minimize their impact on a facility and its animals. Establishing a compliance monitoring program can also help a licensee or registrant understand and apply the regulations and standards at their specific facility. For example, the regulations require that rabbits be provided sufficient potable water daily (except as might otherwise be required to provide adequate veterinary care), and the daily observation of rabbits (and all other animals) to assess their health and well-being. Therefore, a facility should check each rabbit enclosure at least on a daily basis to ensure the watering system is functional, there is sufficient potable water, and no rabbits are exhibiting signs of dehydration.

Q. What does Animal Care consider to be timely self-discovery of a noncompliance?

A. A facility that identifies a noncompliance in a timely manner discovers the noncompliance during the timeframe established in their compliance monitoring program. For example, the regulations require that primary enclosures for nonhuman primates must contain the nonhuman animals securely and prevent accidental opening of the enclosure. Many compliance monitoring programs include a morning check of the animals which also fulfills the requirement for daily observation of the animals. If a nonhuman primate were to have escaped from the primary enclosure during the night and that noncompliance was discovered during the observation the next day, it would be considered timely self-discovery.

Q. What are some examples of a direct noncompliance or other critical noncompliance?

A. The definitions of a direct noncompliance and critical noncompliance, along with numerous examples of a direct noncompliance, are provided in the Animal Welfare Inspection Guide, which is available on our website at: https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf.

Q. What are some examples of a “repeat” noncompliance?

A. An explanation of “repeat” noncompliance and the factors Animal Care inspectors consider when determining whether a noncompliance may be “repeat” are provided in the Animal Welfare Inspection Guide, which is available on our website at: https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf.

Q. What information should I include in a report to Animal Care regarding a self-discovered, unpredicted outcome that may result in noncompliance with the AWA?

A. As noted above, a facility may report the incident orally or in writing to its Animal Care inspector or any Animal Care office. Information provided might include the nature of the incident, when it occurred, the impact on the animals, the number and type of animal(s) impacted, and the corrective and preventative measures taken.

Additional Information

For more information, please contact:

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