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Enforcement Summaries

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Investigative and Enforcement Services' Enforcement Summaries provide a summary of the enforcement actions APHIS has taken to help promote compliance with APHIS-administered laws. It is important to recognize that these enforcement actions are just one tool APHIS uses to promote compliance, and this tool is only one aspect of the Agency's mission to protect the health and value of American agriculture.

APHIS has a number of available options to resolve a case in which the evidence substantiates that an alleged violation has occurred. These options include issuing regulatory correspondence (such as an official warning) to the individuals or businesses involved in the alleged violation; offering to resolve the case through a stipulated penalty; and referring the case to the USDA Office of the General Counsel for formal administrative action before the USDA Office of Administrative Law Judges or referral to the U.S. Department of Justice. The Enforcement Actions tabs below describe the various types of enforcement actions APHIS took during fiscal year 2022 and show the distribution of those enforcement actions among the APHIS programs.

Enforcement Actions and Regulatory Correspondence

APHIS Overall

APHIS Investigative and Enforcement Services' open inventory of cases involve investigative, enforcement, and regulatory support services for the four APHIS programs it serves, as well as for agricultural quarantine inspection activities carried out by the Department of Homeland Security's Customs and Border Protection. A case may involve one or more individuals or businesses.

Fiscal Year 2022. In fiscal year 2022, APHIS Investigative and Enforcement Services opened 1,389 new cases; issued 505 warning letters; entered into 672 pre-litigation settlement agreements resulting in the collection of \$1,939,534 in stipulated penalties; and obtained, through Office of the General Counsel action, Administrative Orders assessing \$181,750 in civil penalties.

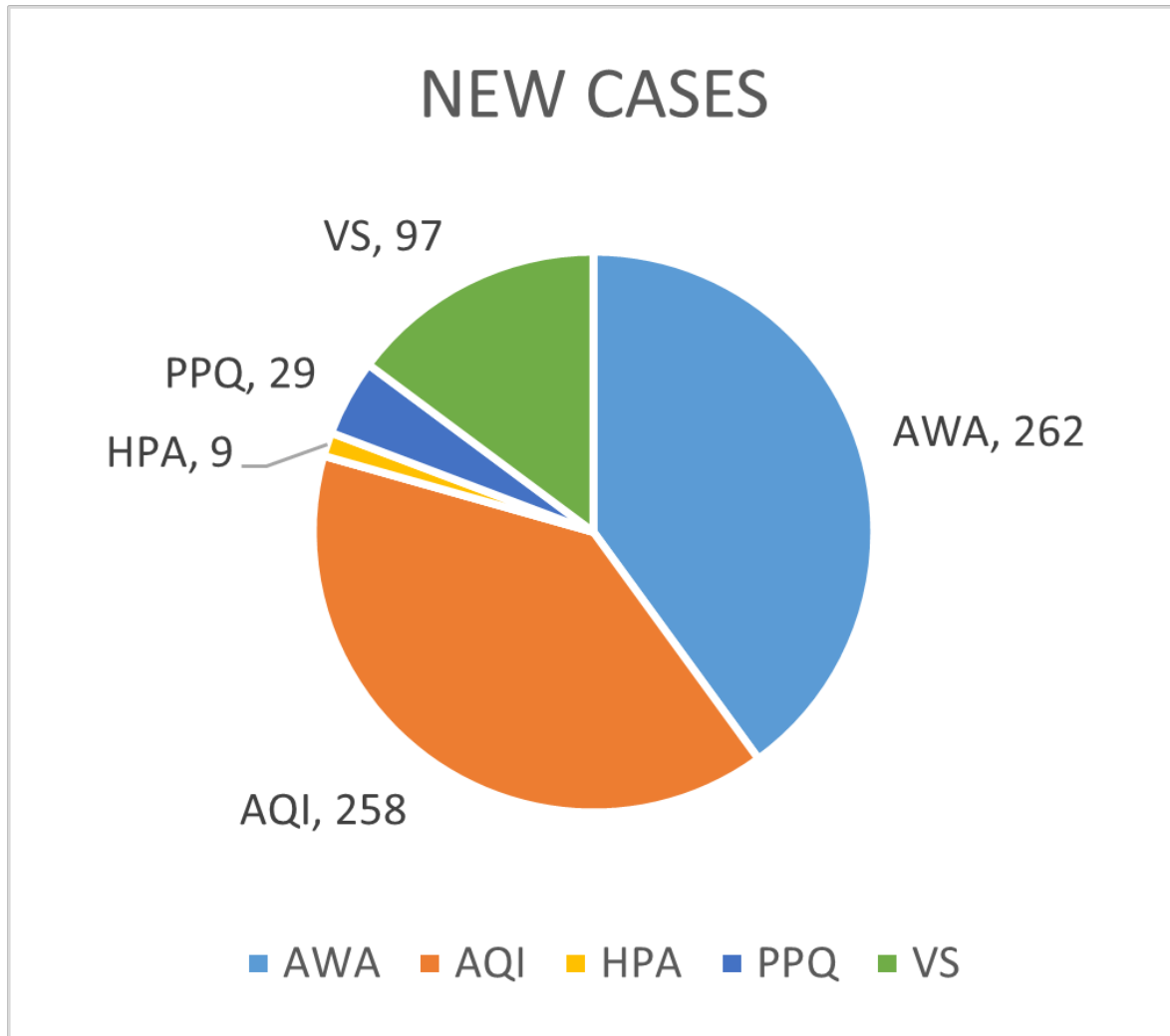
New Cases

APHIS Investigative and Enforcement Services cases involve investigative, enforcement, and regulatory support services for the four APHIS programs it serves, as well as for agricultural quarantine inspection activities carried out by the Department of Homeland Security's Customs and Border Protection.

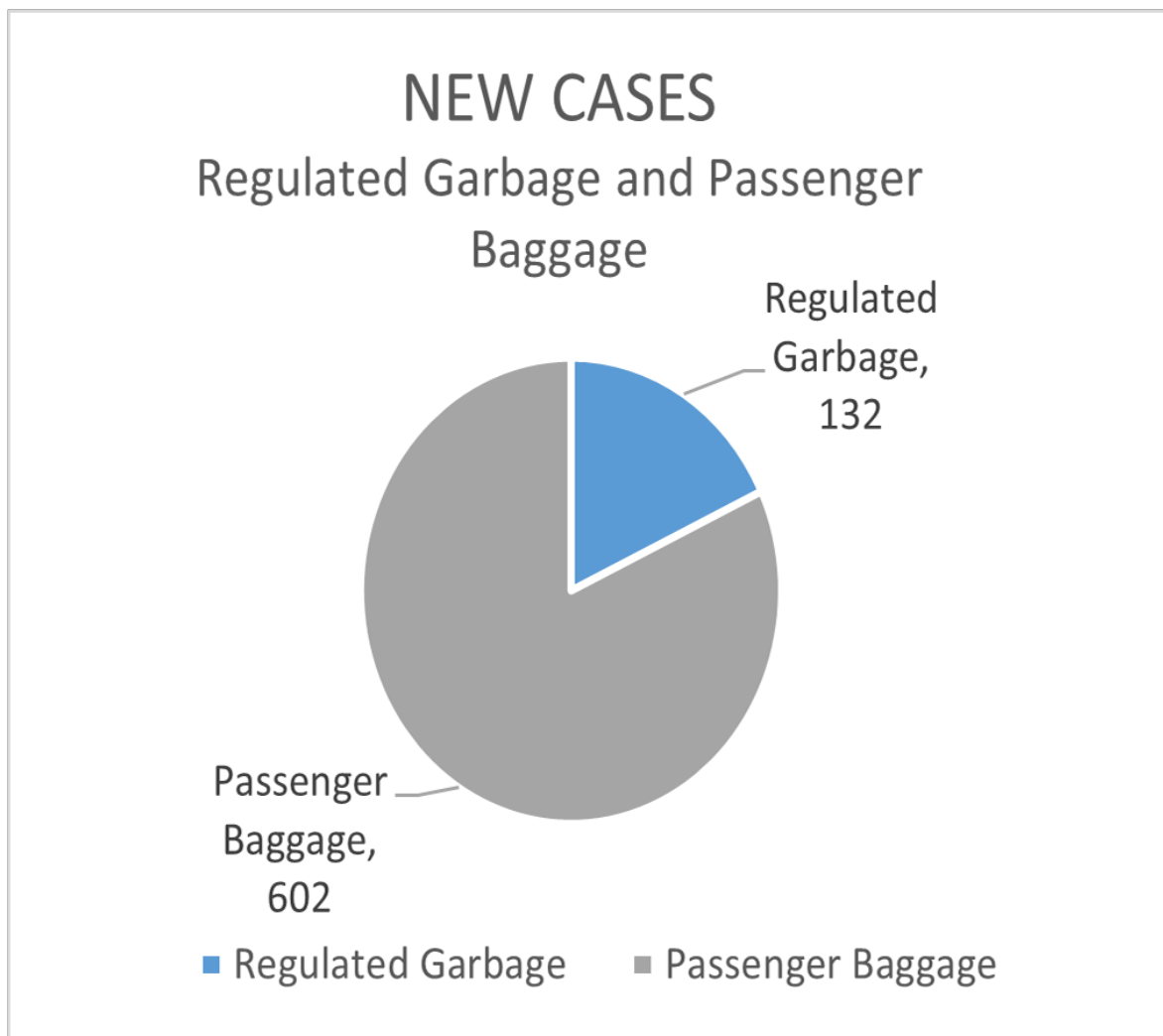
Each case is different and may vary in investigative scope, complexity, and time required to review. Some cases may involve multiple individuals or organizations, traverse multiple states and/or U.S. territories, and include multiple alleged violations—any of which might require extensive investigative resources to obtain sufficient evidence to determine whether an alleged violation has occurred. Other cases may be more straightforward, where the initial evidence clearly substantiates the alleged violation, allowing Investigative and Enforcement Services to more quickly process the case to help APHIS officials determine the appropriate resolution. Finally, Investigative and Enforcement Services conducts a streamlined review of most cases involving alleged regulated garbage and passenger baggage violations in support of agricultural quarantine inspection activities. These cases are completed as part of an expedited resolution program, in which Customs and Border Protection refers a case to APHIS while simultaneously providing evidence related to the alleged violation.

In fiscal year 2022, Investigative and Enforcement Services opened a total of 1,389 new cases. Of those cases, 734 consisted of referrals in support of agricultural quarantine inspection activities and were handled as part of the expedited resolution program. The remaining 655 investigations involved referrals from each of the four

APHIS programs and Customs and Border Protection. Distribution of those 655 investigations, and of the 734 cases in support of agricultural quarantine inspection activities are shown in the following two charts, categorized by program area.



**Chart does not include new cases referred as part of the regulated garbage (rg) and passenger baggage (pb) expedited resolution programs.*

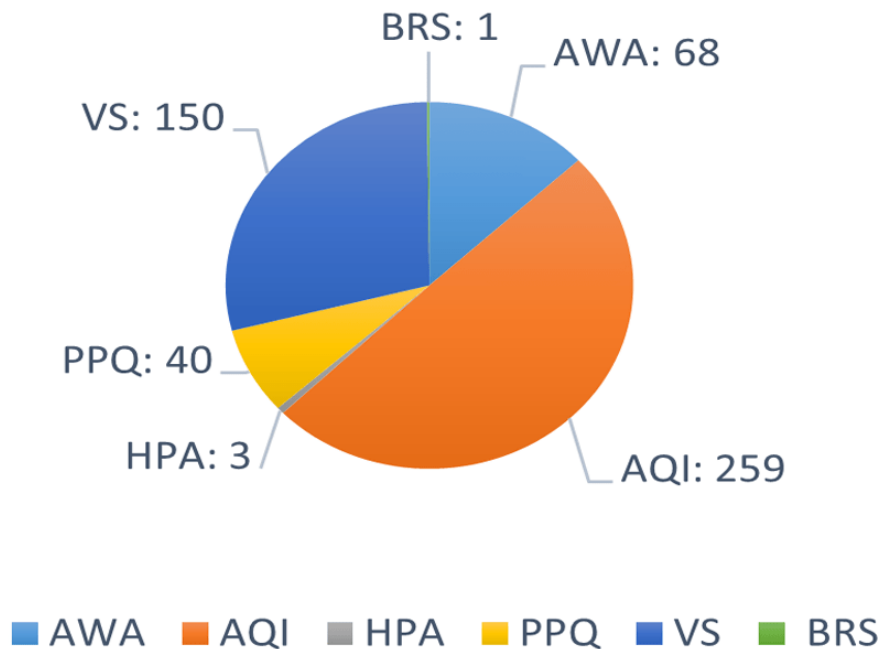


Distribution of the passenger baggage and regulated garbage cases is shown in the chart above

Open Cases

At the end of fiscal year 2022, Investigative and Enforcement Services had over 550 open cases at various stages of the investigation and enforcement processes. Of those pending cases, 38 involved agricultural quarantine inspection activities under an expedited resolution program. The remaining cases were from the various APHIS programs and Customs and Border Protection. Distribution of those cases is shown in the following two charts, organized by APHIS program.

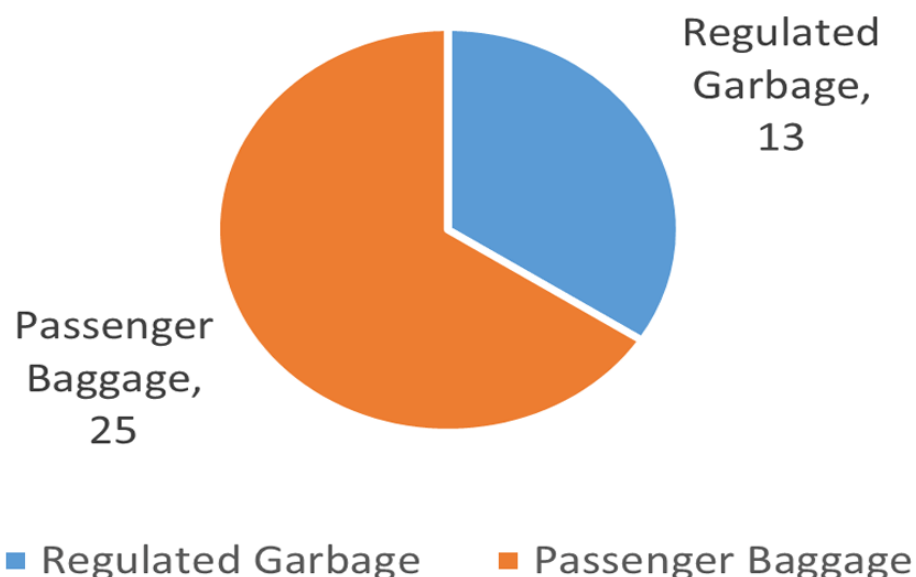
Open Cases End of FY22



**Chart does not include open passenger baggage or regulated garbage cases pending at the end of FY20 that were part of the expedited resolution programs.*

OPEN CASES End of FY22

Regulated Garbage and Passenger Baggage



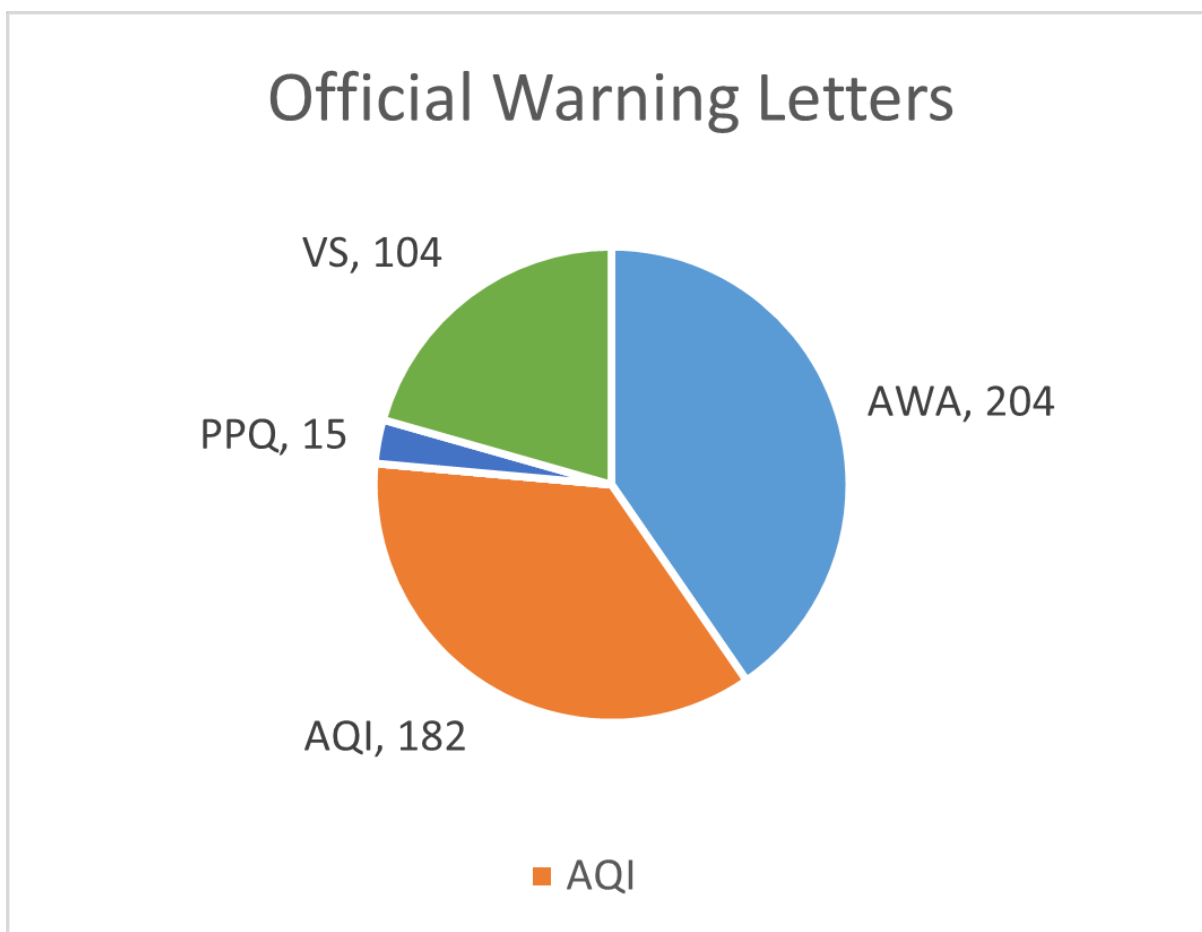
Distribution of the passenger baggage and regulated garbage cases is shown in the chart above.

Regulatory Correspondence/Official Warnings

APHIS has a number of available options to resolve a case in which the evidence substantiates that an alleged violation has occurred. These options include issuing regulatory correspondence (such as an official warning) to the individuals or businesses involved in the alleged violation; offering to resolve the case through a stipulated penalty; and referring the case to the USDA Office of the General Counsel for formal administrative action before the USDA Office of Administrative Law Judges.

In fiscal year 2022, APHIS Investigative and Enforcement Services issued 505 official warnings to individuals or businesses involved in cases in which the evidence substantiated that an alleged violation of an APHIS-administered statute or regulation occurred, but for which APHIS chose not to pursue a civil penalty or

formal administrative action. An official warning or other regulatory correspondence is not a penalty, nor is it an enforcement action against an individual or business. Rather, the purpose of official warnings and other regulatory correspondence is to provide notice of the legal requirements and information to promote compliance with the law. Distribution of warning letters is shown in the following chart, categorized by program area.

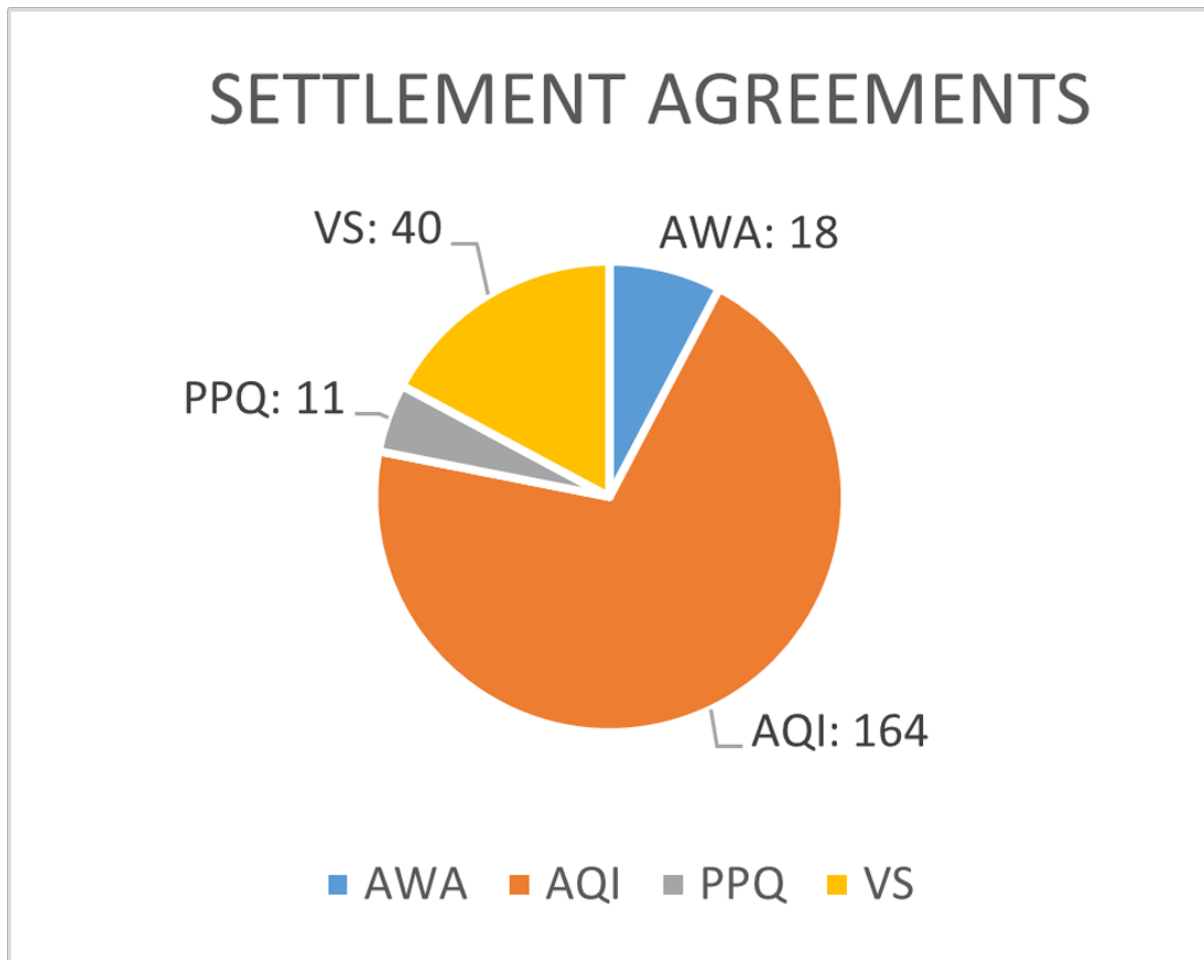


Pre-Litigation Settlement Agreements

In many instances, APHIS may enter into a settlement agreement (or stipulation) to resolve alleged violations of APHIS-administered laws. In cases in which the evidence substantiates that a violation occurred and the circumstances of the alleged violation are such that APHIS determines that a penalty is appropriate, Investigative and Enforcement Services may offer to resolve the case through these pre-litigation settlement agreements.

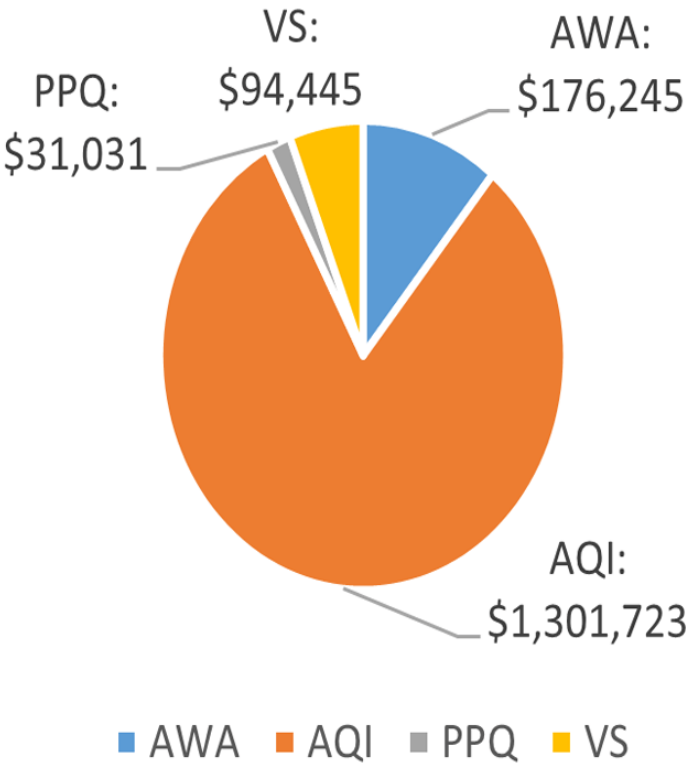
In fiscal year 2022, APHIS Investigative and Enforcement Services issued 672 pre-litigation settlement agreements, resulting in the collection of \$1,939,534 in

stipulated penalties. A portion of those settlement agreements (157 cases and \$336,090 in stipulated penalties) are the result of an expedited resolution program involving agricultural quarantine inspection activities, for which Customs and Border Protection refers the matter to Investigative and Enforcement Services while simultaneously providing evidence related to the alleged violation. The distribution of all cases for which pre-litigation settlement agreements were issued and stipulated penalties were also collected are shown in the following two charts.

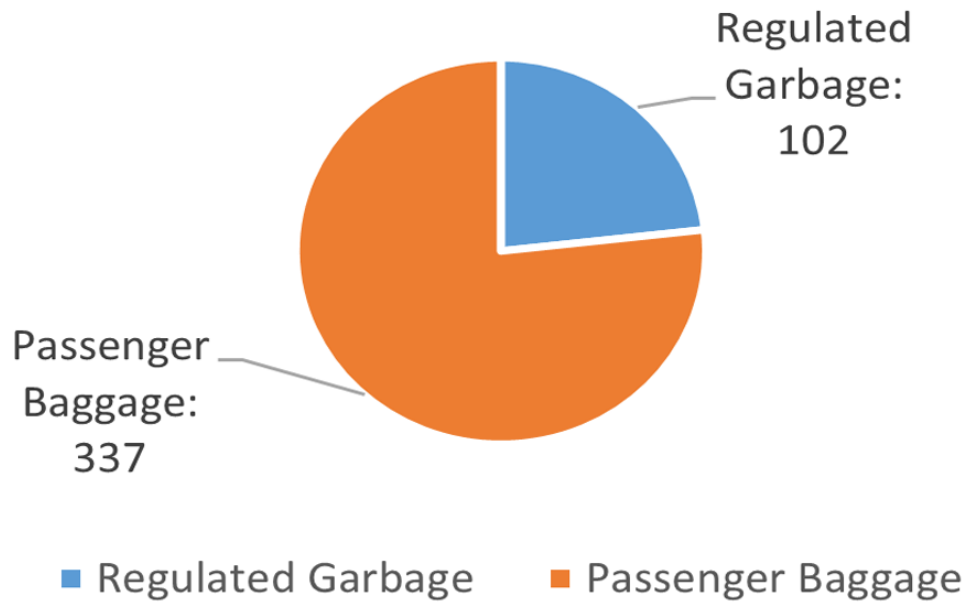


**Chart does not include settlement agreements for passenger baggage or regulated garbage cases that were handled as part of the expedited resolution programs.*

STIPULATED PENALTIES ASSESSED

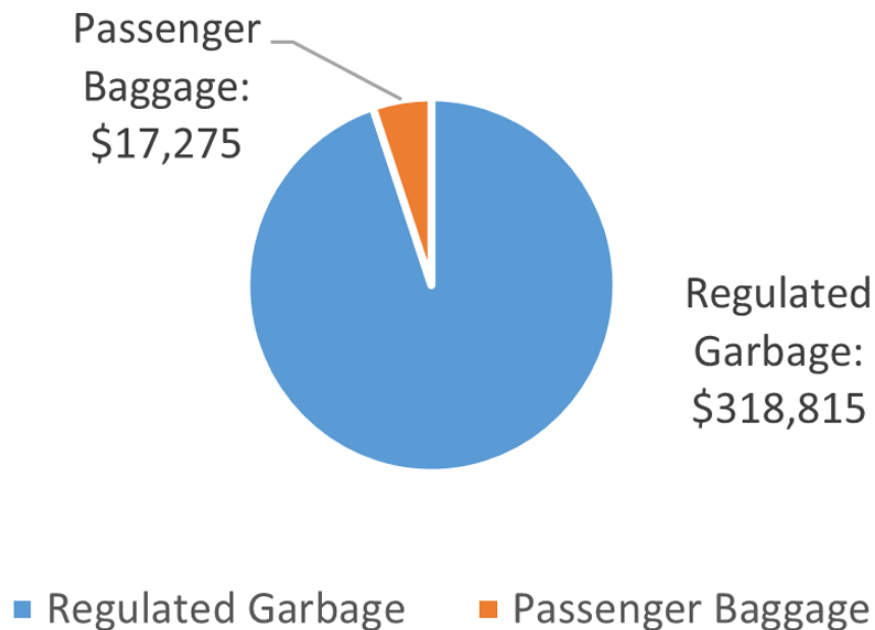


Settlement Agreements Regulated Garbage and Passenger Baggage



Distribution of the settlement agreements issued for alleged regulated garbage and passenger baggage violations is shown in the following two charts.

Stipulated Penalties Assessed Regulated Garbage and Passenger Baggage



Action by the Office of General Counsel

For cases involving serious violations or for which regulatory correspondence or a stipulated penalty may not be appropriate, APHIS Investigative and Enforcement Services may refer the case to USDA's Office of the General Counsel to initiate formal administrative action before the USDA Office of Administrative Law Judges and to seek civil penalties or other sanctions for alleged violations of APHIS statutes.

APHIS has many cases in various stages of the formal administrative process before the Office of Administrative Law Judges, including several under judicial review, in coordination with the Office of the General Counsel. Formal administrative action usually begins by filing an administrative complaint against a respondent. At that time, the USDA Hearing Clerk will assign a "docket number," which is a unique number assigned to an administrative complaint. A single respondent may have more than one pending administrative complaint.

In fiscal year 2022, APHIS, through the Office of the General Counsel, obtained decisions and orders in 23 proceedings assessing \$181,750 in civil penalties. The decisions and orders included orders suspending or revoking 7 Animal Welfare Act licenses and disqualifying 1 individual from participating in activities regulated under the Horse Protection Act.

The following pie chart shows the distribution of individuals and businesses whom APHIS has referred to the Office of the General Counsel and which are currently pending formal administrative action, categorized by program area.

IES Activity by Program Area

Agricultural Quarantine Inspection (AQI)

To support AQI activities in fiscal year 2022, APHIS Investigative and Enforcement Services initiated 992 cases, issued 182 official warnings, and issued 603 pre-litigation settlement agreements resulting in the collection of \$1,637,813 in stipulated penalties

In one case, APHRE negotiated a pre-litigation settlement agreement with an Express Carrier in the amount of \$491,250 that resolved hundreds of alleged violations of the Plant Protection Act and the Animal Health Protection Act relating to the breach of agricultural holds for inspection placed by CBP. In another case, APHRE negotiated a pre-litigation settlement agreement in the amount of \$132,438 to resolve numerous alleged violations of the Plant Protection Act and the Animal Health Protection Act relating to the handling of regulated garbage.

Animal Care Enforcement Summary (AWA and HPA)

To support animal welfare in fiscal year 2022, APHIS Investigative and Enforcement Services initiated 262 cases for alleged violations of the Animal Welfare Act (AWA), issued 204 official warnings, issued 18 pre-litigation settlements resulting in the collection of \$176,245 in stipulated penalties, and obtained 17 administrative orders resulting in the assessment of \$133,000 in civil penalties, and suspended or revoked 7 licenses. In one case, IES negotiated a pre-litigation settlement agreement in the amount of \$25,650 to resolved alleged violations of the Animal Welfare Act standards including the failure to protect and prevent discomfort to animals kept

outdoors by providing natural or artificial shelter appropriate to the local climatic conditions. In another case, working with the Office of the General Counsel, APHIS obtained a Default Decision revoking the respondent's AWA license and assessing a civil penalty of \$53,600 for multiple violations of the AWA.

APHIS Investigative and Enforcement Services has continued to post copies of enforcement records (such as initial decision and orders, default decisions, consent decisions, and administrative complaints) on its website: [USDA-APHIS | Animal Welfare and Horse Protection Actions](#).

To support horse protection in fiscal year 2022, APHIS Investigative and Enforcement Services initiated 9 new cases for alleged violations of the Horse Protection Act (HPA) and worked with the Office of the General Counsel to obtain an administrative order disqualifying an individual from participating in activities regulated under the Horse Protection Act.

Biotechnology Regulatory Services (BRS)

APHIS Investigative and Enforcement Services is available to work closely with Biotechnology Regulatory Services as part of an APHIS internal collaborative effort to further the protection and safeguarding of plant health throughout the United States.

Plant Protection and Quarantine (PPQ)

To support plant health in fiscal year 2022, APHIS Investigative and Enforcement Services initiated 29 cases, issued 15 official warnings, and negotiated 11 pre-litigation settlement agreements resulting in the collection of \$31,031 in stipulated penalties. In one case, IES negotiated a pre-litigation settlement in the amount of \$9,750 that resolved violations of the Plant Protection Act involving the importation of Hass avocados from Peru. In another case, IES negotiated a pre-litigation settlement for \$4,750 for violations of the Plant Protection Act involving non-compliance with ISPM-15 standards for regulating wood packing material in international trade.

Veterinary Services (VS)

To support animal health, in fiscal year 2022, APHIS Investigative and Enforcement Services opened 97 cases, issued 104 official warnings, issued 40 pre-litigation

settlements resulting in the collection of \$94,445 in stipulated penalties, and obtained an administrative order assessing \$7,000 in civil penalties for violations of laws aimed at protecting animal health and American agriculture. In one case, IES negotiated a pre-litigation settlement in the amount of \$5,500 to resolve violations of the Animal Health Protection Act relating to the sale of sheep and goats without the required official identification. In two other cases, accredited veterinarians agreed to pay civil penalties of \$5,000 and \$4,375 relating to the interstate movement of animals without the required documentation, in violation of the Animal Health Protection Act

Enforcement Glossary and Pie Chart Key

AC: Animal Care

Administrative Complaints: After IES refers a case and supporting evidence to USDA's Office of the General Counsel (OGC) with a request to institute an administrative proceeding, OGC reviews the evidence to determine whether there is reason to believe a violation of an APHIS-administered law has occurred. If so, OGC prepares an administrative complaint that it files on behalf of APHIS to institute a formal adjudicatory administrative proceeding. The administrative complaint identifies the alleged violator and the alleged violations and seeks the imposition of sanctions. If OGC proceeds with the filing of an administrative complaint, it may offer an alleged violator a consent decision (i.e., an opportunity to settle), or present the case to a USDA Administrative Law Judge (ALJ) for the issuance of an initial decision.

Administrative Decisions: Obtained after IES forwards a case to OGC to institute an administrative proceeding through the filing of an administrative complaint. Final administrative decisions are issued at the conclusion of an administrative proceeding and can be issued by an ALJ, USDA's Judicial Officer, or a U.S. Federal court. They include (1) initial ALJ decisions (including default decisions) that mandate sanctions, remedies, or actions; (2) consent decisions (i.e., settlements), which are based on agreement between the alleged violator and APHIS; (3) decision and orders issued by the USDA Judicial Officer upon appeal of an ALJ's initial decision; or (4) a final decision issued by a U.S. Federal court when an aggrieved party appeals or seeks review of a USDA decision.

AQI: Agriculture Quarantine Inspection through Customs and Border Protection

AWA: Animal Welfare Act

BRS: Biotechnology Regulatory Services

Cases Initiated: Unique cases opened by IES in a given fiscal year. This does not include cases that are still open from previous years.

Civil Penalties: Penalties assessed as part of orders APHIS obtained administratively through a USDA ALJ, USDA's Judicial Officer, or a U.S. Federal court.

HPA: Horse Protection Act

Monetary Penalties: A specified amount that an alleged violator agrees to pay through a stipulation agreement to resolve alleged violations. IES determines monetary penalties using guidelines that APHIS developed based on penalty provisions in the various laws that the Agency administers.

Non-Monetary Stipulations: Non-monetary pre-litigation settlement agreements are used to resolve alleged violations. For example, under the Animal Welfare Act (AWA), a non-monetary pre-litigation settlement agreement entails that an alleged violator agrees to AWA license revocation or permanent disqualification from obtaining an AWA license; and dispersal of animals used for AWA-regulated activities.

PPQ: Plant Protection and Quarantine

Referral to the Office of the General Counsel (OGC): The submission of a case to OGC, recommending that OGC file, on APHIS's behalf, a formal administrative complaint alleging violations of APHIS laws and requesting appropriate sanctions or remedies. A referral may also recommend that OGC refer the matter to the U.S. Department of Justice for civil or criminal prosecution. APHIS tracks referrals to OGC using two methods: (1) a unique case number for the investigative file(s) associated with the referral; and (2) the number of alleged violator(s) included in each referral. Because some cases include more than one alleged violator, the number of alleged violators referred to OGC for action is almost always larger than the number of unique case numbers referred to OGC for action.

Settlement Agreements: Voluntary settlement agreements reached between an alleged violator and APHIS. Stipulations often involve monetary penalties, but in some circumstances can involve non-monetary penalties such as license revocation or disqualification from participating in certain types of regulated activities. A stipulation notifies an alleged violator of the violation(s), the opportunity for a hearing before a USDA ALJ, and the opportunity to waive the hearing if the alleged violator agrees to a penalty, generally within 30 days. If an alleged violator accepts and meets the terms of a stipulation, APHIS considers the case closed.

Stipulated Penalties Assessed: Amount alleged violators agree to pay to APHIS to resolve alleged violations through stipulation agreements with the Agency. Once an alleged violator meets the terms of a voluntary settlement agreement, with payment of a stipulated penalty for instance, APHIS considers the case closed.

VS: Veterinary Services

Warnings: An official warning notifies an alleged violator of an alleged violation and warns that APHIS may seek civil or criminal penalties if the alleged violation(s) continue.

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