



APHIS' Animal Care Report

United States Department of Agriculture • Animal and Plant Health Inspection Service

As you may have heard, in late September I was named Deputy Administrator of the Animal Care (AC) program. With my permanent appointment, I can reaffirm our commitment to the AC strategic plan and ensure that many of the important managerial and regulatory projects that we initiated over the past 2 years are brought to completion. I look forward to this challenge and to continuing to work with you, our valued stakeholders.

This edition of the AC Report details many of our ongoing initiatives, including our efforts to develop an internal dealer inspection guide and environmental enrichment guidelines for nonhuman primates. It also discusses notable field activities and offers updates on our regulatory and policy initiatives.

As always, this report aims to promote two-way communication between our program within the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) and representatives of industry and interest groups like you. We want to know if you find the report helpful, and we welcome your comments. Call (301) 734-5175 to share your ideas.

W. Ron DeHaven
Deputy Administrator

APHIS Monitors Keiko's Move

In September, Keiko, the killer whale that starred in the movie *Free Willie*, was moved from the Oregon Coast Aquarium to a sea pen in Iceland. The move was the second step in an effort to return Keiko to his native waters in the North Atlantic. AC played a key role in this relocation effort.

Following the completion of the independent review of Keiko's health last January, AC officials met directly with government and veterinary representatives from Iceland to discuss the findings of the review and the Animal Welfare Act (AWA) requirements for Keiko's move. AC officials also worked with the U.S. Air Force to help arrange a nonstop flight from Oregon to Iceland, and they monitored Keiko's transport from the aquarium pool to the Air Force jet. We are pleased to report that all went well and that Keiko appears healthy and happy in his sea pen in Iceland. Keiko will continue to be monitored to determine if an eventual return to the wild is possible.

"Doris Day" Advance Notice Under Review

The extended comment period for the long-awaited advance notice of proposed rulemaking on the regulation of dog and cat dealers closed September 23. While open, individuals and organizations were able to comment on the notice both in the traditional way (via regular mail) and electronically via APHIS' website. AC estimates that more than 11,000 comments were submitted on the notice, including more than 1,000 electronic comments.

APHIS is currently reviewing these comments to determine how to proceed. If you wish to review the comments that were submitted electronically, visit APHIS' website (<http://comments.aphis.usda.gov>).

AC Considers Publishing Petition on Rats, Mice, and Birds

AC is considering publishing in the Federal Register a petition submitted earlier this year that asks the USDA to regulate rats, mice, and birds under the AWA. The petition, submitted by the Alternative Research and Development Foundation, a group affiliated with the American Antivivisection Society, would significantly increase AC's regulatory responsibilities and affect oversight of other program activities (e.g. inspections of dog dealers and animal exhibitors). Accordingly, AC intends to seek public input on whether rats, mice, and birds should be regulated and, if so, how the increased workload should be prioritized. If the petition is published, APHIS will post a press release to its website announcing the action.

AC Reports on Success of Innovative Enforcement Efforts

Over the past 3 years, AC has pursued a new enforcement strategy that focuses on working with licensees and registrants who show an interest in improving conditions for their animals while pursuing stringent enforcement action against those who do not. A key part of this strategy is the use of innovative settlements that typically require monetary penalties to be used for facility improvements, research on animal-care related issues, or employee training. These settlements provide three major advantages: they ensure that funds are used to improve the conditions for animals, they eliminate costly litigation, and they help resolve cases faster.

In November, AC issued a report that documents the success of its efforts. The report discusses AC's new strategy and provides overall data on the number and types of settlements that have been pursued. The report also details the strategy's significant reduction in

the average time it takes to resolve AWA cases (285 days in 1998 compared to 620 days in 1995) and the estimated cost savings by avoiding litigation (approximately \$1.5 million).

Draft Dealer Inspection Guidelines Under Review

As part of its strategic direction initiative, AC has drafted guidelines for its field personnel to use when conducting AWA inspections of animal dealers. These guidelines impose no new requirements on dealers and have been prepared only to assist AC personnel in their inspection efforts and to improve the uniformity of inspections throughout the country. The guidelines cover such areas as how to document inspection findings and how to conduct exit interviews. A draft of the guidelines is currently under review. When finalized, the guidelines will be made available to the public.

USDA-APHIS-Animal Care

Headquarters Office

W. Ron DeHaven, D.V.M.
4700 River Road, Unit 84
Riverdale, MD 20737-1234
Phone: (301) 734-4981
Fax: (301) 734-4328

Eastern Region

Elizabeth Goldentyer, D.V.M.
2568-A Riva Road, #302
Annapolis, MD 21401
Phone: (410) 571-8692
Fax: (410) 224-2854

Central Region

Walter Christensen, D.V.M.
P.O. Box 6258
Fort Worth Federal Center, Building 11
Fort Worth, TX 76115
Phone: (817) 885-6910
Fax: (817) 885-6917

Western Region

Robert Gibbens, D.V.M.
9580 Micron Ave., Suite J
Sacramento, CA 95827
Phone: (916) 857-6205
Fax: (916) 857-6212

AC Website

www.aphis.usda.gov/ac

E-mail Address

ace@usda.gov

Primate Import Workgroup Established

AC has established a workgroup that is seeking to improve APHIS' oversight of shipments of imported primates. The group has been working with the U.S. Fish and Wildlife Service (FWS) and the Centers for Disease Control and Prevention (CDC) to coordinate oversight activities, improve information sharing between agencies, and avoid duplication of efforts. For example, FWS and CDC officials have agreed to provide APHIS with information on importers' compliance histories and dates of future shipments. In addition, AC will work with CDC and FWS to address shipping and handling concerns with unregulated importers and transporters. Such measures will clearly help to improve oversight of shipments of imported primates in the future.

Swim-With-The-Dolphin Rules Take Effect, With Exceptions

In early September, APHIS published a final rule that establishes new requirements for "swim-with-the-dolphin" programs. These interactive programs involve direct human contact with the dolphins and pose specific risks that were not directly addressed by the previous AWA regulations. Among other things, the new rules require that facilities maintain three separate pool areas: an interactive area, a buffer zone, and a sanctuary where the dolphins can swim free of public contact.

In early October, the requirements in the final rule went into effect with a couple of important exceptions. The requirements pertaining to the ratio between human participants and attendants for shallow-water wading programs and the space requirements for the interactive areas of wading pools have been suspended until these issues can be explored more carefully. (In wading programs, the public merely wades in the water with the dolphins as opposed to swimming with them.) APHIS intends to publish a notice in the Federal Register soliciting input on these and other issues regarding wading programs.

Two New Horse Industry Organizations Seek Certification

Two new horse industry organizations (HIO's) are seeking certification from AC for their designated qualified person (DQP) programs. The organizations, the Kentucky Walking Horse Association and National Walking Horse Association, both have applications pending. If the applications are approved, the organizations would join the six existing HIO's that are certified by APHIS to conduct inspections at horse shows and sales. The two new HIO's would also be eligible to participate in APHIS' Horse Protection Strategic Plan, which gives HIO's greater authority for overseeing their own events.

All certified HIO's will be meeting December 15 in Riverdale, MD, to discuss enforcement of the Horse Protection Act during the 1999 show season, including the provisions of the strategic plan.

Strategic Direction Update

AC continues to move forward with its numerous strategic direction activities. Besides the dealer inspection guide mentioned earlier in this report, the activities also include the following projects.

- AC held its second of three training courses on elephant care and handling at the San Diego Zoo and Wild Animal Park in mid-November. Sixteen AC inspectors and veterinary medical officers attended the training. The courses are designed to improve AWA inspections and enforcement with regard to elephants. By fiscal year 2000, 45 members of AC's field force will have completed the courses.
- AC is currently working to finalize its long-awaited policy on environmental enrichment for nonhuman primates. The policy, which will serve as a resource for inspectors and regulated parties, will complement the National Research Council's recent publication on this same issue. The goal is to use both documents to best attain enrichment for primates as mandated by the 1985 amendment to the AWA. A draft of the policy will be published in the Federal Register, allowing for public comment and modification prior to the policy's issuance in final form.

Highlights From the Field

- In early March, AC inspector Cathy Niebruegge conducted several inspections of an animal dealer's premises in Ardmore, OK. She noted numerous serious deficiencies in meeting the AWA standards, including inadequate sanitation, veterinary care, and shelter from the elements. In short, the dogs and cats at this facility were in bad shape and suffering from exposure to severe weather conditions.

Niebruegge not only documented these items for future enforcement action against the licensee, she also went the extra mile to ensure that the animals received immediate care. In this effort, she worked with other AC Central Region personnel and local humane officials to relocate nearly 100 dogs to a shelter. Fortunately, the owner of the facility recognized the gravity of the situation and voluntarily gave the animals to the shelter before they had to be formally confiscated. The dealer also voluntarily gave up his license to operate under the AWA.

- In late August, an airport cargo worker at Dulles International Airport near Washington, DC, contacted AC's Eastern Region office concerned about a kennel in which a dog had been loaded. The kennel was a new design that was collapsible and allegedly did not have projecting rims to protect the ventilation openings from being blocked. The dog was already on its way from

Dulles to O'Hare International Airport where it would be immediately loaded on an airplane destined for Japan.

AC had no time to get an inspector to O'Hare. Accordingly, the regional office staff worked fervently to find another official who could inspect the kennel in Chicago. After making several calls, the staff was able to contact Dr. Jerry Brown, a port veterinarian with APHIS' Veterinary Services program at O'Hare. Dr. Brown was able to make it to the runway just as the dog was being transferred to the Japan-bound flight. He carefully inspected the kennel and found the construction sound and the ventilation adequate, allaying the concerns of all involved. The dog then traveled safely to Japan.

- In late August, AC veterinarian Norma Harlan was contacted on two occasions by Fayette County, PA, law enforcement personnel. They requested her help in serving search warrants on a local pet store owner who was being investigated for alleged violations of local animal cruelty statutes.

On the first occasion, Dr. Harlan assisted the local officials by inspecting animals at the pet store. She identified several alleged violations of the AWA standards, including inadequate sanitation and a lack of veterinary care. On the second occasion, Harlan helped the officials inspect animals at the store owner's residence. On that inspection, Harlan again noted animals living in deplorable conditions. (One extremely thin bobcat was lying, soaking wet, in its cage.)

In both cases, Harlan helped local officials confiscate the animals and relocate them to suitable holding facilities. She also documented numerous alleged AWA violations and requested a formal investigation of the pet owner. Both the local case for animal cruelty and the AWA investigation are currently ongoing.

Several New, Revised Policies Hit the Street

AC has issued several new AWA policies. These policies represent AC's interpretation of the existing AWA regulations and standards. The policies, therefore, should be regarded as requirements for compliance with the law:

- *Policy #6:* This revised policy, dated October 13, 1998, expands and clarifies the enclosure space requirements for traveling exhibitors. Specifically, the policy spells out when licensees are required to meet full primary enclosure space requirements and/or provide sufficient exercise space and time for animals during traveling exhibits.
- *Policy #22:* This new policy clarifies when a necropsy should be performed on AWA-regulated animals and details certain components that are necessary for an appropriate postmortem procedure. The policy also states that necropsy records must be maintained at a facility for at least 1 year or as specified in the AWA regulations and standards.

- *Policy #23:* This new policy details the criteria for licensing dealers of hoofstock. The policy defines hoofstock as any hooved animal, such as deer, pig, llama, or sheep. The policy applies to all hoofstock.
- *Policy #24:* This new policy clarifies the space requirements for the enclosures of flying and aquatic species. For flying species, the policy requires that sufficient space be afforded for both roosting and flying. For aquatic species, the policy requires that primary enclosures contain both dry and aquatic portions that each afford the animals sufficient space to make normal postural and social adjustments with freedom of movement.
- *Policy #25:* This new policy clarifies what constitutes a proper diet for large felids, such as lions and tigers. Among other things, the policy notes that a number of commercially prepared diets are available and strongly recommends adherence to a strict feeding schedule. The policy also requires attending veterinarian approval of locally prepared diets to ensure nutritional adequacy.

To obtain a copy of any AWA policy, you may visit AC's home page on the World Wide Web or contact the AC regional office in your area. (The addresses for both are provided in the shadowbox on page 2 of this report.)

Policy Update

This new section will appear in all future editions of the AC Report. The section will keep you apprised of new policies under development as well as those currently being revised. Once the new or revised policies are officially issued, complete writeups will be provided in the report.

New Policies Under Development

- Medical records
- Prairie dogs
- Training/Handling of dangerous animals
- Licensing and rehabilitation facilities and education exhibitors
- Guidelines for farm animals used for AWA-regulated purposes (adopting industry standards)
- Regulation of farm animals used to test and manufacture biologics
- Regulation of transportation of nonhuman primates

Policies Being Revised

- Policy #17: Annual Report for Research Facilities

Regulatory Update

The items listed below are either under consideration and not yet published in the Federal Register, published in the Federal Register and open for comment, or previously open for comment and now under review by the Department.

Notices:

- Handling and Training of Potentially Dangerous Wild and Exotic Animals Used for Exhibition (under review)
- Guidelines for Farm Animals used for AWA-regulated purposes (under consideration)
- Swim-With-The-Dolphins: Enforcement Notice (under consideration)
- Petition for the Regulation of Rats, Mice, and Birds (under consideration)

Advance Notices of Proposed Rulemaking:

- Licensing Requirements for Dogs and Cats: Response to Doris Day
- Animal League Petition (under review)

Affirmation of Interim Rules:

- Resting Surfaces for Dogs and Cats (under consideration)

Proposed Rules:

- Clarifying Meaning of "Field Study" (under review)
- Revisions to AWA Licensing Requirements (under consideration)
- Identification of Unweaned Puppies and Kittens (under consideration)
- Exotic Canids and Felids: Minimum Age for Transport (under consideration)
- Standards for Marine Mammals: Consensus Language (under consideration)
- Veterinary Medical Records (under consideration)
- Confiscation of Animals (under consideration)
- Horse Protection (under consideration)

Final Rules

- Perimeter Fencing (under consideration)
- Nomenclature Changes (under consideration)

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