



# Animal Welfare Institute

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Docket No. 97-033-1  
Regulatory Analysis and Development  
PPD, APHIS  
Station 3C71  
4700 River Road, Unit 118  
Riverdale, MD 20737-1238

To Whom It May Concern:

I am writing on behalf of the Animal Welfare Institute in support of USDA's proposal to require written records of veterinary care as part of the program of adequate veterinary care by its licensees and registrants. This is a much needed and long overdue change in the regulations; it will close one of the loopholes in the existing regulations that is being exploited by individuals who flout the Animal Welfare Act.

Historically, USDA has had difficulty in prosecuting facilities that failed to provide adequate veterinary care because the entities have been able to argue that the animals were under the care of a veterinarian—without ever having to provide proof of it. Thus USDA has no recourse when inspectors note animals they see during inspection who have diseases, injuries or other maladies or perhaps have even died. Without a specific requirement that there must be records to demonstrate veterinary care, any dealer, exhibitor or research facility can make this claim and avoid compliance with the law's veterinary care requirement.

Following is an example from a specific case USDA brought against a licensed dealer. The dealer was cited, among other things, for failure to provide adequate veterinary care on eight separate inspections in a little over two years. Inspectors' observations included a cat with "both eyes stuck shut with copious ocular discharge," a dog who was "unresponsive, dehydrated, weak, coughing, and had a copious nasal discharge which had soiled his front legs," and a dog with a bloody discharge. USDA's case against the dealer was overturned on appeal and a contributing factor was USDA's inability to prove a failure to provide adequate veterinary care. It was acknowledged that sick animals were present during the inspections. The specific issue was whether there had been veterinary care, and if the care had been adequate. These questions can best be answered by written records of veterinary care.

Sick, diseased, injured, dying or dead animals are found at the premises of dealers, exhibitors, and research facilities. It is up to USDA inspectors to be able to distinguish if the facilities were aware of the condition of these animals and if good faith efforts have been made to take care of them.

It is and will continue to be impossible for USDA to make a case against any facility for failure to provide adequate veterinary care if the regulated entities are not required to maintain documentation of veterinary care that is provided.

We do suggest one change in the proposal made by USDA--records of veterinary care should be maintained for three years. One year is not a sufficient amount of time to permit access to the records by USDA since they are not able to visit all facilities on an annual basis. Since all other records are maintained for three years, it is a reasonable requirement to maintain these records too.

Finally, in response to other comments submitted to USDA, we wish to add that USDA has been considering this change in the regulations for more than a decade. The need to require written records of veterinary care has been the subject of discussion at numerous public meetings, therefore we are surprised by the comments expressing a lack of understanding for the basis for this change or a need to provide significant additional input. The suggestion that the proposal is bad because it is an engineering standard rather than a performance based standard is ludicrous. Sick, injured, dying or dead animals will not be performing well. A facility can have a veterinarian on hand or even on fulltime staff and can have an excellent written program of veterinary care but can still be negligent in providing needed veterinary care to some of its charges. The written records demonstrating adequate veterinary care combined with direct observation of the animals and review of the veterinary care program is the appropriate way for USDA to assess compliance with the law.

Thank you for your consideration. We hope that USDA will adopt the new regulations promptly.

Sincerely,  
Cathy Liss  
President  
Animal Welfare Institute  
PO Box 3650  
Washington, DC 20027  
703-836-4300  
703-836-0400  
[www.awionline.org](http://www.awionline.org)