

## Animal and Plant Health Inspection Service, USDA

## § 2.1

EFFECTIVE DATE NOTE: At 64 FR 15920, Apr. 2, 1999, the definitions of *buffer area*, *interactive area*, *interactive session*, *sanctuary area*, and *swim-with-the-dolphin (SWTD) program* were suspended, effective Apr. 2, 1999.

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SOURCE: 54 FR 36147, Aug. 31, 1989, unless otherwise noted.

#### Subpart A—Licensing

##### § 2.1 Requirements and application.

(a)(1) Any person operating or desiring to operate as a dealer, exhibitor, or operator of an auction sale, except persons who are exempted from the licensing requirements under paragraph (a)(3) of this section, must have a valid license. A person must be 18 years of age or older to obtain a license. A person seeking a license shall apply on a form which will be furnished by the AC Regional Director in the State in which that person operates or intends to operate. The applicant shall provide

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the information requested on the application form, including a valid mailing address through which the licensee or applicant can be reached at all times, and a valid premises address where animals, animal facilities, equipment, and records may be inspected for compliance. The applicant shall file the completed application form with the AC Regional Director.

(2) If an applicant for a license or license renewal operates in more than one State, he or she shall apply in the State in which he or she has his or her principal place of business. All premises, facilities, or sites where such person operates or keeps animals shall be indicated on the application form or on a separate sheet attached to it. The completed application form, along with the application fee indicated in paragraph (d) of this section, and the annual license fee indicated in table 1 or 2 of §2.6 shall be filed with the AC Regional Director.

(3) The following persons are exempt from the licensing requirements under section 2 or section 3 of the Act:

(i) Retail pet stores which sell non-dangerous, pet-type animals, such as dogs, cats, birds, rabbits, hamsters, guinea pigs, gophers, domestic ferrets, chinchilla, rats, and mice, for pets, at retail only: *Provided, That,* Anyone wholesaling any animals, selling any animals for research or exhibition, or selling any wild, exotic, or nonpet animals retail, must have a license;

(ii) Any person who sells or negotiates the sale or purchase of any animal except wild or exotic animals, dogs, or cats, and who derives no more than \$500 gross income from the sale of such animals to a research facility, an exhibitor, a dealer, or a pet store during any calendar year and is not otherwise required to obtain a license;

(iii) Any person who maintains a total of three (3) or fewer breeding female dogs and/or cats and who sells only the offspring of these dogs or cats, which were born and raised on his or her premises, for pets or exhibition, and is not otherwise required to obtain a license;

(iv) Any person who sells fewer than 25 dogs and/or cats per year which were born and raised on his or her premises, for research, teaching, or testing pur-

poses or to any research facility and is not otherwise required to obtain a license. The sale of any dog or cat not born and raised on the premises for research purposes requires a license;

(v) Any person who arranges for transportation or transports animals solely for the purpose of breeding, exhibiting in purebred shows, boarding (not in association with commercial transportation), grooming, or medical treatment, and is not otherwise required to obtain a license;

(vi) Any person who buys, sells, transports, or negotiates the sale, purchase, or transportation of any animals used only for the purposes of food or fiber (including fur);

(vii) Any person who breeds and raises domestic pet animals for direct retail sales to another person for the buyer's own use and who buys no animals for resale and who sells no animals to a research facility, an exhibitor, a dealer, or a pet store (e.g., a purebred dog or cat fancier) and is not otherwise required to obtain a license;

(viii) Any person who buys animals solely for his or her own use or enjoyment and does not sell or exhibit animals, or is not otherwise required to obtain a license;

(b) Any person who sells fewer than 25 dogs or cats per year for research or teaching purposes and who is not otherwise required to obtain a license may obtain a voluntary license, provided the animals were born and raised on his or her premises. A voluntary licensee shall comply with the requirements for dealers set forth in this part and the Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats set forth in part 3 of this subchapter and shall agree in writing on a form furnished by APHIS to comply with all the requirements of the Act and this subchapter. Voluntary licenses will not be issued to any other persons. To obtain a voluntary license the applicant shall submit to the AC Regional Director the application fee of \$10 plus an annual license fee. The class of license issued and the fee for a voluntary license shall be that of a Class "A" licensee (breeder). Voluntary licenses will not be issued to any other persons or for any other class of license.

(c) No person shall have more than one license.

(d) A license will be issued to any applicant, except as provided in §§ 2.10 and 2.11, when the applicant:

(1) Has met the requirements of this section and of §§ 2.2 and 2.3; and

(2) Has paid the application fee of \$10 and the annual license fee indicated in § 2.6 to the AC Regional Director and the payment has cleared normal banking procedures.

(e)(1) On or before the expiration date of the license, a licensee who wishes a renewal shall submit to the AC Regional Director a completed application form and the application fee of \$10, plus the annual license fee indicated in § 2.6 by certified check, cashier's check, personal check, or money order. A voluntary licensee who wishes a renewal shall also submit the \$10 application fee plus an annual license fee. An applicant whose check is returned by the bank will be charged a fee of \$15 for each returned check. One returned check will be deemed nonpayment of fees and will result in denial of license. Payment of fees must then be made by certified check, cashier's check, or money order. An applicant will not be licensed until his or her payment has cleared normal banking procedures.

(2) The \$10 application fee must also be paid if an applicant is applying for a changed class of license. The applicant may pay such fees by certified check, cashier's check, personal check, or money order. An applicant whose check is returned by a bank will be charged a fee of \$15 for each returned check and will be required to pay all subsequent fees by certified check, money order, or cashier's check. A license will not be issued until payment has cleared normal banking procedures.

(f) The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license; or for its suspension or revocation by the Secretary, as provided in the Act.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

### § 2.2 Acknowledgement of regulations and standards.

(a) *Application for initial license.* APHIS will supply a copy of the applicable regulations and standards to the applicant with each request for a license application. The applicant shall acknowledge receipt of the regulations and standards and agree to comply with them by signing the application form before a license will be issued.

(b) *Application for license renewal.* APHIS will supply a copy of the applicable regulations and standards to the applicant for license renewal with each request for a license renewal. Before a license will be renewed, the applicant for license renewal shall acknowledge receipt of the regulations and standards and shall certify by signing the applications form that, to the best of the applicant's knowledge and belief, he or she is in compliance with the regulations and standards and agrees to continue to comply with the regulations and standards.

[60 FR 13895, Mar. 15, 1995]

### § 2.3 Demonstration of compliance with standards and regulations.

(a) Each applicant must demonstrate that his or her premises and any animals, facilities, vehicles, equipment, or other premises used or intended for use in the business comply with the regulations and standards set forth in parts 2 and 3 of this subchapter. Each applicant for an initial license or license renewal must make his or her animals, premises, facilities, vehicles, equipment, other premises, and records available for inspection during business hours and at other times mutually agreeable to the applicant and APHIS, to ascertain the applicant's compliance with the standards and regulations.

(b) In the case of an application for an initial license, the applicant must demonstrate compliance with the regulations and standards, as required in paragraph (a) of this section, before APHIS will issue a license. If the applicant's animals, premises, facilities, vehicles, equipment, other premises, or records do not meet the requirements of this subchapter, APHIS will advise the applicant of existing deficiencies and the corrective measures that must

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be completed to come into compliance with the regulations and standards. The applicant will have two more chances to demonstrate his or her compliance with the regulations and standards through re-inspection by APHIS. If the applicant fails the third inspection he or she will forfeit the application fee and cannot re-apply for a license for a period of 6 months following the third inspection. Issuance of the license will be denied until the applicant demonstrates upon inspection that the animals, premises, facilities, vehicles, equipment, other premises and records are in compliance with all regulations and standards in this subchapter.

### §2.4 Non-interference with APHIS officials.

A licensee or applicant for an initial license shall not interfere with, threaten, abuse (including verbally abuse), or harass any APHIS official in the course of carrying out his or her duties.

### §2.5 Duration of license and termination of license.

(a) A license issued under this part shall be valid and effective unless:

(1) The license has been revoked or suspended pursuant to section 19 of the Act.

(2) The license is voluntarily terminated upon request of the licensee, in writing, to the AC Regional Director.

(3) The license has expired or been terminated under this part.

(4) The applicant has failed to pay the application fee and the annual license fee as required in §§2.1 and 2.6. There will be no refund of fees if a license is terminated prior to its expiration date.

(b) Any person who is licensed must file an application for a license renewal and an annual report form (APHIS Form 7003/VS Form 18-3) as required by §2.7, and pay the required fees, on or before the expiration date of the present license or the license shall expire and automatically terminate on its anniversary date. The licensee will be notified by certified mail at least 60 days prior to the expiration date of the license. Failure to comply with the annual reporting requirements, or to pay the required license fees prior to the expiration date of the license, shall re-

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sult in automatic termination of such license on the anniversary date of the license.

(c) Licensees must accept delivery of registered mail or certified mail notice and provide the AC Regional Director notice of their address in conformity with the requirements in §2.1.

(d) Any person who seeks the reinstatement of a license that has been automatically terminated must follow the procedure applicable to new applicants for a license set forth in §2.1.

(e) Licenses are issued to specific persons for specific premises and do not transfer upon change of ownership, nor are they valid at a different location.

(f) A license which is invalid under this part shall be surrendered to the AC Regional Director. If the license cannot be found, the licensee shall provide a written statement so stating to the AC Regional Director.

[54 FR 36147, Aug. 31, 1989, as amended at 60 FR 13895, Mar. 15, 1995; 63 FR 62926, Nov. 10, 1998]

### §2.6 Annual license fees.

(a) In addition to the application fee of \$10 required to be paid upon the application for a license, license renewal, or changed class of license under §2.1, each licensee shall submit to the AC Regional Director the annual license fee prescribed in this section. Paragraph (b) of this section indicates the method used to calculate the appropriate fee. The amount of the fee is determined from Table 1 or 2 in paragraph (c) of this section.

(b)(1) Class "A" license. The annual license renewal fee for a Class "A" dealer shall be based on 50 percent of the total gross amount, expressed in dollars, derived from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, by the dealer or applicant during his or her preceding business year (calendar or fiscal) in the case of a person who operated during such a year. If animals are leased, the lessor shall pay a fee based on 50 percent of any compensation received from the leased animals and the lessee shall pay a fee based upon the net compensation

received from the leased animals, as indicated for dealers in Table 1 in paragraph (c) of this section.

(2) Class "B" license. The annual license renewal fee for a Class "B" dealer shall be established by calculating the total amount received from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, during the preceding business year (calendar or fiscal) less the amount paid for the animals by the dealer or applicant. This net difference, exclusive of other costs, shall be the figure used to determine the license fee of a Class "B" dealer. If animals are leased, the lessor and lessee shall each pay a fee based on the net compensation received from the leased animals calculated from Table 1 in paragraph (c) of this section.

(3) The annual license renewal fee for a broker or operator of an auction sale shall be that of a class "B" dealer and shall be based on the total gross amount, expressed in dollars, derived from commissions or fees charged for the sale of animals, or for negotiating the sale of animals, by brokers or by the operator of an auction sale, to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, during the preceding business year (calendar or fiscal).

(4) In the case of a new applicant for a license as a dealer, broker or operator of an auction sale who did not operate during a preceding business year, the annual license fee will be based on the anticipated yearly dollar amount of business, as provided in paragraphs (b)(1), (2), and (3) of this section, derived from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale.

(5) The amount of the annual fee to be paid upon application for a class "C" license as an exhibitor under this section shall be based on the number of animals which the exhibitor owned, held, or exhibited at the time the application is signed and dated or during the previous year, whichever is greater, and will be the amount listed in Table 2 in paragraph (c) of this section. Animals which are leased shall be included

in the number of animals being held by both the lessor and the lessee when calculating the annual fee. An exhibitor shall pay his or her annual license fee on or before the expiration date of the license and the fee shall be based on the number of animals which the exhibitor is holding or has held during the year (both owned and leased).

(c) The license fee shall be computed in accordance with the following tables:

TABLE 1—DEALERS, BROKERS AND OPERATORS OF AN AUCTION SALE CLASS "A" AND "B" LICENSE

Over	But Not Over	Fee
\$0 .....	\$500	\$30
500 .....	2,000	60
2,000 .....	10,000	120
10,000 .....	25,000	225
25,000 .....	50,000	350
50,000 .....	100,000	475
100,000 .....	.....	750

TABLE 2—EXHIBITORS—CLASS "C" LICENSE

Number of Animals	Fee
1 to 5 .....	\$30
6 to 25 .....	75
26 to 50 .....	175
51 to 500 .....	225
501 and up .....	300

(d) If a person meets the licensing requirements for more than one class of license, he shall be required to obtain a license and pay the fee for the type business which is predominant for his operation, as determined by the Secretary.

(e) In any situation in which a licensee shall have demonstrated in writing to the satisfaction of the Secretary that he or she has good reason to believe that the dollar amount of his or her business for the forthcoming business year will be less than the previous business year, then his or her estimated dollar amount of business shall be used for computing the license fee for the forthcoming business year: *Provided, however,* That if the dollar amount upon which the license fee is based for that year does in fact exceed the amount estimated, the difference in amount of the fee paid and that which was due under paragraphs (b) and (c) of this section based upon the actual dollar business upon which the

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license fee is based, shall be payable in addition to the required annual license fee for the next subsequent year, on the anniversary date of his or her license as prescribed in this section.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

### § 2.7 Annual report by licensees.

(a) Each year, within 30 days prior to the expiration date of his or her license, a licensee shall file with the AC Regional Director an application for license renewal and annual report upon a form which the AC Regional Director will furnish to him or her upon request.

(b) A person licensed as a dealer shall set forth in his or her license renewal application and annual report the dollar amount of business, from the sale of animals, upon which the license fee is based, directly or through an auction sale, to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, by the licensee during the preceding business year (calendar or fiscal), and any other information as may be required thereon.

(c) A licensed dealer who operates as a broker or an operator of an auction sale shall set forth in his or her license renewal application and annual report the total gross amount, expressed in dollars, derived from commissions or fees charged for the sale of animals by the licensee to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, during the preceding business year (calendar or fiscal), and any other information as may be required thereon.

(d) A person licensed as an exhibitor shall set forth in his or her license renewal application and annual report the number of animals owned, held, or exhibited by him or her, including those which are leased, during the previous year or at the time he signs and dates the report, whichever is greater.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

### § 2.8 Notification of change of name, address, control, or ownership of business.

A licensee shall promptly notify the AC Regional Director by certified mail of any change in the name, address, management, or substantial control or

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ownership of his business or operation, or of any additional sites, within 10 days of any change.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

### § 2.9 Officers, agents, and employees of licensees whose licenses have been suspended or revoked.

Any person who has been or is an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the order of suspension or revocation was based will not be licensed within the period during which the order of suspension or revocation is in effect.

### § 2.10 Licensees whose licenses have been suspended or revoked.

(a) Any person whose license has been suspended for any reason shall not be licensed in his or her own name or in any other manner within the period during which the order of suspension is in effect. No partnership, firm, corporation, or other legal entity in which any such person has a substantial interest, financial or otherwise, will be licensed during that period. Any person whose license has been suspended for any reason may apply to the AC Regional Director, in writing, for reinstatement of his or her license.

(b) Any person whose license has been revoked shall not be licensed in his or her own name or in any other manner; nor will any partnership, firm, corporation, or other legal entity in which any such person has a substantial interest, financial or otherwise, be licensed.

(c) Any person whose license has been suspended or revoked shall not buy, sell, transport, exhibit, or deliver for transportation, any animal during the period of suspension or revocation.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

### § 2.11 Denial of initial license application.

(a) A license will not be issued to any applicant who:

(1) Has not complied with the requirements of §§ 2.1, 2.2, 2.3, and 2.4 and has not paid the fees indicated in § 2.6;

(2) Is not in compliance with any of the regulations or standards in this subchapter;

(3) Has had a license revoked or whose license is suspended, as set forth in § 2.10;

(4) Has been fined, sentenced to jail, or pled *nolo contendere* (no contest) under State or local cruelty to animal laws within 1 year of application, except that if no penalty is imposed as a result of the plea of *nolo contendere* the applicant may reapply immediately; or

(5) Has made any false or fraudulent statements, or provided any false or fraudulent records to the Department.

(b) An applicant whose license application has been denied may request a hearing in accordance with the applicable rules of practice for the purpose of showing why the application for license should not be denied. The license denial shall remain in effect until the final legal decision has been rendered. Should the license denial be upheld, the applicant may again apply for a license 1 year from the date of the final order denying the application.

(c) No partnership, firm, corporation, or other legal entity in which a person whose license application has been denied has a substantial interest, financial or otherwise, will be licensed within 1 year of the license denial.

### Subpart B—Registration

#### § 2.25 Requirements and procedures.

(a) Each carrier and intermediate handler, and each exhibitor not required to be licensed under section 3 of the Act and the regulations of this subchapter, shall register with the Secretary by completing and filing a properly executed form which will be furnished, upon request, by the AC Regional Director. The registration form shall be filed with the AC Regional Director for the State in which the registrant has his or her principal place of business, and shall be updated every 3 years by the completion and filing of a new registration form which will be provided by the AC Regional Director.

(b) A subsidiary of a business corporation, rather than the parent corporation, will be registered as an exhibitor unless the subsidiary is under

such direct control of the parent corporation that the Secretary determines that it is necessary that the parent corporation be registered to effectuate the purposes of the Act.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

#### § 2.26 Acknowledgment of regulations and standards.

APHIS will supply a copy of the regulations and standards in this subchapter with each registration form. The registrant shall acknowledge receipt of and shall agree to comply with the regulations and standards by signing a form provided for this purpose by APHIS, and by filing it with the AC Regional Director.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

#### § 2.27 Notification of change of operation.

(a) A registrant shall notify the AC Regional Director by certified mail of any change in the name, address, or ownership, or other change in operations affecting its status as an exhibitor, carrier, or intermediate handler, within 10 days after making such change.

(b)(1) A registrant which has not used, handled, or transported animals for a period of at least 2 years may be placed in an inactive status by making a written request to the AC Regional Director a registrant shall notify the AC Regional Director in writing at least 10 days before using, handling, or transporting animals again after being in an inactive status.

(2) A registrant which goes out of business or which ceases to function as a carrier, intermediate handler, or exhibitor, or which changes its method of operation so that it no longer uses, handles, or transports animals, and which does not plan to use, handle, or transport animals again at any time in the future, may have its registration canceled by making a written request to the AC Regional Director. The former registrant is responsible for re-registering and demonstrating its compliance with the Act and regulations should it start using, handling, or

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transporting animals at any time after its registration is canceled.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

### Subpart C—Research Facilities

#### § 2.30 Registration.

(a) *Requirements and procedures.* (1) Each research facility other than a Federal research facility, shall register with the Secretary by completing and filing a properly executed form which will be furnished, upon request, by the AC Regional Director. The registration form shall be filed with the AC Regional Director for the State in which the research facility has its principal place of business, and shall be updated every 3 years by the completion and filing of a new registration form which will be provided by the AC Regional Director. Except as provided in paragraph (a)(2) of this section, where a school or department of a university or college uses or intends to use live animals for research, tests, experiments, or teaching, the university or college rather than the school or department will be considered the research facility and will be required to register with the Secretary. An official who has the legal authority to bind the parent organization shall sign the registration form.

(2) In any situation in which a school or department of a university or college demonstrates to the Secretary that it is a separate legal entity and its operations and administration are independent of those of the university or college, the school or department will be registered rather than the university or college.

(3) A subsidiary of a business corporation, rather than the parent corporation, will be registered as a research facility unless the subsidiary is under such direct control of the parent corporation that the Secretary determines that it is necessary that the parent corporation be registered to effectuate the purposes of the Act.

(b) *Acknowledgment of regulations and standards.* APHIS will supply a copy of the regulations and standards in this subchapter with each registration form. The research facility shall acknowledge receipt of and shall agree to comply with the regulations and stand-

ards by signing a form provided for this purpose by APHIS, and by filing it with the AC Regional Director.

(c) *Notification of change of operation.* (1) A research facility shall notify the AC Regional Director by certified mail of any change in the name, address, or ownership, or other change in operations affecting its status as a research facility, within 10 days after making such change.

(2) A research facility which has not used, handled, or transported animals for a period of at least 2 years may be placed in an inactive status by making a written request to the AC Regional Director. A research facility shall file an annual report of its status (active or inactive). A research facility shall notify the AC Regional Director in writing at least 10 days before using, handling, or transporting animals again after being in an inactive status.

(3) A research facility which goes out of business or which ceases to function as a research facility, or which changes its method of operation so that it no longer uses, handles, or transports animals, and which does not plan to use, handle, or transport animals at any time in the future, may have its registration canceled by making a written request to the AC Regional Director. The research facility is responsible for reregistering and demonstrating its compliance with the Act and regulations should it start using, handling, or transporting animals at any time after its registration is canceled.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

#### § 2.31 Institutional Animal Care and Use Committee (IACUC).

(a) The Chief Executive Officer of the research facility shall appoint an Institutional Animal Care and Use Committee (IACUC), qualified through the experience and expertise of its members to assess the research facility's animal program, facilities, and procedures. Except as specifically authorized by law or these regulations, nothing in this part shall be deemed to permit the Committee or IACUC to prescribe methods or set standards for the design, performance, or conduct of actual research or experimentation by a research facility.



(b) IACUC Membership. (1) The members of each Committee shall be appointed by the Chief Executive Officer of the research facility;

(2) The Committee shall be composed of a Chairman and at least two additional members;

(3) Of the members of the Committee:

(i) At least one shall be a Doctor of Veterinary Medicine, with training or experience in laboratory animal science and medicine, who has direct or delegated program responsibility for activities involving animals at the research facility;

(ii) At least one shall not be affiliated in any way with the facility other than as a member of the Committee, and shall not be a member of the immediate family of a person who is affiliated with the facility. The Secretary intends that such person will provide representation for general community interests in the proper care and treatment of animals;

(4) If the Committee consists of more than three members, not more than three members shall be from the same administrative unit of the facility.

(c) IACUC Functions. With respect to activities involving animals, the IACUC, as an agent of the research facility, shall:

(1) Review, at least once every six months, the research facility's program for humane care and use of animals, using title 9, chapter I, subchapter A—Animal Welfare, as a basis for evaluation;

(2) Inspect, at least once every six months, all of the research facility's animal facilities, including animal study areas, using title 9, chapter I, subchapter A—Animal Welfare, as a basis for evaluation; *Provided, however,* That animal areas containing free-living wild animals in their natural habitat need not be included in such inspection;

(3) Prepare reports of its evaluations conducted as required by paragraphs (c)(1) and (2) of this section, and submit the reports to the Institutional Official of the research facility; *Provided, however,* That the IACUC may determine the best means of conducting evaluations of the research facility's programs and facilities; and *Provided, further,* That no Committee member wish-

ing to participate in any evaluation conducted under this subpart may be excluded. The IACUC may use subcommittees composed of at least two Committee members and may invite *ad hoc* consultants to assist in conducting the evaluations, however, the IACUC remains responsible for the evaluations and reports as required by the Act and regulations. The reports shall be reviewed and signed by a majority of the IACUC members and must include any minority views. The reports shall be updated at least once every six months upon completion of the required semi-annual evaluations and shall be maintained by the research facility and made available to APHIS and to officials of funding Federal agencies for inspection and copying upon request. The reports must contain a description of the nature and extent of the research facility's adherence to this subchapter, must identify specifically any departures from the provisions of title 9, chapter I, subchapter A—Animal Welfare, and must state the reasons for each departure. The reports must distinguish significant deficiencies from minor deficiencies. A significant deficiency is one which, with reference to Subchapter A, and, in the judgment of the IACUC and the Institutional Official, is or may be a threat to the health or safety of the animals. If program or facility deficiencies are noted, the reports must contain a reasonable and specific plan and schedule with dates for correcting each deficiency. Any failure to adhere to the plan and schedule that results in a significant deficiency remaining uncorrected shall be reported in writing within 15 business days by the IACUC, through the Institutional Official, to APHIS and any Federal agency funding that activity;

(4) Review, and, if warranted, investigate concerns involving the care and use of animals at the research facility resulting from public complaints received and from reports of noncompliance received from laboratory or research facility personnel or employees;

(5) Make recommendations to the Institutional Official regarding any aspect of the research facility's animal program, facilities, or personnel training;

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(6) Review and approve, require modifications in (to secure approval), or withhold approval of those components of proposed activities related to the care and use of animals, as specified in paragraph (d) of this section;

(7) Review and approve, require modifications in (to secure approval), or withhold approval of proposed significant changes regarding the care and use of animals in ongoing activities; and

(8) Be authorized to suspend an activity involving animals in accordance with the specifications set forth in paragraph (d)(6) of this section.

(d) IACUC review of activities involving animals. (1) In order to approve proposed activities or proposed significant changes in ongoing activities, the IACUC shall conduct a review of those components of the activities related to the care and use of animals and determine that the proposed activities are in accordance with this subchapter unless acceptable justification for a departure is presented in writing; *Provided, however*, That field studies as defined in part 1 of this subchapter are exempt from this requirement. Further, the IACUC shall determine that the proposed activities or significant changes in ongoing activities meet the following requirements:

(i) Procedures involving animals will avoid or minimize discomfort, distress, and pain to the animals;

(ii) The principal investigator has considered alternatives to procedures that may cause more than momentary or slight pain or distress to the animals, and has provided a written narrative description of the methods and sources, *e. g.*, the Animal Welfare Information Center, used to determine that alternatives were not available;

(iii) The principal investigator has provided written assurance that the activities do not unnecessarily duplicate previous experiments;

(iv) Procedures that may cause more than momentary or slight pain or distress to the animals will:

(A) Be performed with appropriate sedatives, analgesics or anesthetics, unless withholding such agents is justified for scientific reasons, in writing, by the principal investigator and will

continue for only the necessary period of time;

(B) Involve, in their planning, consultation with the attending veterinarian or his or her designee;

(C) Not include the use of paralytics without anesthesia;

(v) Animals that would otherwise experience severe or chronic pain or distress that cannot be relieved will be painlessly euthanized at the end of the procedure or, if appropriate, during the procedure;

(vi) The animals' living conditions will be appropriate for their species in accordance with part 3 of this subchapter, and contribute to their health and comfort. The housing, feeding, and nonmedical care of the animals will be directed by the attending veterinarian or other scientist trained and experienced in the proper care, handling, and use of the species being maintained or studied;

(vii) Medical care for animals will be available and provided as necessary by a qualified veterinarian;

(viii) Personnel conducting procedures on the species being maintained or studied will be appropriately qualified and trained in those procedures;

(ix) Activities that involve surgery include appropriate provision for pre-operative and post-operative care of the animals in accordance with established veterinary medical and nursing practices. All survival surgery will be performed using aseptic procedures, including surgical gloves, masks, sterile instruments, and aseptic techniques. Major operative procedures on non-rodents will be conducted only in facilities intended for that purpose which shall be operated and maintained under aseptic conditions. Non-major operative procedures and all surgery on rodents do not require a dedicated facility, but must be performed using aseptic procedures. Operative procedures conducted at field sites need not be performed in dedicated facilities, but must be performed using aseptic procedures;

(x) No animal will be used in more than one major operative procedure from which it is allowed to recover, unless:

(A) Justified for scientific reasons by the principal investigator, in writing;

(B) Required as routine veterinary procedure or to protect the health or well-being of the animal as determined by the attending veterinarian; or

(C) In other special circumstances as determined by the Administrator on an individual basis. Written requests and supporting data should be sent to the Animal and Plant Health Inspection Service, Animal Care, 4700 River Road, Unit 84, Riverdale, Maryland 20737-1234;

(xi) Methods of euthanasia used must be in accordance with the definition of the term set forth in 9 CFR part 1, § 1.1 of this subchapter, unless a deviation is justified for scientific reasons, in writing, by the investigator.

(2) Prior to IACUC review, each member of the Committee shall be provided with a list of proposed activities to be reviewed. Written descriptions of all proposed activities that involve the care and use of animals shall be available to all IACUC members, and any member of the IACUC may obtain, upon request, full Committee review of those activities. If full Committee review is not requested, at least one member of the IACUC, designated by the chairman and qualified to conduct the review, shall review those activities, and shall have the authority to approve, require modifications in (to secure approval), or request full Committee review of any of those activities. If full Committee review is requested for a proposed activity, approval of that activity may be granted only after review, at a convened meeting of a quorum of the IACUC, and with the approval vote of a majority of the quorum present. No member may participate in the IACUC review or approval of an activity in which that member has a conflicting interest (e.g., is personally involved in the activity), except to provide information requested by the IACUC, nor may a member who has a conflicting interest contribute to the constitution of a quorum;

(3) The IACUC may invite consultants to assist in the review of complex issues arising out of its review of proposed activities. Consultants may not approve or withhold approval of an activity, and may not vote with the IACUC unless they are also members of the IACUC;

(4) The IACUC shall notify principal investigators and the research facility in writing of its decision to approve or withhold approval of those activities related to the care and use of animals, or of modifications required to secure IACUC approval. If the IACUC decides to withhold approval of an activity, it shall include in its written notification a statement of the reasons for its decision and give the principal investigator an opportunity to respond in person or in writing. The IACUC may reconsider its decision, with documentation in Committee minutes, in light of the information provided by the principal investigator;

(5) The IACUC shall conduct continuing reviews of activities covered by this subchapter at appropriate intervals as determined by the IACUC, but not less than annually;

(6) The IACUC may suspend an activity that it previously approved if it determines that the activity is not being conducted in accordance with the description of that activity provided by the principal investigator and approved by the Committee. The IACUC may suspend an activity only after review of the matter at a convened meeting of a quorum of the IACUC and with the suspension vote of a majority of the quorum present;

(7) If the IACUC suspends an activity involving animals, the Institutional Official, in consultation with the IACUC, shall review the reasons for suspension, take appropriate corrective action, and report that action with a full explanation to APHIS and any Federal agency funding that activity; and

(8) Proposed activities and proposed significant changes in ongoing activities that have been approved by the IACUC may be subject to further appropriate review and approval by officials of the research facility. However, those officials may not approve an activity involving the care and use of animals if it has not been approved by the IACUC.

(e) A proposal to conduct an activity involving animals, or to make a significant change in an ongoing activity involving animals, must contain the following:

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(1) Identification of the species and the approximate number of animals to be used;

(2) A rationale for involving animals, and for the appropriateness of the species and numbers of animals to be used;

(3) A complete description of the proposed use of the animals;

(4) A description of procedures designed to assure that discomfort and pain to animals will be limited to that which is unavoidable for the conduct of scientifically valuable research, including provision for the use of analgesic, anesthetic, and tranquilizing drugs where indicated and appropriate to minimize discomfort and pain to animals; and

(5) A description of any euthanasia method to be used.

[54 FR 36147, August 31, 1989, as amended by 59 FR 67611, Dec. 30, 1994; 63 FR 62926, Nov. 10, 1998]

### § 2.32 Personnel qualifications.

(a) It shall be the responsibility of the research facility to ensure that all scientists, research technicians, animal technicians, and other personnel involved in animal care, treatment, and use are qualified to perform their duties. This responsibility shall be fulfilled in part through the provision of training and instruction to those personnel.

(b) Training and instruction shall be made available, and the qualifications of personnel reviewed, with sufficient frequency to fulfill the research facility's responsibilities under this section and § 2.31.

(c) Training and instruction of personnel must include guidance in at least the following areas:

(1) Humane methods of animal maintenance and experimentation, including:

(i) The basic needs of each species of animal;

(ii) Proper handling and care for the various species of animals used by the facility;

(iii) Proper pre-procedural and post-procedural care of animals; and

(iv) Aseptic surgical methods and procedures;

(2) The concept, availability, and use of research or testing methods that

limit the use of animals or minimize animal distress;

(3) Proper use of anesthetics, analgesics, and tranquilizers for any species of animals used by the facility;

(4) Methods whereby deficiencies in animal care and treatment are reported, including deficiencies in animal care and treatment reported by any employee of the facility. No facility employee, Committee member, or laboratory personnel shall be discriminated against or be subject to any reprisal for reporting violations of any regulation or standards under the Act;

(5) Utilization of services (e.g., National Agricultural Library, National Library of Medicine) available to provide information:

(i) On appropriate methods of animal care and use;

(ii) On alternatives to the use of live animals in research;

(iii) That could prevent unintended and unnecessary duplication of research involving animals; and

(iv) Regarding the intent and requirements of the Act.

### § 2.33 Attending veterinarian and adequate veterinary care.

(a) Each research facility shall have an attending veterinarian who shall provide adequate veterinary care to its animals in compliance with this section:

(1) Each research facility shall employ an attending veterinarian under formal arrangements. In the case of a part-time attending veterinarian or consultant arrangements, the formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the research facility;

(2) Each research facility shall assure that the attending veterinarian has appropriate authority to ensure the provision of adequate veterinary care and to oversee the adequacy of other aspects of animal care and use; and

(3) The attending veterinarian shall be a voting member of the IACUC; *Provided, however,* That a research facility with more than one Doctor of Veterinary Medicine (DVM) may appoint to

the IACUC another DVM with delegated program responsibility for activities involving animals at the research facility.

(b) Each research facility shall establish and maintain programs of adequate veterinary care that include:

(1) The availability of appropriate facilities, personnel, equipment, and services to comply with the provisions of this subchapter;

(2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

(3) Daily observation of all animals to assess their health and well-being; *Provided, however,* That daily observation of animals may be accomplished by someone other than the attending veterinarian; and *Provided, further,* That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;

(4) Guidance to principal investigators and other personnel involved in the care and use of animals regarding handling, immobilization, anesthesia, analgesia, tranquilization, and euthanasia; and

(5) Adequate pre-procedural and post-procedural care in accordance with current established veterinary medical and nursing procedures.

#### § 2.34 [Reserved]

#### § 2.35 Recordkeeping requirements.

(a) The research facility shall maintain the following IACUC records:

(1) Minutes of IACUC meetings, including records of attendance, activities of the Committee, and Committee deliberations;

(2) Records of proposed activities involving animals and proposed significant changes in activities involving animals, and whether IACUC approval was given or withheld; and

(3) Records of semiannual IACUC reports and recommendations (including minority views), prepared in accordance with the requirements of § 2.31(c)(3) of this subpart, and forwarded to the Institutional Official.

(b) Every research facility shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each live dog or cat purchased or otherwise acquired, owned, held, or otherwise in their possession or under their control, transported, euthanized, sold, or otherwise disposed of by the research facility. The records shall include any offspring born of any animal while in the research facility's possession or under its control:

(1) The name and address of the person from whom a dog or cat was purchased or otherwise acquired, whether or not the person is required to be licensed or registered under the Act;

(2) The USDA license or registration number of the person if he or she is licensed or registered under the Act;

(3) The vehicle license number and state, and the driver's license number and state of the person, if he or she is not licensed or registered under the Act;

(4) The date of acquisition of each dog or cat;

(5) The official USDA tag number or tattoo assigned to each dog or cat under § 2.38(g) of this subpart;

(6) A description of each dog or cat which shall include:

(i) The species and breed or type of animal;

(ii) The sex;

(iii) The date of birth or approximate age; and

(iv) The color and any distinctive markings;

(7) Any identification number or mark assigned to each dog or cat by the research facility.

(c) In addition to the information required to be kept and maintained by every research facility concerning each live dog or cat under paragraph (a) of this section, every research facility transporting, selling, or otherwise disposing of any live dog or cat to another person, shall make and maintain records or forms which fully and correctly disclose the following information:

(1) The name and address of the person to whom a live dog or cat is transported, sold, or otherwise disposed of;

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(2) The date of transportation, sale, euthanasia, or other disposition of the animal; and

(3) The method of transportation, including the name of the initial carrier or intermediate handler, or if a privately owned vehicle is used to transport the dog or cat, the name of the owner of the privately owned vehicle.

(d)(1) The USDA Interstate and International Certificate of Health Examination for Small Animals (APHIS Form 7001/VS Form 18–1) and Record of Acquisition and Dogs and Cats on Hand (APHIS Form 7005/VS Form 18–5) are forms which may be used by research facilities to keep and maintain the information required by paragraph (b) of this section.

(2) The USDA Interstate and International Certificate of Health Examination for Small Animals (APHIS Form 7001/VS Form 18–1) and Record of Disposition of Dogs and Cats (APHIS Form 7006/VS Form 18–6) are forms which may be used by research facilities to keep and maintain the information required by paragraph (c) of this section.

(e) One copy of the record containing the information required by paragraphs (b) and (c) of this section shall accompany each shipment of any live dog or cat sold or otherwise disposed of by a research facility; *Provided, however*, That, except as provided in § 2.133 of this part, information that indicates the source and date of acquisition of any dog or cat need not appear on the copy of the record accompanying the shipment. One copy of the record containing the information required by paragraphs (b) and (c) of this section shall be retained by the research facility.

(f) All records and reports shall be maintained for at least three years. Records that relate directly to proposed activities and proposed significant changes in ongoing activities reviewed and approved by the IACUC shall be maintained for the duration of the activity and for an additional three years after completion of the activity. All records shall be available for inspection and copying by authorized APHIS or funding Federal agency representatives at reasonable times. APHIS inspectors will maintain the

confidentiality of the information and will not remove the materials from the research facilities' premises unless there has been an alleged violation, they are needed to investigate a possible violation, or for other enforcement purposes. Release of any such materials, including reports, summaries, and photographs that contain trade secrets or commercial or financial information that is privileged or confidential will be governed by applicable sections of the Freedom of Information Act. Whenever the Administrator notifies a research facility in writing that specified records shall be retained pending completion of an investigation or proceeding under the Act, the research facility shall hold those records until their disposition is authorized in writing by the Administrator.

[54 FR 36147, Aug. 31, 1989, as amended at 58 FR 39129, July 22, 1993; 60 FR 13895, Mar. 15, 1995]

### § 2.36 Annual report.

(a) The reporting facility shall be that segment of the research facility, or that department, agency, or instrumentality of the United States, that uses or intends to use live animals in research, tests, experiments, or for teaching. Each reporting facility shall submit an annual report to the AC Regional Director for the State where the facility is located on or before December 1 of each calendar year. The report shall be signed and certified by the CEO or Institutional Official, and shall cover the previous Federal fiscal year.

(b) The annual report shall:

(1) Assure that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, prior to, during, and following actual research, teaching, testing, surgery, or experimentation were followed by the research facility;

(2) Assure that each principal investigator has considered alternatives to painful procedures;

(3) Assure that the facility is adhering to the standards and regulations under the Act, and that it has required that exceptions to the standards and regulations be specified and explained

by the principal investigator and approved by the IACUC. A summary of all such exceptions must be attached to the facility's annual report. In addition to identifying the IACUC-approved exceptions, this summary must include a brief explanation of the exceptions, as well as the species and number of animals affected;

(4) State the location of all facilities where animals were housed or used in actual research, testing, teaching, or experimentation, or held for these purposes;

(5) State the common names and the numbers of animals upon which teaching, research, experiments, or tests were conducted involving no pain, distress, or use of pain-relieving drugs. Routine procedures (e.g., injections, tattooing, blood sampling) should be reported with this group;

(6) State the common names and the numbers of animals upon which experiments, teaching, research, surgery, or tests were conducted involving accompanying pain or distress to the animals and for which appropriate anesthetic, analgesic, or tranquilizing drugs were used;

(7) State the common names and the numbers of animals upon which teaching, experiments, research, surgery, or tests were conducted involving accompanying pain or distress to the animals and for which the use of appropriate anesthetic, analgesic, or tranquilizing drugs would have adversely affected the procedures, results, or interpretation of the teaching, research, experiments, surgery, or tests. An explanation of the procedures producing pain or distress in these animals and the reasons such drugs were not used shall be attached to the annual report;

(8) State the common names and the numbers of animals being bred, conditioned, or held for use in teaching, testing, experiments, research, or surgery but not yet used for such purposes.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

#### § 2.37 Federal research facilities.

Each Federal research facility shall establish an Institutional Animal Care and Use Committee which shall have the same composition, duties, and re-

sponsibilities required of nonfederal research facilities by § 2.31 with the following exceptions:

(a) The Committee shall report deficiencies to the head of the Federal agency conducting the research rather than to APHIS; and

(b) The head of the Federal agency conducting the research shall be responsible for all corrective action to be taken at the facility and for the granting of all exceptions to inspection protocol.

#### § 2.38 Miscellaneous.

(a) *Information as to business: furnishing of same by research facilities.* Each research facility shall furnish to any APHIS official any information concerning the business of the research facility which the APHIS official may request in connection with the enforcement of the provisions of the Act, the regulations, and the standards in this subchapter. The information shall be furnished within a reasonable time and as may be specified in the request for information.

(b) *Access and inspection of records and property.* (1) Each research facility shall, during business hours, allow APHIS officials:

(i) To enter its place of business;

(ii) To examine records required to be kept by the Act and the regulations in this part;

(iii) To make copies of the records;

(iv) To inspect the facilities, property, and animals, as the APHIS officials consider necessary to enforce the provisions of the Act, the regulations, and the standards in this subchapter; and

(v) To document, by the taking of photographs and other means, conditions and areas of noncompliance.

(2) The use of a room, table or other facilities necessary for the proper examination of the records and for inspection of the property or animals shall be extended to APHIS officials by the research facility.

(c) *Publication of names of research facilities subject to the provisions of this part.* APHIS will publish lists of research facilities registered in accordance with the provisions of this subpart in the FEDERAL REGISTER. The

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lists may be obtained upon request from the AC Regional Director.

(d) *Inspection for missing animals.* Each research facility shall allow, upon request and during business hours, police or officers of other law enforcement agencies with general law enforcement authority (not those agencies whose duties are limited to enforcement of local animal regulations) to enter its place of business to inspect animals and records for the purpose of seeking animals that are missing, under the following conditions:

(1) The police or other law officer shall furnish to the research facility a written description of the missing animal and the name and address of its owner before making a search;

(2) The police or other law officer shall abide by all security measures required by the research facility to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required, or to prevent the escape of an animal.

(e) *Confiscation and destruction of animals.* (1) If an animal being held by a research facility is not being used to carry out research, testing, or experimentation, and is found by an APHIS official to be suffering as a result of the failure of the research facility to comply with any provision of the regulations or the standards set forth in this subchapter, the APHIS official shall make a reasonable effort to notify the research facility of the condition of the animal(s) and request that the condition be corrected and that adequate care be given to alleviate the animal's suffering or distress, or that the animal(s) be destroyed by euthanasia. In the event that the research facility refuses to comply with this request, the APHIS official may confiscate the animal(s) for care, treatment, or disposal as indicated in paragraph (e)(2) of this section, if, in the opinion of the Administrator, the circumstances indicate the animal's health is in danger.

(2) In the event that the APHIS official is unable to locate or notify the research facility as required in this section, the APHIS official shall contact a local police or other law officer to accompany him or her to the premises and shall provide for adequate care when necessary to alleviate the ani-

mal's suffering. If, in the opinion of the Administrator, the condition of the animal(s) cannot be corrected by this temporary care, the APHIS official shall confiscate the animal(s).

(3) Confiscated animals may be placed, by sale or donation, with other registrants or licensees that comply with the standards and regulations and can provide proper care, or they may be euthanized. The research facility from which the animals were confiscated shall bear all costs incurred in performing the placement or euthanasia activities authorized by this section.

(f) *Handling.* (1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

(2)(i) Physical abuse shall not be used to train, work, or otherwise handle animals.

(ii) Deprivation of food or water shall not be used to train, work, or otherwise handle animals; *Provided, however:* That the short-term withholding of food or water from animals, when specified in an IACUC-approved activity that includes a description of monitoring procedures, is allowed by these regulations.

(g) *Identification of dogs and cats.* (1) All live dogs or cats, including those from any exempt source, delivered for transportation, transported, purchased or otherwise acquired, sold, or disposed of by a research facility, shall be identified at the time of such delivery for transportation, purchase, sale, disposal, or acquisition in one of the following ways:

(i) By the official tag or tattoo which was affixed to the animal at the time it was acquired by the research facility, as required by this section; or

(ii) By a tag, tattoo, or collar, applied to the live dog or cat by the research facility and which individually identifies the dog or cat by number.

(2) All official tag or tattoo numbers shall be correctly listed in the records of purchase, acquisition, disposal, or sale which shall be maintained in accordance with §2.35.



(3) Unweaned puppies or kittens need not be individually identified while they are maintained as a litter with their dam in the same primary enclosure, provided the dam has been individually identified.

(4) The official tag shall be made of a durable alloy such as brass, bronze, or steel, or of a durable plastic. Aluminum of a sufficient thickness to assure the tag is durable and legible may also be used. The tag may be circular in shape and not less than 1¼ inches in diameter, or oblong and flat in shape and not less than 2 inches by ¾ inch, and riveted to an acceptable collar.

(5) Each tag shall have the following information embossed or stamped on so that it is easily readable:

- (i) The letters "USDA";
- (ii) Numbers identifying the State and dealer, exhibitor, or research facility (e.g., 39-AB); and
- (iii) Numbers identifying the animal (e.g., 82488).

(6) Official tags shall be serially numbered and shall be applied to dogs or cats in the manner set forth in this section in as close to consecutive numerical order as possible. No tag number shall be used to identify more than one animal or shall be reused within a 5-year period.

(7) Research facilities may obtain, at their own expense, official tags from commercial tag manufacturers.<sup>1</sup> At the time the research facility is registered, the Department will assign identification letters and numbers to be used on the official tags.

(8) Each research facility shall be held accountable for all official tags acquired. In the event an official tag is lost from a dog or cat while in the possession of a research facility, the facility shall make a diligent effort to locate and reapply the tag to the proper animal. If the lost tag is not located, the research facility shall affix another official tag to the animal in the manner prescribed in this section and record the tag number on the official records.

(9) When a dog or cat wearing or identified by an official tag arrives at a research facility, the facility may continue to use that tag to identify the dog or cat or the tag may be replaced as indicated in paragraph (g)(1) of this section. All tags removed by a research facility shall be retained and disposed of as indicated in this section.

(10) Where a dog or cat to which is affixed or which is identified by an official tag is euthanized, or dies from other causes, the research facility shall remove and retain the tag for the required period, as set forth in paragraph (g)(11) of this section.

(11) All official tags removed and retained by a research facility shall be held until called for by an APHIS official or for a period of 1 year.

(12) When official tags are removed from animals for disposal, the tags must be disposed of so as to preclude their reuse for animal identification. No animal identification number shall be used within any 5-year period following its previous use.

(h) *Health certification.* (1) No research facility, including a Federal research facility, shall deliver to any intermediate handler or carrier for transportation, in commerce, or shall transport in commerce any dog, cat, or nonhuman primate unless the dog, cat, or nonhuman primate is accompanied by a health certificate executed and issued by a licensed veterinarian. The health certificate shall state that:

(i) The licensed veterinarian inspected the dog, cat, or nonhuman primate on a specified date which shall not be more than 10 days prior to the delivery of the dog, cat, or nonhuman primate for transportation; and

(ii) When so inspected, the dog, cat, or nonhuman primate appeared to the licensed veterinarian to be free of any infectious disease or physical abnormality which would endanger the animal(s) or other animals or endanger public health.

(2) The Secretary may provide exceptions to the health certification requirement on an individual basis for animals shipped to a research facility for purposes of research, testing, or experimentation when the research facility requires animals not eligible for

<sup>1</sup>A list of the commercial manufacturers who produce these tags and are known to the Department may be obtained from the AC Regional Director. Any manufacturer who desires to be included in the list should notify the Administrator.

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certification. Requests should be addressed to the Animal and Plant Health Inspection Service, Animal Care, 4700 River Road, Unit 84, Riverdale, Maryland 20737-1234.

(3) The U.S. Interstate and International Certificate of Health Examination for Small Animals (APHIS Form 7001/VS Form 18-1) may be used for health certification by a licensed veterinarian as required by this section.

(i)  *Holding of animals.*  If any research facility obtains prior approval of the AC Regional Director, it may arrange to have another person hold animals:  *Provided, That:*

(1) The other person agrees, in writing, to comply with the regulations in this part and the standards in part 3 of this subchapter, and to allow inspection of the premises by an APHIS official during business hours;

(2) The animals remain under the total control and responsibility of the research facility; and

(3) The Institutional Official agrees, in writing, that the other person or premises is a recognized animal site under its research facility registration. APHIS Form 7009/VS Form 18-9 shall be used for approval.

(j)  *Holding period.*  Research facilities that obtain dogs and cats from sources other than dealers, exhibitors, and exempt persons shall hold the animals for 5 full days, not including the day of acquisition, after acquiring the animal, excluding time in transit, before they may be used by the facility. Research facilities shall comply with the identification of animals requirements set forth in §2.38(g) during this period.

(k)  *Compliance with standards and prohibitions.*  (1) Each research facility shall comply in all respects with the regulations set forth in subpart C of this part and the standards set forth in part 3 of this subchapter for the humane handling, care, treatment, housing, and transportation of animals;  *Provided, however,*  That exceptions to the standards in part 3 and the provisions of subpart C of this part may be made only when such exceptions are specified and justified in the proposal to conduct the activity and are approved by the IACUC.

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(2) No person shall obtain live random source dogs or cats by use of false pretenses, misrepresentation, or deception.

(3) No person shall acquire, buy, sell, exhibit, use for research, transport, or offer for transportation, any stolen animal.

(4) Each research facility shall comply with the regulations set forth in §2.133 of subpart I of this part.

[54 FR 36147, Aug. 31, 1989, as amended at 58 FR 39129, July 22, 1993; 59 FR 67612, Dec. 30, 1994; 60 FR 13895, Mar. 15, 1995; 63 FR 62926, Nov. 10, 1998]

### Subpart D—Attending Veterinarian and Adequate Veterinary Care

#### §2.40 Attending veterinarian and adequate veterinary care (dealers and exhibitors).

(a) Each dealer or exhibitor shall have an attending veterinarian who shall provide adequate veterinary care to its animals in compliance with this section.

(1) Each dealer and exhibitor shall employ an attending veterinarian under formal arrangements. In the case of a part-time attending veterinarian or consultant arrangements, the formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the premises of the dealer or exhibitor; and

(2) Each dealer and exhibitor shall assure that the attending veterinarian has appropriate authority to ensure the provision of adequate veterinary care and to oversee the adequacy of other aspects of animal care and use.

(b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include:

(1) The availability of appropriate facilities, personnel, equipment, and services to comply with the provisions of this subchapter;

(2) The use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

(3) Daily observation of all animals to assess their health and well-being;  *Provided, however,*  That daily observation of animals may be accomplished by someone other than the attending

veterinarian; and *Provided, further*, That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;

(4) Adequate guidance to personnel involved in the care and use of animals regarding handling, immobilization, anesthesia, analgesia, tranquilization, and euthanasia; and

(5) Adequate pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures.

### Subpart E—Identification of Animals

#### § 2.50 Time and method of identification.

(a) A class “A” dealer (breeder) shall identify all live dogs and cats on the premises as follows:

(1) All live dogs and cats held on the premises, purchased, or otherwise acquired, sold or otherwise disposed of, or removed from the premises for delivery to a research facility or exhibitor or to another dealer, or for sale, through an auction sale or to any person for use as a pet, shall be identified by an official tag of the type described in § 2.51 affixed to the animal’s neck by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats<sup>2</sup>, or shall be identified by a distinctive and legible tattoo marking acceptable to and approved by the Administrator.

(2) Live puppies or kittens, less than 16 weeks of age, shall be identified by:

(i) An official tag as described in § 2.51;

<sup>2</sup>In general, well fitted collars made of leather or plastic will be acceptable under this provision. The use of certain types of chains presently used by some dealers may also be deemed acceptable. APHIS will determine the acceptability of a material proposed for usage as collars from the standpoint of humane considerations on an individual basis in consultation with the dealer or exhibitor involved. The use of materials such as wire, elastic, or sharp metal that might cause discomfort or injury to the dogs or cats is not acceptable.

(ii) A distinctive and legible tattoo marking approved by the Administrator; or

(iii) A plastic-type collar acceptable to the Administrator which has legibly placed thereon the information required for an official tag pursuant to § 2.51.

(b) A class “B” dealer shall identify all live dogs and cats under his or her control or on his or her premises as follows:

(1) When live dogs or cats are held, purchased, or otherwise acquired, they shall be immediately identified:

(i) By affixing to the animal’s neck an official tag as set forth in § 2.51 by means of a collar made of material generally acceptable to pet owners as a means of identifying their pet dogs or cats<sup>3</sup>; or

(ii) By a distinctive and legible tattoo marking approved by the Administrator.

(2) If any live dog or cat is already identified by an official tag or tattoo which has been applied by another dealer or exhibitor, the dealer or exhibitor who purchases or otherwise acquires the animal may continue identifying the dog or cat by the previous identification number, or may replace the previous tag with his own official tag or approved tattoo. In either case, the class B dealer or class C exhibitor shall correctly list all old and new official tag numbers or tattoos in his or her records of purchase which shall be maintained in accordance with §§ 2.75 and 2.77. Any new official tag or tattoo number shall be used on all records of any subsequent sales by the dealer or exhibitor, of any dog or cat.

(3) Live puppies or kittens less than 16 weeks of age, shall be identified by:

(i) An official tag as described in § 2.51;

(ii) A distinctive and legible tattoo marking approved by the Administrator; or

(iii) A plastic-type collar acceptable to the Administrator which has legibly placed thereon the information required for an official tag pursuant to § 2.51.

(4) When any dealer has made a reasonable effort to affix an official tag to

<sup>3</sup>See footnote 2 in § 2.50(a)(1).

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a cat, as set forth in paragraphs (a) and (b) of this section, and has been unable to do so, or when the cat exhibits serious distress from the attachment of a collar and tag, the dealer shall attach the collar and tag to the door of the primary enclosure containing the cat and take measures adequate to maintain the identity of the cat in relation to the tag. Each primary enclosure shall contain no more than one weaned cat without an affixed collar and official tag, unless the cats are identified by a distinctive and legible tattoo or plastic-type collar approved by the Administrator.

(c) A class "C" exhibitor shall identify all live dogs and cats under his or her control or on his or her premises, whether held, purchased, or otherwise acquired:

(1) As set forth in paragraph (b)(1) or (b)(3) of this section, or

(2) By identifying each dog or cat with:

(i) An official USDA sequentially numbered tag that is kept on the door of the animal's cage or run;

(ii) A record book containing each animal's tag number, a written description of each animal, the data required by §2.75(a), and a clear photograph of each animal; and

(iii) A duplicate tag that accompanies each dog or cat whenever it leaves the compound or premises.

(d) Unweaned puppies or kittens need not be individually identified as required by paragraphs (a) and (b) of this section while they are maintained as a litter with their dam in the same primary enclosure, provided the dam has been individually identified.

(e)(1) All animals, except dogs and cats, delivered for transportation, transported, purchased, sold, or otherwise acquired or disposed of by any dealer or exhibitor shall be identified by the dealer or exhibitor at the time of delivery for transportation, purchase, sale, acquisition or disposal, as provided for in this paragraph and in records maintained as required in §§2.75 and 2.77.

(2) When one or more animals, other than dogs or cats, are confined in a primary enclosure, the animal(s) shall be identified by:

(i) A label attached to the primary enclosure which shall bear a description of the animals in the primary enclosure, including:

(A) The number of animals;

(B) The species of the animals;

(C) Any distinctive physical features of the animals; and

(D) Any identifying marks, tattoos, or tags attached to the animals;

(ii) Marking the primary enclosure with a painted or stenciled number which shall be recorded in the records of the dealer or exhibitor together with:

(A) A description of the animal(s);

(B) The species of the animal(s); and

(C) Any distinctive physical features of the animal(s); or

(iii) A tag or tattoo applied to each animal in the primary enclosure by the dealer or exhibitor which individually identifies each animal by description or number.

(3) When any animal, other than a dog or cat, is not confined in a primary enclosure, it shall be identified on a record, as required by §2.75, which shall accompany the animal at the time it is delivered for transportation, transported, purchased, or sold, and shall be kept and maintained by the dealer or exhibitor as part of his or her records.

### §2.51 Form of official tag.

(a) The official tag shall be made of a durable alloy such as brass, bronze, or steel, or of a durable plastic. Aluminum of a sufficient thickness to assure the tag is durable and legible may also be used. The tag shall be one of the following shapes:

(1) Circular in shape and not less than 1¼ inches in diameter, or

(2) Oblong and flat in shape, not less than 2 inches by ¾ inch and riveted to an acceptable collar.

(b) Each tag shall have the following information embossed or stamped on so that it is easily readable:

(1) The letters "USDA";

(2) Numbers identifying the State and dealer, exhibitor, or research facility (*e.g.*, 39-AB); and

(3) Numbers identifying the animal (*e.g.*, 82488).

(c) Official tags shall be serially numbered. No individual dealer or exhibitor shall use any identification tag

number more than once within a 5-year period.

**§ 2.52 How to obtain tags.**

Dealers or exhibitors may obtain, at their own expense, official tags from commercial tag manufacturers.<sup>4</sup> At the time the dealer or exhibitor is issued a license or is registered, the Department will assign identification letters and numbers and inform them of the identification letters and numbers to be used on the official tags.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62927, Nov. 10, 1998]

**§ 2.53 Use of tags.**

Official tags obtained by a dealer, exhibitor, or research facility, shall be applied to dogs or cats in the manner set forth in § 2.50 and in as close to consecutive numerical order as possible. No tag number shall be used to identify more than one animal. No number shall be repeated within a 5-year period.

**§ 2.54 Lost tags.**

Each dealer or exhibitor shall be held accountable for all official tags acquired. In the event an official tag is lost from a dog or cat while in the possession of a dealer or exhibitor, the dealer or exhibitor shall make a diligent effort to locate and reapply the tag to the proper animal. If the lost tag is not located, the dealer or exhibitor shall affix another official tag to the animal in the manner prescribed in § 2.50, and record the tag number on the official records.

**§ 2.55 Removal and disposal of tags.**

(a) Where a dog or cat to which is affixed or which is identified by an official tag is euthanized, or dies from other causes, the dealer or exhibitor shall remove and retain the tag for the required period, as set forth in paragraph (b) of this section.

(b) All official tags removed and retained by a dealer or exhibitor shall be

<sup>4</sup>A list of the commercial manufacturers who produce these tags and are known to the Department may be obtained from the AC Regional Director. Any manufacturer who desires to be included in the list should notify the Administrator.

held until called for by an APHIS official or for a period of 1 year.

(c) When official tags are removed from animals for disposal, the tags must be disposed of so as to preclude their reuse for animal identification. No animal identification number shall be used within any 5-year period following its previous use.

**Subpart F—Stolen Animals**

**§ 2.60 Prohibition on the purchase, sale, use, or transportation of stolen animals.**

No person shall buy, sell, exhibit, use for research, transport, or offer for transportation, any stolen animal.

**Subpart G—Records**

**§ 2.75 Records: Dealers and exhibitors.**

(a)(1) Each dealer, other than operators of auction sales and brokers to whom animals are consigned, and each exhibitor shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each dog or cat purchased or otherwise acquired, owned, held, or otherwise in his or her possession or under his or her control, or which is transported, euthanized, sold, or otherwise disposed of by that dealer or exhibitor. The records shall include any offspring born of any animal while in his or her possession or under his or her control.

(i) The name and address of the person from whom a dog or cat was purchased or otherwise acquired whether or not the person is required to be licensed or registered under the Act;

(ii) The USDA license or registration number of the person if he or she is licensed or registered under the Act;

(iii) The vehicle license number and state, and the driver's license number and state of the person, if he or she is not licensed or registered under the Act;

(iv) The name and address of the person to whom a dog or cat was sold or given and that person's license or registration number if he or she is licensed or registered under the Act;

(v) The date a dog or cat was acquired or disposed of, including by euthanasia;

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(vi) The official USDA tag number or tattoo assigned to a dog or cat under §§2.50 and 2.54;

(vii) A description of each dog or cat which shall include:

(A) The species and breed or type;

(B) The sex;

(C) The date of birth or approximate age; and

(D) The color and any distinctive markings;

(viii) The method of transportation including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;

(ix) The date and method of disposition of a dog or cat, e.g., sale, death, euthanasia, or donation.

(2) Each dealer and exhibitor shall use Record of Acquisition and Dogs and Cats on Hand (APHIS Form 7005/VS Form 18-5) and Record of Disposition of Dogs and Cats (APHIS Form 7006/VS Form 18-6) to make, keep, and maintain the information required by paragraph (a)(1) of this section: *Provided*, that if a dealer or exhibitor who uses a computerized recordkeeping system believes that APHIS Form 7005/VS Form 18-5 and APHIS Form 7006/VS Form 18-6 are unsuitable for him or her to make, keep, and maintain the information required by paragraph (a)(1) of this section, the dealer or exhibitor may request a variance from the requirement to use APHIS Form 7005/VS Form 18-5 and APHIS Form 7006/VS Form 18-6.

(i) The request for a variance must consist of a written statement describing why APHIS Form 7005/VS Form 18-5 and APHIS Form 7006/VS Form 18-6 are unsuitable for the dealer or exhibitor to make, keep, and maintain the information required by paragraph (a)(1) of this section, and a description of the computerized recordkeeping system the person would use in lieu of APHIS Form 7005/VS Form 18-5 and APHIS Form 7006/VS Form 18-6 to make, keep, and maintain the information required by paragraph (a)(1) of this section. APHIS will advise the person as to the disposition of his or her request for a variance from the requirement to use APHIS Form 7005/VS Form 18-5 and APHIS Form 7006/VS Form 18-6.

(ii) A dealer or exhibitor whose request for a variance has been denied may request a hearing in accordance with the applicable rules of practice for the purpose of showing why the request for a variance should not be denied. The denial of the variance shall remain in effect until the final legal decision has been rendered.

(3) The USDA Interstate and International Certificate of Health Examination for Small Animals (APHIS Form 7001/VS Form 18-1) may be used by dealers and exhibitors to make, keep, and maintain the information required by §2.79.

(4) One copy of the record containing the information required by paragraph (a)(1) of this section shall accompany each shipment of any dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (a)(1) of this section shall accompany each shipment of any dog or cat sold or otherwise disposed of by a dealer or exhibitor: *Provided, however*, that, except as provided in §2.133(b) of this part for dealers, information that indicates the source and date of acquisition of a dog or cat need not appear on the copy of the record accompanying the shipment. One copy of the record containing the information required by paragraph (a)(1) of this section shall be retained by the dealer or exhibitor.

(b)(1) Every dealer other than operators of auction sales and brokers to whom animals are consigned, and exhibitor shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning animals other than dogs and cats, purchased or otherwise acquired, owned, held, leased, or otherwise in his or her possession or under his or her control, or which is transported, sold, euthanized, or otherwise disposed of by that dealer or exhibitor. The records shall include any offspring born of any animal while in his or her possession or under his or her control.

(i) The name and address of the person from whom the animals were purchased or otherwise acquired;

(ii) The USDA license or registration number of the person if he or she is licensed or registered under the Act;

(iii) The vehicle license number and state, and the driver's license number and state of the person, if he or she is not licensed or registered under the Act;

(iv) The name and address of the person to whom an animal was sold or given;

(v) The date of purchase, acquisition, sale, or disposal of the animal(s);

(vi) The species of the animal(s); and

(vii) The number of animals in the shipment.

(2) Record of Animals on Hand (other than dogs and cats) (APHIS Form 7019/VS Form 18-19) and Record of Acquisition, Disposition, or Transport of Animals (other than dogs and cats) (APHIS Form 7020/VS Form 18-20) are forms which may be used by dealers and exhibitors to keep and maintain the information required by paragraph (b)(1) of this section concerning animals other than dogs and cats except as provided in § 2.79.

(3) One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal(s) other than a dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal other than a dog or cat sold or otherwise disposed of by a dealer or exhibitor; *Provided, however*, That information which indicates the source and date of acquisition of any animal other than a dog or cat need not appear on the copy of the record accompanying the shipment. The dealer or exhibitor shall retain one copy of the record containing the information required by paragraph (b)(1) of this section.

[54 FR 36147, Aug. 31, 1989, as amended at 58 FR 39129, July 22, 1993; 58 FR 45041, Aug. 26, 1993; 60 FR 13895, Mar. 15, 1995]

**§ 2.76 Records: Operators of auction sales and brokers.**

(a) Every operator of an auction sale or broker shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each animal consigned for auction or sold, whether or not a fee or commission is charged:

(1) The name and address of the person who owned or consigned the animal(s) for sale;

(2) The name and address of the buyer or consignee who received the animal;

(3) The USDA license or registration number of the person(s) selling, consigning, buying, or receiving the animals if he or she is licensed or registered under the Act;

(4) The vehicle license number and state, and the driver's license number and state of the person, if he or she is not licensed or registered under the Act;

(5) The date of the consignment;

(6) The official USDA tag number or tattoo assigned to the animal under §§ 2.50 and 2.54;

(7) A description of the animal which shall include:

(i) The species and breed or type of animal;

(ii) The sex of the animal; and

(iii) The date of birth or approximate age; and

(iv) The color and any distinctive markings;

(8) The auction sales number or records number assigned to the animal.

(b) One copy of the record containing the information required by paragraph (a) of this section shall be given to the consignor of each animal, one copy of the record shall be given to the purchaser of each animal: *Provided, however*, That information which indicates the source and date of consignment of any animal need not appear on the copy of the record given the purchaser of any animal. One copy of the record containing the information required by paragraph (a) of this section shall be retained by the operator of such auction sale, or broker, for each animal sold by the auction sale or broker.

**§ 2.77 Records: Carriers and intermediate handlers.**

(a) In connection with all live animals accepted for shipment on a C.O.D. basis or other arrangement or practice under which the cost of an animal or the transportation of an animal is to be paid and collected upon delivery of the animal to the consignee, the accepting carrier or intermediate handler, if any, shall keep and maintain a

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copy of the consignor's written guarantee for the payment of transportation charged for any animal not claimed as provided in §2.80, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for out-of-pocket expenses incurred for the care, feeding, and storage of the animal. The carrier or intermediate handler at destination shall also keep and maintain a copy of the shipping document containing the time, date, and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee, as provided in §2.80.

(b) In connection with all live dogs, cats, or nonhuman primates delivered for transportation, in commerce, to any carrier or intermediate handler, by any dealer, research facility, exhibitor, operator of an auction sale, broker, or department, agency or instrumentality of the United States or of any state or local government, the accepting carrier or intermediate handler shall keep and maintain a copy of the health certification completed as required by §2.79, tendered with each live dog, cat, or nonhuman primate.

### §2.78 Health certification and identification.

(a) No dealer, exhibitor, operator of an auction sale, broker, or department, agency, or instrumentality of the United States or of any State or local government shall deliver to any intermediate handler or carrier for transportation, in commerce, or shall transport in commerce any dog, cat, or nonhuman primate unless the dog, cat, or nonhuman primate is accompanied by a health certificate executed and issued by a licensed veterinarian. The health certificate shall state that:

(1) The licensed veterinarian inspected the dog, cat, or nonhuman primate on a specified date which shall not be more than 10 days prior to the delivery of the dog, cat, or nonhuman primate for transportation; and

(2) when so inspected, the dog, cat, or nonhuman primate appeared to the licensed veterinarian to be free of any infectious disease or physical abnormality which would endanger the ani-

mal(s) or other animals or endanger public health.

(b) The Secretary may provide exceptions to the health certification requirement on an individual basis for animals shipped to a research facility for purposes of research, testing, or experimentation when the research facility requires animals not eligible for certification. Requests should be addressed to the Animal and Plant Health Inspection Service, Animal Care, 4700 River Road, Unit 84, Riverdale, Maryland 20737-1234.

(c) No intermediate handler or carrier to whom any live dog, cat, or nonhuman primate is delivered for transportation by any dealer, research facility, exhibitor, broker, operator of an auction sale, or department, agency, or instrumentality of the United States or any State or local government shall receive a live dog, cat, or nonhuman primate for transportation, in commerce, unless and until it is accompanied by a health certificate issued by a licensed veterinarian in accordance with paragraph (a) of this section, or an exemption issued by the Secretary in accordance with paragraph (b) of this section.

(d) The U.S. Interstate and International Certificate of Health Examination for Small Animals (APHIS Form 7001/VS Form 18-1) may be used for health certification by a licensed veterinarian as required by this section.

[54 FR 36147, August 31, 1989, as amended at 59 FR 67612, Dec. 30, 1994; 60 FR 13896, Mar. 15, 1995; 63 FR 62927, Nov. 10, 1998]

### §2.79 C.O.D. shipments.

(a) No carrier or intermediate handler shall accept any animal for transportation, in commerce, upon any C.O.D. or other basis where any money is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of all transportation, including any return transportation, if the shipment is unclaimed or the consignee cannot be notified in accordance with paragraphs (b) and (c) of this section, including reimbursing the carrier or intermediate handler for all out-of-pocket expenses incurred for the care,



feeding, and storage or housing of the animal.

(b) Any carrier or intermediate handler receiving an animal at a destination on a C.O.D. or other basis any money is to be paid and collected upon delivery of the animal to the consignee shall attempt to notify the consignee at least once every 6 hours for a period of 24 hours after arrival of the animal at the animal holding area of the terminal cargo facility. The carrier or intermediate handler shall record the time, date, and method of each attempted notification and the final notification to the consignee, and the name of the person notifying the consignee, on the shipping document and on the copy of the shipping document accompanying the C.O.D. shipment. If the consignee cannot be notified of the C.O.D. shipment within 24 hours after its arrival, the carrier or intermediate handler shall return the animal to the consignor, or to whomever the consignor has designated, on the next practical available transportation, in accordance with the written agreement required in paragraph (a) of this section and shall notify the consignor. Any carrier or intermediate handler which has notified a consignee of the arrival of a C.O.D. or other shipment of an animal, where any money is to be paid and collected upon delivery of the animal to the consignee, which is not claimed by the consignee within 48 hours from the time of notification, shall return the animal to the consignor, or to whomever the consignor has designated, on the next practical available transportation, in accordance with the written agreement required in paragraph (a) of this section and shall notify the consignor.

(c) It is the responsibility of any carrier or intermediate handler to hold, feed, and care for any animal accepted for transportation, in commerce, under a C.O.D. or other arrangement where any money is to be paid and collected upon delivery of the animal until the consignee accepts shipment at destination or until returned to the consignor or his or her designee should the consignee fail to accept delivery of the animal or if the consignee could not be notified as prescribed in paragraph (b) of this section.

(d) Nothing in this section shall be construed as prohibiting any carrier or intermediate handler from requiring any guarantee in addition to that required in paragraph (a) of this section for the payment of the cost of any transportation or out-of-pocket or other incidental expenses incurred in the transportation of any animal.

#### **§ 2.80 Records, disposition.**

(a) No dealer, exhibitor, broker, operator of an auction sale, carrier, or intermediate handler shall, for a period of 1 year, destroy or dispose of, without the consent in writing of the Administrator, any books, records, documents, or other papers required to be kept and maintained under this part.

(b) Unless otherwise specified, the records required to be kept and maintained under this part shall be held for 1 year after an animal is euthanized or disposed of and for any period in excess of one year as necessary to comply with any applicable Federal, State, or local law. Whenever the Administrator notifies a dealer, exhibitor, broker, operator of an auction sale, carrier, or intermediate handler in writing that specified records shall be retained pending completion of an investigation or proceeding under the Act, the dealer, exhibitor, broker, operator of an auction sale, carrier, or intermediate handler shall hold those records until their disposition is authorized by the Administrator.

### **Subpart H—Compliance With Standards and Holding Period**

#### **§ 2.100 Compliance with standards.**

(a) Each dealer, exhibitor, operator of an auction sale, and intermediate handler shall comply in all respects with the regulations set forth in part 2 and the standards set forth in part 3 of this subchapter for the humane handling, care, treatment, housing, and transportation of animals.

(b) Each carrier shall comply in all respects with the regulations in part 2 and the standards in part 3 of this subchapter setting forth the conditions and requirements for the humane transportation of animals in commerce and their handling, care, and treatment in connection therewith.

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### §2.101 Holding period.

(a) Any live dog or cat acquired by a dealer<sup>5</sup> or exhibitor shall be held by him or her, under his or her supervision and control, for a period of not less than 5 full days, not including the day of acquisition, after acquiring the animal, excluding time in transit: *Provided, however:*

(1) That any live dog or cat acquired by a dealer or exhibitor from any private or contract animal pound or shelter shall be held by that dealer or exhibitor under his or her supervision and control for a period of not less than 10 full days, not including the day of acquisition, after acquiring the animal, excluding time in transit;

(2) Live dogs or cats which have completed a 5-day holding period with another dealer or exhibitor, or a 10-day holding period with another dealer or exhibitor if obtained from a private or contract shelter or pound, may be sold or otherwise disposed of by subsequent dealers or exhibitors after a minimum holding period of 24 hours by each subsequent dealer or exhibitor excluding time in transit;

(3) Any dog or cat suffering from disease, emaciation, or injury may be destroyed by euthanasia prior to the completion of the holding period required by this section; and

(4) Any live dog or cat, 120 days of age or less, that was obtained from the person that bred and raised such dog or cat, may be exempted from the 5-day holding requirement and may be disposed of by dealers or exhibitors after a minimum holding period of 24 hours, excluding time in transit. Each subsequent dealer or exhibitor must also hold each such dog or cat for a 24-hour period excluding time in transit.

(b) During the period in which any dog or cat is being held as required by this section, the dog or cat shall be unloaded from any means of conveyance in which it was received, for food, water, and rest, and shall be handled, cared for, and treated in accordance with the standards set forth in part 3, subpart A, of this subchapter and §2.131.

<sup>5</sup>An operator of an auction sale is not considered to have acquired a dog or cat which is sold through the auction sale.

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### §2.102 Holding facility.

(a) If any dealer or exhibitor obtains the prior approval of the AC Regional Director, he may arrange to have another person hold animals for the required period provided for in paragraph (a) of §2.101: *Provided, That:*

(1) The other person agrees in writing to comply with the regulations in part 2 and the standards in part 3 of this subchapter and to allow inspection of his premises by an APHIS official during business hours; and

(2) The animals remain under the total control and responsibility of the dealer or exhibitor.

(3) Approval will not be given for a dealer or exhibitor holding a license as set forth in §2.1 to have animals held for purposes of this section by another licensed dealer or exhibitor. APHIS Form 7009/VS Form 18-9 shall be used for approval.

(b) If any intermediate handler obtains prior approval of the AC Regional Director, it may arrange to have another person hold animals: *Provided, That:*

(1) The other person agrees in writing to comply with the regulations in part 2 and the standards in part 3 of this subchapter and to allow inspection of the premises by an APHIS official during business hours; and

(2) The animals remain under the total control and responsibility of the research facility or intermediate handler.

[54 FR 36147, Aug. 31, 1989, as amended at 60 FR 13896, Mar. 15, 1995; 63 FR 62927, Nov. 10, 1998]

## Subpart I—Miscellaneous

### §2.125 Information as to business; furnishing of same by dealers, exhibitors, operators of auction sales, intermediate handlers, and carriers.

Each dealer, exhibitor, operator of an auction sale, intermediate handler, and carrier shall furnish to any APHIS official any information concerning the business of the dealer, exhibitor, operator of an auction sale, intermediate handler or carrier which the APHIS official may request in connection with the enforcement of the provisions of

the Act, the regulations and the standards in this subchapter. The information shall be furnished within a reasonable time and as may be specified in the request for information.

**§ 2.126 Access and inspection of records and property.**

(a) Each dealer, exhibitor, intermediate handler, or carrier, shall, during business hours, allow APHIS officials:

(1) To enter its place of business;  
 (2) To examine records required to be kept by the Act and the regulations in this part;

(3) To make copies of the records;

(4) To inspect and photograph the facilities, property and animals, as the APHIS officials consider necessary to enforce the provisions of the Act, the regulations and the standards in this subchapter; and

(5) To document, by the taking of photographs and other means, conditions and areas of noncompliance.

(b) The use of a room, table, or other facilities necessary for the proper examination of the records and inspection of the property or animals shall be extended to APHIS officials by the dealer, exhibitor, intermediate handler or carrier.

**§ 2.127 Publication of names of persons subject to the provisions of this part.**

APHIS will publish lists of persons licensed or registered in accordance with the provisions of this part in the FEDERAL REGISTER. The lists may be obtained upon request from the AC Regional Director.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62927, Nov. 10, 1998]

**§ 2.128 Inspection for missing animals.**

Each dealer, exhibitor, intermediate handler and carrier shall allow, upon request and during business hours, police or officers of other law enforcement agencies with general law enforcement authority (not those agencies whose duties are limited to enforcement of local animal regulations) to enter his or her place of business to inspect animals and records for the purpose of seeking animals that are

missing, under the following conditions:

(a) The police or other law officer shall furnish to the dealer, exhibitor, intermediate handler or carrier a written description of the missing animal and the name and address of its owner before making a search.

(b) The police or other law officer shall abide by all security measures required by the dealer, exhibitor, intermediate handler or carrier to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required, or to prevent the escape of an animal.

**§ 2.129 Confiscation and destruction of animals.**

(a) If an animal being held by a dealer, exhibitor, intermediate handler, or by a carrier is found by an APHIS official to be suffering as a result of the failure of the dealer, exhibitor, intermediate handler, or carrier to comply with any provision of the regulations or the standards set forth in this subchapter, the APHIS official shall make a reasonable effort to notify the dealer, exhibitor, intermediate handler, or carrier of the condition of the animal(s) and request that the condition be corrected and that adequate care be given to alleviate the animal's suffering or distress, or that the animal(s) be destroyed by euthanasia. In the event that the dealer, exhibitor, intermediate handler, or carrier refuses to comply with this request, the APHIS official may confiscate the animal(s) for care, treatment, or disposal as indicated in paragraph (b) of this section, if, in the opinion of the Administrator, the circumstances indicate the animal's health is in danger.

(b) In the event that the APHIS official is unable to locate or notify the dealer, exhibitor, intermediate handler, or carrier as required in this section, the APHIS official shall contact a local police or other law officer to accompany him to the premises and shall provide for adequate care when necessary to alleviate the animal's suffering. If in the opinion of the Administrator, the condition of the animal(s) cannot be corrected by this temporary care, the APHIS official shall confiscate the animals.

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(c) Confiscated animals may be:

(1) Placed, by sale or donation, with other licensees or registrants that comply with the standards and regulations and can provide proper care; or

(2) Placed with persons or facilities that can offer a level of care equal to or exceeding the standards and regulations, as determined by APHIS, even if the persons or facilities are not licensed by or registered with APHIS; or

(3) Euthanized.

(d) The dealer, exhibitor, intermediate handler, or carrier from whom the animals were confiscated must bear all costs incurred in performing the placement or euthanasia activities authorized by this section.

[54 FR 36147, Aug. 31, 1989, as amended at 66 FR 239, Jan. 3, 2001]

### § 2.130 Minimum age requirements.

No dog or cat shall be delivered by any person to any carrier or intermediate handler for transportation, in commerce, or shall be transported in commerce by any person, except to a registered research facility, unless such dog or cat is at least eight (8) weeks of age and has been weaned.

### § 2.131 Handling of animals.

(a)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

(2)(i) Physical abuse shall not be used to train, work, or otherwise handle animals.

(ii) Deprivation of food or water shall not be used to train, work, or otherwise handle animals; *Provided, however,* That the short-term withholding of food or water from animals by exhibitors is allowed by these regulations as long as each of the animals affected receives its full dietary and nutrition requirements each day.

(b)(1) During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public.

(2) Performing animals shall be allowed a rest period between performances at least equal to the time for one performance.

(3) Young or immature animals shall not be exposed to rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being.

(4) Drugs, such as tranquilizers, shall not be used to facilitate, allow, or provide for public handling of the animals.

(c)(1) Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.

(2) A responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during periods of public contact.

(3) During public exhibition, dangerous animals such as lions, tigers, wolves, bears, or elephants must be under the direct control and supervision of a knowledgeable and experienced animal handler.

(4) If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.

(d) When climatic conditions present a threat to an animal's health or well-being, appropriate measures must be taken to alleviate the impact of those conditions. An animal may never be subjected to any combination of temperature, humidity, and time that is detrimental to the animal's health or well-being, taking into consideration such factors as the animal's age, species, breed, overall health status, and acclimation.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 10498, Mar. 4, 1998]

### § 2.132 Procurement of random source dogs and cats, dealers.

(a) A class "B" dealer may obtain live random source dogs and cats only from:

(1) Other dealers who are licensed under the Act and in accordance with the regulations in part 2;

(2) State, county, or city owned and operated animal pounds or shelters; and

(3) A legal entity organized and operated under the laws of the State in

which it is located as an animal pound or shelter, such as a humane shelter or contract pound.

(b) A class "B" dealer shall not obtain live random source dogs and cats from individuals who have not bred and raised the dogs and cats on their own premises.

(c) Live nonrandom source dogs and cats may be obtained from persons who have bred and raised the dogs and cats on their own premises, such as hobby breeders.

(d) No person shall obtain live random source dogs or cats by use of false pretenses, misrepresentation, or deception.

(e) Any dealer, exhibitor, research facility, carrier, or intermediate handler who also operates a private or contract animal pound or shelter shall comply with the following:

(1) The animal pound or shelter shall be located on premises that are physically separated from the licensed or registered facility. The animal housing facility of the pound or shelter shall not be adjacent to the licensed or registered facility.

(2) Accurate and complete records shall be separately maintained by the licensee or registrant and by the pound or shelter. The records shall be in accordance with §§ 2.75 and 2.76, unless the animals are lost or stray. If the animals are lost or stray, the pound or shelter records shall provide:

(i) An accurate description of the animal;

(ii) How, where, from whom, and when the dog or cat was obtained;

(iii) How long the dog or cat was held by the pound or shelter before being transferred to the dealer; and

(iv) The date the dog or cat was transferred to the dealer.

(3) Any dealer who obtains or acquires a live random source dog or cat from a private or contract pound or shelter, including a pound or shelter he or she operates, shall hold the dog or cat for a period of at least 10 full days, not including the day of acquisition, excluding time in transit, after acquiring the animal, and otherwise in accordance with § 2.101.

**§ 2.133 Certification for random source dogs and cats.**

(a) Each of the entities listed in paragraphs (a)(1) through (a)(3) of this section that acquire any live dog or cat shall, before selling or providing the live dog or cat to a dealer, hold and care for the dog or cat for a period of not less than 5 full days after acquiring the animal, not including the date of acquisition and excluding time in transit. This holding period shall include at least one Saturday. The provisions of this paragraph apply to:

(1) Each pound or shelter owned and operated by a State, county, or city;

(2) Each private pound or shelter established for the purpose of caring for animals, such as a humane society, or other organization that is under contract with a State, county, or city, that operates as a pound or shelter, and that releases animals on a voluntary basis; and

(3) Each research facility licensed by USDA as a dealer.

(b) A dealer shall not sell, provide, or make available to any person a live random source dog or cat unless the dealer provides the recipient of the dog or cat with certification that contains the following information:

(1) The name, address, USDA license number, and signature of the dealer;

(2) The name, address, USDA license or registration number, if such number exists, and signature of the recipient of the dog or cat;

(3) A description of each dog or cat being sold, provided, or made available that shall include:

(i) The species and breed or type (for mixed breeds, estimate the two dominant breeds or types);

(ii) The sex;

(iii) The date of birth or, if unknown, then the approximate age;

(iv) The color and any distinctive markings; and

(v) The Official USDA-approved identification number of the animal. However, if the certification is attached to a certificate provided by a prior dealer which contains the required description, then only the official identification numbers are required;

(4) The name and address of the person, pound, or shelter from which the dog or cat was acquired by the dealer,

and an assurance that the person, pound, or shelter was notified that the cat or dog might be used for research or educational purposes;

(5) The date the dealer acquired the dog or cat from the person, pound, or shelter referred to in paragraph (b)(4) of this section; and

(6) If the dealer acquired the dog or cat from a pound or shelter, a signed statement by the pound or shelter that it met the requirements of paragraph (a) of this section. This statement must at least describe the animals by their official USDA identification numbers. It may be incorporated within the certification if the dealer makes the certification at the time that the animals are acquired from the pound or shelter or it may be made separately and attached to the certification later. If made separately, it must include the same information describing each animal as is required in the certification. A photocopy of the statement will be regarded as a duplicate original.

(c) The original certification required under paragraph (b) of this section shall accompany the shipment of a live dog or cat to be sold, provided, or otherwise made available by the dealer.

(d) A dealer who acquires a live dog or cat from another dealer must obtain from that dealer the certification required by paragraph (b) of this section and must attach that certification (including any previously attached certification) to the certification which he or she provides pursuant to paragraph (b) of this section (a photocopy of the original certification will be deemed a duplicate original if the dealer does not dispose of all of the dogs or cats in a single transaction).

(e) A dealer who completes, provides, or receives a certification required under paragraph (b) of this section shall keep, maintain, and make available for APHIS inspection a copy of the certification for at least 1 year following disposition.

(f) A research facility which acquires any live random source dog or cat from a dealer must obtain the certification required under paragraph (b) of this section and shall keep, maintain, and make available for APHIS inspection the original for at least 3 years following disposition.

(g) In instances where a research facility transfers ownership of a live random source dog or cat acquired from a dealer to another research facility, a copy of the certification required by paragraph (b) of this section must accompany the dog or cat transferred. The research facility to which the dog or cat is transferred shall keep, maintain, and make available for APHIS inspection the copy of the certification for at least 3 years following disposition.

[58 FR 39129, July 22, 1993]

## PART 3—STANDARDS

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##### Sec.

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#### FACILITIES AND OPERATING STANDARDS

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