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United States General Accounting Office

GAO

Report to the Honorable Manuel Lujan, Jr., House of Representatives

March 1988

ANIMAL WELFARE PROGRAM

Federal Regulation Relating to the Transportation of Dogs

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United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-217624

March 21, 1988

The Honorable Manuel Lujan, Jr.
House of Representatives

Dear Mr. Lujan:

As requested in your May 20, 1987, letter, we are providing you with information concerning the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) regulation of the transportation of dogs less than 8 weeks old that are sold in the wholesale pet trade. According to your letter, some breeders have expressed concern that small animals are being transported across state lines for resale at a very early age—between 4 days and 2 weeks. Consequently, the breeders say, dogs often become vicious or ill and may require medical treatment.

According to industry sources, about 350,000 dogs are sold annually at an estimated value of about $38.1 million. The majority of dogs are born and bred in the Midwest and are shipped to metropolitan centers across the country.[1]

To address your concerns, we asked the Administrator of APHIS a series of questions regarding APHIS' (1) responsibilities for regulating the transportation of dogs, (2) plans to revise its regulations, and (3) views on the monitoring role of state governments and private organizations. This report is based on APHIS' response (see app. I), information from related documents, and discussions with APHIS officials and industry representatives from the American Kennel Club (AKC), Pet Industry Joint Advisory Council, Humane Society of the United States, and American Humane Association. As agreed with your office, we did not review the effectiveness of APHIS' enforcement activities.

In summary, we found that:

- APHIS regulations include transportation standards and minimum age and health certification requirements for dogs in transit. APHIS inspects registered carriers' and intermediate handlers' vehicles and records for

[1]In fiscal year 1986, APHIS reported 3,708 licensed dealers nationwide. In fiscal year 1987, 2,495 of the dealers were located in APHIS' Central Region states of Arkansas, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, Oklahoma, Missouri, and Texas.

compliance with these regulations.[2] Licensed dealers' privately owned vehicles used to transport dogs are inspected for compliance with the transportation standards for cleanliness and safety conditions of the animal cargo space.[3] However, APHIS does not inspect these dealers' records for compliance with minimum age and health certification requirements for the dogs they ship.

- APHIS is tentatively planning to pursue with Agriculture's Office of the General Counsel the extent of APHIS' authority under the Animal Welfare Act, as amended (7 U.S.C. 2131 et seq.), to require dealers transporting dogs in their own vehicles to comply with the minimum age and health certification requirements. We believe that APHIS has this authority under its general authority to regulate the activities of dealers, and therefore see no legal barriers that would preclude APHIS from extending this certification requirement to them.
- In addition to APHIS' federal role in standard setting, monitoring, and enforcing transportation regulations, about 24 states have animal welfare legislation. However, states generally have not become involved in monitoring the transportation of dogs because (1) the Animal Welfare Act gives this responsibility to APHIS and (2) there are problems concerning the uniformity of regulations and enforcement among states. Some local humane societies, mostly in the Northeast, have enforcement power provided by state and local anticruelty laws, that, according to APHIS, may include monitoring animal transportation movements for violations. Other private organizations have not been involved with monitoring the transportation of dogs; however, APHIS believes that industry self-regulation probably offers the greatest potential for improving the transportation of dogs. (The roles of state and private organizations in the animal welfare area and information on recent activities related to self-regulation are discussed in app. III.)

These matters are discussed in more detail in the following sections.

[2]A carrier is the operator of any airline, railroad, motor carrier, shipping line, or other enterprise hired to transport animals. An intermediate handler is anyone engaged in any business in which he or she receives custody of animals in connection with their transportation in commerce. Carriers and intermediate handlers (as well as research facilities and some exhibitors) are required to register with the Secretary of Agriculture.

[3]Unless exempted under section 3 of the Animal Welfare Act, persons operating or desiring to operate as a dealer, exhibitor, or operator of an auction sale (where any dogs or cats are sold) are required to apply for a license from APHIS.

Federal Regulation Relating to the Transportation of Dogs

Federal authority for regulating the transportation of dogs is contained in the Animal Welfare Act, as amended, administered by APHIS. Under the act, APHIS has the authority to regulate both animal dealers who raise dogs for the wholesale pet trade and intermediate handlers and carriers which transport the animals.

To implement the act, APHIS developed regulations that include (1) transportation standards (primarily prescribing the physical conditions under which dogs may be transported), (2) health certification requirements, and (3) minimum age requirements for dogs in transit. (See app. II for a summary of the regulations.) APHIS regulations state that, with certain exceptions, dogs must be at least 8 weeks old before they can be transported and must be accompanied by a health certificate issued by a licensed veterinarian.[4] According to APHIS, all modes of transportation are regulated to some extent.

APHIS routinely inspects registered carriers and intermediate handlers on an unannounced basis for compliance with transportation standards and inspects their records to determine if health and age certification requirements have been met. APHIS also attempts to inspect each licensed dealer annually. During dealer facility inspections, APHIS inspects all vehicles that dealers use for transporting dogs to determine whether dealers are complying with transportation standards related to cleanliness and safety conditions of the animal cargo space. However, APHIS' Animal Welfare Manual states that if a licensee (e.g., a licensed dealer) or registrant elects to transport the animal in a private vehicle, a health certificate, which displays the dog's age, is not required. Therefore, APHIS does not inspect records for compliance with age and health certification requirements for dogs being shipped in dealers' privately owned vehicles.

Recently, questions have been raised about the age and condition of dogs that are trucked to pet stores. According to APHIS and industry officials, most dogs are transported by air to metropolitan areas in the East and West. However, these officials acknowledged that dogs transported to Midwest metropolitan areas, such as Chicago and Kansas City, are probably shipped by surface transportation, most likely privately owned vehicles.

[4]According to APHIS regulations, no dog shall be delivered to any carrier or intermediate handler for transportation in commerce, except to a registered research facility, unless such dog is at least 8 weeks of age and weaned.

According to APHIS' Assistant Director-Domestic Programs, APHIS' position has been that the Animal Welfare Act gives APHIS the authority to require compliance with age and health certification requirements only when dogs are turned over to carriers or intermediate handlers for shipment.

Regulatory Changes Being Considered by APHIS

APHIS officials acknowledged that weaknesses exist in APHIS' regulations for transporting dogs. APHIS has been considering changes to its animal welfare regulations, including those for transporting dogs, and has reviewed about 5,500 comments on the proposed revisions. According to APHIS' Assistant Director-Domestic Programs, APHIS is considering a change that it believes would close the "loophole" that allows dogs to be shipped at less than 8 weeks if transported in a dealer's privately owned vehicle. APHIS is tentatively planning to pursue with Agriculture's Office of the General Counsel the extent of APHIS' authority to require dealers transporting dogs in their own vehicles to comply with age and health certification requirements, according to APHIS officials. The Assistant Director-Domestic Programs said that he did not believe that enforcing this requirement would increase APHIS' resource needs because APHIS believes it will find that most dogs are not shipped by private vehicle.

While we have not evaluated all of the implications of extending this requirement, as APHIS is considering, we believe that APHIS has the legal authority to require dealers who transport dogs in their privately owned vehicles to comply with age and health certification requirements under its general authority to regulate the activities of dealers. Therefore, we see no legal barriers that would preclude APHIS from requiring dealers transporting dogs in their private vehicles to comply with existing age and health certification requirements.

In addition, APHIS plans to include in its forthcoming revised regulations, a change regarding the ventilation of surface vehicles used in transporting dogs. This change will affect the requirements for ventilation and temperature conditions of all surface vehicles used to transport dogs, private or commercial. According to APHIS officials, the requirement was inadvertently omitted from an earlier revision of the regulations.

Role of Outside Organizations in Monitoring the Transportation of Dogs

States and private organizations have generally not become involved in monitoring the transportation of dogs.

- States: According to a Pet Industry Joint Advisory Council official, about 24 states have implemented animal welfare legislation. However, according to APHIS, the states generally have not become involved in monitoring the transportation of dogs because (1) the Animal Welfare Act gives this responsibility to APHIS, (2) there is a lack of uniformity in regulations among states, and (3) the states would experience difficulty in enforcing transportation regulations beyond their own borders.
- Humane societies: According to APHIS and humane organization officials, some humane societies, mostly in the Northeast, have enforcement power given to them by state and local anticruelty laws. APHIS indicated that this includes monitoring animal transportation movements for violations. National level humane organizations have no enforcement power.
- Private organizations: To date, the AKC and the Pet Industry Joint Advisory Council have not been involved in monitoring the transportation of dogs. The AKC primarily serves in registering and identifying purebred dogs, and its enforcement power is limited to assuring compliance with AKC's recordkeeping and identification rules and policies. Similarly, the Pet Industry Joint Advisory Council is a nonprofit organization that represents and promotes the interests of the pet industry. Its primary purpose is to provide an industry voice related to legislative and regulatory issues affecting the pet industry.

APHIS officials said that although past industry involvement in standard setting, monitoring, and enforcement had been limited, self-regulation may ultimately hold the greatest potential for improving the conditions under which dogs are transported. APHIS has been encouraged by these organizations' recent efforts to coordinate industry and federal efforts and by the recent interest shown in increasing industry self-regulation in related areas of animal care. (See app. III.) APHIS and industry officials envisioned self-regulation as an eventual adjunct to existing federal and state enforcement efforts.

As noted, appendix I provides APHIS' responses to our questions about issues related to the transportation of dogs within the wholesale pet industry. Appendix II provides information on APHIS' regulations and enforcement activities relating to these issues. Appendix III discusses the role of outside organizations in the animal welfare area, including information on (1) recent efforts to coordinate and (2) activities

intended to increase self-regulation in related areas of animal care. Appendix IV describes our scope and methodology. Appendix V lists the main contributors to this report.

We discussed the contents of a draft of this report with APHIS officials, who generally agreed with the information presented. However, as you requested, we did not obtain official agency comments.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days from the date of this letter. At that time, we will send copies to the Secretary of Agriculture, the Administrator of APHIS, and other interested parties. Copies will be available to others on request.

Sincerely yours,

Brian P. Crowley
Senior Associate Director

Contents

Letter		1
Appendix I APHIS Responses to GAO Questions		10
	GAO Comments	19
Appendix II APHIS Regulations and Enforcement Activities Concerning the Transportation of Dogs		20
	Regulations	20
	Enforcement Activities	20
Appendix III Role of Outside Organizations in Animal Welfare and Pet Industry Issues		23
Appendix IV Scope and Methodology		25
Appendix V Major Contributors to This Report		26
	Resources, Community, and Economic Development Division, Washington, D.C.	26

Abbreviations

AKC	American Kennel Club
APHIS	Animal and Plant Health Inspection Service
GAO	General Accounting Office
RCED	Resources, Community, and Economic Development Division

APHIS Responses to GAO Questions

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

United States Department of Agriculture

Animal and Plant Health Inspection Service

Washington, D.C. 20250

November 2, 1987

Mr. William Gahr
Associate Director, Resources, Community,
and Economic Development Division
U.S. General Accounting Office
441 G Street
Washington, DC 20548

Dear Mr. Gahr:

The Animal and Plant Health Inspection Service (APHIS) has reviewed your September 9, 1987, request for information concerning our responsibilities for regulating the transportation of puppies. According to your request, Representative Manuel Lujan, Jr., contacted GAO regarding this subject. Apparently many breeders are concerned that small animals are being transported across State lines at a very early age for resale. Specifically, these breeders feel that the early shipping may cause the animals to become vicious or ill resulting in the need for medical attention.

Your letter included a list of questions to be addressed in our reply. Agency officials reviewed your questions, furnished comments, and provided various background information.

We hope that our comments, along with the enclosures, fully respond to your request. If you require any additional information, please contact us.

Sincerely,

Donald L. Houston
Administrator

See Comment 1.

14 Enclosures

APHIS - Protecting American Agriculture

QUESTIONS RELATING TO APHIS' RESPONSIBILITIES FOR REGULATING THE TRANSPORTATION OF PUPPIES

General Background

1. How big is the puppy industry?

We do not have records enabling us to answer this question; however, according to the Pet Industry Joint Advisory Council (PIJAC), approximately 350,000 puppies are sold annually. The estimated value of these puppies is approximately $38.1 million.

2. Are unlicensed and/or unregistered dealers/breeders a problem with regard to inhumane treatment of puppies? How do these dealers/breeders come to APHIS' attention? How does APHIS deal with unlicensed and/or unregistered breeders?

Unlicensed dealers are potential problems because they are not subject to inspection and, therefore, may not comply with the standards of the Animal Welfare Act (AWA).

Records of licensed dealers and research facilities are actively reviewed to determine their source and disposition of animals in order to identify and locate individuals who are dealing in animals and are unlicensed by APHIS. Occasionally, dealers, private citizens, and members of humane organizations provide information on unlicensed dealers.

APHIS responds to inquiries about unlicensed dealers by making inspections. After an onsite investigation, appropriate action is taken to bring the unlicensed dealer into compliance with the AWA. If circumstances warrant, APHIS takes immediate legal action against unlicensed dealers.

3. How many licensed or registered facilities relate to puppies? Of these, how many were inspected by APHIS in 1986?

There are 3,708 licensed dealers of which 2,665 are Class A dealers and 1,043 are Class B dealers. Class A dealers are primarily involved in breeding and raising puppies as a closed colony. Class B dealers are primarily involved in purchasing random source dogs; however, some act as "brokers" and deal in registered puppies obtained from Class A dealers.

APHIS attempts to inspect each licensed dealer on an annual basis including those who deal in puppies. An average of two inspections per facility was performed in FY 1986.

4. How many of the 99 cases forwarded to the Office of the General Counsel (OGC) for prosecution in 1986 involved problems related to transportation of puppies? How was each case resolved?

Fourteen cases involved the transportation of dogs. One case was resolved with a civil penalty of $1,000. Thirteen cases are pending civil prosecution.

1

Transportation Regulations

1. What are APHIS' standards regarding the transportation of puppies?

There are no separate transportation standards for puppies. Standards for dogs and cats may be found in Sections 3.11-3.17 of Subchapter A-Animal Welfare, 9 CFR, page 24.

2. Do APHIS' regulations specify at what age, and under what conditions, it is permissible to transport puppies?

The regulations specify that puppies turned over to commercial carriers and intermediate handlers must be 8 weeks of age, weaned, and accompanied by a health certificate completed by a licensed veterinarian.

The age limit for puppies is covered in Section 2.130 of the regulations found in Subchapter A-Animal Welfare, 9 CFR, page 19.

There are no age or health certificate requirements for puppies transported by dealer/owner conveyances.

3. What modes of transportation are regulated? To what extent are puppies transported by each of these modes? Please provide a list of registered carriers and an indication of their mode of transport.

All conveyances must comply with the standards specified in Sections 3.12 (page 25) and 3.13 of Subchapter A-Animal Welfare, 9 CFR. We have no records to indicate how many puppies are transported by each mode.

4. What modes of transportation are not regulated? Why aren't they regulated? Of these, which one does APHIS believe could or should be regulated?

All modes of transportation are regulated as specified in Sections 1.1(bb) (page 3), 1.1(cc), 3.11 (page 24), 3.12, and 3.13 of Subchapter A-Animal Welfare, 9 CFR. Puppies transported in dealer-owned vehicles do not have to meet age and health certificate requirements.

5. Do the regulations cover any intrastate transportation?

All modes of transportation are regulated regardless of whether it is intrastate or interstate (See definition affecting commerce-Section 1.1(r) of Subchapter A-Animal Welfare, 9 CFR, page 2). However, the records that we maintain do not identify how much is intrastate or interstate.

6. What are the normal transportation patterns?

A majority of puppies originating in the midwest are shipped interstate with many going to the east and west coasts. Some may be trucked to adjoining States. Puppies offered for sale in metropolitan areas of the midwest are often trucked in from the same or adjacent States.

2

7. What has APHIS found to be the major problem with regard to transporting puppies?

Violations of space (3.12), temperature (3.16), and handling (3.17) have been some of the more common problems encountered.

APHIS Organization

1. How many Federal resources (dollars and staff) has APHIS allocated to enforcing regulations relating to transporting puppies for each of the past few years?

For the past 3 years, APHIS has averaged approximately 6 staff years and $180,000 for enforcement of the transportation standards. These resources were allocated for all transportation activities rather than just puppies.

2. Describe APHIS' organizational structure with regard to regulating transportation of puppies, including inspections and reviews.

Veterinary Services is organized into four regions consisting of 45 area offices which administer the animal welfare program in all 50 States. Within each area there are Veterinary Medical Officers (VMO's) and Animal Health Technicians (AHT's) who are charged with ensuring compliance with the AWA and are under direct supervision of the Area Veterinarian in Charge (AVIC). The AVIC's are responsible to their Regional Director, who is in turn responsible to the Assistant Deputy Administrator, Domestic Programs, located in Hyattsville, Maryland. While many of the VMO's and AHT's perform animal welfare duties in addition to other duties, each region has one or two Animal Care Specialists who work full-time at reviewing and monitoring the Animal Welfare Program for the Regional Director.

The Animal Care Staff is located in Hyattsville, Maryland, and is also responsible to the Assistant Deputy Administrator, Domestic Programs. The Staff consists of four VMO's and four clerical personnel. The Staff recommends national program workloads, priorities, and policies; develops regulations and budget programs; and recommends yearly program goals, priorities, and budget allocations to the States. The Staff also monitors program accomplishments and evaluates program efficiency.

3. What types of Staff implement APHIS' responsibilities with regard to puppies and what, specifically, do they do?

Primary enforcement of the AWA is carried out by VMO's or AHT's under the direct supervision of VMO's. This includes routine unannounced inspections of research facilities, intermediate handlers (IH), and carriers, and followup inspections to ensure correction of any deficiency identified on previous inspections. Compliance investigators become involved when it is deemed necessary to develop supporting documentation for potential legal action.

In addition, Regional Animal Care Specialists routinely assess the quality of inspections being performed and assist with followup inspections when their expertise is needed to resolve a particular problem.

3

APHIS Procedures

1. What forms/certificates must accompany puppies being transported either intrastate or interstate? Please provide examples.

A State or Federal health certificate (VS Form 18-1) issued by a licensed veterinarian including the identification, breed, age, sex, and other distinctive marks must accompany puppies when delivered to an IH or carrier (see Section 2.75(a)(1) of Subchapter A-Animal Welfare, 9 CFR, page 12).

2. What forms do APHIS' staff use to document their monitoring of transportation of puppies for each mode of transportation? Please provide example.

The VS Form 18-4 titled "Inspection of Carriers and Intermediate Handlers" and the VS Form 18-8 titled "Inspection of Animal Facilities" are used by inspectors to document the monitoring of animal transportation, including puppies.

3. What checklists or forms are carriers and intermediate handlers required to keep regarding the transportation of puppies? Please provide examples.

Carriers and IH's are required to maintain on file a copy of each health certificate, airway bill, and c.o.d. agreement (see Section 2.78(a) and (b) of Subchapter A-Animal Welfare, 9 CFR, page 15).

4. What procedures are followed in each type of APHIS inspection: Prelicensing inspections, compliance inspections, and inspections of animals in transit? Please provide copy.

The procedures for performing prelicensing and compliance inspections are primarily the same. In both cases, the housing facilities, care, and feeding of animals are evaluated. In addition, the method for arranging veterinary care and maintaining a record system for identifying the source and disposition of the animals is evaluated to ensure compliance with the regulations and standards. Prelicensing inspections are announced and performed prior to the facility being granted a license. Compliance inspections are unannounced.

During facility inspections, vehicles used by dealers to transport animals are inspected to ensure compliance with the standards in Section 3.13 of Subchapter A-Animal Welfare, 9 CFR, page 27. Carriers and IH's routinely receive unannounced inspections to ensure compliance with Sections 3.11-3.17 of the standards (Subchapter A-Animal Welfare, 9 CFR, page 24). During the past 3 years, APHIS has conducted an average of 3,000 inspections per year of airlines and IH's.

5. Specifically, are dealers/breeders required to show documentation of the age of puppies at the time of transport and are carriers required to check the age of puppies before they are accepted for transport?

4

The burden of complying with the minimum age requirement is on the consignor of the puppies. No puppies delivered to an IH or carrier shall be under 8 weeks of age (Section 2.130, Subchapter A-Animal Welfare, 9 CFR, page 19).

6. Are APHIS inspectors required to routinely review evidence supporting that a facility, carrier, or intermediate handler monitors the age of the puppies prior to transport or as they are accepted for transport?

The review of records is an integral part of all inspection procedures in order to ensure that the dealer is in compliance with Section 2.130 of Subchapter A-Animal Welfare, 9 CFR, page 19.

7. What types of reports or documentation result from such inspections and at what levels are they reviewed?

If discrepancies are found in the records, including violations of Section 2.130, they are recorded on the VS Form 18-8 (Record of Facility Inspection) and subsequently, supporting documentation is developed to support an alleged violation. All documentation is reviewed at the Area and Staff levels before submission to the OGC for possible legal action.

8. How often and how does APHIS followup on instances of noncompliance revealed during inspections or reviews?

Depending upon the nature of the discrepancies identified, immediate action may be taken to document alleged violations for submission through proper channels to OGC, or as many followup inspections as deemed necessary may be performed to obtain compliance with the regulations and standards.

9. What other types of reviews, if any, are done to ensure compliance with APHIS regulations?

The Regional Animal Care Specialist periodically monitors inspection procedures by Area personnel to evaluate and assure uniformity and quality of inspections.

10. Does APHIS have an office or program for evaluating the effectiveness of its inspections?

Each year the Animal Welfare program in selected States is audited by review teams assembled at the national level.

11. Please provide a copy of APHIS Animal Welfare Field Manual, revised January 1987.

Copy enclosed

Complaints and Violations

1. What procedures does APHIS have for receiving complaints, and what procedures does it follow once it receives a complaint?

5

Complaints are accepted from anyone, either verbally or in writing, at all levels of the organization. Under normal circumstances, complaints are referred to the Regional Directors with a request that a thorough investigation be conducted and appropriate action be taken based upon their findings. This action may include immediate resolution or the initiation of an alleged violation case for submission to the OGC.

2. How many complaints and alleged violations has APHIS received during the past few years about transporting puppies, and have they followed a pattern?

In FY 1986, 745 complaints were investigated; however, our records do not indicate how many of these involved the transportation of puppies. There were 14 violation cases involving the transportation of dogs which were submitted to the Staff and OGC for review. The majority of complaints involving the transportation of dogs relate to ventilation, temperature, space, and handling.

3. What actions does APHIS take regarding complaints or alleged violations?

As stated in 1 above, all complaints are investigated and when justified documentation is developed to support submission of an alleged violation case to the Compliance and Enforcement Staff for review and submission to the OGC.

4. What evidence is needed before APHIS will take enforcement action or file a lawsuit?

A report of the alleged violation must be submitted to the Compliance and Enforcement Staff where it is reviewed. In order to merit prosecution, it must contain evidence and proof that the Act and/or the regulations or standards, written under the authority of the Act, has been violated. This includes:

a. An investigation report narrating the events.

b. Witnesses to the event and/or affidavits of their testimony.

c. Evidence such as officially required records, documents, invoices, airbills, waybills, receipts, inspection reports, photographs, diagrams, and testimony of actual witnesses to the alleged violation.

d. Physical evidence, as may be applicable, e.g., crates, containers, etc., or photos of same.

5. What has been the disposition of complaints received during the past few years on transporting puppies?

All transportation complaints are referred to the Regional Directors for investigation and appropriate action depending on their findings. Complaints that do not justify additional action are normally resolved in 30 days. Investigations that identify apparent violations are submitted to OGC for review and potential legal action.

As a result of an enforcement settlement, one major airline was required to assist APHIS in production of a film titled "Not Just Another Bag," and show

6

it to all of its cargo and baggage handlers at all of its major air terminals nationwide. This film is now available for all airlines to use as a training film.

Role of Outside Organizations

1. What role, if any, do or could the States play with regard to transportation of puppies?

Except for enforcement of anticruelty laws in some States, they have generally not become involved because the AWA gives this responsibility to APHIS. There is little or no pressure for States to expend funds for a program currently being administered by APHIS. If a State did decide to regulate the transportation of puppies, it would face these difficulties: the absence of any authority beyond its borders and the lack of uniformity of its regulations with those of other States.

2. What is the extent of industry involvement in standard setting, monitoring, and enforcement?

At this time, there is little involvement by the industry in these activities; however, self-regulation offers perhaps the greatest potential for improving the transportation of puppies. It is particularly noteworthy that the Pet Industry Joint Advisory Council (PIJAC) and other industry groups along with humane organizations, the American Kennel Club (AKC), and other interested parties have begun preliminary discussions to bring about more industry involvement.

3. Describe any self-regulation efforts that the industry is attempting. How do such efforts fit in with APHIS/State regulations?

At this time, the program is not sufficiently advanced. When developed, however, the program will likely involve the setting of standards which accredited facilities will meet as an indication of the quality of puppies they produce for the pet trade. Industry self-regulation will be an adjunct to present enforcement efforts on the State and Federal levels.

4. What role do or could the humane societies play in assuring the adequate treatment of puppies by breeders, dealers, and/or carriers? How do the societies interact with APHIS?

In some States, primarily in the northeast, humane societies such as the New Jersey Association of Humane Societies, have enforcement powers over anticruelty laws. In such States, these organizations monitor animal transportation movements for infractions of the law. Humane societies in States without such laws could and often do assist APHIS by serving as its eyes and ears, reporting violations of the AWA to the AVIC's. Generally, humane societies interact very well with APHIS because we are always responsive and investigate any and all complaints.

5. What role do or could private veterinarians play with regard to transportation of puppies?

Licensed veterinarians are employed by licensees and registrants to issue health certificates for transportation of puppies. They examine the puppies to determine compliance with minimum age and general health requirements.

6. What role does or could the American Kennel Club play in assuring the adequate treatment of puppies by breeders, dealers, and/or carriers?

The AKC has nine investigators assigned to the field to determine compliance of breeders and dealers with its rules and policies. These investigators regularly visit licensed facilities and facilities that should be licensed. As with the humane organizations, they could serve as the eyes and ears of APHIS. A meeting was held September 17, 1987, with officials of the AKC to discuss ways it could assist APHIS in enforcement of the AWA. Methods for inducing close cooperation between AKC field investigators and local APHIS enforcement officials were considered. Officials of AKC sanctioned dog shows could report transportation violations to APHIS for investigation.

7. Can the humane society or any other private party bring suit against dealers/carriers for noncompliance with APHIS regulations?

There is no private right of action under the AWA.

Areas for Improvement

1. Describe any changes that APHIS is proposing to its regulations or to the enforcement of its regulations regarding transportation of puppies.

Issues regarding transportation of animals in owner/dealer vehicles are being pursued with the OGC and will be considered for implementation if the authority exists.

2. Are there changes that were considered but are not being proposed? What are they?

The revision of Part III, Subpart A, Standards for Dogs and Cats, has not yet been published as a proposal and all changes are still being considered.

3. What are the greatest impediments with regard to bringing about needed change?

Attitudes and spirit of cooperation by some dealers and commercial carrier personnel.

4. What can be done to forge public/private partnership to provide integrity to industry operations, facilitate commerce, satisfy customers, and protect animals?

A system for self-regulation within the industry should be promoted through industry organizations such as PIJAC, American Professional Pet Distributors, and AKC.

8

GAO Comment

1. The enclosures, which consisted generally of APHIS regulations, manuals, and forms, are not included in this report.

APHIS Regulations and Enforcement Activities Concerning the Transportation of Dogs

Regulations

The Animal Welfare Act of 1966, as amended, gives APHIS the authority to regulate both animal dealers who raise dogs for the wholesale pet trade and intermediate handlers and carriers which transport the animals.

APHIS regulations directly relating to transportation of dogs are contained in Subchapter A-Animal Welfare, 9 CFR, Part 3, "Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats," sections 3.11 through 3.17. Areas covered by APHIS transportation regulations include (1) the maximum time dogs may be turned over to carriers and intermediate handlers prior to transport, (2) requirements for primary enclosures, (3) requirements for design and construction of the primary conveyance, (4) food and water requirements, and (5) handling and care in transit.

Other pertinent regulations include section 2.79, "Health Certification and Identification," and section 2.130, "Minimum Age Requirements." The health certification and identification section specifies that dogs may not be delivered to an intermediate handler or carrier for transportation unless accompanied by a health certificate executed and issued by a licensed veterinarian. The minimum age requirements section states that dogs may not be delivered to an intermediate handler or carrier for transportation in commerce, except to a registered research facility, unless the dog is at least 8 weeks of age and weaned.

Enforcement Activities

For fiscal year 1988, APHIS allocated $6.2 million for animal welfare enforcement out of a total appropriation of about $329 million.[1] According to APHIS officials, for each of the past 3 years, APHIS has allocated approximately 6 staff years and $180,000 (about 3 percent of its fiscal year 1988 animal welfare enforcement budget) for enforcement of transportation standards for airlines, which are the focus of APHIS' carrier inspections.[2] The remainder of APHIS' enforcement budget was allocated to such items as routine and follow-up inspections of dealers, research facilities, and exhibitors; investigation of complaints; searches for unlicensed dealers; case preparation and submission; agency overhead; and regional operating expenses. In addition, about $750,000 was allocated for the National Agricultural Library.

[1] In fiscal years 1986 and 1987, APHIS allocated about $4.6 million and $5.9 million, respectively, for animal welfare enforcement activities.

[2] APHIS could not provide information on staff year and funding allocations for inspection activities on other modes of transportation, such as registered truck carriers.

Enforcement of the Animal Welfare Act is carried out primarily by APHIS Veterinary Medical Officers and Animal Health Technicians, who are supervised by the Veterinary Medical Officers. Enforcement includes routine unannounced inspections of research facilities, intermediate handlers, and carriers, and follow-up inspections to ensure that previously identified deficiencies have been corrected. All licensed dealers are subject to inspections.[3]

According to APHIS officials, responding to public complaints is one of APHIS' main ways of enforcing the animal welfare regulations. To encourage public complaints, APHIS has begun to emphasize that inspectors treat each inspection, whether initiated by a public complaint or a prior inspection, as a routine inspection and that they maintain the anonymity of complainants. APHIS hopes that this practice will ease the fears of persons who know of violations but may be afraid to come forward.

In response to a 1985 GAO report, The Department of Agriculture's Animal Welfare Program (GAO/RCED-85-8, May 16, 1985), APHIS established a goal of an average of 2.5 inspections per year for licensed dealers. In addition, it required inspectors to evaluate assigned facilities and determine specific inspection rates based on the facility's compliance record. According to APHIS, in fiscal year 1986 APHIS performed an average of 2 inspections on each licensed dealer. In addition, in fiscal year 1986 APHIS made 2,524 airline inspections and 298 intermediate handler inspections. According to APHIS officials, APHIS averaged 3,000 inspections per year of airlines and intermediate handlers during the past 3 years.

All transportation complaints are directed to APHIS' regional directors for investigation and appropriate action.[4] APHIS' four regional directors oversee a total of 45 area offices, which administer the Animal Welfare Program in all 50 states. Complaints not justifying further action are usually resolved in 30 days through reinspection. Investigations that identify apparent violations are submitted to Agriculture's Office of the General Counsel for review and potential legal action.

[3]In fiscal year 1986, there were 3,708 licensed dealers. Of these, 2,665 were Class A dealers and 1,043 were Class B dealers. Class A dealers are primarily involved in breeding and raising puppies as a closed colony. Class B dealers primarily purchase dogs from various sources; however, some act as brokers and sell registered puppies obtained from Class A dealers.

[4]APHIS has four regions—Northern, Southeastern, Central, and Western—which cover all 50 states, Puerto Rico, and the Virgin Islands.

In fiscal year 1986 APHIS investigated about 745 complaints. In that year it forwarded 99 cases to the General Counsel for possible prosecution, 14 of which involved the transportation of dogs. The transportation cases primarily involved violations of ventilation, temperature, space, and handling requirements. As of November 2, 1987, 13 of these cases were pending civil prosecution, and one case had been resolved with a civil penalty of $1,000. In addition, the Assistant Director-Domestic Programs told us that a case was pending with the Office of the General Counsel against an airline for accepting dogs for transport without health certificates. The airline was also charged with violating the age certification requirements.

Role of Outside Organizations in Animal Welfare and Pet Industry Issues

In addition to APHIS' federal role in standard setting, monitoring, and enforcing transportation regulations, states and several private organizations play varied roles in animal welfare and in serving and monitoring the pet industry. In the past no systematic effort has been made to coordinate these groups or to share information bases. However, there has been recent interest in increasing industry coordination, and steps have been taken toward increasing industry self-regulation in animal care areas.

- States: As mentioned earlier, about 24 states have implemented animal welfare legislation. In addition, about 14 of these states have legislation that specifically regulates pet stores.[1] These statutes relate mostly to licensing, physical conditions of the pet store, and/or consumer protection laws regarding the health of purchased animals. In some states these laws are administered by state departments of health or agriculture.
- Humane societies: National level humane organizations have no enforcement power; however, some humane societies have enforcement power given to them by state and local anticruelty laws. APHIS told us that in states that do not grant humane societies enforcement power, the humane societies often assist APHIS by reporting violations of the Animal Welfare Act to it.
- American Kennel Club: The AKC was formed for the protection and advancement of purebred dogs. AKC's nine field investigators assess breeder and dealer compliance with AKC recordkeeping and identification rules and policies and regularly visit facilities that apply to AKC for registration. APHIS believes that, as with humane organizations, there is a potential for AKC to serve as APHIS' "eyes and ears" in locating unlicensed dealers or facilities which may not meet APHIS' standards. APHIS and AKC representatives met in September 1987, at AKC's request, to discuss ways in which AKC could help APHIS enforce the Animal Welfare Act. A number of methods for inducing close cooperation between AKC field investigators and local APHIS enforcement officials were considered. These included (1) sharing data bases, which could help APHIS determine who is selling and receiving dogs and help APHIS identify unlicensed dealers; (2) having officials of AKC-sanctioned dog shows report animal welfare violations, specifically transportation violations, to APHIS for investigation; and (3) providing cross training between the organizations. No specific agreements were reached at this meeting.

[1] Retail pet stores are exempt from APHIS regulations unless they sell animals to a research facility, an exhibitor, or a dealer.

- The Pet Industry Joint Advisory Council: The Council is a nonprofit organization that represents and promotes the interests of the pet industry. The Council lists two initiatives related to promoting industry self-regulation: one involves preparing minimum standards for animal care in breeding facilities, pet shops, kennels, grooming shops, and animal shelters, and the other involves working on model laws for pet shop licensing, animal housing and care standards, and related issues. The Council is also developing a certification program for pet stores based on an Arizona humane organization's successful efforts. Under this program, pet stores may be voluntarily inspected according to criteria set by the humane organization. If a pet store passes the humane organization's inspection, the store displays a certificate of approval. If this program is successful, the Council plans to follow it with a similar program for breeder facilities.

Scope and Methodology

We asked the Administrator, APHIS, to answer a series of questions detailing APHIS' (1) responsibilities for regulating the transportation of dogs, (2) plans to revise the regulations, and (3) views on the monitoring role of outside organizations. This report is based on APHIS' response and information resulting from our review of documents, such as the Animal Welfare Act of 1966, as amended, and implementing regulations. These regulations are contained in Subchapter A-Animal Welfare, 9 CFR, Part 3, "Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats," sections 3.11 through 3.17; and Part 2, "Regulations," sections 2.79 and 2.130, which state health certification and identification requirements and the minimum age requirements, respectively, for dogs in transit. We also reviewed procedures in APHIS' Animal Welfare Manual and APHIS inspection forms.

In addition, we met with APHIS officials, including the Assistant Director-Domestic Programs and the Chief Staff Officer, Animal Care Staff, who provided additional information regarding regulation of the transportation of dogs. We gained further insight into the role of state and private organizations in monitoring and serving the pet industry through discussions with industry representatives from the American Kennel Club, Pet Industry Joint Advisory Council, Humane Society of the United States, and American Humane Association. We also interviewed one of Representative Lujan's constituents, who had expressed concern about the transportation of dogs under 8 weeks old. We made our review from August through December 1987.

As agreed with Representative Lujan's office, we did not review the effectiveness of APHIS' enforcement activities.

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