

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 2

[Docket No. 97-033-1]

#### Animal Welfare; Medical Records

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the Animal Welfare Act regulations to require that research facilities, dealers, and exhibitors maintain medical records as part of their program of adequate veterinary care. We believe research facilities, dealers, and exhibitors should maintain medical records as a means of communication concerning the care being provided to animals and to ensure that animals receive adequate veterinary care. In addition, these records would provide a basis for the Animal and Plant Health Inspection Service to better assess the veterinary care programs of research facilities, dealers, and exhibitors.

**DATES:** We will consider all comments that we receive on or before June 10, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 97-033-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 97-033-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 97-033-1" on the subject line.

You may read any comments that we receive on this docket in our reading

room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jerry DePoyster, Senior Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1231; (301) 734-7586.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal Welfare Act (the Act) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers. The Secretary of Agriculture has delegated the responsibility of enforcing the Act to the Administrator of the Animal and Plant Health Inspection Service (APHIS). The regulations established under the Act are contained in title 9 of the Code of Federal Regulations (9 CFR), chapter I, subchapter A, parts 1, 2, and 3. Subparts C and D of 9 CFR part 2 (§§ 2.30 through 2.40, referred to below as the regulations) require, among other things, that each research facility, dealer, and exhibitor have an attending veterinarian and maintain a program of adequate veterinary care.

Currently, § 2.33(b), regarding research facilities, and § 2.40(b), regarding dealers and exhibitors, describe the elements that must be included in a program of adequate veterinary care. These elements include: (1) The availability of appropriate facilities, personnel, equipment, and services; (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 for health assessment; (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- and post-procedural care according to current established veterinary medical and nursing procedures. Sections 2.33(b)(3) and 2.40(b)(3) further provide 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.

While maintenance of medical records is implied through our requirements for adequate veterinary care, the regulations do not specifically stipulate the maintenance of medical records as one of the elements in a program of adequate veterinary care. Medical records are an essential part of any program of adequate veterinary care. Adequate veterinary care can only be provided to animals if an accurate medical history is maintained on the animals to provide communication among all personnel involved in providing care. In addition, medical records provide a basis for APHIS inspectors to assess a veterinary care program and ensure that animals receive adequate veterinary care.

Therefore, we propose to add new §§ 2.33(b)(6) and 2.40(b)(6) to the regulations to include the maintenance of legible medical records as an additional element of the program of adequate veterinary care required by the regulations. To ensure that medical records include, at a minimum, information such as the vaccination history, surgical history, and any known drug sensitivities of the animals, we would specify that each medical record must include: (1) The identity of the animal (with the exception that routine husbandry, such as vaccinations, preventive medical procedures, or treatments, performed on all animals in a group (or herd) may be kept on a single record); (2) the date, description of the problem, pertinent history, observations, examination findings, test results, and plan for treatment and care with a tentative diagnosis and a prognosis, when appropriate; (3) the type and chronology of treatment procedures performed, the context of