



Deficiencies in USDA regulations for Licensed Commercial Breeders

USDA-Licensed Commercial Breeders Table 2

Important Note: Below are select animal care directives concerning such issues as veterinary care, cage space, and exercise. They are notable for (1) how little they actually require of commercial breeders despite their potential importance to a dog's psychological and physical health, and (2) the unenforceability of key provisions.

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

- Rule 2.40(1) requires a "written program of veterinary care and regularly scheduled visits to the premises." However, the rule neither imposes any particular veterinary care requirements nor requires a certain number of veterinary visits per year.

APHIS offers the following nonbinding interpretation of Rule 2.40 entitled "Policy 3 - Veterinary Care" (http://www.aphis.usda.gov/animal_welfare/policy.php?policy=3) (emphasis ours):

Program of Veterinary Care

Facilities which do not have a full-time attending veterinarian must have a written Program of Veterinary Care (PVC). This Program must consist of a properly completed APHIS Form 7002 or an equivalent format. ***The attending veterinarian must visit the facility on a regular basis, i.e., often enough to provide adequate oversight of the facility's care and use of animals. APHIS recommends this visit occur at least annually.*** Records of visits by the attending veterinarian should be kept to include dates of the visits and comments or recommendations of the attending veterinarian or other veterinarians.

The PVC should be reviewed and updated whenever necessary (e.g., as a new species of animal or a new attending veterinarian is obtained, or the preventive medical program changes). APHIS recommends that the PVC be initialed and dated by both the attending veterinarian and the facility representative whenever it is changed or reviewed without change. The preventive medical program described in the PVC is expected to be in accordance with professionally accepted veterinary practice (e.g., appropriate vaccinations, diagnostic testing). It should include zoonotic disease prevention measures and, if necessary, special dietary prescriptions.

Because APHIS' interpretation that Rule 2.40 requires an annual veterinary exam is nonbinding and strictly a recommendation, a commercial breeder cannot be sanctioned for failing to provide an annual exam as long as there is a written program of veterinary care.

Further, even if a breeder complies with APHIS' recommendation that there be an annual veterinary visit, a veterinarian may still never lay hands on a single animal during that visit

ASPCA Elaboration on OLR Report 2013-R-0418
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- especially plausible where commercial breeders have hundreds or thousands of animals, as they frequently do.

9 CFR § 3.2 Indoor housing facilities.

- Bedding OR "other methods of conserving body heat" (e.g., a solid resting board) required only when the indoor ambient temperature is below 50 degrees.
- Indoor ambient temperature required to be kept no lower than 45 degrees.
- Natural light not required. Artificial light permissible at all times.

9 CFR § 3.4 Outdoor housing facilities.

- Bedding required only when the outdoor ambient temperature is below 50 degrees.

9 CFR § 3.6 Primary enclosures.

- A dog's primary enclosure required to be only six inches larger than the dog on all sides.
- Wire flooring permissible.
- Stacked cages permissible.

9 CFR § 3.8 Exercise for dogs.

- Very limited exercise permissible:
 - Dogs housed singly may be maintained in a cage, pen, or run with twice the minimum floor space required for primary enclosures (see above).
 - Dogs housed in groups (with no specification regarding group size) may be maintained in a cage, pen, or run that provides 100 percent of the per dog space required for primary enclosures (see above).
 - Alternatively, any dog may be provided with access to a run or open area at the frequency and duration prescribed by the attending veterinarian OR the opportunity to engage in "other similar activities."
- Contact with other dogs or people not required:
 - If no contact with other dogs, only limited "positive" contact with people required (i.e., once per day).
 - If contact with other dogs, no contact with people required.