



**FOLLOW-UP REVIEW OF
ANIMAL CARE FACILITIES INSPECTION PROGRAM**

**From The Office Of State Auditor
Claire McCaskill**

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PERFORMANCE AUDIT



Office Of
Missouri State Auditor
Claire McCaskill

December 2004

Second Audit of State Canine Breeder Inspections Finds Most Previously Cited Problems Still Occurring

Auditors found the majority of findings noted in the first audit of the animal care inspection program were still occurring, four years later. Auditors detailed ten recommendations in the first report (February 2001) and found one finding fully implemented, with the nine remaining partially implemented. (See page 2)

Auditors found violations not always observed or cited

Auditors found inspectors did not always cite violations which auditors observed. For example, during a pre-license inspection, we observed cages with inadequate flooring, unsealed concrete runs with accumulated fecal material, multiple shelters in poor condition and improper food storage. The inspector indicated they had not seen these violations, but agreed observed situations could have been cited.

The same inspector did not check for expired medication, verify the canine count to the facility records; or verify the canines' identification tag information to facility records. The inspector called criticism of these areas "nitpicking." Prior to the inspection, this commercial breeder operated without a valid license. The inspector did not stress the fact it is illegal to operate without a license and chose not to cite this violation. (See page 5)

Penalties have increased but division reluctant to use administrative hearing process

The previous audit found state inspectors had not fined, revoked or suspended licenses of any commercial breeders in 1999 and 2000. As of May 31, 2004, the division had fined six facilities \$3,800 since the last audit and obtained voluntary surrender of animals at four facilities through settlement agreements during 2003 and 2004. (See page 7)

The division did not conduct any administrative hearings during 2003 and 2004. The division has only had two administrative hearings, conducted as of fiscal year 2002, resulting in two fines totaling \$1,500, which have not been collected. One of these unpaid fines was then referred to a county prosecutor, who did not pursue the case. The program coordinator said the division does not typically pursue administrative hearings because they are too costly and not timely. However, according to a Missouri Administrative Hearing Commission official, the commission will conduct administrative hearings on the division's behalf at no cost to the division. (See pages 8 and 9)

YELLOW SHEET

TABLE OF CONTENTS

	<u>Page</u>
State Auditor’s Letter	1
1. Status of Prior Recommendations	2
Background	2
Scope and Methodology	3
2. Improvements Are Still Needed in the Canine Inspection Program	5
Inspectors have not always been thorough or cited all violations	5
Division's use of penalties has increased but marginal performers not penalized	7
Conclusions	10
Recommendations	11
Agency Comments	11
3. Statutory Requirements Not Always Met	13
Division has not met statutory requirements	13
Division priorities impact required inspections	16
Program officials have not taken full advantage of federal inspection resources	18
Workload issues, part-time inspectors, and personnel losses impact program	19
Conclusions	22
Recommendations	23
Agency Comments	24
4. Improvements Needed in Management Information System	26
Division lacks information on program operations	26
Division missing opportunity to develop historical information	28
Conclusions	28
Recommendations	29
Agency Comments	30
5. Improvements Needed in Oversight of Revenue and Expenditures	31
Division has not ensured fees paid were appropriate	31
Division lacks visibility of program expenditures	31
Conclusions	32
Recommendation	32
Agency Comments	32

TABLE OF CONTENTS

Page

Appendix

I. Background33

Abbreviations

ACFA Animal Care Facilities Act
USDA U.S. Department of Agriculture

Marginal performing facilities have not been penalized

State inspectors do not always track repeat violations similarly to federal inspectors unless the violation involves the same canine or a previously cited item. Instead, the division has allowed these facilities to continually repeat violations, requiring additional time and attention of inspectors to constantly re-inspect problem facilities. (See page 9)

Most licensed facilities not inspected once a year

State regulations require division inspectors to inspect all licensed facilities once a year, however inspectors averaged 27 percent of required facilities for 2004, as of September 1, 2004. Rescue facilities have been exempted from required yearly inspections due to the overwhelming number within the state. Division records showed Missouri had 92 licensed rescue facilities as of March 2004. (See page 13)

Division priorities impact required inspections

Division priorities require inspectors to spend a significant amount of time handling citizen complaints, identifying unlicensed breeders, and performing administrative duties in addition to inspecting facilities. Inspectors spend an average of 17 percent of their time handling complaints and approximately 40 percent of all complaints documented since January 2002, have been related to unlicensed activity. Inspectors also estimated they spent 20 percent of their time on administrative matters which reduces time available for inspections. (See page 16)

Inspectors duplicate federal inspection efforts

Program officials have elected not to fully utilize federal inspectors as agents for the state when inspecting licensed facilities. As a result, state inspectors have duplicated federal inspection efforts. Commercial breeders dually licensed by the state and USDA for fiscal year 2004, showed 235 facilities had been inspected by both USDA and state inspectors. (See page 18)

Inspector workload has increased but most inspectors have split responsibilities

The number of licensed facilities has increased by 29 percent since 2000. However, only one of nine inspectors worked full-time on the animal care facilities inspection program. Other duties include state fair responsibilities, testing milk samples, cattle herd testing, and other animal health issues. As of September 1, 2004, one vacant inspector position had not been filled. (See page 19)

Division has not ensured fees paid were appropriate

Commercial breeders pay a licensing fee of \$100 plus \$1 per canine sold, up to a maximum of \$500. Division personnel have not verified licensed facilities paying less than \$500 paid the correct amount in fees. According to the program coordinator, verification based on disposition records has not been done because it would be too time consuming and would not be cost effective for the program. (See page 31)

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CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Bob Holden, Governor
and
Peter Hofherr, Director
Department of Agriculture
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Our report discusses the results of our follow-up on ten prior recommendations addressed in our February 2002 report titled "Audit of Animal Care Facilities Inspection Program" (Report No. 2001-09), and related issues. Because of the public's concerns over the breeding and care of canines and the state's prominent role in licensing and monitoring animal care facilities, we focused audit efforts on assessing the progress the Department of Agriculture has made in implementing our recommendation to improve the commercial breeder inspection program.

The Division of Animal Health implemented one recommendation related to improving the program and partially implemented nine recommendations. Follow-up efforts disclosed improvements are still needed in the inspection program because most of the problems previously reported still exist. These problems have eroded the integrity of the inspection program which is designed to help ensure canines are safely and humanely treated. We have made recommendations which we believe will improve the management and oversight of the program.

We conducted our work in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such tests of the procedures and records as were considered appropriate under the circumstances.

A handwritten signature in black ink that reads "Claire McCaskill".

Claire McCaskill
State Auditor

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1. Status of Prior Recommendations

The Department of Agriculture's Division of Animal Health (division) had implemented one recommendation and partially implemented nine recommendations, as of June 2004.

The division partially implemented four recommendations focused on ensuring all inspection violations are observed and recorded, enhancing inspection procedures and division training of inspectors, and taking action to penalize breeders. Follow-up efforts showed state inspectors still have not always observed all violations or recorded violations inspectors observed during inspections of licensed facilities. The division enhanced procedures by requiring inspectors to use a computer driven checklist when inspecting facilities, but some inspectors still do not believe it is necessary to report all violations or conduct a complete annual inspection. The division has enhanced training efforts, however, the division has not developed a core curriculum of courses inspectors are required to attend. Although the division has taken action to penalize licensed facilities, some facilities with chronic poor performance may never be penalized. (See pages 5 - 11 for further discussion.)

The division partially implemented three prior recommendations related to increased utilization of federal inspection resources. However, follow-up efforts disclosed division inspectors are still duplicating federal inspection efforts, because the division chose not to follow our recommendation to fully utilize the federal inspectors as agents of the state. The division has made federal inspection reports available to inspectors; however, not all inspectors use the reports. (See pages 18 - 19 for further discussion.)

The division partially implemented two recommendations related to the division's management information system. However, further improvements are needed because the division lacks information on certain program operations. (See pages 26 - 29 for further discussion.)

The division implemented our recommendation related to resolving conflict of interest issues involving an inspector and division official. The two individuals are no longer affiliated with the inspection program.

Background

There were approximately 2,527 licensed and registered animal facilities in the state, according to program records, as of March 2, 2004. Of that amount, 1,461, or 58 percent, had been licensed as commercial breeders. The state legislature established the Animal Care Facilities Act (Act) in 1992 to provide state oversight to all breeders, dealers, exhibitors, handlers, hobbyists, boarding kennels, commercial kennels, contract kennels, pet shops, animal shelters, and pounds involved in the sale or care of canines and/or felines that meet the requirements of the Act.

The Missouri Department of Agriculture (department) established the animal care facilities act program in 1994, in order to carry out the provisions of the Act. With minor exceptions, state program regulations parallel U.S. Department of Agriculture (USDA) regulations and outline minimum requirements for the operation of animal facilities. (See Appendix I for information on regulations.) In April 1994, the division's director entered into a memorandum of understanding

with USDA officials. That agreement promoted coordination between state and federal program officials to reduce duplication of effort by inspectors and established procedures to share federal inspection reports on facilities that are licensed by state and federal agricultural officials. This agreement included the understanding that federal inspectors were also acting as state inspectors for animal facilities dually licensed by the state and federal government.

Scope and Methodology

We reviewed state laws and regulations governing the inspection of commercial breeders and other licensed facilities by the state. We also reviewed division policies and procedures and discussed program specifics with division and department officials as well as program inspectors. We conducted audit work at the division's office in Jefferson City and accompanied program inspectors during on-site inspections of nine licensed facilities.

To determine whether program officials had implemented prior recommendations related to improving the inspection process, we:

- Accompanied 6 division inspectors on 11 inspections of nine licensed facilities to observe the type of violations cited; whether all violations were documented; and whether any apparent violations had been overlooked.
- Observed a federal inspector on an inspection and discussed inspection procedures used on federal inspections.
- Reviewed inspection records resulting from a judgmental sample of 40 commercial breeder facilities to determine the types of problems reported by state inspectors during the timeframe of October, 2001 through June, 2004.
- Reviewed program records to determine whether sanctions such as fines, penalties, license suspensions and license revocations had been assessed against licensed facilities.
- Reviewed federal records to determine the extent federal inspectors had levied fines and penalties during the timeframe of October 2002 through July 2004.

To determine whether the division had implemented recommendations related to increased utilization of federal inspection resources, we:

- Reviewed the timing of inspections from a judgmental sample of 40 licensed commercial breeder facilities to determine whether unnecessary duplication of federal inspections occurred.
- Reviewed program documentation pertaining to the coordination of inspection efforts and use of federal inspection reports. We interviewed knowledgeable state animal care personnel and nine state inspectors on the use of the federal inspection reports.

- Reviewed the memorandum of understanding the division had with the USDA and whether the division allowed federal inspectors to act on behalf of the state.

To determine whether the division had implemented recommendations related to the division's management information system, we:

- Interviewed knowledgeable program personnel and reviewed program reports prepared by inspectors to assess whether those reports had been adequately prepared and whether program officials used information available to them.
- Reviewed reports generated from the automated database and how the reports were used.

To determine the reliability of the computer generated data, we traced elements from our sample of 40 commercial breeder facilities to corresponding information in the breeder files. The test disclosed no material errors.

We obtained comments on a draft of this report during a meeting with the Director, Deputy Director, and other department officials on October 20, 2004, and in a letter dated November 9, 2004. We incorporated their comments as appropriate. We conducted our work between June 1, 2004 and August 31, 2004.

2. Improvements Are Still Needed in the Canine Inspection Program

Inspections of licensed facilities have not always been thorough and violations have not always been reported by inspectors. This situation has occurred, in part, because the majority of inspectors did not believe it necessary to report "minor" violations observed. Instead, inspectors verbally recommended violations be corrected. In addition, the division has not ensured consistency on the type or extent of training taken, developed mandatory training courses for inspectors, or adequately tracked training. The division's use of monetary and non-monetary penalties has increased, however, the division has been reluctant to pursue administrative hearings, and confiscate canines, as a means to penalize offending facilities. In addition, licensed facilities with a history of poor performance have not been penalized. As a result, some canines may still be at risk.

Inspectors have not always been thorough or cited all violations

During site visits with six inspectors at nine facilities, we found inspectors did not always observe violations auditors observed or cited violations, as noted in the following examples.

At one commercial breeding facility undergoing a pre-license inspection, we observed (1) cages had inadequate flooring which allowed the canine's feet to slip through the flooring causing possible injury, (2) concrete runs had not been sealed and fecal material had accumulated in the run cracks, (3) multiple shelters in poor condition, and (4) improper food storage. The inspector told us she had not seen these violations, but agreed observed violations could have been cited. The inspector also said at a facility in this condition, it is impossible for her to document everything and some violations will get overlooked.

We also observed the same inspector did not check for expired medication, verify the canine count to the facility records, or verify the canines' identification tag information to facility records. When inspecting records, the inspector did not review disposition/acquisition records. Instead, the inspector looked through canine registration papers which does not meet requirements set forth in animal welfare regulations. The inspector told us being critical of these areas is "nitpicking". Instead, she focuses on the facility portion of the inspection, not the records.

This same commercial breeder had also been operating without a valid license. The inspector told the pre-licensee "you really shouldn't be selling any dogs without a license". The inspector did not stress the fact it is illegal to operate without a license and chose not to cite this violation in the report. (See page 14 for additional discussion on this facility.)

At a second commercial breeding facility, we observed several violations that were not reported by the inspector. For example, we observed canine pens having large amounts of fecal accumulation. The inspector said fecal accumulation is a judgment call and did not feel it warranted being cited. We also observed a partially completed housing facility which did not protect canines from the weather. The inspector did not cite this violation, but told us another site visit would be made before winter to ensure the building had been completed. In addition,

we observed whelping cages¹ did not have identification cards, too many large canines sharing one shelter, outdoor kennels backed up to tall weeds (approximately 6 feet tall), and outdoor kennels having torn, sagging, poor quality material draping fencing that was being used as shade. The inspector agreed these violations could have been cited. We also observed dog food on the floor in the whelping building which could attract mice and other rodents, as well as a pile of food on the ground in one of the outdoor runs. Although spilled food is a reportable violation, the inspector told us these violations would have only been cited if there had been evidence of rodents, or if it were to rain.

At a third commercial breeding facility, the inspector did not check medications or records for the canines. In addition, the inspector did not verify the canines' identification tag information to the records. The inspector told us these areas had not warranted review because the breeder had few canines and these areas had been reviewed during the previous inspection, conducted in November 2003. We also observed rusty kennel fencing and a piece of unsecured metal covering a drain channel which was inside the outdoor runs. When asked about these violations, the inspector did not see the loose piece of metal but did see the rusty fence and stated the violation "should have been cited since we (auditors) were there".

At a boarding facility, we noted chewed up beds and water bowls, and improperly stored food. The inspectors explained to us that they are not too "nitpicky" with boarding facilities because they usually regulate themselves. If they are noticeably non-compliant, the public will not board animals there which will put the facility out of business. The inspectors indicated they normally only cite violations at a boarding facility that have a direct affect on the animals.

At a rescue facility, we observed ten reportable violations, which were not cited by the inspectors in the inspection report. For example, we observed:

- A small canine pool containing dirty, stagnant water.
- Dirty water and /or water bowls in several canine pens.
- Many of the pens and outdoor houses had an excessive amount of fecal accumulation, however, the inspector only cited one pen as having too much fecal material.
- Several pens had unsecured, sagging tarps or unsecured plywood over the pens for shade. The inspectors told us it was a good thing it was not raining or windy because the inadequate shade cover would have been cited.
- Numerous feline cages stacked, but not secured, which could be knocked over by canines housed in the same outdoor facility.
- Several canines running loose with no perimeter fence.
- Open medications lying on a shelf in an outdoor housing facility and the owner had not established adequate formal arrangements with the employed veterinarian.

The inspectors at this facility also told us it is very hard to document every violation at a facility where there are so many problems so they try and ensure the major problems always get documented.

¹ Cages used to house canines in the gestation period of pregnancy.

Inspection procedures improved but inspector philosophy affects inspections

In response to our previous audit, the division has enhanced inspection procedures by developing a computer driven checklist of rules and standards from the Animal Welfare Act Regulations and the Code of State Regulations regarding animal care facilities. The checklist is intended to assist inspectors in the inspection process by allowing the inspectors to incorporate the regulations into the inspection report. The checklist must be completed in entirety before the inspection report can be generated.

We found through discussions with the inspectors, some inspectors have different rationale on whether to report all violations observed during inspections. In discussing inspection procedures with all nine inspectors, we found that seven of nine inspectors do not believe it is necessary to report all violations found when inspecting licensed facilities. Instead, they believe when violations are considered minor, and the facilities have no other violations or history of violations, they can verbally inform facility owners of those violations. Several examples given by the inspectors of items that would be verbally recommended to be corrected were a chewed board, an open bag of food, a chewed water bowl, and loose wire fencing. One inspector stated "you have to know the people that you are dealing with". Another inspector stated if it is the middle of winter, then you probably would not write a facility up to have its barn painted if the facility is not too bad. Also, during an inspection we observed one inspector told us reporting minor violations would be "nit-picking".

Training enhanced but not mandatory or consistent among inspectors

Our review of available training records disclosed inspectors attended a variety of internal and external training courses. However, there is no consistency on the type or extent of training taken, and the division has not established mandatory training courses or adequately tracked inspector training. For example, records showed one inspector attended ten training sessions since 2002, while four other inspectors attended no training during that timeframe. In addition, training records did not exist for two of the nine inspectors.

Inspectors have been encouraged to attend training courses, according to the program coordinator. However, the division still relies on experienced inspectors to teach new staff how to conduct inspections. According to the program coordinator, new inspectors spend approximately one month in the field with experienced state and federal inspectors prior to conducting solo inspections.

Division's use of penalties has increased but marginal performers not penalized

Follow-up efforts disclosed the division has increased efforts to penalize licensed facilities when compared to efforts during our previous audit. However, we found the division has been reluctant to use the administrative hearing process to penalize licensed facilities, and marginal performers have not been penalized.

Use of penalties has increased

The division has not tracked data on penalties assessed, or actions taken against licensed facilities. (See page 26 for discussion on management information system issues.) However, according to information compiled by division personnel, the division fined six facilities \$3,800 since our last audit and obtained voluntary surrender of animals at four facilities through settlement agreements during 2003 and 2004, as of May 31, 2004. In addition, the division revoked one facility's license indefinitely and suspended one facility's license for five years.

As of August 31, 2004, two administrative hearings have been held, which were included on the listing provided by the division, resulting in two fines totaling \$1,500. One case, in March 2001, resulted in a \$500 fine which the facility's owner refused to pay. According to the program coordinator, the division referred this case to the county prosecutor for criminal action under Chapter 578, RSMo, for abuse and neglect but the prosecuting attorney chose not to pursue the case. The other case, in June 2002, resulted in a \$1,000 fine which has not been collected. The Attorney General's Office issued a demand letter requesting payment by mid-September, 2004. However, according to the Attorney General's Office, as of October 24, 2004, payment had not been received, and the case will be presented to the local circuit court to obtain a judgment allowing enforceable collection action.

Federal inspectors levy more fines and report more violations than state inspectors

The USDA uses penalties as a means to enforce animal care regulations. For example, USDA fined 13 Missouri facilities \$22,805 during federal fiscal year 2003 and 14 facilities a total of \$9,189 during federal fiscal year 2004 (through June 30, 2004).

Division data for 2002 and 2003 showed federal inspectors reported more violations on average than state inspectors. Table 2.1 depicts the number of facilities inspected and the number of violations cited on average for those facilities.²

Table 2.1: Comparison of Federal and State Reported Violations

Calendar Year	Number of Facilities Inspected	Number of Violations Reported	Average Number of Violations per Inspection
2002 Federal	936	1,381	1.48
2002 State	1,433	665	.46
2003 Federal	887	852	.96
2003 State	1,291	780	.60

Source: Animal Care Facilities - Annual Inspection Summary

Table 2.1 shows federal inspectors averaged more violations per inspection than state inspectors.

² Data for 2004 could not be analyzed because the division's database of federal inspections had not been kept current. See page 19 for discussion on database entry delays.

Division is reluctant to utilize the administrative hearing process and confiscate animals

According to state law³ the division has the authority to pursue administrative hearings, and assess fines of up to \$1,000 per violation that are enforceable in circuit courts. The program coordinator stated the division does not typically pursue this option because it is too costly and does not yield results in a timely manner. Instead, the coordinator said they prefer to work directly with the licensees and get them "up to speed or out of business". However, the division has a memorandum of understanding with the Missouri Administrative Hearing Commission and, according to an administrative commission official, the commission will conduct administrative hearings on the division's behalf at no cost to the division.

In lieu of holding administrative hearings, the division initiated efforts in 2003 to seek voluntary settlements which allow licensees to voluntarily pay a fine and/or surrender animals. According to the program coordinator, voluntary settlements are faster and easier to facilitate than administrative hearings.

The division also has the authority⁴ to confiscate animals for care, treatment, or disposal when a licensee refuses to comply with provisions of the Animal Care Facilities Act, state regulations, and the division's request to correct conditions contributing to the animal's suffering or distress. However, according to the program coordinator, this regulation conflicts with the state constitution because it lacks adequate due process. The coordinator knew of only one time since the program's inception in which animals had been confiscated, or destroyed, under the provisions of this regulation. We believe the regulation provides for due process since the licensee would have been cited for violations and given an opportunity to correct deficiencies noted by an inspector. In commenting on a draft of this report, the program coordinator stated he views voluntary surrender of canines as a form of confiscation.

Marginal performers have not been penalized

During inspections, we also observed inspectors do not always treat recurring violations as such unless it involves the same canine or item previously cited. For example, at a rescue facility, discussed on page 6, one of the inspectors had previously cited an open food container. On the next inspection, he found that problem had been corrected, but found the same problem in another location at the facility. Instead of citing this problem as a reoccurring violation, the inspector treated it as a new violation. Therefore, the original violation could not be upgraded to a category IV or V violation, be subject to the penalty phase, or be used to show a true history of non-compliance.

State regulations, which reflect USDA regulations, do not define recurring violations. However, according to a USDA official, USDA inspectors treat recurring violations as such. After auditors discussed this issue with the program coordinator, he told us he plans to discuss this possible change in violation reporting with the division's legal advisor. He is not sure whether a judge would support this means of reporting violations. However, the division has not litigated a case

³ See Chapter 273, RSMo 2000.

⁴ According to 2 C.S.R. 30-9.020(14)(D).

based on recurring violations. As of August 31, 2004, inspectors had not been advised to treat recurring violations as such, unless it involved the same canine or item previously cited.

One facility visited cited numerous times

While conducting field visits with inspectors, we found one facility had been visited 13 times and had been cited for violations 83 times since December 2000. Examples of some recurring violations cited included canines with matted hair, a strong ammonia smell in whelping room, and lack of rodent control. The inspector would cite violations in a routine annual inspection and in time, would conduct a follow-up re-inspection. Prior to the re-inspection, the licensee would correct those violations and on the inspector's next visit, those violations would be cleared. However, on the next routine annual inspection, the inspector would cite the licensee for the same violations. In discussing whether a facility with a pattern of marginal performance could be penalized, the program coordinator told us the division had authority to pursue poor performers through settlement agreements or administrative hearings, but in this particular case had not done so. The program coordinator said his main objective is the welfare of the animals and if he feels the licensee is making progress, to work with the facility and get it "up to speed or out of business".

Conclusions

We observed instances of unsafe and unsanitary conditions at licensed breeder facilities we visited which inspectors had not observed and/or recorded. Despite enhanced procedures to assist the thoroughness of the inspection process, the majority of inspectors believe it unnecessary to report all violations observed at licensed facilities. Those inspectors believe they should not report minor violations. We continue to believe inspectors should observe and report all violations at facilities in order to have a complete record of violations which, in turn, would assist inspectors in documenting poor performance and facilitate the penalty process.

The division has enhanced training opportunities, however, there is no consistency on the type or extent of training taken, and the division has not established mandatory training courses. The division also has not monitored inspector training for tracking purposes. We believe the division should establish guidance on the type and extent of training needed, specify training courses all inspectors are required to attend, and track training taken by inspectors. Training courses focusing on inspection procedures and techniques would help ensure more uniform and thorough inspections.

The division has increased its use of penalties since our last audit, but still lags behind USDA's program in terms of fines. The division's pursuit of settlements and voluntary surrender of licenses is to be commended. However, the division's reluctance to use the administrative hearing process, and confiscate animals, to penalize licensed facilities is not justified. Administrative hearings can be pursued at no cost to the program and if used, would demonstrate to problem facilities the division is serious about requiring those facilities to adhere to state regulations. When the division has given a licensed facility the opportunity to correct deficiencies and the licensee has refused, and canines' health or well being is in question, we

believe the division has the authority to confiscate the canines. In addition, the division has not taken action against commercial breeders with a history of marginal performance. Instead, the division has allowed these facilities to continually repeat violations. These facilities require additional time and attention of inspectors to constantly re-inspect problem facilities. We continue to believe the division should take aggressive action to penalize licensed facilities violating state regulations which would "encourage" those facilities to comply with state requirements. In addition, we believe the division should take action to penalize facilities with a history of poor performance. Without aggressive action to penalize offenders, facility owners have little incentive to comply with state statutes and, as a result, canines may be at risk.

Recommendations

We recommend the Director, Department of Agriculture direct program officials to:

- 2.1 Require inspectors to conduct inspections in accordance with state regulations and record all violations at licensed facilities.
- 2.2 Establish guidance on the type and extent of training courses needed for inspectors; develop mandatory training courses that, among other things, focus on inspection procedures; and track training by inspectors.
- 2.3 Pursue all avenues to penalize licensed facilities not adhering to state regulations and establish procedures to penalize licensed facilities with a record of poor performance.

Agency Comments

The Director, Department of Agriculture, provided the following comments in a letter dated November 9, 2004.

- 2.1 *We agree that state law and regulations should guide inspections and that violations should be recorded. We also believe we have made significant progress since the original audit in 2000. MDA [Missouri Department of Agriculture] has removed the subjectivity of inspections through an established checklist and worked to build accessibility of prior report data into operations.*

Variances in the "philosophy" of inspection standards and practices undertaken by inspectors, as noted in the audit, are not sanctioned by division or department management. What is clear is that the expectations for the pace of annual inspections, pre-inspection, re-inspection of all facilities licensed under the program and delegated to the inspectors is far too great to assume a thorough inspection of every facility. This is manifested in hurried inspections and bypassed inspection criteria mentioned in the audit, such as animal medical records and acquisition and disposition records.

Additionally, while workload issues are addressed in this audit, recommendations for funding increases that would allow the staffing necessary to implement a satisfactory program are not. While the audit continually calls for meeting regulatory guidelines

through better management – which we concur is still needed – we believe that the fundamental issue of resource allocation is not.

Finally, and somewhat ironically, at the same time as the SAO is calling for increased and more thorough inspections, it is also calling for ceding inspection authority to federal inspectors where facilities are both state and federally licensed, and advocating a risk-based management approach. While the freedom to implement these approaches is strongly supported by MDA, progress will be impossible in this highly scrutinized and politicized area without a strong partnership between the SAO and MDA outlining acceptable methodologies and risks.

- 2.2 *We concur that training is a key success factor in implementing the inspection program and that standardization is a priority. Since 2000 we have worked to incorporate training provided through the University of Missouri using Law Enforcement Training Institute and the Human Society University curriculum.*

We agree that better record keeping and a more focused effort on the part of program management to ensure proper formal original and continuing education is important.

- 2.3 *We agree and disagree with the finding that the program should increase punitive actions against facilities not adhering to state regulations or with poor records of performance. It has been the management philosophy of the ACFA program to move facilities either “up or out” of the industry. Accomplishing this has been a matter of balancing punitive action with inspections designed to both satisfy the letter of the law, as well as help facilities understand how to meet their requirements.*

As indicated in the body of the audit, the ACFA Program has fined six facilities since the 2000 audit. Additionally, the program has obtained voluntary surrender of animals at four facilities and has suspended two licenses.

Progress has been made through negotiation with the Administrative Hearing Commission to reduce the cost of hearings, but the department still lacks the internal administrative tools and budget to efficiently organize for litigation. MDA is the only state agency without an in-house general counsel.

Further, in the past, when MDA has initiated legal proceedings, they have been relatively ineffective. As noted in the audit, ACFA has referred one abuse and neglect case for prosecution to a local prosecutor which was not pursued at the local level. MDA awaits word on another case referred to and pursued by the Attorney General’s Office requesting payment by mid-September which has not, as of this response in early November, been received.

Therefore, while MDA believes that establishing procedures for pursuing fines and penalties against non-compliant licensees is meritorious, we do not agree that it is the most effective way of bringing facilities into compliance with the ACFA.

3. Statutory Requirements Not Always Met

The division has not met statutory requirements in regard to inspecting 100 percent of licensed facilities⁵ on a yearly basis, pre-licensing inspections of facilities, and ensuring unlicensed facilities have not continued to operate illegally. This situation has occurred, in part, because division priorities have impacted time available for inspections. Division priorities require inspectors to handle citizen complaints, identify unlicensed breeders, and perform administrative duties in addition to inspection duties. In addition, officials have not made full use of federal inspectors as state agents. Instead, inspectors have unnecessarily duplicated federal inspectors' efforts to inspect dually licensed facilities. Some inspectors have also failed to use federal inspection reports to enhance their oversight of licensed facilities. Division workload has increased, however, the division lacks meaningful information on individual inspector activities and duties. In addition, most inspectors have not been dedicated to the program on a full-time basis, key personnel have not been replaced, and inspectors have spent excessive time on unsuccessful inspection attempts. Inspectors have targeted problem facilities as a means of coping with division workloads issues and using federal inspectors would reduce inspector workload. As a result of not meeting statutory requirements, canines have been left at risk.

Division has not met statutory requirements

The division has not meet statutory requirements in regard to inspecting all licensed facilities on a yearly basis, pre-licensing inspections of facilities, and ensuring unlicensed facilities have not continued to operate illegally.

Most licensed facilities not inspected once a year

State regulations require division inspectors to inspect licensed facilities once a year. However, division data showed inspectors inspected an average of 27 percent of required facilities for 2004, as of Spetember1, 2004. Table 3.1 depicts the facility coverage for each inspector for 2004.

⁵ This includes commercial breeders, dealers, handlers, hobbyists, exhibitors, boarding kennels, commercial kennels, contract kennels, retail pet stores, animal shelters, and pounds.

Table 3.1: 2004 Facility Inspections Accomplished by State Inspectors

Inspector Number	Required Facility Inspections	Facility Inspections Completed	Percent Accomplished
1	264	79	30
2	308 ¹	59	19
3	246	31	13
4	217	61	28
5	326	48	15
6	203	40	20
7	207	80	39
8	278	54	19
9	190	159	84
10	186	36	19
Total	2,425	647	27

¹ This inspector retired in 2004 and his district has been allocated to other inspectors; however, inspections are still reported under the retiree's inspection number.

Source: SAO analysis of the Animal Care Facilities - Annual Inspection Summary report 2004, dated September 1, 2004.

Table 3.1 shows inspectors inspected from 13 percent to 84 percent of required facilities.

Rescue facilities have been exempted from annual inspections

The division has exempted rescue facilities from required yearly inspections. However, the division's position conflicts with state regulations because the regulations have defined a rescue facility as a type of animal shelter that is required to be inspected at least annually. According to a program coordinator, rescue facilities are not inspected unless the division receives a complaint because of the overwhelming number of rescue operations within the state. Division records showed Missouri had 92 licensed rescue facilities, as of March 2, 2004.

Division not conducting timely pre-license inspections and some facilities exempted

The division has not always met statutory requirements in this area because pre-license inspections of facility applicants have not been timely and some facilities have been exempted from pre-licensing requirements. State regulations require inspectors conduct pre-license inspections to ensure license applicants meet state licensing requirements. The applicant is given a maximum of 3 inspections during a period of up to 90 days from the date of the first inspection prior to issuance or denial of a license. According to state regulations, failure of these inspections does not subject an initial applicant to the \$100 penalty fee for failed inspections. However, the initial license fee will not be returned and subsequent applications (if denied a license, the licensee may reapply after six months from the date of the last failed inspection) must be accompanied by another initial license fee.

During inspections, we noted one facility had not had timely pre-license inspections on an initial application. The inspector performed the first of four pre-license inspections at the commercial breeding facility in February 2004 and did not return to conduct a re-inspection until July 2004,

138 days later. The first inspection noted four violations which related to employing a veterinarian, fecal accumulation under and in pens, dirty water or no water, and dogs had not been properly identified. The inspector gave the applicant 7 to 30 days, depending on the violation, to take corrective action. In July 2004, we accompanied the inspector on the re-inspection (second inspection) and, with the exception of employing a veterinarian, found the same problems in addition to 32 new violations for a total of 35 violations. Some of the new violations included:

- dirty pens in need of cleaning,
- a puppy in a pen had been dead for several days,
- pens had no shelter or shade and kennel dogs were running loose on premises,
- several dirty dog feeders with either no food or caked, moldy food in them, and
- several dogs with skin problems.

The inspector also questioned whether the applicant could care for the 93 dogs on hand the day of the inspection.

We also accompanied the inspector on the second re-inspection (third inspection) nine days later, and the inspector noted seven new violations and 14 violations that were cited in one or both of the previous inspections, for a total of 21 violations. We also were present for the third re-inspection (fourth inspection) 40 days later, and the inspector noted 11 new violations and 15 violations that were in one or all of the previous inspections, for a total of 26 violations. These four pre-license inspections had a grand total of 86 new or recurring violations over a 187-day period. In addition, the division required the licensee to pay a \$100 re-inspection fee prior to conducting the fourth inspection, which contradicts state regulations.

When auditors inquired as to why the inspector had not re-inspected the facility within the required 90-day timeframe, the inspector acknowledged the second inspection should have been done sooner, but the inspector "just did not have time". As of September 1, 2004, this facility had been in operation, without a license, at least 8 months. See pages 5 and 16 for additional discussion on this facility.

Division licenses rescue facilities without required pre-license inspections

Rescue facilities are issued a license without conducting pre-license inspections of facilities, according to the program coordinator. State statutes define rescue facilities as a type of animal shelter that is subject to pre-license inspections. According to the coordinator, there are numerous rescue facilities in the state and the division does not have the time or staff to conduct pre-license inspections of these facilities.

Division not ensuring unlicensed facilities operate legally

Division data showed 60 facilities had not paid license fees, as of August 2004; 7 months after the expiration of 2003 licenses. However, division personnel had not determined whether these facilities had ceased business or continued to operate illegally. State regulations state a person

whose license has automatically expired, or an applicant, shall not conduct any activity for which a license is required. Operating without a valid license is a Class A misdemeanor.

Discussions with nine inspectors⁶ disclosed they receive a monthly report referred to as the "no pay"⁷ report showing facilities that have not paid yearly license fees. However, four inspectors told us they had not had time to determine whether facilities were still in operation. The 4 inspectors had between 6 and 19 facilities on the mid-August 2004 "no pay" report. Three other inspectors told us they try to follow-up on facilities on the report, but they may not follow-up timely. These inspectors had two to five facilities on the "no-pay" report. Two inspectors considered it a high priority to follow-up on reported facilities and they had no facilities on the report. Several of the inspectors contacted acknowledged facilities with expired licenses could be breeding and selling canines illegally.

Division not ensuring applicants operate legally

The division also had 140 licenses it has held for various reasons, according to August 2004 division data. For example, 96 (69 percent) of 140⁸ licenses being held represented instances in which existing facilities, and new applicant facilities, had paid renewal and/or license fees. However, inspectors had not conducted required inspections since 2002 on facilities reapplying for licenses, or during the current year on initial applicants. Regulations state existing facilities must have an annual inspection and applicants must have a pre-license inspection, however inspectors contacted told us these facilities had not been inspected because the inspectors had not had the time. Inspectors contacted acknowledged some of these facilities could be breeding and selling canines illegally. A USDA official confirmed one applicant had been selling canines since at least December 2003. According to a USDA official, 19 dogs were sold to a broker during December 2003 and January 2004. This applicant is a licensee of the USDA but is a pre-licensee of the state.

Division priorities impact required inspections

The division has established three major priorities for inspectors, according to the program coordinator. Those are, in order of priority, handling citizen complaints, identifying unlicensed breeders, and conducting inspections. Furthermore, most inspectors do not work full-time on the division's inspection program.

⁶ A 10th inspector retired in 2004 who had 13 facilities on the "no pay" report. These 13 facilities were not figured into the ranges and averages.

⁷ The title of this report is "Facilities That Have Not Renewed".

⁸ Of the remaining 44 licenses, 23 were awaiting disposition of open violations, 16 did not have proper employment of a veterinarian, and 5 licenses were being held for other considerations.

Significant time spent on complaints

Inspectors spent a significant amount of time investigating and processing complaints. The nine inspectors told us they spent from 5 percent to 40 percent of their time on complaints. Based on inspector comments, inspectors averaged about 17 percent of their time handling complaints.

According to 1994 division guidance, all complaints are to be reviewed by the state veterinarian, or his designated representative, before being assigned to inspectors. According to the program coordinator, the guidance has been informally revised to allow the inspectors to receive complaints and decide on how the complaints are to be handled. According to inspectors contacted, citizens contact them frequently with complaints while other complaints are received through the main office. Six inspectors told us they forward citizen complaints to the program coordinator to document and determine the validity of the complaint, and whether they have the authority and jurisdiction prior to investigation. Three inspectors told us they make these determinations in processing complaints from the public.

Final disposition of complaints not timely

The division began electronically tracking complaint cases in December 2001. Since that time, the division has logged 280 complaints. Of those complaints, 91 occurred during 2002, 96 during 2003, and 86 during 2004, as of August 2004.

Although complaint reports had been completed for these years, our analysis of 2003 and 2004 could not be completed because final disposition⁹ of the reports had not been completed. Of the 96 complaints logged in 2003, 45 (47 percent) had no final disposition. Of the 86 logged in 2004, 79 (92 percent) had no final disposition. According to the 1994 guidance, a review panel will determine the final disposition of the complaint. The disposition of complaint cases has not been completed by division personnel because of competing demands and the lack of time, according to the program coordinator. (See page 20 of report for additional information on workload issues.)

Our analysis of the final disposition of 91 complaints, processed during 2002, disclosed 47 (52 percent) of the complaints involved cases in which no action had been necessary. Of the 91, 36 (40 percent) required monitoring, 2 (2 percent) required legal action to be taken, and 6 (6 percent) had no disposition.

The 1994 guidance also requires the division to retain complaint reports with the facility's inspection reports for 3 years and in a consolidated file for 5 years. Complaint reports have been filed in a consolidated file; however, complaint reports have not been filed with inspection reports. Program personnel stated there have been discussions on filing a copy of the reports with case files and the division plans to take this action once current reports in the system have final disposition.

⁹ Results of the complaints after investigation had been concluded.

Not all complaints have been documented

Three of the nine inspectors contacted chose to handle complaints directly from the public without prior screening from the program coordinator. These inspectors told us approximately 40 percent of the complaints received had not been documented because (1) some complaints had been "bogus", (2) inspectors had no jurisdiction, and (3) inspectors had recently inspected facilities and believed further action had not been warranted.

Unlicensed activity and administrative matters

Our analysis of the complaint database disclosed approximately 40 percent of all complaints documented since January 2002, had been related to unlicensed activity. In addition, the program coordinator stated all inspectors are expected to spend time researching the Internet and/or other sources to identify unlicensed breeders. Inspectors also estimated they spend approximately one day a week, or 20 percent of their time on administrative matters. Administrative matters include preparing timesheets, filling out weekly activity reports, phone calls, research, and end of month reports.

Program officials have not taken full advantage of federal inspection resources

Program officials have elected not to fully utilize federal inspectors as agents for the state when inspecting licensed facilities. As discussed in our 2001 report, the 1994 memorandum of understanding with the USDA had been designed to reduce unnecessary duplication of services by establishing procedures to use federal inspectors as agents for the state, and use federal inspection reports. The memorandum allowed program officials to appoint federal inspectors to inspect program facilities, thereby relieving state inspectors of that responsibility.

According to a program coordinator, coordination with federal inspectors has improved and state inspectors sometimes conduct joint inspections with federal inspectors to try to improve consistency between the inspectors. The division has taken advantage of the memorandum by often relying on federal inspectors when issuing or renewing facility licenses, and ensuring coverage in the district without a state inspector. However, the state veterinarian told us he does not believe the law allows the division to use federal inspectors as inspection agents for the state. He also told us licensees expect to see state inspectors inspecting their facilities after paying a licensing fee of \$100 to \$500.

Inspectors duplicate federal inspection efforts

Our review of division computerized data disclosed state inspectors have duplicated federal inspection efforts. Division data on commercial breeders dually licensed by the state and USDA for fiscal year 2004 (through June 9, 2004) showed 235¹⁰ facilities had been inspected by both USDA inspectors and the state inspectors. Further analysis disclosed 115 facilities had been inspected by USDA and state inspectors within a two-month time period and 74 facilities had been inspected by USDA and state inspectors within a one-month time period. From the 74, we

¹⁰ Includes USDA reports entered in the database; it does not include approximately 425 USDA reports not entered.

selected 40 dually licensed commercial breeders with 187 state and federal inspections for further analysis.¹¹ Our analysis disclosed 21 instances (11 percent) in which inspections occurred within 10 days or less.

Inspection reports not always used

Inspectors have not always used federal inspection reports to assist them with inspections. Discussions with the nine inspectors disclosed federal reports have not been used by six inspectors for the following reasons:

- Do not feel USDA reports should influence what they are doing.
- USDA reports are not useful to them.
- USDA does their "own thing" and inspectors do their "own thing".
- Do not need to look at a USDA report to do their job.

Since 2002, the division has been obtaining federal inspection reports about every two weeks and the reports are usually one to two months old when received. Once received, the reports are reviewed and, if licensed by the state, the license number is recorded on the report and any violations are entered in to the computer. The reports are given to the program coordinator for further review. If there are any serious violations the state inspector for that area will be contacted for immediate follow-up at the facility. If a facility reported on by a federal inspector is unlicensed by the state, it will be noted and the state inspector will be notified for follow-up.

Division experiences delays in entering data in database

Once USDA reports have been reviewed, they are entered into the division's database. However, the division has experienced considerable delays in inputting the report information in the system. According to program personnel, delays have been experienced because there is only one person available to input report information and that person has responsibility for all administrative duties. Review of USDA reports showed approximately 425 USDA reports, dating to December 2003, had not been entered in the computerized database.

Workload issues, part-time inspectors, and personnel losses impact program

The division's workload has increased significantly since 2000. Division data shows the number of licensed and registered animal care facilities increased 29 percent from approximately 1,962 in 2000 to 2,527 in 2004. Licensed commercial breeders represented approximately 1,107 (56 percent) and 1,461 (58 percent), respectively, for those years.

With the increase in licensed facilities, the average workload of inspectors has increased. Assuming the division employed 10 full-time inspectors, the average workload per inspector would be 253 facilities. This compares to an average workload of 155 facilities for federal

¹¹ This includes inspections from August 2000 through June 9, 2004.

inspectors. The workload of state inspectors is exacerbated because only one of the nine inspectors currently employed by the division has been assigned as a full-time inspector.

Division lacks adequate information on inspector activities and workloads

According to the program coordinator, an automated report showing ten inspection districts and the number of facilities assigned to each inspector for assigned districts has been used to assess workloads and make any adjustments needed. However, the report does not show actual workload activities. Workload activities are shown on a weekly activity report, according to the coordinator.

Inspectors are required to turn in weekly activity reports which document, on a day by day basis, the number of hours worked and a description of daily work activities, according to the program coordinator. The program coordinator reviews the reports and uses the reports to stay informed about the activities of inspectors. However, our analysis of two months of weekly activity reports, submitted by five inspectors, disclosed the reports often contain vague or incomplete information on activities of inspectors and sometimes conflict with hours shown on timesheets. (See page 26 for discussion of timesheets.)

Inspectors sometimes also work in other areas of the division and split their time between various programs. The weekly activity reports have fields to indicate how much time is spent working on the inspection program, as well as a recap section which shows how much time is spent on field work, paperwork, and vehicle maintenance. However, most of the inspectors had not adequately completed these fields on the report. Examples of activities shown on the reports included:

- One inspector included a daily description as just "ACFA"¹² with no other details and another day as "computer help/ACFA" also with no other description. This inspector did not indicate program hours versus total hours worked, and hours worked were noted as total hours. In addition, the inspector completed the recap of time section for only one week of the reports reviewed.
- One inspector included such things in the daily descriptions as, "I did paperwork, I went to Kirksville and did inspections", "kennel inspections", "blizzard today, I studied regs", "stayed home and waited for a conference call", with no other descriptions.
- One inspector marked a daily description as just "meeting" and another day as "paperwork/mail check", with no other description. The inspector also had not completed the recap of time section for two of the weeks reviewed.

Most inspectors not full-time

Only one of nine inspectors worked full-time on the animal care facilities inspection program. Other duties include state fair responsibilities, testing milk samples, cattle herd testing, and other animal health issues. Based on our discussions with eight inspectors, they spent from 50 percent to 95 percent of their time on the program. As of September 1, 2004, one inspector had 326

¹² This abbreviation refers to the Animal Care Facilities Act (ACFA).

facilities to inspect and spent approximately half of his time on other duties, while another inspector spent all his time on program activities and had 217 facilities to inspect.

Key personnel not replaced

According to the program coordinator, personnel vacancies have not been replaced because of budgetary constraints. Since our prior audit, one administrator has been reassigned and has not been replaced. The program coordinator, who is also a district veterinarian, assumed administrative duties performed by this administrator. The division also lost one secretary, leaving one to perform administrative duties, and one inspector, leaving nine inspectors responsible for ten districts. According to the coordinator, two of the three unfilled positions have remained vacant because of budget concerns. The program coordinator has been given the approval to fill the vacant inspector position but, as of September 1, 2004, the position had not been filled.

Excessive time spent on attempted inspections impacts workload

All 9 inspectors told us they spent from 10 percent to 50 percent (an average of 27 percent) unsuccessfully attempting to conduct facility inspections. Inspectors told us most unsuccessful attempts occurred because the licensees usually had not been at the facility, or had otherwise not been available for inspection. According to the program coordinator, surprise inspections have been conducted without giving prior notice in order to not allow facility owners time to correct deficiencies. However, based on his experience, he believes giving a licensee 24 hours notice prior to inspection would reduce the number of unsuccessful inspection attempts and would make little or no difference in the number of potential violations at the facility.

Inspectors not documenting unsuccessful attempts

Only one of the inspectors contacted indicated she completed inspection reports to document all unsuccessful attempts. Four inspectors told us they completed inspection reports only after multiple unsuccessful attempts. The remaining four inspectors indicated they had not completed inspection reports documenting unsuccessful inspections. Inspectors told us they had not documented attempted inspections because they had not had time, it took too long to start the computer and fill out the form, and they would have to leave a copy of the attempted report, which would alert the licensee to the visit.

The program coordinator had not been aware the majority of the inspectors had not documented unsuccessful attempted inspections. He also stated it had not been necessary to leave an inspection report on the property documenting the visit. The coordinator acknowledged documenting unsuccessful inspection attempts would provide meaningful information since this information has been included on a management report.

Inspectors focus on problem facilities to cope with workload issues

Our discussions with the nine inspectors disclosed all of the inspectors have focused inspection efforts on problem facilities based on their experience with these facilities. During on-site visits to facilities, inspectors told us they conducted inspections at what they view as high-risk facilities first because they have not had time to inspect all facilities.

Federal inspectors use a risk-based approach in selecting which facilities to inspect. According to a USDA official, the risk-based approach calls for facilities to be inspected at varying frequencies from as high as four times each year to as low as once every two years. This approach allows them to concentrate their efforts on those facilities more likely to have compliance problems, while spending less time on those facilities less likely to have compliance problems. Although a risk-based approach is used, USDA's goal is to provide annual inspections for all licensed facilities, according to the official.

Using federal inspectors would reduce workload of state inspectors

As previously discussed, (see page 18) the division has a memorandum of understanding with the USDA that allows the division to use federal inspectors as agents for the state. Our analysis of the commercial breeder database for fiscal year 2004 (through June 9, 2004) showed approximately 890¹³ facilities also licensed by the USDA. Assuming the division used the federal inspectors as state agents and had 10 inspectors, it would reduce the state inspectors' workloads by an average of approximately 89 facilities or 35 percent.

Conclusions

Division officials have not met statutory requirements in regard to inspecting all licensed facilities on an annual basis and have not ensured pre-licensing inspections of facilities have been timely. In addition, the division has allowed unlicensed operators to continue to operate and/or sell canines in violation of state regulations. This has occurred, in part, because division priorities require inspectors to spend significant time investigating citizen complaints and identifying unlicensed facilities. Because the division has not met statutory requirements, the majority of licensed facilities have not been inspected. If commercial breeders and other licensed facilities are not inspected, owners have little incentive to adhere to state regulations. The division exempted rescue facilities from annual inspections and pre-license inspections because of the high number of facilities and a lack of resources. We believe the division should strive to inspect all facilities, including rescue facilities unless the division can get relief from this requirement from the General Assembly. Untimely pre-license inspections have resulted in some applicants with numerous violations conducting business unlicensed, which is a Class A misdemeanor.

Division priorities require inspectors spend a significant amount of time handling citizen complaints, identifying unlicensed breeders and attending to administrative matters. While handling complaints is important, the division has not re-established formal procedures to

¹³ This figure does not consider the 425 USDA reports that had not been entered in the division's database.

evaluate the validity of complaints and prioritize in order of importance. We believe validating and prioritizing complaints by the program coordinator, or a designee, would result in handling complaints more efficiently and effectively.

The division's position on the use of federal inspectors as state agents for inspection of licensed facilities has not been consistent. The division has chosen to use federal agents on pre-license and renewal inspections, on an as needed basis. However, the division has chosen not to rely on them when scheduling inspections during the license year. Instead, inspectors continue to duplicate federal inspectors' efforts. Using federal inspectors as state agents would free up additional time for state inspectors and allow them to increase the number of inspections of licensed facilities. We do not believe state law prevents the division from taking advantage of using federal inspectors and continue to believe using federal inspectors is a viable option for the division.

The division's workload has increased significantly since our prior audit. The division's ability to meet increased workload and statutory requirements has been impacted because officials lack information on how inspectors spend their time. The division has a potentially useful tool in the weekly activity report that is intended to recap inspector activities. However, the majority of these reports yield little useful information, and the review of these reports has been cursory, at best. We believe inspectors should be required to record complete and useful information on all activities and time charges associated with those activities. This would allow the reports to be used by officials to help determine exactly what inspectors are doing, how much time is taken to do those activities, adjust workloads, and determine inspectors needed to accomplish statutory requirements.

The division's ability to meet statutory requirements has also been impacted because most inspectors have not been dedicated full-time to the inspection program and key personnel vacancies have not been filled. In addition, inspectors have spent excessive time unsuccessfully attempting to inspect facilities and have not always documented inspection attempts. We believe inspectors should be required to document unsuccessful inspection attempts so it is available for management's use and the division should determine ways to minimize time spent on unsuccessful inspection attempts, which would allow additional time to be more productively spent on other program duties.

State inspectors have focused inspections on "problem" facilities to cope with workload issues. However, the division has not conducted a risk-based assessment of all facilities or implemented formalized procedures to ensure all inspectors follow a practice similar to USDA. We believe it is a sound business practice to focus on problem facilities before inspecting other licensed facilities given the division's resources. We also believe using federal inspectors would significantly reduce inspector workload.

Recommendations

We recommend the Director, Department of Agriculture direct program officials to:

- 3.1 Comply with state regulations regarding annual inspections of licensed facilities, timely pre-license inspections, and not charge re-inspection fees to pre-license facilities.

- 3.2 Require rescue facilities meet pre-license requirements and inspect rescue operations on a yearly basis, as required by state regulations.
- 3.3 Notify law enforcement officials when facilities continue to operate without a valid license.
- 3.4 Centralize review of citizen complaints, and establish procedures to prioritize and evaluate the validity of citizen complaints.
- 3.5 Utilize federal inspectors as state agents, as well as federal inspection reports, to assist in the inspection process.
- 3.6 Revise the weekly activity report to allow detailed accounting of inspector activities and require inspectors to accurately prepare the report to disclose all activities related to the canine inspection program, as well as other related or unrelated activities.
- 3.7 Require program personnel use the weekly activity reports to help assess and redistribute workloads, as well as determine future personnel needs.
- 3.8 Require inspectors to document all unsuccessful inspection attempts and determine ways to reduce the number of unsuccessful inspection attempts.
- 3.9 Conduct a risk-based assessment of facilities and formalize a risk-based approach to ensure all inspectors target high-risk facilities first in attempting to inspect all licensed facilities.

Agency Comments

The Director, Department of Agriculture, provided the following comments in a letter dated November 9, 2004.

- 3.1 *We agree that the department and division should comply with state statutes and regulations relating to the inspection of licensed facilities, but strongly assert, once again, that success is not simply a factor of management changes but also providing adequate resources in the program and across the division to meet citizen expectations.*

We concur that pre-licensees should not be penalized for either administrative errors or the division's inability to make prompt re-inspections of pre-licensees. We also agree that a system that takes into account records of federally licensed facilities could help identify, evaluate and expedite state pre-licensing and licensing requirements.

- 3.2 *We agree that rescue facilities should be inspected annually. We also believe that consideration should be given to the nature of the rescue community, which often uses a "foster family" system not representative of the 92 facilities licensed under ACFA.*
- 3.3 *We agree and disagree. We agree that eliminating unlicensed activity should be a goal of the ACFA program, but have maintained that the best way to ensure that animal*

welfare is safeguarded is to bring facilities under the licensing program. It is often difficult to identify unlicensed activity, and law enforcement does not spend a significant amount of time independently pursuing unlicensed ACFA activities. On the other hand, MDA ACFA does specifically monitor for illegal activity and is regularly bringing new licensees into the program as a result.

We agree that persistent violators and facilities with revoked licenses should be referred to law enforcement, and their operations closed under Chapter 578 or 273 RSMo.

3.4 *We agree with this recommendation.*

3.5 *We agree and disagree with this recommendation. Clearly there has been progress in the cooperation between state and federal facility inspectors since the 2000 audit. We agree that additional progress is necessary and could address some of the workload related issues identified in this audit.*

We also agree that federal inspection reports can help inspectors understand historical issues faced at individual facilities.

We disagree that federal inspectors can fully assume the inspection role for the state and that dual inspection is as problematic as indicated by the SAO in this audit. Additionally, the SAO found that USDA utilized a risk-based approach to facilities which endeavored to visit every facility annually but likely would inspect some problem facilities multiple times in a single year and other stronger facilities as infrequently as every other year. Given the nature of the federal inspection program management, implementation of a state risk-based approach could either expand resources to inspect more facilities with expanded efficiency or cause increased focus on a small number of problem facilities.

We agree that the exchange of information is very important and that input of data into the state database and its use in inspections is a valuable tool and should be a priority of the program.

3.6 *We agree that program timesheets should be more descriptive and indicative of where and when inspectors are working on the ACFA program or other division priorities.*

3.7 *We agree with this recommendation.*

3.8 *We agree with this recommendation, with the caveat that as long as we continue to maintain a policy of unannounced inspections that documentation should in no way jeopardize this policy.*

3.9 *We agree with this recommendation. MDA is anxious to develop a risk-based system to streamline workload and maximize the protections intended by the general assembly when it authorized the ACFA. While we strongly support this approach, we believe that it can only be effective if made in conjunction with a strong partnership with the SAO to establish parameters and performance management objectives.*

4. Improvements Needed in Management Information System

Improvements are needed in the oversight of the management information system because the division lacks information on certain program operations. This situation has occurred because (1) the division has not required inspectors to adequately account for work activities, (2) inspectors have not always completed inspection reports correctly, and (3) the computerized database lacks the capability to track how facility owners became licensed or action taken against facility owners in violation of animal care regulations. As a result, the division has not had information needed to assess the efficiency and effectiveness of program operations.

Division lacks information on program operations

The division lacks accurate information on inspectors' work-related activities and on inspection results. In addition, the division's computerized database lacks the capability to track how facility owners became licensed, or action taken against facility owners in violation of animal care regulations. Although the division has increased the amount of information available to inspectors, inspectors have not always used the information.

Division lacks accurate information on how inspectors spend time

The division has not had accurate information on the amount of time inspectors spend on various duties performed because inspectors have not been required to account for time charges by activity. In addition, the division has obtained conflicting information on inspector activities reported on timesheets and weekly activity reports. Inspectors are required to submit weekly activity reports and timesheets which recap activities and time charges. As previously discussed, weekly activity reports completed by inspectors are often very vague on amount of hours spent on different duties and individual activities within the animal inspection program (see page 20 for discussion of weekly activity reports).

Our analysis of selected inspector time sheets also disclosed inspectors are not required to account for time based on activities performed. For example, timesheets have not been coded to show time spent on inspection of licensed facilities as opposed to administrative duties or time spent on complaints and other division duties. The timesheets show the total amount of time worked for each day and it is placed in categories such as hours worked, holiday, sick leave, and compensatory time.

Conflicting information on timesheets and weekly activity reports

Review of timesheets and weekly activity reports submitted by five inspectors over a two month timeframe disclosed instances in which inspector timesheets did not agree with weekly activity reports submitted by inspectors. We found instances when the weekly activity reports indicated time had been charged to annual leave, compensatory time, or sick leave and the timesheet showed this as time worked. For example, one inspector recorded six hours of annual leave and nine hours of sick leave over several days in one week on the weekly activity report, however, all 15 hours were charged as time worked on the timesheet. Another inspector had two entries totaling 10 hours recorded as

compensatory time or sick leave on the weekly activity report, however, all 10 hours were charged as time worked on the timesheet. The program coordinator told us he reviews and signs weekly activity reports (turned in on Wednesday) and timesheets (turned in on the following Monday), but has not compared the reports to ensure they agree. In discussing this issue with auditors, the program coordinator believes that differences were due to inspectors not remembering their activities or time. However, the program coordinator agreed comparing the weekly activity report with the timesheet would help ensure the accuracy of the reports and stated he planned to notify the inspectors to submit both reports at the same time so they could be reviewed for discrepancies. In addition, timesheets and/or weekly activity reports have not been analyzed to help develop information on the efficiency and effectiveness and workload of inspectors' time. According to the program coordinator, if time permitted, information from these sources probably would be useful and could be used to help monitor inspector workloads.

Division lacks accurate information on inspection results

During field visits, we noted inspectors had not always completed the checklist portion of the inspection reports correctly. For example, one inspector had marked medications and records on the checklist compliant when the items had not been inspected. Therefore, anyone reviewing the inspection report in the database would assume the items had been inspected and complied with animal care rules and regulations.

The inspector told us she does not always inspect all items during inspections when there had not been prior problems at the facility. Therefore, she believed checking compliant on the checklist had been appropriate. However, another inspector we accompanied on inspections told us when he has not inspected required areas, i.e., records or other items, he marks the items "not applicable" and provides an explanation as to why the items had not been inspected. The division had not established guidance on how to fill out the inspection report when items have not been inspected.

Software limitations cause inspectors to spend time "redoing" inspection reports

Inspectors told us they have spent time "redoing" inspection reports previously completed on laptop computers. This has occurred because inspectors have not had the capability to take violations noted on previous inspection reports and carry them forward to the current inspection reports. Data shown on previous inspection reports becomes "read only" once the report has been exported electronically to the division office. This has forced inspectors to re-enter all of the previous violation information on a current inspection report. After discussing this matter with department computer technical personnel, they plan to add an edit feature to the inspection report software that will allow inspectors to carry forward previous violations to a new report. According to the program coordinator, the edit function had not been implemented as October 21, 2004.

Division lacks adequate tracking system for the origin of licensees and resolutions of non-compliant licensees

Program personnel lack the capability to track the origin of facilities because the current database does not indicate how facilities became licensed. The computerized system has not had the capability to show whether licensed facilities have been discovered through research in magazines or newspapers, through the complaint process, or whether the facility became licensed on a voluntary basis. Therefore, the division has not had this information to help manage the program.

In addition, the database used by program personnel has not had the capability to track resolutions of non-compliant licensees. Resolutions may involve instances in which a licensee has been fined, or when the division obtained a voluntary surrender of the facility's canines. In lieu of tracking this information in the division's computerized system, it has been generated based on the memory of program personnel. The program coordinator agreed this information would be another helpful management tool which he could use, if time permitted.

Division missing opportunity to develop historical information

The division also maintains information, by county, on violations reported by USDA and division inspectors, the type of inspections conducted, the number of active facilities, and the number of facilities required to be inspected on a report referred to as the "Annual Inspection Summary" report. However, the division has not retained historical data relating to the number of active facilities, and the number of facilities required to be inspected within the division's database. Therefore, the division has not had the capability to analyze and/or track the percent of inspections accomplished by inspectors for prior years. According to the program coordinator, this type of information would be useful to help manage the program, if he had time to review it. Historically, this report has been used to compare the number of violations reported by division inspectors and USDA inspectors, according to the program coordinator.

Conclusions

The division is missing opportunities to improve the quality and amount of management information available to program and division officials. The division currently lacks accurate information on inspectors' work-related activities. In addition, information supplied by inspectors on timesheets sometimes conflicts with information shown on weekly activity reports. Accurate timesheets and weekly activity reports, that account for all work-related activities could provide management with useful information that could be analyzed to determine how much time inspectors actually spend on inspections and other work-related activities, as well as administrative duties. This information could also be used to assist in assessing distribution of workload among the inspectors.

The division also has not had accurate information on inspection results. When inspectors mark inspection items compliant, it infers the item has been inspected and found in compliance with state regulations. We believe inspectors should be required to fill out inspection forms to accurately reflect items inspected or not inspected. Since the results of inspections are entered in

the division's database and available for others to use, we believe it is important to have the most complete and accurate data available. In addition, some inspectors have spent additional time "redoing" inspection reports because software limitations have not allowed them to carry forward violations from earlier reports. We believe software changes, allowing prior results to be carried forward, would save inspectors valuable time that could be used more productively.

Program personnel lack the capability to track how facilities become licensed and action taken against facility owners that violate state regulations on animal care. We believe by providing this capability, the division will gain useful information showing whether facilities became licensed voluntarily, through the efforts of inspectors' research efforts, or the complaint process. This information could be used to assist management in determining the effectiveness of efforts to identify non-licensed facilities and may be useful in determining workload issues and the program could then concentrate inspector resources to the methods that are most effective.

Program personnel are also missing an opportunity to develop historical information on the number of active facilities and the number of facilities required to be inspected in the division's database. Therefore, program personnel have not had the opportunity to analyze and/or track the inspections accomplished by inspectors for prior years. We believe this information should be tracked in order to provide useful information to management on the extent of inspections accomplished by inspectors over time. It could also be useful in analyzing and resolving workload issues.

Recommendations

We recommend the Director, Department of Agriculture direct division officials to:

- 4.1 Establish procedures to ensure an accurate and complete record exists of inspector time charges by requiring inspectors to account for all job related activities on weekly activity reports and timesheets, and require the program coordinator to reconcile the weekly activity reports to timesheets to ensure accuracy and the reasonableness of activities.
- 4.2 Establish procedures to have weekly activity reports and timesheets analyzed to develop data on inspector activities.
- 4.3 Establish procedures to ensure inspectors complete inspection reports correctly. If necessary, establish additional coding to identify when inspectors have not inspected an item.
- 4.4 Change division software to allow inspectors to carry forward violations from previous reports to a current inspection report.
- 4.5 Retain historical information on the number of active facilities, and the number of facilities required to be inspected, in the database to enable the division to retain information on the number of facilities inspected by inspectors on a yearly basis.

Agency Comments

The Director, Department of Agriculture, provided the following comments in a letter dated November 9, 2004.

- 4.1 *We concur with this recommendation. We believe that currently this tool is not being fully utilized to manage ACFA activities.*
- 4.2 *We concur with this recommendation.*
- 4.3 *We concur with this recommendation. Since the audit of 2000, MDA has invested significantly in upgrades to information technology that allows inspectors and program staff to efficiently access and use data.*
- 4.4 *We concur with this recommendation.*
- 4.5 *We concur with this recommendation.*

5. Improvements Needed in Oversight of Revenue and Expenditures

Improvements are needed in the management and oversight of program revenue and expenditures because division officials have not (1) ensured license fees paid by facility owners have been correct, and (2) tracked all program expenditures. As a result, licensees may be under paying licensing fees and the division has not had full visibility of program expenditures.

Division has not ensured fees paid were appropriate

Division personnel have not ensured licensed facilities have paid the appropriate amount in fees. The division collected \$377,768 and \$410,714 in revenue in fiscal years 2003 and 2004, respectively, most of which is generated by licensing fees. Commercial breeders pay a licensing fee of \$100 plus \$1 per canine sold, up to a maximum of \$500. Therefore, licensed facilities selling over 400 canines¹⁴ pay no more than \$500 in licensing fees.¹⁵ A facility selling 250 canines during the previous year should pay \$350 in licensing fees.

Discussions with division personnel disclosed the division has not verified licensed facilities paying less than \$500, paid the correct amount. However, division personnel have the means to verify the correctness of fees paid. For example, when a breeder sells canines, disposition sheets are required to be maintained by the facility. According to an inspector, inspectors could review the disposition sheets during inspections to verify the correctness of the number of canines sold.

According to the program coordinator, the division's current means of revenue verification has been based on the number of females reported by the facility multiplied by approximately eight puppies per year (each female having two litters of four per year). If the number is close, they do not question the amount paid on the per capita sheet. According to the program coordinator, verification based on disposition records has not been done because it would be too time consuming and would not be cost effective for the program.

Division lacks visibility of program expenditures

The division has not tracked program expenditures in terms of funding sources, therefore, has not determined the full extent of program expenditures. During fiscal year 2004, the division spent approximately \$400,000 from the Animal Care Reserve Fund, according to division records. However, this amount did not reflect amounts expended from the division's general revenue¹⁶ funding for program operations. For example, a portion of the salaries, or in some cases 100 percent of the salaries, for five inspectors and the program coordinator have been paid from division general revenue, according to division personnel and division records. However, these salaries have not been tracked or included in total program expenditures. According to the state veterinarian, the department plans to initiate a system to track program expenditures made from division general revenue funds.

¹⁴ During 2003, there were approximately 144,000 dogs sold/given away by commercial breeders.

¹⁵ During 2003, there were 155 commercial breeders that paid the maximum \$500.

¹⁶ The General Revenue Fund is used by the Division of Animal Health for programs under its direction and is funded through an appropriation from state general revenue.

Conclusions

The division has not ensured facilities paying less than the maximum fee of \$500 a year, have paid the actual amount owed to the division. Therefore, officials have no way of knowing whether facility owners are paying what they owe for licenses. Division officials have not tracked all program expenditures and therefore have not determined the full extent of program costs.

Recommendation

We recommend the Director, Department of Agriculture direct division officials to:

- 5.1 Revise procedures to ensure facilities paying less than the maximum in licensing fees have paid the appropriate amount.

Agency Comments

The Director, Department of Agriculture, provided the following comments in a letter dated November 9, 2004.

- 5.1 *We concur with this recommendation, but we strongly believe that the administrative changes that will address this issue will be unlikely to provide the financial boost necessary to adequately fund the program.*

Background

The state legislature established the Animal Care Facilities Act in 1992 to provide state oversight to all breeders, dealers, exhibitors, handlers, hobbyists, boarding kennels, commercial kennels, contract kennels, pet shops, animal shelters, and pounds involved in the sale or care of canines and/or felines that meet the requirements of the Act.

Chapter 273 of the state statutes sets forth the requirements for commercial breeders and other entities that fall under the jurisdiction of the Act. The following sections of the Act set forth pertinent requirements.

- Section 329 addresses the grounds for refusal to issue or renew or revoke a license. It states the following.
 - The director may refuse to issue or renew or may revoke a license on any one or more of the following grounds:
 - Material and deliberate misstatement in the application for any original license or for any renewal license under sections 273.325 to 273.357;
 - Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated pursuant thereto;
 - Conviction of any violation of any state or federal law relating to the disposition or treatment of animals;
 - Failure to provide adequate food, water, housing or sanitary facilities for animals under the control of an animal shelter, boarding kennel, commercial breeder, commercial kennel, contract kennel, dealer, pet shop, pound, or exhibitor as defined by regulations of the USDA.
 - Operation of an animal shelter, pound or dog pound, boarding kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, or activity as a commercial breeder or dealer without a valid license shall constitute a class A misdemeanor.
- Section 331 addresses the requirement to conduct inspections on a yearly basis. It states the following.
 - A license shall be issued only upon inspection by the state veterinarian, his designee, or an animal welfare official. A facility subject to the provisions of sections 273.325 to 273.357, at the time it applies for licensure, shall be granted a provisional license which shall allow operation of the facility until the facility is inspected or until December 31, 1994, whichever earlier occurs. The state veterinarian shall have the duty and authority to inspect all facilities licensed under sections 273.325 to 273.357. Inspections shall be conducted a minimum of once a year, or upon a complaint to the department regarding a particular facility.

- The validity of the complaint will be ascertained by the state veterinarian or his designated representative.
- Section 333 addresses the authority to take action and levy fines. It states the following.
 - The state veterinarian or an animal welfare official, upon his own information or upon the complaint of any person, may institute an investigation including the inspection during normal business hours of any premises or vehicle upon which any animal is or may be found, and may determine if any violation of sections 273.325 to 273.357 or of any rule promulgated pursuant to sections 273.325 to 273.357 is deemed to exist. The director, or his designee, may issue an order to the person responsible for the violation to appear at an administrative hearing. The director, or his designee, upon a finding that such a violation occurred after a hearing thereon, shall issue remedial orders enforceable in the circuit courts of this state to correct such violations, and in addition may assess an administrative penalty in an amount not to exceed one thousand dollars for each violation. In assessing the amount of penalty under sections 273.327 to 273.342, the director shall take into account the seriousness of the violation and the extent of damage to third parties and the state. All penalties collected shall be deposited to the state general revenue fund. In addition, the director may assess the reasonable costs of remedying a violation in the event that the person responsible is unwilling or unable to correct the violation within a reasonable period of time. Any person aggrieved by the decision of the director may appeal as provided in sections 536.100 to 536.140, RSMo.
- Sections 325 to 357 address how revenue generated under the program is treated. It states the following.
 - All fees collected by the director from licenses issued under sections 273.325 to 273.357 shall be used to administer the provisions of sections 273.325 to 273.357, and shall be deposited in the state treasury to the credit of the "Animal Care Reserve Fund", which is hereby created. All moneys deposited in the animal care reserve fund shall be subject to appropriation for the use and benefit of the department of agriculture to administer the provisions of sections 273.325 to 273.357. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the animal care reserve fund shall not be transferred to the general revenue fund at the end of the biennium.