



Inspecting The Inspections

My goal in writing this column is to help readers better understand the commercial dog industry so that we can all work together to find ways to improve the conditions found in America's mills. One of the biggest challenges I face, both here and on my website (nopupppymills.com), is in trying to describe what is really a very complicated industry in a way that is easy to understand. In this column I will attempt to explain USDA's commercial kennel inspection process.

The Animal Welfare Act (AWA) regulates the care of many species. Regulated activity under the Act literally extends from A to Z - that is, from Airlines to Zoos! Here we will examine only two classes of licensees, the dog breeders and the dog brokers.

Who Should Be Licensed?

A USDA breeder is referred to as a Class A Dealer. Any breeder with more than 3 intact females who sells through wholesale channels (pet shops or brokers), must be licensed by USDA.

A USDA broker is referred to as a Class B Dealer. A broker buys direct from breeders and then resells the puppies to the pet shops. A breeder can only sell the puppies he produces. However, a broker may sell both the puppies he produces himself *and* puppies he buys from other breeders.

How Do They Get Licensed?

Anyone wanting a license simply contacts USDA to set up an appointment for a pre-license inspection. A

USDA inspector comes out to his kennel, looks it over, and gives him a list of things that need to be corrected to meet the standards.

How Much Does A License Cost?

The application fee itself is \$10. The balance of the initial license cost is figured by applying a formula to estimate the number of puppies the breeder will sell during the year. The total start-up cost is usually under \$50.

The same formula is used to figure the annual fees, except that \$100 per year base fee is added rather than the first year's \$10. On average, a breeder making \$20,000 annually from the sale of puppies pays a yearly fee of \$230 to USDA.

Who Inspects Kennels?

USDA employs three types of inspectors:

1. Veterinary Medical Officers (VMO) are actual veterinarians,
2. Animal Care Inspectors (ACI) are not required to have any veterinary or animal care experience, and
3. Investigative Enforcement Services (IES) can be best described as the clean-up guys and are only called out in extreme cases.

If an inspector notes a long history of violations at a certain kennel, a VMO is called in to accompany him on the next inspection. Should the violations continue, IES is normally called to review the previous inspections and start the process of formally charging the kennel with violations. IES is familiar

with the courts and how they work and they go through and make certain that all violations are well documented and that the kennel owner has been given ample time to rectify them.

How Often Are Kennels Inspected?

Inspections are conducted on an annual basis. However, USDA notes that they use a 'risk-based assessment' to conduct inspections. This means that Kennel A, which has only a few dozen dogs and no history of AWA violations, may only be inspected every two years while Kennel B, which has several hundred dogs and a long history of violations, may be inspected every 3 months.

Once an inspection is conducted and violations are noted, the inspector gives the kennel a time frame in which to make corrections. USDA should return immediately after that deadline has passed, but more often than not several months go by before the kennel is re-inspected to see if the violation has been corrected.

What Kind Of Violations Do They Look For?

The Animal Welfare Act is just the bare bones law - all it deals with is who has to be licensed. To enforce the AWA, rules and regulations had to be developed. The acts, behaviors, conditions which actually violate the "law" are spelled out in a rules and regulations handbook where they are broken down into specifics such as housing, veterinary care, sanitation, etc.

Kennels receive this handbook

when they first apply for a license. Each inspection report notes specific sections, chapters, paragraphs which have been violated and reprints the entire text from the handbook right on the report, for each violation.

Is One Type Of Violation More Serious Than Another?

There are two types of violations, direct and indirect. A direct violation is the most serious and has a direct impact on the health and well being of the animals. An example of a direct violation would be a dog with an untreated open wound. An example of a violation which might have an indirect impact on the animals would be a record keeping problem.

Violations are further broken down into four categories which are:

1. Newly identified violations,
2. Previously identified violations in which time still remains to correct,
3. Previously identified violations which have been corrected in the time frame allotted, and
4. Previously identified violations which were NOT corrected in the time frame allotted.

All violations are referred to as Non-Compliant Items (NCIs). A Direct Category IV NCI (an uncorrected violation which directly affects the health and well being of the animals) is the most serious type of violation and is the type that normally triggers reinspection or administrative action by the courts.

How Much Time Does A Facility Get To Correct Its Violations?

There may be some rhyme or reason to their method here, but I've never found it. I've seen serious health concerns written up where an inspector has allowed the facility 24 hours to have the dog seen by a veterinarian. I have also seen the same or similar violations on inspection reports in which 30 days have been allowed to have the dog treated by a veterinarian. Structural damage to kennels, for example rotten wood, may get 30 days to correct, or it may get 6 months.

What Happens If A Facility Cannot Meet The Standards?

It is important to note here that facilities operate under a "three strikes" rule, though this is not written in stone. If USDA visits a kennel and finds a violation, time is given to correct that violation. USDA returns to ensure the violation has been corrected and if it has not been, it is written up as a Category IV NCI. USDA again gives ample time to correct the violation and again returns to ensure it has been corrected. If it has not been corrected, it is once again written up as a Category IV NCI.

If the violation has still not been corrected by the 3rd visit, a certified letter is often sent to the facility informing them that USDA can instigate legal action to force it to comply. Often this game goes on for years before anything is ever resolved.

One of my biggest beefs with the inspection process concerns this unwritten three strikes rule. I've seen inspection reports which note, "Cocker Spaniel #31 is bleeding from the rectum and needs to be seen by the attending veterinarian within 24 hours." Three months later the same inspector returns and this report will read, "Cocker Spaniel #31 died, *violation is corrected.*" But on the same report there can be a *new* violation, "Cocker Spaniel #66 is bleeding from the rectum and needs to be seen by the attending veterinarian within 24 hours." This is considered a newly identified violation. The slate was wiped clean by the death of Cocker Spaniel #31. For a violation to be considered a Category IV, it must be on the very same animal with the exact same condition noted in the previous report.

In rare instances, USDA does formally charge non-compliant facilities with willful violations of the AWA and administrative proceedings are begun. A federal administrative law judge hears the case and decides on the 'punishment'. In the cases I have reviewed, kennels are typically fined around \$5,000 and their license is suspended for from one to six months.

It is important to note that fines are normally held in abeyance, meaning

that as long as the facility does not violate the AWA again, they never have to pay the money. Those who do have to pay are generally given time installments. I recall one case where a man in his early 70's was fined \$10,000 and allowed to pay in installments of \$10 a month. Even worse are the cases where the fine is returned to the breeder to use to bring his kennel up to standards.

Most cases never see a court room. They are settled out of court with similar results.

Can/Does USDA Ever Actually Shut Down A Kennel?

In the 10+ years I have followed puppy mills, I only recall a few cases where USDA has actually shut down a facility and seized the animals but these were all *unlicensed* facilities. The few licensed facilities that have been shut down were situations where the licenses were voluntarily surrendered, with the breeders being allowed to auction off their dogs first, rather than surrender them to a humane agency.

During the time that a facility is under investigation, USDA can not interfere with its business practices. It is business as usual for the breeder. These cases can take several years to make it through the system so the dogs continue to suffer, year after year. The AWA with its rules and regulations makes it virtually impossible for USDA to ever shut down a licensed facility!

What About State And Local Animal Cruelty Laws?

You've heard the expression "A license to kill"? Being a USDA breeder or broker is "A license to abuse". If you or I tie a dog out back and starve it to death, we have violated state and/or local laws that protect animals from abuse and neglect. If a USDA licensed facility does the same thing, they have violated the 'rules and regulations', not the law. USDA's "law" is the Animal Welfare Act, which basically states that wholesale breeders must hold a USDA license. A USDA licensed breeder is abiding by this law simply by being

licensed. In USDA's eyes, tying a dog out back and letting it starve is a violation of rules and regulations, an administrative violation, not a violation of its law per se.

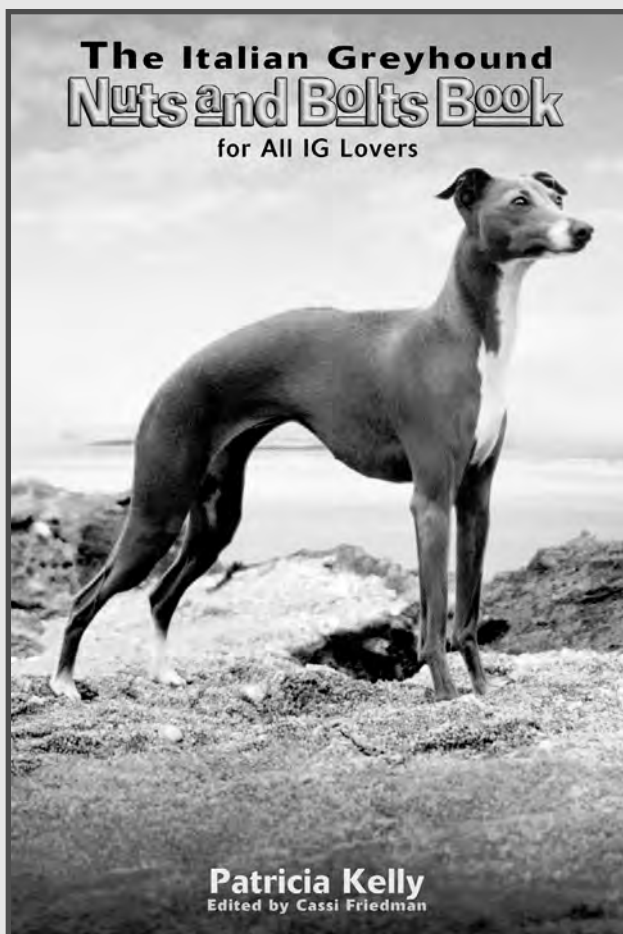
Our federal laws are designed to leave with the states the right to decide what is legal and illegal for their citizens. This is an over-simplification, of course, but basically so long as state

laws do not violate the federal constitution, states are free to decide what is animal cruelty within its borders.

With that said, you may ask why state or even local authorities do not charge kennels with cruelty. Quite simply, most states' standards are so abysmally low that they're not any higher than what AWA's regulations already require - food, water and basic

shelter...nothing more. It is a rare case that a kennel is not providing these three things on a fairly regular basis. The "shelter" may be a wire cage with a tarp thrown over it, but its still a shelter, and its quite good enough for a dog, according to most state and municipal laws. If its good enough to suit the state, its good enough for the USDA and its breeders and brokers, too! 🐾

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