
Physical Reading Room Index

This electronic site contains the index of paper copies of reading room materials currently available for public inspection and copying at the Riverdale reading room. The Physical Reading Room is located in the APHIS library at 4700 River Road, Riverdale, Maryland.

Electronic Reading Room

The Electronic Reading Room contains documents specifically identified for inclusion by the Freedom of Information Act (FOIA), as well as documents for which we have received multiple FOIA requests. The number of items in the Electronic Reading Room undoubtedly will grow.

Guide for Freedom of Information Act (FOIA) Requesters

The Guide provides instructions on how to use this site to obtain information and records that are useful to the requestor.

Categories of APHIS Information

Animal Health

This category contains information on animal diseases. Retrieved reports may include the location, date, and quantity of documented diseases such as Scrapie, Tuberculosis, and Brucellosis.

Animal Welfare

Animal welfare reports contain information about animal protection against cruelty and inhumanity. In places where APHIS holds animal welfare information in databases, customers will be able to query ANY and ALL fields of data that are subject to the Freedom of Information Act. In other cases, customers will be able to retrieve archived animal welfare reports.

Financial

Financial reports contain information about various financial activities and fees collected by USDA-APHIS. In places where APHIS holds financial information in databases, customers will be able to query ANY and ALL fields of data that are subject to the Freedom of Information Act. In other cases, customers will be able to retrieve archived financial reports.
animals, particularly nonhuman primates, could incite public outcry or even violence against those responsible, the USDA likely would make Madela’s photographs and copies of Great Eastern’s husbandry records available to the public only after redacting any specific identifying information, such as names of investigators and the precise location of the monkey colony. The USDA also might withhold names of individuals if state or local privacy laws so require9. However, this FOIA exemption is unlikely to be interpreted to permit complete withholding of the records or of Great Eastern University’s identity.

Other exemptions to disclosure probably would not apply in this case.

1. 9 CFR §2.38(b)(1).
2. 9 CFR §2.35(f).
3. 9 CFR §2.35.
4. 5 USC §552.
5. 7 CFR §Part 370.
6. 9 CFR §2.35(f).
7. 5 USC §552(b).
8. 5 USC §552(b)(7).
9. 5 USC §552(b)(3).

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RESPONSE

VMO has the authority

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The USDA VMO was correct in her interpretation of the relevant regulations under the AWA.

The regulations are both clear and unambiguous. Pursuant to §2.38, the VMO is permitted, among other activities, to enter the place of business; examine records; inspect facilities, property and animals; and “document by the taking of photographs and other means, conditions and areas of noncompliance”11. The VMO had previously cited the University for inadequate husbandry. The VMO undoubtedly had the regulatory authority to review and document the conditions she observed.

§2.35 provides the additional regulatory authority for the copying and inspection of such records by the VMO. While University counsel was correct in part that these records are to remain on the research facility’s

unless one of the nine FOIA exceptions applies3. Eight of the nine exceptions may quickly be dismissed as not applicable to the scenario presented. One exception, however, a specific exemption by another statute, requires a further inquiry into the AWA.

§13 of the AWA contains the same language as §2.35 regarding implementation of regulations dealing with disclosure of trade secrets and other confidential commercial or financial information4. However, the information documented and photographed by the VMO did not appear to include trade secrets or confidential commercial or financial information. Therefore, it would likely be available to the public for inspection pursuant to FOIA.

A word from USDA

In response to the issues raised in this scenario, the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Care (USDA, APHIS, AC) offers the following clarification and guidance:

Inspectors may ask for, review and rely upon records and documents for which there is no maintenance requirement under the Act or regulations, to prove or disprove a potential noncompliant item. Taking photographs and obtaining photocopies of records are not uncommon components of an inspection. The photographs and photocopies are used to document facility conditions, to support an inspection report citation or to provide clarification for the registrant, if he or she was not present at the time the noncompliant item was observed.

Once the photocopies or photographs have been obtained, they become ‘agency records’ and are subject to requests for release under FOIA. If USDA receives such a request, the documents are examined for protected information (see http://www.aphis.usda.gov/footer_items/fola.shtml). The registrant may be notified of the pending request if the agency determines the responsive records contain commercial business information, and consequently given an opportunity to justify protection under FOIA. All information deemed by the USDA-Animal and Plant Health Inspection Service-FOIA office to be protected is redacted (blacked out) prior to public release, whether the document is a paper record or part of a photograph.

USDA Animal Care Inspection Reports have been determined to be frequently requested records under the Electronic FOIA amendments of 1996 and must be made available to the public on the Internet. This ruling does not extend to any auxiliary inspection documents; these must be requested on an individual basis.

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USDA, APHIS, AC