

# USDA Enforcement Fiscal Year 2023

FEBRUARY 2024

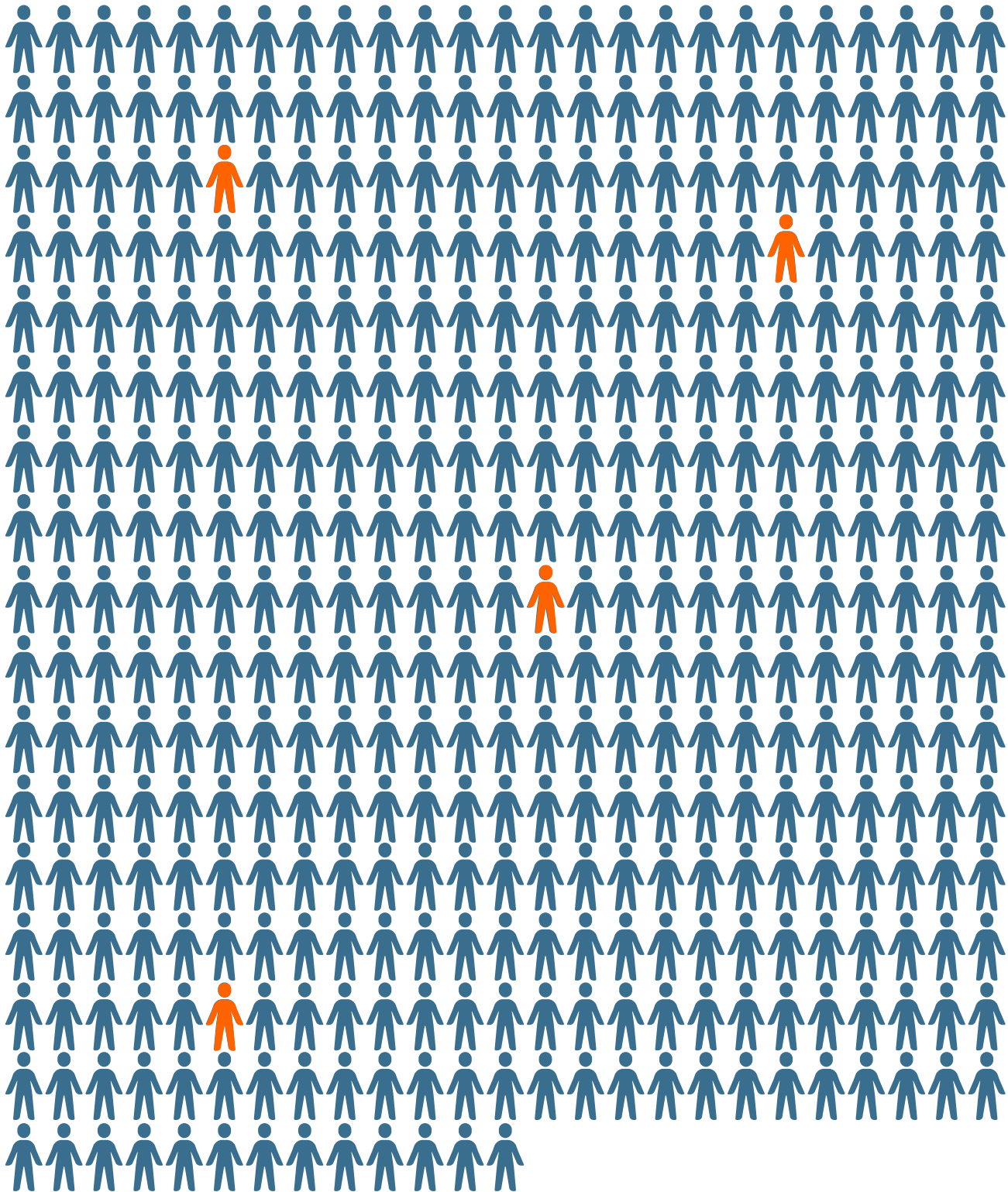


*USDA's pattern of inaction and poor enforcement of the Animal Welfare Act is hurting dogs and other animals.*

**ASPCA**<sup>®</sup>

In Fiscal Year 2023, USDA documented Animal Welfare Act violations for **over 400** commercial dog dealers.

They took action against **only 4**.





# The Animal Welfare Act

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The Animal Welfare Act sets minimal welfare requirements for certain animals in commercial facilities, including dogs in puppy mills, yet the U.S. Department of Agriculture (USDA)'s Animal and Plant Health Inspection Service (APHIS) has continually failed to enforce those requirements.

Based on the ASPCA's analysis of the USDA's inspections, documented violations and enforcement actions for the 2023 fiscal year, thousands of vulnerable dogs and other animals have suffered and died because of the USDA's inaction, and hundreds of thousands more remain under the USDA's failing oversight.



**Inspections haven't kept pace with licensees.**

**Violations are not reported.**

**Enforcement actions are seldom used.**

**USDA's own inspectors can see the problem with a lack of enforcement:**

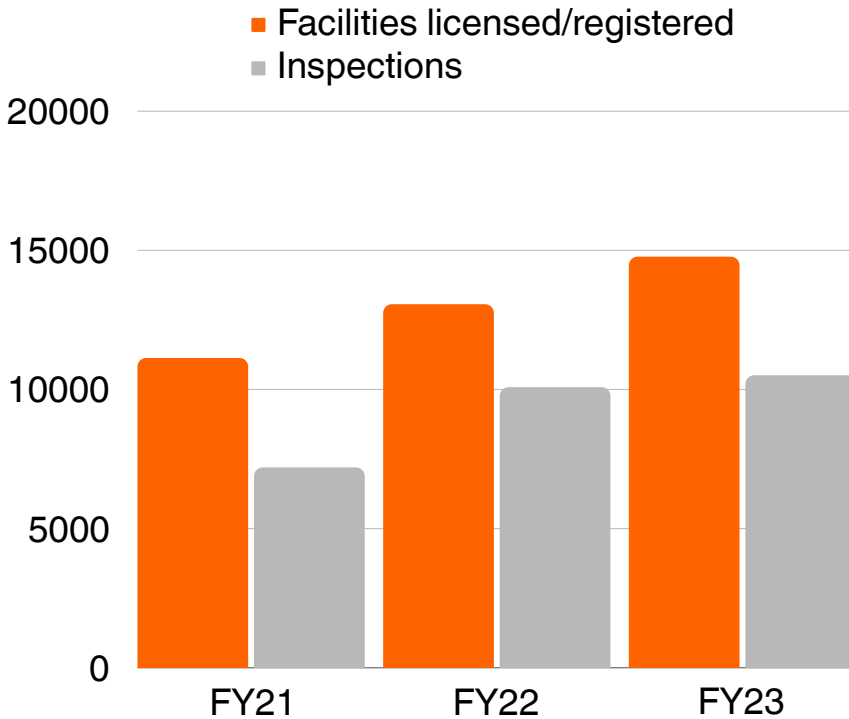
"Historically, this facility has had poor compliance. Animal Care inspectors and compliance staff have gone above and beyond to try to work with this licensee, including conducting courtesy visits. The licensee refuses to take responsibility for the conditions at the facility and its lack of compliance. Thus, the licensee has resorted to harassment, verbal abuse, and intimidation tactics. The licensee is difficult and unprofessional. The licensee has complained that there has been "no consistency" as he has had to deal with multiple inspectors. However, the licensee has been difficult and made no improvements to his level of compliance despite having the same inspector, myself, since 2019. **The licensee has been emboldened to behave this way due to a lack of enforcement.**"

-- Dr. Justine O'Malley, USDA Veterinary Medical Officer, February 24, 2022, about licensee Zachery Keeler

# Inspections haven't kept pace with licensees.

The number of overall licensees and registrants under the Animal Welfare Act has continued to increase over the years, but the number of inspections have not kept pace with the number of facilities.

Overall, APHIS licenses more business than it inspects.



20%

of APHIS' licensees are **dog dealers**, which are commercial breeders like puppy mills and dog brokers who purchase and resell dogs for profit.

There are around **2,500 licensed dog dealers** in the U.S., mostly concentrated in Iowa, Missouri, Ohio, Indiana, and Oklahoma.





# Violations are not reported.

APHIS utilizes programs to limit the number of observed animal welfare violations that are recorded by inspectors, including:

## Courtesy Visits

A licensed facility can request a “courtesy visit,” inviting APHIS to inspect their facilities, supposedly to ensure they meet compliance standards. If APHIS staff observes any violations during a courtesy visit, they do not record them or create a report of any kind, so there is no information available to the public regarding what the agency observes or learns through a courtesy visit. Courtesy visits do not improve compliance with the Animal Welfare Act.

[Read our analysis of courtesy visits.](#)

## Veterinary Care Rule

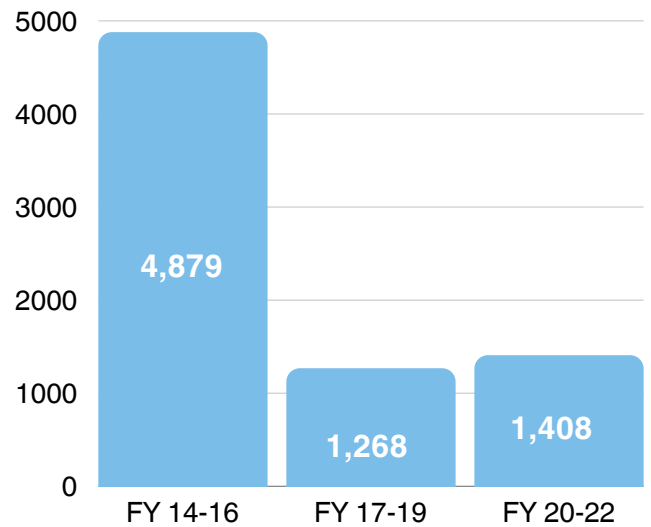
The agency directs APHIS inspectors to not record “minor veterinary issues” if they can be addressed rapidly or even “serious veterinary issues that require medical attention” if certain conditions are met. These issues do not appear as violations or show up on inspection reports at all.



## These programs and policies have had their intended effect:

The agency records fewer violations on formal, public inspection reports, even though these violations still occur. Between fiscal year 2014 and fiscal year 2016, APHIS recorded nearly 5,000 violations on inspection reports for dog dealers. However, beginning in 2017, the number of recorded violations declined significantly, and has remained low. And, although in fiscal years 2022 and 2023 there was a slight increase, the number of violations recorded still likely represent a significant undercount of true noncompliance.

## Violations on Dog Dealer Inspection Reports



According to USDA data, the number of recorded violations of licensees has declined significantly, however, given USDA’s practices and policies, this likely represents a significant undercount of true noncompliance.

## Enforcement actions are seldom used.

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Even when violations are recorded, APHIS rarely takes any action against licensees who fail to comply with the minimum requirements under the Animal Welfare Act. This is despite APHIS having multiple enforcement tools at their disposal.

### APHIS Enforcement Tools:

Suspending Licenses

Revoking Licenses

Issuing Fines

Confiscating Suffering Animals





# Enforcement for *all facilities* in fiscal year 2023.

In fiscal year 2023, the USDA conducted slightly more than 10,000 inspections and documented over 5,000 violations of care across all of the facilities it oversees. This includes commercial breeders and dealers of other animals, exhibitors such as roadside zoos, researchers, and transporters.

Violations were documented at 1,620 of the 5,798 unique facilities USDA inspected. That is, **28% of the facilities inspected by the agency had violations recorded on inspection reports.**

**USDA took action against just 45 facilities this year.**

201 facilities received a “warning” letter — something the agency refers to as regulatory communication rather than enforcement. Warnings have no impact on the licensee’s record and do not indicate a step forward toward future enforcement action.

USDA’s enforcement action against just 45 facilities includes:

**14 licensees agreed to resolve their violations with the USDA by paying a steeply discounted fine**, and three others who had already canceled their licenses agreed to have their license revoked by USDA.

**16 decisions were issued by the administrative court in fiscal year 2023.** Three were procedural or interim decisions that resolved USDA’s complaints. Thirteen were substantive decisions that addressed violations of the Animal Welfare Act.

**21 administrative complaints were opened.**

**5 facilities were suspended for 21 days.** Only three of these resulted in any further enforcement. One facility voluntarily cancelled following the suspension, and one was allowed to resume normal operations.

**1 confiscation occurred.** USDA used their authority to confiscate suffering animals only 1 time, removing 19 cats from a licensed cat dealer in TX.

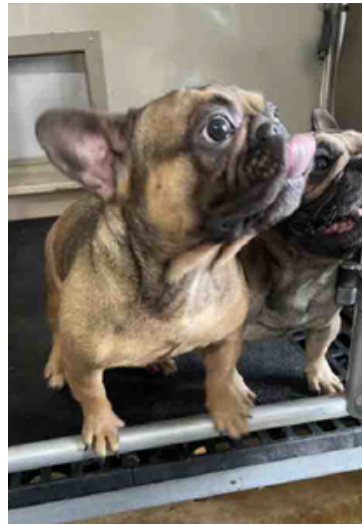


# Enforcement for *dog dealers* in fiscal year 2023.

For commercial dog dealers alone in fiscal year 2023, the USDA documented **over 1,000 Animal Welfare Act violations** at **413 distinct facilities**.

## USDA took action against only 4 dog dealers.

One licensee was fined \$12,500, three licensees were suspended for a period of 21 days, and the agency filed a single formal administrative case against one of the licensees suspended earlier in the year. The USDA confiscated zero dogs.



Beyond USDA's failure to take any enforcement action in response to 90% of the violations recorded, violation history had no impact on a facility's ability to have their license renewed by the USDA. All dog dealers who wanted to be relicensed, were relicensed, even those problematic dealers with consistent violations.

There are many examples of facilities where dogs were suffering and the USDA took no action at all.

In February 2023, USDA found a dead puppy at the facility of Iowa dog breeder David Horning (USDA #42-A-1429). The puppy was on the floor under the elevated enclosure and had not been noticed by the licensee, as he did not think the mother was close to whelping. Inspectors also found another puppy who was much smaller than its litter mates unable to walk well with a head tremor, who was frequently being stepped on. The licensee had taken no action to help the puppy or contact a veterinarian. Horning was issued a warning for these violations, but no further action was taken, and he later voluntarily cancelled his license.

In March 2023, USDA inspected Missouri dog breeder Cody Zimmerman (#43-A-6764) and found several mothers with puppies who had not been provided any water since the previous night. When they were finally given water, one dog drank for over a minute while one of her puppies hovered nearby, trying to drink as well. Zimmerman was issued an official warning, but no further action was taken.

In April 2023, USDA conducted a re-license inspection of Ohio dog breeder David Weaver (#31-A-0709) as part of their new relicensing program. He failed this inspection, with inspectors noting dogs with severe gum disease and fur matting. Inspectors returned a week later, and he was allowed to pass relicensing. Weaver was then cited for violations during the seven inspections in the following months, including for a dog with severely inflamed ears that had been suffering for an extended period of time and multiple instances of failing to make himself available for inspections. He received an official warning in May, but the USDA took no other action.



# Four cases of dog dealer enforcement in fiscal year 2023.

## *The only four.*

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### Henry Sommers

#### *Fined*

For over a decade, Henry Sommers was a dog breeder in Iowa who kept dogs in small and dirty wire cages with exposed and pointed wires, failed to provide adequate veterinary care, and even euthanized dogs himself through an unapproved method, injecting a drug into the stomach and later returning “to ensure it has died.” USDA renewed Sommers’ license year after year, and eventually allowed him to **voluntarily cancel his own license**, issuing him a **\$12,500 fine in late 2022**. In 2023, he was arrested by the Appanoose County Sheriff and pled guilty to two counts of animal neglect with serious injury or death, for actions he took while he was a USDA-licensee.

### Steve Kruse

#### *Suspended*

Throughout 2023, Iowa dog breeder Steve Kruse was cited multiple times for dozens of dogs with serious, untreated medical issues. USDA took the rare step of **suspending his license for 21 days in March 2023**, an action which is supposed to allow the USDA time to investigate and determine future action. Kruse has a long, problematic history and has been cited over 50 times for serious violations, including pouring hot sauce into a dog’s wound to prevent the dog from licking it, throwing a bag of dead puppies at USDA inspectors, and performing archaic and dangerous surgical insemination procedures on dogs. Despite this, the USDA took **no further enforcement action**, and lifted the suspension, allowing him to continue operating, and violating, as usual.

### Elena and Andrey Mikirtichev

#### *Suspended, Administrative Complaint Filed*

Commercial cat and dog breeders Elena and Andrey Mikirtichev in Virginia sold primarily French Bulldogs and Maine Coon cats nationally and internationally. Since 2017, inspectors documented over 70 violations, including repeated failure to provide veterinary care, proper housing, water, and food. In July, USDA observed a kitten with a chest malformation who had not been provided veterinary care. Instead the licensee had attempted to splint the chest cavity himself with a toilet paper tube. When USDA returned a few weeks later, the same kitten still had not received veterinary care and was struggling to breathe. USDA documented what they saw and left, and the kitten died that evening. Following this, **USDA suspended their license and filed an administrative complaint in August**. However, it was not until after the Department of Justice and the state of Virginia took action against the facility that over a hundred cats and kittens were rescued from the facility (after the end of the fiscal year).

### Mary Moore

#### *Suspended*

Kansas-based commercial dog breeder Mary Moore of D & M Kennel or Mary’s Precious Puppies was **temporarily suspended in June 2023**. USDA had cited her for multiple serious veterinary care violations, including a dog who was non-weight bearing and limping on multiple occasions, tail docking dogs with painful constrictive bands, dogs kept in enclosures with high temperatures, and dozens of dogs with painful, ungroomed matted fur. Previously, in a state inspection responding to a complaint, Moore admitted to finding dead puppies that had been killed by their mother, and, because she was in a hurry, “just tossed them into the field.” USDA allowed Moore to **voluntarily cancel her license** right after the suspension and took no further action.

## Methodology

The ASPCA counted the total dog breeder violations for each fiscal year by using the information provided on the [USDA's Public Search Tool](#). For Fiscal Years 2016 through 2023, we limited the search by "License/Registration Type" to "breeder." We then filtered by "Inspection Reports," "Animal Name" and "Animal Category" by choosing "dogs" in the drop-down menu. We then looked at the column entitled "Non-Compliant Items" and counted each recorded violation for the named time period. Note that for fiscal years 2016, 2017 and 2018, we had to also limit our search by "state." We counted violations for each of the 50 states. The USDA Search Tool did not allow for us to use the arrows to scroll to those years.

All photographs included this report are of USDA licensees and registrants and were received by the ASPCA through FOIA requests.