

Legislative Post Audit Performance Audit Report Highlights

Department of Agriculture: Evaluating the Animal Facilities Inspection Program

December 2018 • R-18-013

QUESTION 1: *Are the Policies and Practices of the Department of Agriculture's Animal Facilities Inspection Program Adequate to Ensure Consistent Inspections and Appropriate Penalties?*

Background Information

The Department of Agriculture's Animal Facilities Inspection Program (the program) is responsible for licensing and inspecting the state's 940 animal facilities, which include breeding facilities, pounds and shelters, kennels, pet shops, and research facilities. Licensed facilities must comply with the state's Pet Animal Act which establishes requirements related to animal health and wellbeing. The program regularly inspects facilities to ensure they comply with these requirements.

State law gives program officials the authority to penalize facilities that fail inspections or otherwise violate legal and regulatory requirements. Potential penalties include monetary fines (up to \$1,000 per violation), reducing a facility's number of animals, and revoking a facility's license. Officials also have the authority to immediately seize animals on reasonable grounds that the animals' health, safety, or welfare is endangered.

- Although program policy was not adequate to ensure consistent inspections, we did not identify any significant problems for the seven inspections we observed. (p. 1)
- *Program policy adequately addressed 5 of the 16 main categories of facility requirements or best practices we identified. The program either had no policy or inadequate policy to address the remaining 11 areas, including requirements for adequate temperature, space, and feeding.*
- *Inspectors were generally consistent in how they assessed facility compliance on the seven inspections we observed, including how they evaluated adequate watering and feeding. However, there were inconsistencies in how inspectors evaluated proper food storage and adequate exercise plans for animals.*
- *Officials relied heavily on staff instead of formal policies to ensure inspections were consistent.*
- Program policy did not adequately address best practices related to legal enforcement and penalties were not always consistent, appropriate, or progressive. (p. 4)
 - *The program must use discretion when penalizing non-compliant facilities but lacked guidelines in policy to ensure penalties were consistent, appropriate, or progressively severe across facilities.*
 - *Officials did not consistently pursue penalties in 21 of the 33 cases (64%) from 2013 to 2017 where a facility could have been penalized according to program policy.*
 - *Officials did not assign appropriate penalties in one of the five cases we sampled.*
 - *Officials also did not assign progressively severe penalties in two of the five cases we sampled.*

QUESTION 2: Is the Animal Facilities Inspection Program Adequately Managed and Staffed to Effectively and Efficiently Carry Out Its Responsibilities?

- The program needed to improve key processes related to program oversight and training that were necessary to ensure it operates effectively. (p. 8)
 - *The program did not set performance metrics for its inspectors, such as the number of inspections they should complete annually, nor had it offered statutorily required training in several years.*
 - *Program officials needed to improve their process to ensure inspections are timely. Additionally, officials lacked a process to ensure facilities were penalized consistently. Instead, officials placed a significant amount of trust and responsibility on staff to ensure the program operates effectively.*
 - *A lack of program oversight likely contributed to several late inspections and inconsistent penalties against facilities. For example, inspectors were late completing 101 of the 760 (13%) routine inspections, 20 of the 40 (50%) re-inspections, and 17 of the 49 (35%) complaint inspections we sampled.*
- The state's program was slightly understaffed compared to two neighboring states, and an additional inspector may help the program operate more effectively. (p. 11)
 - *In the absence of national or program benchmarks, we compared staffing levels in Kansas' program to those in Missouri and Nebraska. Kansas had a higher number of inspections per inspector (270) than the other two states (215 and 236).*
 - *In addition, animal facilities programs in Colorado, Iowa, and Missouri employed an investigative inspector position that Kansas did not have.*
 - *It is possible an additional inspector position, such as an investigative inspector, could help the program complete critical inspections timely and bolster the program's monitoring efforts.*
- We did not identify any program inefficiencies compared to a small sample of other states. (p. 12)
 - *The program took multiple steps in recent years to help improve program efficiency, including switching to a risk-based inspection schedule and consolidating program requirements to help streamline the inspection process.*
 - *We interviewed officials from four other states, including Colorado, Iowa, Missouri, and Nebraska, to identify any efficiency measures they have taken in recent years.*
 - *The four states we sampled did not describe any additional actions that would further increase the efficiency of Kansas' program.*

The program used a risk-based inspection process, which means that facilities should have been inspected once every six months (high-risk facilities) to two years (low-risk facilities) depending on their inspection history. Inspectors were required to re-inspect facilities that failed an inspection to ensure all violations were addressed.

We selected the following samples to determine how effective the program was in completing timely inspections:

Routine: A non-projectable, judgmental sample of 760 inspections from 2013 to 2017 (16% of all inspections during this time). To select the sample, we selected facilities that failed an inspection in 2013 or were newly licensed after 2013 so that we could determine the facilities' inspection frequency. This method included more high-risk facilities than medium or low-risk facilities. Although this sample is not representative of all facilities, we can still draw conclusions regarding timeliness.

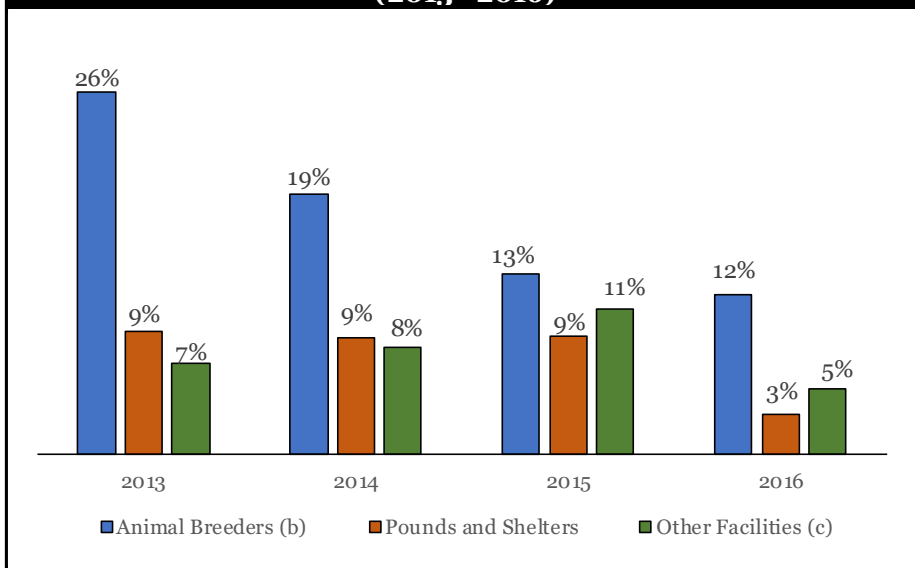
Re-Inspections: A non-projectable, judgmental sample of 40 failed inspections from 2015 to 2017 (21% of total inspections). The sample primarily includes animal breeders and shelters because they account for the largest number of licenses in the state.

Complaints: A non-projectable, judgmental sample of 49 complaints from 2014 to 2017 (20% of total complaints). We also selected this sample to primarily include animal breeders and shelters.

QUESTION 3: *To What Extent Have the Conditions in Commercial Breeding Operations in Kansas Changed Since Our Audit of the Animal Facilities Inspection Program in 2002?*

- We were unable to evaluate how the conditions of commercial dog breeding facilities have changed since 2002. (p. 13)
 - *The program is not required to keep data on the number of ill, injured, or deceased animals and without this data we could not complete the analysis as originally intended.*
 - *Instead, we reviewed changes in program outputs from 2013 to 2016 (e.g., changes in the number of licensed facilities and percent of failed inspections) and determined if the program addressed the findings from our 2002 audit of the Animal Facilities Inspection Program.*
- With the exception of animal breeders, overall program trends have remained relatively stable since 2013. (p. 13)
 - *Since 2013, the number of licensed breeding facilities declined by about 26%, from 437 in 2013 to 325 in 2016. The number of licensed pounds, shelters, and other regulated facilities remained relatively stable during the same time period.*
 - *Figure 3-2 below shows the percent of failed inspections by facility type. As the figure shows, animal breeders had the highest rate of failed inspections of any facility type; however, their rate of failed inspections declined from 26% in 2013 to 12% in 2016.*

Figure 3-2
Percent of Failed Inspections by Facility Type (a)
(2013 - 2016)



(a) Includes complaint, initial, re-inspections, and routine inspections.

(b) Includes animal distributors.

(c) Includes kennels, pet shops, and research facilities.

Source: Animal Facilities Inspection Program data (audited).

- The program has fully addressed only one of the five problem findings from our 2002 audit (p. 14)
 - *Program officials addressed our 2002 finding related to improperly issuing licenses.*
 - *They partially addressed two 2002 findings related to developing program policies and considering the seriousness of violations when completing inspections.*
 - *The program still did not complete a significant number of routine inspections, re-inspections, or complaint inspections in a timely manner.*
 - *The program still did not have a documented, well-defined, and progressive system for assigning penalties.*

SUMMARY OF RECOMMENDATIONS

We made a series of recommendations for program officials to improve policies and practices related to inspections, penalties, program oversight, and training. We also recommended program officials consider working with the Legislature to request an investigative inspector position.

AGENCY RESPONSE

The Kansas Department of Agriculture generally agreed with our findings and recommendations.

HOW DO I REQUEST AN AUDIT?

By law, individual legislators, legislative committees, or the Governor may request an audit, but any audit work conducted by the division must be directed by the Legislative Post Audit Committee. Any legislator who would like to request an audit should contact the division directly at (785) 296-3792.

Legislative Division of Post Audit

800 SW Jackson Street
Suite 1200
Topeka, Kansas 66612
Telephone (785) 296-3792
Website: <http://www.kslpa.org/>

Justin Stowe
Legislative Post Auditor

For more information on this audit report, please contact:

Matt Etzel
Matt.Etzel@lpa.ks.gov