



Oct. 23, 2019

Dr. Elizabeth Goldentyer, D.V.M.
Associate Deputy Administrator
Animal Care USDA/APHIS/Animal Care (AC)
920 Main Campus Drive, Suite 200
Raleigh, NC 27606-5210
Via email to:amy.v.benson@usda.gov

Dear Dr. Goldentyer,

On behalf of the New England Anti-Vivisection Society (NEAVS) and our 88,000 members and supporters throughout the United States, I am writing to request that APHIS penalize Toxikon Corporation (14-R-0101) a privately-held biomedical contract research company based in Bedford, MA that continues to accrue Animal Welfare Act (AWA) violations. As outlined below, APHIS warned Toxikon twice in 2017 that penalties may be accrued if there are future violations, and those violations have now been documented.

Most Recent Violation

As you may know, on April 8, 2019, APHIS documented that Toxikon staff failed to notice damage to a restraint device, which led to an animal suffering a spinal fracture and leading to its euthanasia.

Excessive History of Warnings Without Fines

A review of Toxikon Corporation's Animal Welfare Act violation history reveals a pattern of warnings without any fines or penalties, including for repeated failures of the same kind, as evidenced in the chronology below:

- July 2010: APHIS inspector Tonya Hadjis, DVM determines that Toxikon committed this critical violation:

“The facility's Non-Human Primate (NHP) Environmental Enrichment Plan states that the facility will attempt to house eligible NHPs in pairs. The facility did not attempt to pair house several of the eligible animals in over 1 year. NHPs are a social species and benefit from direct contact with their conspecifics. The facility should show progress in after attempting to pair house eligible NHPs for their well-being.”
- March 2013: December 2013, October 2014: Violation(s) documented, no fine or penalty.
- July 2016: APHIS inspector Pavlo Kovalenko, DVM found another AWA violation regarding unlawful housing arrangements for nonhuman primates, but there was no penalty.



- April 2017: After an inspection found 4 critical and 3 additional violations of the AWA, APHIS gave Toxikon an “official warning” after determining that “*on or about April 3, 2017 [Toxikon] failed to comply with the regulations issued under the Animal Welfare Act . . .*”¹ Assistant Deputy Administrator for Animal Care Gerald Rushin with APHIS stated:

“If APHIS obtains evidence of any violations of these Federal regulations in the future, APHIS may pursue civil penalties and other sanctions for these alleged violations and for any future violations”.

- March 2018: Toxikon cited for violating the AWA.
- October 2018: Toxikon cited for two violations, one critical for the death of an animal.
- April 2019: Toxikon cited with a critical AWA violation.

In 2017, APHIS informed Toxikon in 2017 that “although we have the authority to pursue penalties for the allegations in the attachment, we have decided not to do so in this instance, so long as you comply with the AWA and regulations in the future”. APHIS has cited Toxikon for multiple AWA violations since this warning was issued, yet there is no evidence of any penalty.

Our Request

In light of this history of violations without penalty, and past APHIS assurances to institute penalties on Toxikon for future AWA violations, we respectfully request you fine Toxikon Corporation the maximum penalty of \$34,170, which represents the maximum fine of \$11,390 for each of their 3 most recent violations that were issued after APHIS warned Toxikon that monetary penalties may be implemented. Thank you for your attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Ryan", written in a cursive style.

Michael Ryan
Director, Government Affairs
New England Anti-Vivisection Society

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¹ APHIS Case Number MA1700712