



Animal and Plant
Health Inspection
Service

Emergency and
Regulatory Compliance
Services

Investigative and
Enforcement Services

Riverdale, MD Office:
4700 River Road
Unit 85
Riverdale, MD 20737
Voice 301.851.2948
Fax 301.734.4328

VIA: USPS Certified Mail
Shipping Event: 1st

September 27, 2023

Electronic mail to: [REDACTED]

University of Wisconsin-Madison
Research Animal Resources and Compliance
1710 University Avenue
396 Enzyme Institute
Madison, WI 53726

REVISED SETTLEMENT AGREEMENT

To Whom It May Concern:

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described in the attached Settlement Agreement. Our agency, the Animal and Plant Health Inspection Service (APHIS), is responsible for enforcing the AWA, and other agriculture laws that help prevent the spread of animal and plant pests and diseases, and ensure the welfare of animals.

After providing you with an opportunity for a hearing, we may impose civil penalties of up to \$10,000, adjusted for inflation, or other sanctions, for each alleged violation described in this Settlement Agreement. We are offering you the opportunity to resolve this matter by paying an amount that is much lower than the maximum civil penalty.

What are the terms of the Settlement Agreement?

You should review the information in this Settlement Agreement, including the citation and notification of penalty.

If you agree to waive your right to a hearing and pay the penalty, then do the following:

- Pay the amount due, \$77,000, by **October 12, 2023**. You can pay by check, money order, or credit card. For your convenience, we have included additional instructions for making payments.



- If you are unable to pay the full amount due by **October 12, 2023**, you may be eligible for a payment plan. To request a payment plan, you must use the enclosed form to submit a written response to this letter by **October 12, 2023**, that indicates you wish to pay the penalty and waive your right to a hearing. You must also submit a copy of your most recent federal tax return. As part of your response, please include a phone number and an email address so that we may contact you.

What are my other options?

If you do not agree with the terms of this Settlement Agreement, submit a written request for a hearing, with your Case Number, to our office by **October 12, 2023**, at 4700 River Rd., Unit 85, Riverdale, MD, 20737.

What happens if I fail to respond?

If we do not receive a payment or hearing request from you by **October 12, 2023**, we will forward this matter to our Office of the General Counsel for litigation.

What should I do if I need help?

If you have any questions concerning this letter, contact Jennifer Moore at (240) 434-1959, or call our main office at (301) 851-2948.

I am a small business owner and have comments or concerns regarding APHIS's enforcement of animal and plant health laws. Who should I contact?

APHIS always welcomes comments on how it can better assist small businesses. If you have comments about APHIS's enforcement of animal and plant health laws, please contact the APHIS Small Business Ombudsperson, at (301) 851-2948. If you would prefer to comment to someone outside APHIS, you may contact the Small Business Regulatory Enforcement Ombudsman at <http://sba.gov/ombudsman>, email ombudsman@sba.gov, or toll free at 1-888-REG-FAIR. The SBA Ombudsman's office receives comments from small businesses and annually evaluates federal agency enforcement activities for their responsiveness to the special needs of small businesses.

Sincerely,

Eileen F. Sullivan, Director
Investigative and Enforcement Services



University of Wisconsin-Madison
Research Animal Resources and
Compliance
1710 University Avenue
396 Enzyme Institute
Madison, WI 53726

CITATION AND NOTIFICATION OF PENALTY

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described below.

Dates of Alleged Violation: August 28, 2019, September 19, 2019, September 11, 2020, September 30, 2020, March 20, 2021, June 15, 2022

9 C.F.R. § 3.80(a)(2)(iii) Primary enclosures. General requirements.

(2) Primary enclosures must be constructed and maintained so that they:

(iii) Contain the nonhuman primates securely and prevent accidental opening of the enclosure, including opening by the animal;

On August 28, 2019, University of Wisconsin-Madison (UWM) personnel failed to maintain primary enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosure. UWM personnel failed to replace the lock on the divider between enclosures following the previous day's cage sanitation. Two macaques engaged in social aggression after removing the unlocked divider. Both macaques sustained injuries, including one with a digit amputation and the other with a wound requiring closure. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On September 19, 2019, UWM personnel failed to maintain primary enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosure. UWM personnel failed to lock the large door of a temporary enclosure during cage sanitation which allowed a macaque to exit the enclosure and engage in social aggression with a caged macaque. The caged macaque sustained injuries including amputation of two right-hand digits. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On September 11, 2020, UWM personnel failed to maintain primary enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosure. Two macaques exited from an enclosure and engaged in social aggression with a caged macaque. One macaque sustained

injuries including amputation of one right-hand digit. UWM personnel found the enclosure lock on the floor following the incident. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On September 30, 2020, UWM personnel failed to maintain primary enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosure. Two macaques exited from an enclosure that UWM personnel left unlocked following cage sanitation and engaged in social aggression with a caged macaque. The caged macaque sustained injuries including severed tendons in two right hand digits. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On March 20, 2021, UWM personnel failed to maintain primary enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosure. A macaque exited their primary enclosure and engaged in social aggression with a caged macaque. The caged macaque sustained injuries including amputation of the tip of the tongue. UWM personnel found the enclosure locks on the floor. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On June 15, 2022, UWM personnel failed to maintain primary enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosure. Two nonhuman primates exited their primary enclosure by forcing the enclosure door off track. The nonhuman primates sustained superficial scratches while engaging in social aggression with a caged nonhuman primate. The caged macaque sustained more serious injuries, including injury to the tip of the tongue. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

Date of Alleged Violation: September 26, 2020

9 C.F.R. § 2.33(b) Attending veterinarian and adequate veterinary care.

(b) Each research facility shall establish and maintain programs of adequate veterinary care that include:

(3) Daily observation of all animals to assess their health and well-being; Provided, however, That daily observation of animals may be accomplished by someone other than the attending veterinarian; and Provided, further, That a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;

(4) Guidance to principal investigators and other personnel involved in the care and use of animals regarding handling, immobilization, anesthesia, analgesia, tranquilization, and euthanasia; and

(5) Adequate pre-procedural and post-procedural care in accordance with current established veterinary medical and nursing procedures.

UWM failed to maintain a program of adequate veterinary care that included timely and accurate communication of information on problems of animal health, behavior, and well-being to the attending veterinarian; guidance to personnel involved in the care and use of animals regarding handling and analgesia; and adequate post-procedural care in accordance with current established veterinary medical and nursing procedures. A study team failed to follow a protocol requiring that they administer a post-operative analgesia every six hours to two pigs that underwent surgery on September 25, 2020.

The veterinarian that examined the pigs' condition on the morning of September 26, 2020, noted that one pig showed possible indications of pain because it was "slightly hunched" and less active than the other. During the evening of September 26, 2020, a study team member noted that the other pig showed "some mild distress but overall appears well." The study team member failed to communicate the pig's status to the veterinarian.

The following morning the veterinarian noted that the pig failed to consume all of the food from their shared trough and became concerned that each pig may not have received the full dose of analgesic included with their food. The veterinarian ordered that the next doses of medication be administered separately to ensure that each pig received a full dose.

UWM identified and reported the failure to follow protocol to the overseeing ACUC and OLAW.

Date of Alleged Violation: December 16, 2020

9 C.F.R. § 2.33(b) Attending veterinarian and adequate veterinary care.

(b) Each research facility shall establish and maintain programs of adequate veterinary care that include:

(4) Guidance to principal investigators and other personnel involved in the care and use of animals regarding handling, immobilization, anesthesia, analgesia, tranquilization, and euthanasia; and

(5) Adequate pre-procedural and post-procedural care in accordance with current established veterinary medical and nursing procedures.

UWM failed to maintain a program of adequate veterinary care that included guidance to personnel involved in the care and use of animals regarding handling and analgesia and adequate post-procedural care in accordance with current established veterinary medical and nursing procedures. UWM personnel administered an inappropriate dose of an experimental agent to a macaque believing it to be a control agent. The macaque died as a result of the experimental agent despite receiving emergency care. The Principal Investigators from an outside facility



reportedly included “ambiguous” labelling on the tubes of the experimental agent sent to UWM for administration. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

Dates of Alleged Violation: July 13, 2020, July 17, 2020, February 6, 2021, February 11, 2021, July 2021, August 19-27, 2021, September 16, 2021, October 7, 2021, January 6, 2022, April 30, 2022

9 C.F.R. § 2.38(f)(1) Miscellaneous. Handling.

Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

On July 13, 2020, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. A juvenile macaque exited from a transport box when UWM personnel failed to place the transport box flush with the testing cage for transfer. During the process of recapturing the macaque sustained injury when the cage door swung closed on the tip of its tail. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On July 17, 2020, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. A macaque exited from a transport box when the door was not placed fully in the track. The macaque engaged in social aggression with two caged macaques that both sustained injuries including digit amputations. The escaped macaque received treatment for an injury to the tip of its tongue. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On February 6, 2021, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. A juvenile marmoset attempted to exit from a group enclosure when UWM personnel entered without ensuring that the marmoset was a sufficient distance from the entrance. The door closed automatically behind the personnel trapping the marmoset’s right foot. The marmoset received treatment for injury to the right foot including digit amputations. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On February 11, 2021, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. A macaque exited during transfer between an enclosure and a transport box. The macaque’s rapid movement pushed away the transport box lined up to the enclosure resulting in its

escape. The macaque engaged in social aggression with a caged macaque that sustained a tongue injury. The escaped macaque sustained injury to the right hand resulting in the amputation of a digit. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

As cited in the April 5, 2022 Inspection Report, in July 2021, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. UWM personnel placed an incorrect divider panel between two nonhuman primates. The two engaged in social aggression through the mesh divider panel that resulted in one losing the tip of its tongue. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

Between August 19, 2021 and August 27, 2021, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. A macaque received medication in a concentration four times higher than prescribed for nine days after UWM personnel failed to update the electronic health record, or otherwise inform the personnel administering the medication, concerning the higher concentration. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On September 16, 2021, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. An infant macaque received an overdose of medication when UWM personnel failed to observe that a pre-filled syringe contained a higher concentration of medication than the concentration setting on the infusion machine used to administer the medicine. The macaque received medication to reverse the effects of the overdose after personnel realized the discrepancy. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On or about October 10, 2021 through October 11, 2021, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. On or about October 6, 2021, UWM personnel scheduled a five-day course of medication in the electronic medical record for the cage mate of a macaque that required the medication for a tail wound. Personnel familiar with the macaque administered the medication to the correct animal for the first three days following the incorrect entry into the medical record. On the last two days, personnel unfamiliar with the macaque's tail wound administered the medication according to the medical records, resulting in the wrong macaque receiving the medication. The error was believed to have happened because the animals had similar identification numbers. UWM identified the incident and reported it to the overseeing ACUC and



OLAW.

On or about December 31, 2021 through January 5, 2021, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. UWM personnel administered medications to the wrong macaque for six days. The macaque intended to receive the medication and the macaque that received the medication in error both had identification numbers ending in the same two digits. The UWM personnel that administered the medication used the last two digits of the animal identification number instead of verifying the full identification number. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On April 30, 2022, UWM personnel failed to handle a nonhuman primate in a manner that prevented trauma, physical harm, behavioral stress or unnecessary discomfort. A macaque exited a transport box when UWM personnel failed to observe that the door was missing from the back of the transport box. The macaque engaged in social aggression with a caged macaque that sustained a tongue injury from the incident. UWM identified this incident and reported it to the overseeing ACUC and OLAW.

Date of Alleged Violation: August 12, 2021, December 15, 2021

9 C.F.R. § 3.75(c)(1) Housing facilities, general. Surfaces.

(1) General requirements. The surfaces of housing facilities - including perches, shelves, swings, boxes, houses, dens, and other furniture-type fixtures or objects within the facility - must be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled. Furniture-type fixtures or objects must be sturdily constructed and must be strong enough to provide for the safe activity and welfare of nonhuman primates.

UWM failed to ensure that fixtures or objects in housing facilities were sturdily constructed and strong enough to provide for the safe activity and welfare of nonhuman primates.

On August 12, 2021, a macaque sustained injuries when its left hand became caught between a perch and the back wall of the enclosure after wall anchors used to secure the perch support bracket failed. The macaque had two left-hand digits amputated as a result of the incident. UWM identified the incident and reported it to the overseeing ACUC and OLAW.

On December 15, 2021, a macaque died from asphyxiation when its head became entrapped in a chain holding a ball-type enrichment device in a group enclosure. UWM personnel had replaced the broken bungee cord holding the enrichment device with the loop of chain that entrapped the macaque. UWM identified the incident and reported it to the overseeing ACUC and OLAW.



The penalty for the alleged violation(s) described above is \$77,000.



How To Pay The Penalty

You may pay your penalty immediately through secure, online transactions or phone using American Express, Discover, Diners Club, Master Card, and Visa.

Online. Pay.gov allows you to make secure online payments. To submit your payment online:

1. Log on to <https://www.pay.gov>.
2. Click on **Find an Agency** in the header menu.
3. Click on *Agriculture (USDA): Animal and Plant Health Inspection Service (APHIS)*.
4. Click on Continue under Animal and Plant Health Inspection Service (APHIS) Customers.
5. Click *Continue to the Form*.
6. Complete the required information.
 - a. If you are entering the payment but you are not the person named in the Settlement Agreement, type your name into the *Point of Contact* field, and type the name of the person or company named in the Settlement Agreement into the *Customer Name* field.
 - b. If you are the person named in the Settlement Agreement and you are making the payment, type your name and (if applicable) your company's name in the *Customer Name* field, and type the same names OR the name of a person who can access payment information into the *Point of Contact* fields.
 - c. In the *Service Provided By* dropdown menu, select **Penalty/Fine Payment** and enter your **Payment Document Number** WI220002-AC and Payment Amount (in U.S. Dollars).
 - d. Click *Submit Data*.
7. Enter payment information.
8. On the *Review and Submit* page, enter the e-mail address of the *Customer Name* or *Point of Contact* that you entered on a previous page, and courtesy copy **aphis.ies.cce@usda.gov**, and then submit your payment.
9. Save confirmation screen and/or confirmation e-mail as your receipt.

Phone. To make a credit card payment by phone:

1. Call 612-336-3243 and speak to a Debt Management Specialist and provide the following information, when requested:
2. State your **Payment Document Number** WI220002-AC.
3. State your credit card information.



If you are unable to pay online or by phone, you may do so by U.S. Mail using a check, cashier's check, or money order.

U.S. Mail. To make a payment by check, cashier's check, or money order:

1. Make the check, cashier's check, or money order payable to the Treasurer of the United States.
2. Write the **Payment Document Number** WI220002-AC in the notes section on your check, cashier's check, or money order.
3. Mail your payment to:
USDA – APHIS – GENERAL WI220002-AC
P.O. Box 979043
St. Louis, MO 63197-9000

If You Are Unable To Pay In Full

Complete the attached form and return it to our office to request a payment plan. Please be prepared to provide us with copies of your most recent federal tax return so that we may determine whether you are eligible for a payment plan.



**AGREEMENT TO PAY AND
REQUEST FOR PAYMENT PLAN**

If you agree with the terms in this Settlement Agreement but cannot pay the penalty in full at this time, select one of the options below, sign the form, and return it to the following address prior to the due date of **October 12, 2023**:

USDA, APHIS, IES (General) WI220002-AC
4700 River Road, Unit 85
Riverdale, MD 20737

I understand that by signing this Settlement Agreement, I waive my right to a hearing. I agree to pay the penalty of \$77,000, but I am requesting a payment plan because of financial hardship. I have enclosed a copy of my most recent federal tax return. I have indicated below if I have enclosed other documents to show financial hardship:

_____ Bankruptcy filing

_____ Other (describe):

Printed Name: _____

Email Address: _____

Phone Number: _____

Signature: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip code: _____