



Animal and Plant Health Inspection Service (APHIS)

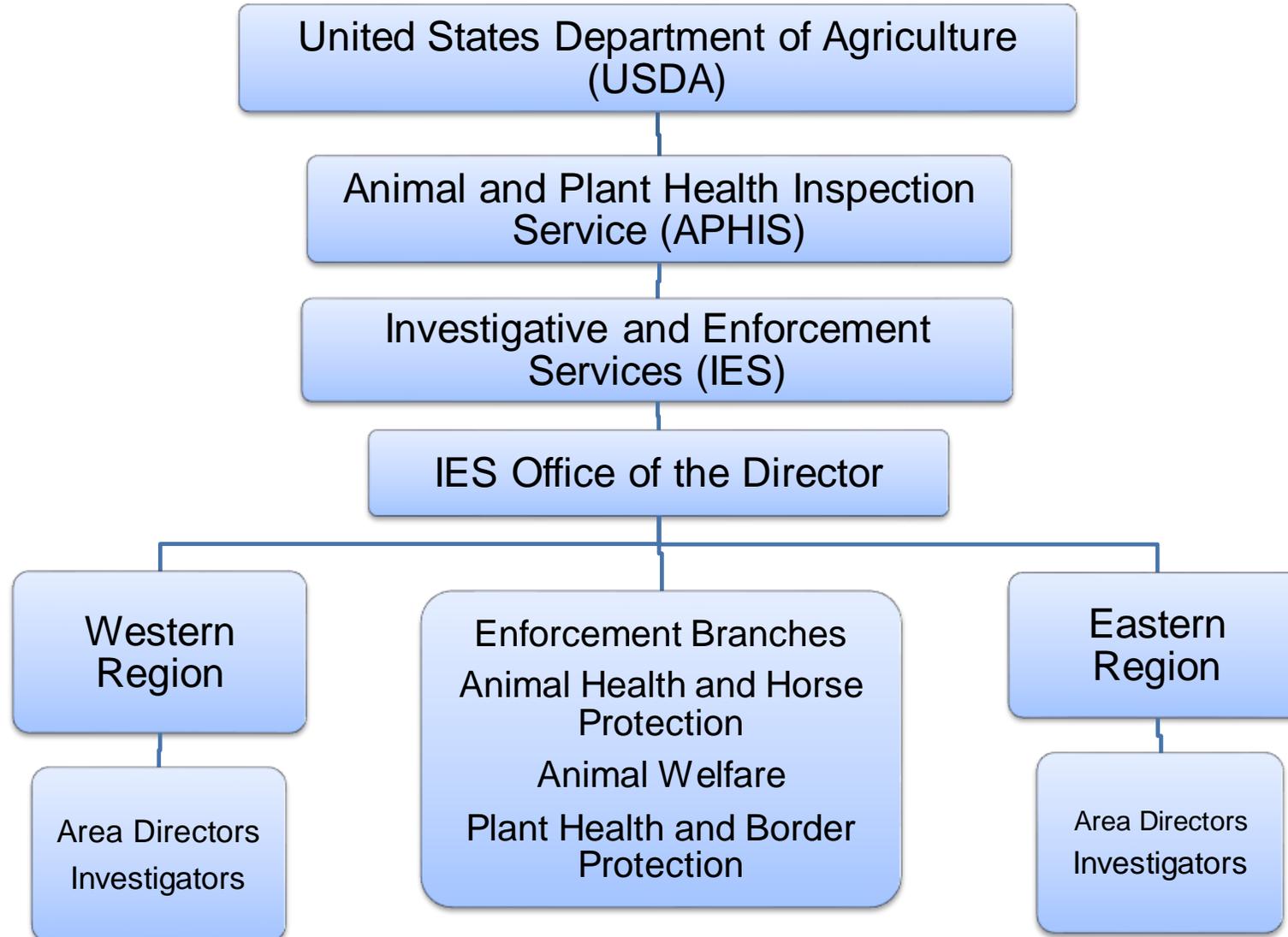
Investigative & Enforcement Services (IES)



Agenda

- Who we are
- Our Mission and Authority
- Relevant Statutes and Regulations
- Why an entity might be referred to IES
- Investigative Process
- Enforcement Process
- Types of adjudications
- The Formal Administrative Process
- Civil Penalties

Who we are





IES' Mission

“To protect the health and value of American animal, plant, and natural resources through effective and efficient investigative and enforcement services.”

Delegation of Authority to IES

7 CFR § 371.5(b)(7)



Directing and coordinating investigations related to APHIS program laws and regulations and coordinating enforcement of program laws and regulations with the Office of General Counsel

Relevant Statutes and Regulations

- Animal Welfare Act
- Animal Health Protection Act
- Plant Protection Act
- Horse Protection Act
- Commercial Transportation of Equines to Slaughter Act
- Virus Serum Toxin Act
- Agricultural Bioterrorism Protection Act
- Honey Bee Act
- Federal Seed Act
- Lacey Act

Relevant Statutes and Regulations

- Statute:
 - Public Health Security and Bioterrorism Preparedness and Response Act of 2002
 - Subtitle B: “Agricultural Bioterrorism Protection Act of 2002”
- USDA-APHIS Regulations:
 - 7 CFR Part 331
 - 9 CFR Part 121

Why might an entity get referred to IES?

- Failure to notify and register for the possession, use, and transfer of select agents and toxins
- Failure to follow the security risk assessments process
- Failure to report theft, loss, or release of select agents and toxins
- Movement of select agents and toxins without permit

Why might an entity get referred to IES?

- Failure to follow standard operating procedures and established security measures
- Failure to provide information and training related to biosafety and security
- Failure to maintain an accurate and current inventory for select agents and toxins

Investigative and Enforcement Process

IES' work is divided between two groups.

- Field Investigators conduct investigations, collect evidence, and produce Reports of Investigation (ROIs).
- Headquarters Enforcement staff members review completed ROIs for legal and evidentiary sufficiency and make enforcement recommendation.

Investigative Process

- Fact finding mission.
 - Generally includes:
 - Reviewing all of the information received with the referral
 - Identifying potential subject and witnesses
 - Identifying the relevant regulation(s)
 - Interviewing witnesses
 - Interviewing the person who may be in violation of the regulations
 - Visiting the facility
 - Collecting documents
 - Taking photographs



Enforcement Process

- Review for legal and evidentiary sufficiency
- Determine if evidence substantiates a violation
- Prepare enforcement recommendation
- Consult with referring program
- Carry out enforcement action

Enforcement – Types of Adjudication

- Official Warning
- Settlement Agreement offer
- Referral to the Office of the General Counsel (OGC) for administrative action
- Referral to the U.S. Department of Justice (DOJ) for civil or criminal action (most serious)

Enforcement – Types of Adjudication

More on settlement agreements:

- Discretionary
- Include a monetary penalty.
- Generally contain more favorable terms
- If accepted, then no further action.
- If not accepted, then case is referred to OGC



Formal Administrative Process

Due Process

Referral to the Office of General Counsel

Filing of administrative complaint and proceedings before USDA

Review of decision by U.S. Court of Appeals

U.S. Supreme Court's review of the U.S. Court of Appeals' decision

Referral to Department of Justice



Maximum Civil Penalties

7 U.S.C. § 8401(i)(1)

“Individual”: \$300,000*

“Any other person”: \$600,000*

*Adjusted per 7 C.F.R. § 3.91(b)(2)(vii)