


# Memorandum



**Date:** October 28, 2022

**To:** Honorable Chairman Jose “Pepe” Diaz  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava  
Mayor 

**Subject:** USDA Inspection Report Findings – Miami Seaquarium

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Like people across our community, I was deeply disturbed by the findings of the recent USDA report regarding our marine life at Miami Seaquarium. Under the terms of the Lease transfer, The Dolphin Company (TDC) is obligated to comply with federal regulations that include the Marine Mammal Protection Act and Animal Welfare Act.

Our Miami-Dade County Parks, Recreation and Open Spaces Department (PROS) has reviewed the report and will immediately issue The Dolphin Company a formal Notice of Non-Compliance for its failure to identify and resolve this situation as it occurred. Per the steeper accountability and oversight measures that TDC agreed to in the recent Lease amendment, PROS is also in the process of hiring independent marine mammal veterinarians to perform unannounced inspections to ensure compliance with the animal welfare provisions of our Lease. PROS also met with The Dolphin Company this week to discuss the specific concerns in the report – which TDC clarified were addressed and corrected prior to the issuance of the Inspection Report – as well as additional remedial measures TDC is currently taking.

Please see attached a further update from PROS outlining all the steps the County is taking to address the specific concerns detailed in the report, and to ensure the health and wellbeing of all the animals in the Seaquarium’s care.

I will continue to closely monitor the progress of our oversight efforts in coordination with PROS, as we monitor to ensure that TDC is in compliance with all terms of the Lease. Please let me know if you have any questions or need any additional information.

# Memorandum



**Date:** October 28, 2022

**To:** Honorable Mayor Daniella Levine Cava

**From:** Maria I. Nardi *M.I.*  
Director, Parks, Recreation and Open Spaces Department

**Subject:** USDA Inspection Report Findings – Miami Seaquarium

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Pursuant to the terms of the Lease transfer, MS Leisure Company, a subsidiary of Controladora Dolphin, S.A. de C.V. a/k/a The Dolphin Company (“TDC”) agreed to provide the County with greater animal welfare and oversight in order to ensure that the highest standards of animal welfare and management are met by the new operators of the Seaquarium.

**Following the results of the disturbing USDA Inspection Report (“Inspection Report”) released last week that was based on the USDA inspection that occurred on July 6, 2022, this Memorandum contains an update on the steps that the Parks, Recreation and Open Spaces Department (PROS) is taking to address the specific concerns in the report and ensure the welfare of all the animals in the TDC’s care.**

First, PROS will be issuing a formal Notice of Non-Compliance to TDC for its failure to immediately identify and resolve this situation as it occurred.

PROS will conduct announced and unannounced staff visits to the Seaquarium on a regular basis to observe and ensure day-to-day operational compliance. PROS is also in the process of researching and hiring independent marine mammal veterinarians to perform unannounced inspections to ensure compliance with the animal welfare provisions of the Lease as further set forth in the Third Amendment, whose original terms have now been accepted by all parties, and which provide the County with the right to conduct these inspections. These inspections will begin over the coming weeks and will allow greater County oversight of the Seaquarium’s operations to ensure the care and wellbeing of all the animals there.

These inspections will be in addition to any inspections performed by the USDA, which under applicable law can perform announced or unannounced site visits to the Seaquarium at any time.

Our preliminary plan is as follows:

- Identify and retain consulting marine mammal veterinarians (MMVs).
- Have the MMVs visit the Seaquarium once every two weeks over the first three months, and if no problems/concerns are indicated, the MMVs will perform visits on a monthly basis.
- The MMVs will provide reports to PROS on animal welfare, condition, weights, health, etc.
- The MMVs will work with the Seaquarium veterinary team to identify the target weight ranges and health statuses of all animals in order to:
  - Ensure animal weights do not go below the minimum target range;
  - Ensure the overall health and well-being of the animals;
  - Develop measures to ensure TDC’s accountability; and

- Ensure that any changes to the weight target ranges, as well as overall care issues, are communicated and justified to the MMVs.

Further, PROS reviewed the Inspection Report (attached along with the USDA's response to TDC's appeal), and this week met with The Dolphin Company /Seaquarium team to discuss these findings and the remediation plan required to correct the deficiencies identified.

Following that meeting, TDC has agreed to proactively establish formal weekly status calls with PROS, in addition to the informal weekly calls PROS has been conducting since the transfer of the Lease, to communicate current animal welfare and operational statuses to ensure that County has the most up-to-date information regarding these critical areas.

As noted in the Inspection Report, the USDA's guidance to TDC for the four critical identified deficiencies was to "[c]orrect from this day forward." At our meeting, TDC management and counsel stated that the issues raised by the USDA were addressed and corrected prior to the issuance of the Inspection Report, and that no further issues regarding this matter remained. TDC further acknowledged internal miscommunication between Seaquarium staff during the transition period from the prior operator in March of this year, and has taken the following remedial actions:

1. Implementation of new technology solutions, including industry-standard "Tracks" software that improves communications, accuracy and decision-making, makes data available electronically, and tracks workflow in real-time;
2. Personnel alignment to include adjustment of staff assignments and additional staff where indicated;
3. Training of staff to ensure clarity of roles and responsibilities;
4. Solicitation of guidance and support from experts in marine mammal care; and
5. Establishment of an in-house Animal Welfare Committee that meets regularly, and which includes external animal care experts for all animal species at the Seaquarium.

PROS is committed to performing ongoing oversight of the Seaquarium operations to ensure the safety of the animals and will continue to communicate our findings to you as they are discovered. If you have any questions or need additional information, please let me know.

encl: USDA Inspection Report dated September 23, 2022  
USDA Appeal Response Letter dated September 16, 2022

c: Jimmy Morales, Chief Operations Officer, Office of the Mayor  
Johanna Cervone, Chief of Staff, Office of the Mayor  
Rachel Johnson, Deputy Chief of Staff, Office of the Mayor  
Christina Salinas Cotter, Assistant Director, PROS  
Perry Perez, Chief, Contracts & Procurement, PROS  
Mike Zimmer, Director, Marketing and Development Division  
Melanie Spencer, County Attorney's Office



### Inspection Report

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MS Leisure Company, Inc.  
9600 N. Oceanshore Boulevard  
St Augustine, FL 32080

Customer ID: **6011009**  
Certificate: **58-C-1252**  
Site: 001  
Miami Seaquarium

Type: FOCUSED INSPECTION  
Date: 06-JUL-2022

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**2.40(a)(2) Critical**

**Attending veterinarian and adequate veterinary care (dealers and exhibitors).**

The Assistant Director of Animal Training (ADAT) consulted with corporate trainers and the Animal Care Specialists Manager (ACSM) to decrease the diets for 9 out of 12 dolphins at Dolphin Harbor and did not consult the attending veterinarian of the facility. This was a 60% cut to the dolphins' daily food rations and resulted in very thin animals. For example, Star, a 23yr old female dolphin was being fed approximately 12lbs daily in January 2022 and her diet was cut abruptly on March 31st to 4lbs daily. The full changes are listed below.

- Star, a 23yr old female dolphin: January 2022 (12lbs daily) to March 31st (4lbs daily)
  - Gemini, a 7yr old female dolphin: January 2022 (13lbs daily) to April 1st (6lbs daily)
  - Skye, a 24yr old female dolphin: January 2022 (11lbs daily) to April 1st (7.5lbs daily)
  - Cobalt, a 12yr old male dolphin: March 2022 (18lbs daily) to April 1st (5lbs daily)
  - Ringo, a 12yr old male dolphin: January 2022 (15lbs daily) to April 1st (8lbs daily)
  - Squirt, a 12yr old female dolphin: January 2022 (13lbs daily) to March 31st (4lbs daily)
  - JJ, a 46yr old male dolphin: January 2022 (10lbs daily) to April 1st (6.5lbs daily)
  - Calypso, an 8yr female dolphin: March 2022 (15lbs daily) to April 1st (9lbs daily)
  - Aries, a 20yr old male dolphin: January 2022 (13lbs daily) to March 31st (3lbs daily)
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Prepared By: E GONZALEZ  
USDA, APHIS, Animal Care

Date:  
23-SEP-2022

Title: VETERINARY MEDICAL  
OFFICER

Received by Title: Facility Representative

Date:  
23-SEP-2022



### Inspection Report

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Medical notes from a visual examination performed by the AV on June 26th, 2022, specifically identified 3 thin animals. Cobalt was noted having prominent scapula and ribs with an overall thin Body Condition Score (BCS). His Body Blubber Index (BBI) was down to 31 and his weight was 45lbs under his target weight range. Aries was noted having prominent and palpable scapula and ribs with a slight post-nuchal indentation. His BBI was low at 34 and he was 35lbs below his goal weight. Squirt was noted having slightly prominent scapula and ribs with a low BBI of 33. She was below her weight range. On July 2nd, 2022, the AV noted that Star's shoulder/scapula were fairly prominent. With a BBI of 36 and overall thin appearing BCS, Star was approximately 25lbs below her target range.

Photos taken by facility staff, social media photos and an examination by APHIS Marine Mammal Specialist during the inspection identify the following concerns for each dolphin affected:

- Aries: He weighed 375lbs on March 5th and 312lbs on June 25th (a loss of 63 lbs.) The facility records his goal weight was between 355-365lbs. With a BCS of 3/10, Aries was described as a very thin dolphin with weight loss in his neck, an indentation in his nuchal area, prominent scapula, rib shadowing, decreased muscle mass in his peduncle, and visible lateral spinous processes.
- Calypso: She weighed 373lbs on May 25th. There is no current weight on Calypso and no ideal weight range noted on the facilities Departmental Baseboard. With a BCS of 4/10, Calypso was described as a thin dolphin with an indentation on her post nuchal area behind her blowhole, a visible scapula and loss of weight in her thorax. Additionally, her lateral spinous processes in her peduncle are pronounced as well as a loss of muscle mass in the peduncle.
- Cayman: He weighed 307lbs on March 5th and 298lbs on April 16th (a loss of 9lbs.) The facility records his goal weight between 310-320lbs. With a BCS of 5/10, Cayman looked to be in good body condition at the time of inspection. However, photos of Cayman provided by the facility show a very lean animal with prominent lateral spinous processes.
- Cobalt: He weighed 615lbs on March 5th and 511lbs on July 2nd (a loss of 104lbs.) The facility records his goal weight

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### Inspection Report

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between 560-570lbs. With a BCS of 3.5/10, Cobalt was described as a thin and lean dolphin with a slender neck, pronounced scapula and shoulders, rib shadowing and pronounced lateral spinous processes.

- Gemini: With a BCS of 3.5/10, Gemini was described as a thin dolphin with weight loss in her neck, visible lateral spinous processes and loss of mass in her peduncle.
- Ringo: He weighed 336lbs on March 5th and 299lbs on June 25th (a loss of 37lbs.) The facility records his goal weight between 315-325lbs. With a BCS of 4/10, pictures posted to social media show a very thin animal with a "neck", noticeable scapula, with weight loss in the back and peduncle area. At the time of inspection, Ringo had regained some weight since those photos; however, he was still described as lean with visible lateral spinous processes.
- Skye: She weighed 377lbs on March 5th and 362lbs on July 2nd (a loss of 15lbs.) The facility records her goal weight between 370-380lbs. With a BCS of 4/10, Skye was described as a thin dolphin with a pronounced scapula, visible lateral spinous processes and weight loss visible in both upper body and peduncle areas.
- Squirt: She weighed 331lbs on March 5th and 289lbs on July 2nd (a loss of 42lbs.) The facility records her goal weight between 320-330lbs. With a BCS of 3.5/10, Squirt was described as a lean dolphin with muscle loss in the peduncle area and neck with some lateral spinous processes still visible.
- Star: She weighed 345lbs on March 5th and 315lbs on July 2nd (a loss of 30lbs.) The facility records her goal weight between 340-350lbs. With a BCS of 3.5/10, Star was described as a thin dolphin, with visible lateral spinous processes of the peduncle as well as muscle mass loss in the peduncle area.

This reduction in diet was not approved by the facility's AV. The AV was not consulted prior to the diet changes and was not alerted by the ADAT when these changes were implemented. After the major cuts, the diets were gradually increased over the next few days; however, the diets never reached appropriate levels to maintain each animal's appropriate weight and the animals continued to lose weight. When both veterinarians were questioned directly by APHIS officials, they

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### Inspection Report

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confirmed they would not have approved the diet cuts. Upon the AV's examination findings in late June/early July, she recommended a gradual increase in diets to return the animals to their target weight ranges. The staff complied and began increasing the animals' diets as instructed.

Additionally, the layout of the guest interactions was changed without the AV's guidance. The previous guest interactions, in conjunction with the AV's guidance, were coordinated under the protection of the umbrellas to avoid the animals looking directly into the sun for their feedings and directions. The new guest interactions position the dolphins in areas away from the shade and, depending on the time of the day, do not offer protection from looking into the sun. These program changes were not reviewed prior to implementation by the facility's attending veterinarian. The guest interactions have also changed by increasing the number of guests in attendance per session without veterinary input.

The Attending Veterinarian must have the appropriate authority to ensure adequate veterinary care is provided and that they have the authority to oversee the adequacy of other aspects of animal care.

Correct from this day forward.

**2.40(b)(3) Critical**

**Attending veterinarian and adequate veterinary care (dealers and exhibitors).**

There was an increase in frequency of abnormal behaviors such as regurgitation, mouthing, refusing control etc. that were not communicated in a timely manner to the Attending Veterinarian. Documents tracking weekly overall health parameters for the 12 animals at Dolphin Harbor (DH) were created by the Assistant Director of Animal Training and the area supervisor for DH with the purpose of updating the animals' progress to the Animal Care Specialists Manager after recent diet changes. This PowerPoint included photos of each animal that were updated weekly. The AV had not been sent these routine weekly updates on the animal health parameters, and therefore could not identify the weight loss trends these animals experienced earlier than June 26th, 2022.

Furthermore, an examination of training records for the dolphins at DH noted increased instances of regurgitation from

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### Inspection Report

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animals that have not historically had this problem. For example, between February 23rd–July 6th, 2022, there were 88 days where trainers recorded episodes of regurgitation for Aries. Thirty of those days, he regurgitated during two sessions and 6 of those days he regurgitated during three sessions. Over the 88-day period, he regurgitated during 137 sessions. Thirty-five of those sessions, he was noted as regurgitating throughout the session or excessively. 135 out of 137 sessions were during public encounters. Two dates of particular concern are March 23rd and 24th, when he was noted to have sessions with approximately 60 and 67 guests, respectively. Three regurgitations were during training sessions, and one was during a husbandry session. Not only did the incidence of these abnormalities increase, but the occurrence of these problems was also not communicated in a timely manner to the AV. When questioned by APHIS Officials, the AV admitted that she was not aware of the severity of Aries’ regurgitation concerns until late June.

The facility failed to provide direct and frequent communications regarding animal health and well-being to the AV. The documents tracking the weights, diets and pictures of the Dolphin Harbor animals should have been communicated to the AV. This delayed the animals’ access to appropriate and timely medical care. The abnormal behaviors expressed by Aries could have been associated with diet cuts or other medical concerns. The facility must ensure 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.

Correct from this day forward.

**2.131(b)(2)(ii) Critical**  
**Handling of animals.**

The diets of 9 dolphins at Dolphin Harbor were cut for the purpose of ensuring the animals performed for the guest interactions. The Assistant Director of Animal Training (ADAT) and the area supervisor for Dolphin Harbor (DH) created documents to track the weights and Body Blubber Index (BBI) for the 12 dolphins living at this location; these documents were sent for review by the Animal Care Specialists Manager (ACSM) who is not a veterinarian. After observing that

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### Inspection Report

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several dolphins were behaving abnormally and looked thin, the Director/Zoological Curator stepped in to increase the diets gradually by one pound of fish beginning mid-June. She was met with resistance from the ACSM and ADAT. Communications from the ACSM stated his concerns regarding the Program dolphins' satiation and what would be the plan if the animals "dropped operation" as they had done before. Additionally, the ACSM referred to an incident with Cobalt, a male dolphin, that was triggered by his satiation. He insisted that he would not approve diet increases until the Director had provided him with the answers to these questions.

Furthermore, a review of trainer records noted that in many cases, the limited pounds of fish were only offered during the guest interactions and not during any training or husbandry sessions the animals participated in. All 9 animals decreased in weight over the course of two months – some of them significantly. On or about March 31st, multiple animals had their daily food intake markedly reduced. For example, on March 31st Aries was fed 12 pounds of fish for the day and on April 1st, he was abruptly reduced to 3 pounds daily. He was slowly increased to 7 pounds daily where he remained until May 4th when another incremental adjustment was made to 8.5 pounds. At that point, Aries' weight had decreased by 29 pounds in one month. Overall, he lost 63 pounds between April and June.

The food deprivation these dolphins were subjected to also led to increased incidents of unwanted behaviors such as splitting or breaking from sessions, swimming over ledges where guests may stand, sinking during line-ups and aggressing against trainers. For example, prior to the new company taking ownership of the facility, Calypso had an average 18 incidents of unwanted behavior during the months of January and February 2022. These ranged from sinking during the session, terminating behaviors, poor attention to swimming over the ledge at a trainer to bite a target pole. After the transition in March 2022, Calypso's unwanted behaviors drastically increased to 38 separate incidents in the month of April. The severity and frequency of these behaviors increased; on April 1st, 6th, 13th, 14th, 17th, and 21st, Calypso mouthed at least one of her trainers. May 29th and June 16th, she repeated these behaviors.

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### Inspection Report

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During the months of January 2022 and February 2022, Cobalt had virtually no aggressive incidents recorded on his training charts. Beginning end of March 2022, the incidents of inappropriate behaviors steadily increased. Cobalt began sinking during sessions and focusing on Star (a female dolphin). He routinely split from session and began swimming over to guests during an encounter. On March 26th, he open-mouthed a trainer’s foot during an interaction. On April 3rd, he sat up on the catwalk towards a trainer. On June 30th, he attempted to mouth a target pole several times. He then mouthed two trainers on July 4th.

During a land encounter on June 5th, Cayman exhibited poor control and refused primary reinforcement (fish). He attempted to mouth a trainer’s hand and pumped up at the trainer. On July 7th, during a training session, Cayman rammed a trainer in deep water. The 3-trainer team attempted multiple redirections to help the trainer in the water get out; however, Cayman ignored the recalls and mouthed the trainer several times while they swam to the stairs. The trainers gave him a break of about 10 minutes and then reattempted the training session. Cayman attempted to ram the ADAT in the water several times but never made contact. He ignored the ADAT’s attempt to regain control and fast swam over the ledge multiple times. The ADAT presented a plastic “aversion” shield to attempt to reestablish control, but Cayman showed no change in behavior.

Depriving these dolphins of their full dietary and nutrition requirements to ensure compliance during public encounters directly affected their health and well-being. The facility must provide each animal its full dietary requirements for each day. Deprivation of food or water shall not be used to train, work or otherwise handle animals.

Correct from this day forward.

**2.131(c)(1) Critical**  
**Handling of animals.**

A review of trainer records for the dolphins at Dolphin Harbor identified multiple aggressive incidents when a dolphin “mouthed” a member of the public during an in-water interaction. The records show that the animals exhibited warning

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### Inspection Report

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behaviors prior to mouthing such as sinking after performing behaviors, swimming over the ledge of the pools without specific direction to do so, fast swimming, terminating control (refusing to participate) during sessions, ignoring signals for behaviors and splitting from the session. The facility staff elected to continue guest interactions with animals that were exhibiting aggressive warning behaviors. Examples are listed below:

- Calypso, an 8yr female dolphin, mouthed a guest on six different occasions during the months of April 2022 – July 2022. On April 1st, 2022, the trainer records noted that the trainers “worked through” the inappropriate behavior during that incident instead of stopping the session.
- Cobalt, 12yr old male dolphin, mouth a guest on six different occasions during the months of April 2022 – July 2022. On June 6th, his fluke hit a guest during an encounter. On June 30th, Cobalt mouthed a guest twice on the hand during the third encounter of the day and was then used in another encounter later that day. Before all mouthing incidents, Cobalt exhibited warning behaviors such as splitting from control and swimming towards guests in deep water. Also, he would sink during sessions and watch guests underwater. Additionally, at the end of sessions, he would sink underwater and follow guests out of the pool. Since early April, his level of aggression during encounters has steadily increased – to the point where almost every day he terminates control from sessions.

The facility failed to handle their animals in a manner that minimized the risk of harm to the public and continued guest interactions even when dolphins were demonstrating aggressive behaviors earlier in training sessions. Mouthing any portion of an individual’s body (hand or foot) can be considered a precursor to more aggressive behaviors that ultimately may lead to serious injuries to the public. During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public. The facility’s guest interactions must assure the safety of the animals and the public. Correct from this day forward.

This inspection and exit interview were conducted with several facility representatives.

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**Date:**  
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## Inspection Report

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Additional Inspectors:

Laurie Gage, Zoological Species Specialist

Charles Palmer, VETERINARY MEDICAL OFFICER

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Title: VETERINARY MEDICAL  
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### Species Inspected

Cust No	Cert No	Site	Site Name	Inspection
6011009	58-C-1252	001	Miami Seaquarium	06-JUL-2022

Count	Scientific Name	Common Name
000020	<i>Tursiops truncatus</i>	BOTTLENOSE DOLPHIN
000002	<i>Trichechus manatus</i>	CARIBBEAN MANATEE
000009	<i>Phoca vitulina</i>	HARBOR SEAL
000013	<i>Zalophus californianus</i>	CALIFORNIA SEA LION
000044	<b>Total</b>	



Animal and Plant  
Health Inspection  
Service  
  
4700 River Road  
Riverdale, MD 20737

September 16, 2022

Mr. Travis Burke, Director  
MS Leisure Company, Inc.  
9600 N. Oceanshore Blvd.  
St. Augustine, FL 32080

License No. : 58-C-1252  
Customer No. : 6011009

Dear Mr. Burke:

Your August 9, 2022 appeal of citations on the USDA inspection report dated July 6, 2022 was thoroughly reviewed by an Animal Care appeal panel consisting of a Supervisory Animal Care Specialist, an Assistant Director, a Senior Veterinary Medical Officer for Marine Mammals, and me. The appeal is addressed below.

The citation for Section 2.40(a)(2) will remain on the inspection report with modified content and re-wording.

- Though the non-compliances indicated on the July 2022 inspection report are connected to a larger overall issue, each individual citation will remain on the report as each one is specific to a regulatory requirement in the Animal Welfare Act Regulations. Section 2.40(a)(2) requires that the attending veterinarian has appropriate authority to ensure the provision of adequate veterinary care and to oversee the adequacy of other aspects of animal care and use.
- The supporting information regarding the dolphins' weights will be moved from section 2.131(b)(2)(ii) to this section.
- The sentence about Gemini not being weighed will be removed.

The citation for Section 2.40(b)(3) will remain on the inspection report with modified wording.

- The noncompliance cited under this section will remain on the report as it documents the lack of direct and frequent communication with the attending veterinarian regarding ongoing health issues.
- Some of the wording will be adjusted to more accurately reflect the situation that occurred (such as changing *deprived* access to care to *delayed* access of care).

The citation for Section 2.131(b)(2)(ii) will remain on the inspection report with reduced content and modified wording.

- This section will remain on the inspection report as it discusses the evidence that food was restricted below the animals' nutritional needs in order to alter their performance behavior during public exhibition and training.
- The section describing the details of the animals' weights and body condition will be moved to Section 2.40(a)(3).
- Some of the wording will be adjusted to more accurately reflect the situation that occurred.

The citation for Section 2.131(c)(1) will remain on the inspection report as written.

- This section is specific to handling during public exhibition so as to assure the safety of the animals and the public.

We understand the facility has been undergoing many new transitions and appreciate the commitment to improvement with the facility's new protocols and training initiatives to address these issues and overall animal welfare.

You should receive a copy of the amended inspection report within two weeks.

All decisions made by the appeal panel are final and represent Animal Care's final determination for this appeal.

Sincerely,



Robert Gibbens, DVM  
Director, Animal Welfare Operations  
USDA, APHIS, Animal Care

*USDA Animal Care. Ensuring humane treatment for animals covered by the Animal Welfare Act.*