

**United States Department of Agriculture  
Center for Veterinary Biologics**

**Standard Operating Policy/Procedure**

**Subpoena Procedures**

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Entered into CVB Quality Management System by: <u>/s/Linda S. Snavelly</u> <u>31Jul18</u> Linda S. Snavelly Date Quality Management Program Assistant
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**Subpoena Procedures**

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## Subpoena Procedures

### 1. Purpose

This document provides procedures and policies regarding subpoenas served upon Center for Veterinary Biologics-Inspection and Compliance (CVB-IC) personnel.

### 2. Subpoenas

Occasionally, IC personnel will be served with a subpoena by members of the public to provide testimony or records concerning a product or a firm. For information, the IC Director is considered the custodian of the records for CVB-IC. CVB personnel are considered to be expert witnesses on products, diseases or animals for the purpose of prosecution or defense cases brought against, or by APHIS. However, for litigation in which APHIS is not a party, CVB employees are not considered to be expert witnesses.

APHIS employees are encouraged to make all reasonable efforts to avoid appearances as expert witnesses in private litigation. Advance alertness to initial inquiries or "feelers" by litigants will often enable an employee to forestall a subpoena. This is intended to further the type of public service expected of APHIS employees by avoiding the appearance of favoring one litigant over another. We must remain impartial to both sides in litigation. In general, we are not required to provide records or testimony outside our local area, but often we agree to help where we can. CVB's attorney in the Office of the General Counsel (OGC) will advise about the subpoena.

### 3. Process

**3.1** Critical Control Point: Chain of command notification shall be used to notify the CVB Director by email tagged with "High Importance". The subpoena response deadline will be included in the email.

**3.1.1** As soon as practicable, the subpoenaed employee will notify direct Supervisor. This email may include all chain of command, including the CVB Director.

**3.1.2** A copy of the subpoena may be provided at a later time.

**3.2** The subpoenaed employee will wait and respond as instructed.

**3.2.1** If lack of Agency response places the employee in jeopardy of being held in contempt of court for non-response, then the employee may protect themselves accordingly, such as a motion to quash or modify a subpoena to seek more time.

**3.3** The CVB Director will direct the response to the subpoena and Agency notifications in a timely manner, delegating as needed.

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### 4. Documentation Subpoenas

Prior to processing and providing any documentation, consultation should be made with APHIS Legislative and Public Affairs, Freedom of Information Unit.

Since records often contain confidential business information, we want to be sure the licensee/permittee is aware that documents have been subpoenaed. This provides the licensee/permittee with the opportunity to get a protective order from the court. The person issuing the subpoena should make the contact with the licensee.

Since our files are working files, we do not provide originals. We will make a few copies at our expense; however, in the past we have asked the litigants to pay for large numbers of copies. Copies are made under direct supervision of IC Management at a local copier and the costs paid by the litigants. Receipts must be obtained and directed to IC Management.

### 5. Summary of Revisions

#### Version .03

- Rewrite process due to referenced Veterinary Services Memorandum No. 514 being archived.

#### Version .02

- The Contact information has been updated.