



This document is scheduled to be published in the Federal Register on 08/05/2013 and available online at <http://federalregister.gov/a/2013-18874>, and on FDsys.gov

BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 2 and 3

[Docket No. APHIS-2012-0107]

Petition to Amend Animal Welfare Act Regulations to Prohibit Public Contact with Big Cats, Bears, and Nonhuman Primates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are notifying the public that the Animal and Plant Health Inspection Service has received a petition requesting amendments to the Animal Welfare Act regulations and standards, including to prohibit licensees from allowing individuals, with certain exceptions, from coming into direct or physical contact with big cats, bears, or nonhuman primates of any age, to define the term “sufficient distance,” and to prohibit the public handling of young or immature big cats, bears, and nonhuman primates and the separation of such animals from their dams before the species-typical age of weaning absent medical necessity. We are making this petition available to the public and soliciting comments regarding the petition and any additional issues we should take into account as we consider this petition.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0107-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0107, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0107> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, DVM, Senior Staff Officer, USDA, APHIS, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737-1234; (301) 851-3751.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare Act (AWA, 7 U.S.C. 2131 et seq.) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, operators of auction sales, and carriers and intermediate handlers. The Secretary has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Within APHIS, the responsibility for administering the AWA has

been delegated to the Deputy Administrator for Animal Care. Regulations and standards established under the AWA are contained in 9 CFR parts 1, 2, and 3. Part 1 contains definitions for terms used in parts 2 and 3; part 2 contains licensing and registration regulations, regulations specific to research facilities, and regulations governing veterinary care, animal identification, recordkeeping, access for inspection, confiscation of animals, and handling among other requirements; and part 3 contains specific standards for the humane handling, care, treatment, and transportation of categories of animals covered under the AWA. Currently, part 3 consists of subparts A through F, which contain specific standards for dogs and cats, guinea pigs and hamsters, rabbits, nonhuman primates, marine mammals, and general standards for warmblooded animals not otherwise specified in previous subparts, respectively.

Within part 2, § 2.131 generally contains provisions for licensee qualifications, training, careful handling, rest periods, attendants, climatic conditions, and public exhibition. Paragraph (b)(1) requires that all animals be handled in a manner that prevents trauma, behavioral stress, physical harm, or unnecessary discomfort to them. Paragraph (c)(1) places conditions on the public exhibition of animals. It requires that during public exhibition, all animals must be handled with sufficient distance and/or barriers between the animal and the public so as to ensure the safety of the animals and the public. Paragraphs (c)(2), (c)(3), and (c)(4) require that performing animals be given rest periods, that young or immature animals cannot be exposed to rough or excessive public handling or exhibited for periods of time that would be inconsistent with their health and well-being, and that drugs, such as tranquilizers, cannot be used to facilitate public handling of any animals. Paragraph (d) requires that animals be exhibited only for periods of time and under conditions consistent with their health and well-being, that responsible, knowledgeable, and identifiable employees or attendants be present at all times during public

contact with animals, and specifically requires that dangerous animals such as lions, tigers, wolves, bears, or elephants, be under the direct control and supervision of an experienced handler during public exhibition.

APHIS has received a petition¹ requesting that we amend the regulations in part 2 to explicitly prohibit licensees from allowing persons, with some exceptions, from coming into direct physical contact with any big cats, bears, and nonhuman primates of any age. The petition states that the current handling regulations in 9 CFR part 2 allow licensees the opportunity to engage in animal exhibition practices via public contact venues, such as interactive sessions and photographic opportunities, and that these activities place these animals at risk of harm, threaten public safety, undermine conservation efforts, and encourage irresponsible breeding. The petitioners contend that the existing handling regulations are difficult to enforce, subjective, and inconsistently applied. The petitioners propose specific regulatory language that would, if incorporated into the regulations, amend § 2.131 to eliminate the possibility of direct physical contact with big cats, bears, and nonhuman primates by any individual, other than trained licensee employees, licensed veterinarians, and veterinary students under the supervision of a licensed veterinarian; define “sufficient distance” under paragraph (c)(1) of § 2.131; and prevent the separation of young or immature big cats, bears, or nonhuman primates from their dams before the species-typical age of weaning unless medically necessary. The petitioners also suggest revisions to 9 CFR part 3 to ensure that the sections containing specific standards for the handling of nonhuman primates are consistent with the regulatory changes they propose in § 2.131.

¹ Petitioners include the Humane Society of the United States, World Wildlife Fund, The Global Federation of Animal Sanctuaries, The International Fund for Animal Welfare, Born Free USA, The Fund for Animals, Big Cat Rescue, and the Detroit Zoological Society.

We are making this petition available to the public and soliciting comments to help determine what action, if any, we should take in response to this request. The petition and any comments submitted are available for review as indicated under ADDRESSES above. We welcome all comments on the issues outlined in the petition and the supporting declarations. In addition, we invite responses to the following questions:

- Are there circumstances under which public contact with young big cats, bears, and nonhuman primates may be done without risk of harm to the animals or to the public?
- Should exhibitors and dealers be required to keep additional records (beyond those already required) regarding big cats, bears, and nonhuman primates? If so, what kinds of information should be required to be kept?
- Should exhibitors and dealers be required to identify big cats, bears, and nonhuman primates by means of tattoos, microchips, retinal scans, or the like?

We encourage the submission of scientific data, studies, or research to support your comments and position, including scientific data or research that supports any industry or professional standards that pertain to the humane treatment of big cats, bears, and nonhuman primates. We also invite data on the costs and benefits associated with any recommendations. We will consider all comments and recommendations we receive.

Authority: 7 U.S.C. 2131-2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 31st day of July 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013-18874 Filed 08/02/2013 at 8:45 am; Publication Date: 08/05/2013]