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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. APHIS-2012-0106]

Petition to Promulgate Standards for Bears Under the Animal Welfare Act Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of petition.

SUMMARY: We are notifying the public that the Animal and Plant Health Inspection Service has received a petition requesting that we amend the Animal Welfare Act regulations to add specific standards for the humane handling, care, treatment, and transportation of all species of bears held in captivity except polar bears, for which there are already standards. We are making this petition available to the public and soliciting comments regarding the petition and any issues raised by the petition that 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-2012-0106-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0106, 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-2012-0106> 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 promulgated under the AWA are contained in Title 9 of the Code of Federal Regulations (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 comprises subparts A through E, which contain specific standards for dogs and cats, guinea pigs and hamsters, rabbits, nonhuman primates, and marine mammals (including polar bears), and subpart F, which contains general standards for warmblooded animals other than the aforementioned animals.

On September 25, 2012, APHIS received a petition from People for the Ethical Treatment of Animals requesting that we initiate rulemaking proceedings to amend part 3 to add specific standards for all species of bears held in captivity except polar bears, for which there are specific standards in subpart E. The petition states that the generic standards in subpart F are inadequate to ensure the humane handling, treatment, and care of bears, and do not address the complex and unique behavioral, dietary, and physiological needs of bears. The petition proposes specific regulatory language to, among other things, prohibit the use of barren and pit-type enclosures, set minimum space standards for primary housing, require environmental enrichment and den and pool access, and prescribe general feeding schedules. The petition also requests that APHIS hire a full-time specialist with knowledge, background, and experience in the proper husbandry and care of bears to oversee the implementation and enforcement of the requested regulations.

We are making this petition available to the public and soliciting comments to help determine what action, if any, to 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. In particular, we invite responses to the following questions:

1. Do the current standards in subpart F adequately ensure the humane handling, treatment, and care of bears in captivity?
2. In what respects are the standards in subpart F inadequate for captive bears?
3. Would prohibiting pit-type enclosures adversely affect Native Americans regulated under the AWA?
4. Do bears have unique needs that should be addressed by special handling and care? If so, why?
5. What scientific knowledge of captive bears and their specific needs has been gained since the standards in subpart F were promulgated?
6. Should persons holding bears in captivity be required to provide the bears with environmental enrichment? If so, why?
7. Should persons holding bears in captivity be prohibited from housing them in pits or other similar enclosures? If so, why?
8. Are current standards for space adequate for captive bears? If not, why, and what would the minimal space requirements for bears be?
9. What are the physiological and psychological needs of bears in captivity, and would bear-specific standards address them?
10. Is there evidence that a captive bear housed in a particular type of enclosure is more prone to disease or injury, or more likely to develop aggressive behavior habits than captive bears housed in a different type of enclosure?
11. Should persons holding bears in captivity be required to provide bears with the means to self-groom, with enclosure mates, with the opportunity and means to hibernate, and with pools?

12. Should there be a prohibition on the sale or transportation of infant or young bears in captivity?
13. Should exhibitors and dealers be required to house captive bear cubs with their mothers until after they are naturally weaned?
14. Should exhibitors and dealers be prohibited from declawing captive bears?
15. Should exhibitors and dealers be prohibited from permitting public feeding of captive bears?

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 care of bears. 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 20<sup>th</sup> day of November 2013.

Kevin Shea,  
Administrator, Animal and Plant Health Inspection Service.

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