



## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 1, 2, and 3

[Docket No. APHIS-2022-0022]

RIN 0579-AE69

### Wild and Exotic Animal Handling, Training of Personnel Involved with Public Handling of Wild and Exotic Animals, and Environmental Enrichment for Species

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Advance notice of proposed rulemaking and request for comments.

**SUMMARY:** We are soliciting public comment on our plan to strengthen regulations regarding the handling of wild and exotic animals for exhibition, as well as the training of personnel involved in the handling of wild and exotic animals, and to establish standards addressing environmental enrichment for all regulated animals. The changes we are considering would help ensure the humane handling and treatment of exhibited animals, as well as the health and well-being of all animals covered under the Animal Welfare Act.

**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 [www.regulations.gov](https://www.regulations.gov). Enter APHIS-2022-0022 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2022-0022, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.10, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at [www.regulations.gov](http://www.regulations.gov) or in our reading room, which is located in room 1620 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. Lance H. Bassage, VMD, Director, National Policy Staff, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; [lance.h.bassage@usda.gov](mailto:lance.h.bassage@usda.gov); (970) 494-7478.

**SUPPLEMENTARY INFORMATION:**

Background

Under the Animal Welfare Act (AWA, 7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized 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 responsibility for administering the AWA to the Administrator of the U.S. Department of Agriculture's 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 (referred to below as the regulations). Part 1 contains definitions for terms used in parts 2 and 3; and part 2 provides administrative requirements and sets forth institutional responsibilities for regulated parties. Within part 2, subpart I contains, among other things, requirements for the handling of wild or exotic animals. Part 3 contains specifications for the humane handling, care, treatment, and transportation of animals covered by the AWA.

Currently, there are 1,970 active class C (exhibitor) licenses; since 2019, roughly 70 to 145 new licenses have been approved each year. Under the current regulations, licensees who maintain wild or exotic animals must demonstrate adequate experience and knowledge of the

species they maintain (9 CFR 2.131(a)). The regulations also require that all animals be handled as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort, and prohibits physical abuse (9 CFR 2.131(b)), and during public exhibition, be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public (9 CFR 2.131(c)(1)). APHIS ensures licensees meet these criteria and are compliant with the regulations during on-site inspections of the facilities prior to licensure and at various intervals throughout the 3-year license period (regularly scheduled routine inspections and focused inspections following up on non-compliances or in response to complaints). We believe that providing greater regulatory clarity regarding the requirements to demonstrate “adequate experience and knowledge” of the species being maintained and to maintain “sufficient distance and/or barriers between the animal and the general viewing public” would benefit licensees, Animal Care inspectors, and the public, and would aid in the enforcement of the AWA.

Insufficient experience and knowledge of personnel and inadequate safeguards in activities involving exhibited animals can endanger both the animals and the public, particularly in activities involving public contact with wild or exotic animals. In 2021, 44.4 percent (969/2182) of APHIS’ licensed exhibitors offered interactions between the public and animals as part of their business, representing a 1.8-fold increase from 2019 (25 percent; 505/2024). Between 2019 and 2021, 119 “handling” non-compliances were reported in eFile on APHIS inspection reports, 12.6 percent of which led to human or animal injury, or animal death. Species used in such interactions include large carnivores, megavertebrates, and nonhuman primates. Most interactions involved full contact (32 percent) or protected contact (43.7 percent) interactions between animals and the public. The risks to public safety inherent in these activities place the animals involved at an increased risk for harm. In situations in which an

animal may pose a risk to public safety (for example, a child entering an animal's enclosure), the animal may be euthanized or otherwise harmed in an attempt to protect the public.

Another area that may warrant amendment of the current regulations is environmental enrichment for regulated animals. The current regulations regarding environmental enrichment are limited to addressing the needs of non-human primates and marine mammals. These requirements include developing, documenting, and following a plan addressing the non-human primates' social needs (9 CFR 3.81(a)), and a physical environment allowing the non-human primates to express species-typical activities (9 CFR 3.81(b)).

It is well-understood that environmental enrichment for animals under a licensee's care is vital to their psychological health and welfare. The most common concern regarding enrichment noted by APHIS inspectors of licensees exhibiting species other than non-human primates has been a complete lack of any enrichment or a barren environment, followed by single housing of social species, and an inability to express species-typical behaviors.

In light of the concerns regarding interactions between wild or exotic animals and the public, the lack of specificity regarding the requirement to demonstrate "adequate experience and knowledge" in the species being maintained, and the lack of requirements for environmental enrichment of all regulated animals, APHIS is contemplating amendments to the regulations.

#### Definitions of Category 1, 2, and 3 Animals

To ensure that any regulations we promulgate regarding the public handling of exhibited animals account for the varying levels of risk involved with different species, we are contemplating categorizing animals into three categories.

Category 1 animals would refer to exotic or wild animals with the capability or potential to cause severe injury, dismemberment, or death to the public or staff. Animals in this category would include cheetahs, panthers, bobcats, lynxes, bears, wolves, coyotes, large primates (macaques, baboons, nonbrachiating species larger than 33 pounds, great apes), killer whales, walruses, zebras and zebra hybrids, large bovids (for example, bushbucks, kudus, nyalas, elands,

bongos, sitatungas, bison, buffalos, anoas, saolas, guar, bantengs, non-domesticated yaks, roans, sables, bluebucks, oryxes, addaxes, waterbucks, kobs, lechwes, and reedbucks), elephants, rhinoceroses, exotic canids (not otherwise listed), hippopotamuses, hyenas, clouded leopards, wolverines, onagers, Przewalski's horses, and wild asses.

Category 2 animals would include exotic or wild animals with the capability or potential to cause injury to the public or staff that is serious but not likely to be severe or life-threatening. Animals in this category would include small primates (callitrichids, capuchins, squirrel monkeys, lemurs, spider monkeys, gibbons, small African primate species), sloths, coatis, river otters, raccoons, camels, dolphins, pinnipeds, giraffes, kangaroos, other wild or exotic mammals (not otherwise listed in any category), wallabies, skunks/polecats, foxes, other primates (not otherwise listed in any category), wolf hybrids, medium bovids (for example, gazelles, springboks, blackbucks, gerenuks, duikers, impalas, tsessebes, topis, bonteboks, blesboks, hartebeests, wildebeests), servals, caracals, sand cats, ocelots, feline hybrid crosses, other exotic felines (not otherwise listed in any category), nondomestic pigs, okapis, beluga whales, wallaroos, meerkats, other marine mammals, civets, minks, giant anteaters, aardvarks, martins, mongooses, koalas, tapirs, peccaries, jaguarundis, javelinas, pigmy hippos, and other exotic canids (foxes, singing dogs, jackals, bush dogs).

Category 3 animals would include common farm animals and "pocket pets" (small exotic and domestic mammals) that are unlikely to cause serious injury to the public or staff. Animals in this category would include farm animals as defined by the AWA regulations in 9 CFR 1.1 (such as domestic bovines, sheep, goats, llamas, horses, domestic pigs, and rabbits, among others), guinea pigs, other cavy species, hedgehogs, other rodents, small and large cervids, opossums, porcupines, ferrets, kinkajous, armadillos, capybaras, sugar gliders, tenrecs, tamanduas, degus, agoutis, and guanacos.

We are seeking comment on whether classifying the animals is a useful regulatory framework and whether we have classified the above animals into the appropriate risk categories.

Particularly, we are interested in receiving comments on whether any animals should be added or removed from the lists of animals that we have tentatively classified as Category 1, 2, or 3, and, if the animal should be removed from its current classification, which category it should be placed in.

#### Types of Public Contact Activities with Exhibited Animals

With the aforementioned categories in mind, we are considering specifying regulatory requirements regarding public contact with animals that are commensurate with the risk posed by such animals. We are considering formulating such regulations for four types of public contact activities:

- Full contact activities: The public is in a shared space with animals with no barriers between the public and the animals, and direct physical contact is permitted or encouraged. Examples may include hand-feeding animals, photo opportunities, other hands-on encounters with animals, or rides on animals, all of which take place without any barriers in place between the public and the animal(s).
- Protected contact activities: A partial barrier separates the public and the animals, an attendant is present, and direct physical contact is permitted. Examples may include certain feeding activities, certain photo opportunities, certain drive-through exhibits (where guests are able to hand-feed or touch animals), or exhibits with PVC treat tubes.
- Walk-/Drive-Through Exhibits: The public is in shared space with animals, but direct physical contact is not permitted. Examples may include aviary-type exhibits, kangaroo walk-about, or drive-through parks where guests are in “closed” vehicles and are unable to feed or touch the animals.
- Performances: Performing animal shows in which there may be a partial barrier or no barrier between the public and animals, and direct physical contact is not permitted.

We are seeking comment on whether the above categories are appropriate, and if the distinctions between these four types of public contact activities are sufficiently clear, or whether they need further clarification.

#### Public Contact Activities with Exhibited Animals

For all public contact activities outlined above (full contact activities, protected contact activities, walk-/drive-through exhibits, and performances) involving regulated animals, we are considering developing general requirements that would promote animal welfare by minimizing risk to the animals, facility staff, and the public and that are commensurate with the risk posed by such animals.

Regulations could include, for example, activity-specific restrictions that would minimize risk; training requirements for the licensee and its employees; restrictions on participants (for example, age or number of people participating); and requirements for the animal involved (considering, for example, the risk to the public posed by the animal, including the animal's age, stage of development, or vaccination status).

We are considering requiring licensees to develop and implement a written plan specifying the measures that they will take to ensure compliance with the regulatory requirements for all public contact activities. The written plan would need to be signed and approved by an attending veterinarian and be available, upon request, for review by APHIS officials. A failure to follow the written plan would constitute a non-compliance with the AWA regulations and may result in enforcement proceedings.

We are seeking comment on our approach to regulating public contact activities with exhibited animals. Particularly, we are interested in receiving comments on the following questions:

- What general requirements should apply to all public contact activities, regardless of category (or species) of animal involved?

- What requirements or restrictions should apply to each of the four types of public contact activities involving Category 1 animals?
- What requirements or restrictions should apply to each of the four types of public contact activities involving Category 2 animals?
- What requirements or restrictions should apply to each of the four types of public contact activities involving Category 3 animals?
- Are there any requirements or restrictions that should apply only to a particular species involved in any one of the four types of public contact activities?
- Should any specific type of public contact activity involving any specific category of animal (or species) be prohibited?
- Should we require that an exhibitor file a written report within a specified period of time in the event of an animal escape, animal injury, or injury to the licensee or a member of the licensee's staff or the public? Should this requirement be limited to escapes or injuries involving specific categories (or species) of animals?
- If we choose to require a written plan specifying the measures that the licensee will take to ensure compliance with the regulatory requirements for all public contact activities, what specific requirements should the attending veterinarian consider when reviewing and/or approving public contact activities for each category (or species) of animal?
- What direct costs may be associated with developing a written plan for compliance for all public contact activities, including the cost and time it may take to develop a plan?
- Are there any reasonably foreseeable indirect costs (e.g., opportunity costs or overhead) that stem from the direct costs of developing a plan?



## Training of Individuals Handling Wild or Exotic Animals

We are also contemplating adding regulations regarding the training of licensees and staff of exhibitors who handle Category 1 and 2 animals at any time (including, but not limited to, handling during public contact activities). We welcome comments regarding training requirements that licensed exhibitors should be required to meet. We are particularly interested in comments regarding the nature of training that currently exists in the absence of APHIS requirements, including, but not limited to, the required duration and content of training, any particular training requirements for exhibitors who handle particular categories or species of animals, any differences in training requirements based on the extent or nature of the employee or volunteer's interaction with the animal, and any challenges that may exist in obtaining the necessary training. We are also seeking public comment on the costs that could be associated with training, if we were to require it, including the length of time that would be required to complete the training.

## Environmental Enrichment for Animals

As noted earlier, the regulations currently only contain requirements for the environmental enrichment of non-human primates and marine mammals. We are contemplating adding regulatory requirements to address species-specific environmental enrichment for all regulated animals. Enrichments may address the psychological needs of species known to exist in social groups; species-specific feeding, foraging, and food acquisition behaviors; and enclosure space, lighting, and design that allow for species-typical behaviors.

Environmental enrichment requirements could be implemented as performance standards, and licensees and registrants would be able to use their own expertise to determine the specific measures that they would implement to meet the proposed requirements. If this approach were adopted, we would require licensees and registrants to develop and implement a written plan specifying the measures that they would take to provide for the environmental enrichment of the animals in their care that would be signed and approved by an attending veterinarian and made

available to APHIS officials upon request. We anticipate that the licensee/registrant would be required to monitor the plan on an ongoing basis in order to ensure compliance with the plan and to make adjustments if warranted.

We are seeking comment on this approach to regulating environmental enrichment for regulated animals. Particularly, we are interested in receiving comments on the following questions:

- What, if any, general environmental enrichments should be required for all species?
- What environmental enrichments addressing psychological needs should be required for social species (in general or for particular species)?
- What environmental enrichments addressing natural feeding, foraging, and food acquisition behaviors should be required for animals in general, for certain taxa of animals, or for particular species?
- What environmental enrichments addressing enclosure space, lighting, and design to allow for species-typical behaviors should be required for animals in general, for certain taxa of animals, or for particular species?
- Are there other components or types of environmental enrichments we should consider when developing environmental enrichment requirements for certain taxa of animals or for particular species?
- If we choose to require a written plan, what specific requirements should the attending veterinarian consider when reviewing and/or approving the written plan?
- If environmental enrichment requirements were presented as performance standards, what guidance could APHIS provide to assist licensees and registrants to meet the performance standards?
- What direct costs may be associated with providing environment enrichment for the potentially affected animals in each category?

- Are there any reasonably foreseeable indirect costs (e.g., opportunity costs or overhead) that stem from these direct costs?

#### Environmental Impacts

APHIS seeks public comment on whether the changes being considered may require the preparation of an environmental assessment or environmental impact statement pursuant to the National Environmental Policy Act (NEPA). Comments will help inform APHIS as to the applicability of NEPA to modifications to the regulations regarding the handling of wild or exotic animals and environmental enrichment for animals.

#### Economic Considerations

APHIS seeks public comment on economic cost considerations for businesses, and in particular small businesses, associated with the amendments being considered. Specifically, we invite public comments on the number of entities that would be potentially impacted by the amendments to the regulations should we proceed to a proposed rule, and the costs associated with these amendments, and detailed comments on any additional costs that could be associated with the amendments to the regulations.

We welcome all comments on the issues outlined above and encourage the inclusion of supporting data.

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

Done in Washington, DC, this 21st day of December, 2022.

Jennifer Moffitt,

Under Secretary for Marketing and Regulatory Programs.