



## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

#### **9 CFR Parts 1 and 2**

**[Docket No. APHIS-2017-0062]**

**RIN 0579-AE35**

#### **Animal Welfare; Procedures for Applying for Licenses and Renewals**

**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 potential revisions to the licensing requirements under our Animal Welfare Act regulations to promote compliance with the Act, reduce licensing fees, and strengthen existing safeguards that prevent any individual whose license has been suspended or revoked, or who has a history of noncompliance, from obtaining a license or working with regulated animals. We are soliciting public comment on these topics to help us consider ways to reduce regulatory burden and more efficiently ensure the sustained compliance of licensees with the 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

<http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0062>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2017-0062, 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-2017-0062> 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. Kay Carter-Corker, Director, National Policy Staff, Animal Care, APHIS, USDA, 4700 River Road Unit 84, Riverdale, MD 20737; (301) 851-3748.

**SUPPLEMENTARY INFORMATION:** Under the Animal Welfare Act (AWA or the Act, 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 the Code of Federal Regulations (CFR) 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. Part 2 provides administrative requirements and sets forth institutional responsibilities for

regulated parties, including licensing requirements for dealers, operators of auction sales, and exhibitors. Dealers, exhibitors, and operators of auction sales are required to comply in all respects with the regulations and standards, pursuant to 9 CFR 2.100(a).

Under the current regulations, an applicant for an initial license is required to submit an application form, an application fee, and an annual license fee to APHIS-Animal Care (9 CFR 2.1(c)), acknowledge receipt of a copy of the regulations and agree to comply with them by signing the application form (9 CFR 2.2(a)), and demonstrate compliance with the AWA regulations and standards before APHIS can issue a license (9 CFR 2.3(a)). Once a licensee receives a license, a licensee renews his or her license by submitting an annual renewal form and license fee (9 CFR 2.1(d)(1)).

Although an applicant for renewal certifies, to the best of his or her knowledge and belief, that he or she is in compliance with all regulations and standards, the current regulations do not require the applicant to demonstrate compliance before APHIS renews his or her license. The current regulations also do not require a licensee to demonstrate compliance when the licensee makes any subsequent changes to his or her animals or facilities, including noteworthy changes in the number or type of animals used in regulated activity.

In this advance notice of proposed rulemaking, we are soliciting public comment on potential revisions to the licensing requirements to better promote sustained compliance with the AWA, reduce licensing fees and burdens, and strengthen existing safeguards that prevent individuals and businesses who are unfit to hold a license (such as any individual whose license has been suspended or revoked or who has a history of noncompliance) from obtaining a license or working with regulated animals. Potential regulatory changes we are considering include:

- Establishing a firm expiration date for licenses (e.g., after a 3-5 year period), after which the licensee would once again be required to affirmatively demonstrate compliance before obtaining another license;
- Specifying procedures to ensure licensees have ample time to apply for licenses and demonstrate compliance prior to the expiration of an existing license, and issuing conditional licenses to licensees with histories of compliance should they be in jeopardy of an inadvertent lapse in licensure during the license application process;
- Requiring licensees to affirmatively demonstrate compliance when making noteworthy changes subsequent to the issuance of a license in regard to the number, type, or location of animals used in regulated activities;
- Eliminating the application fee and annual license fee and assessing reasonable fees only for licenses issued (as in the example above, such as every 3-5 years);
- Requiring license applicants to disclose any animal cruelty convictions or other violations of Federal, State, or local laws or regulations pertaining to animals;
- With respect to pre-licensing inspections to assess compliance, reducing from three to two the number of opportunities an applicant has to correct deficiencies and take corrective measures before the applicant forfeits his or her application and fee and must reapply for a license;
- Closing a loophole in the current regulations that allows individuals and businesses, although they do not operate as bona fide exhibitors, to become licensed as such in order to circumvent State laws restricting ownership of exotic and wild animals to AWA-licensed exhibitors;

- Strengthening existing prohibitions to expressly restrict individuals and businesses whose licenses have been suspended or revoked from working for other regulated entities, and prevent individuals with histories of noncompliance (or orders suspending or revoking a license) from applying for new licenses through different individuals or business names; and
- Streamlining the procedures for denying a license application, terminating a license, and summarily suspending a license.

To aid in the development of those potential regulatory changes, we invite data and information from the public regarding potential economic effects, including benefits and costs, on dealers, operators of auction sales, and exhibitors, and potential alternatives to reduce regulatory burdens and more efficiently and consistently ensure sustained compliance of licensees with the AWA. In addition, we invite comments from the public on the following questions:

1. Should we propose to establish a firm expiration date for licenses (such as 3-5 years) and if so, what should that date be and why? Please provide supporting data.
2. What fees would be reasonable to assess for licenses issued? Are the existing license fees (9 CFR 2.6) reasonable, or should they be adjusted to take additional factors into consideration, such as the type of animals used in regulated activities? Please provide data in support of any proposed adjustments to the license fees.
3. In addition to the existing prohibitions on any person whose license has been suspended or revoked from buying, selling, transporting, exhibiting, or delivering for transportation animals during the period of suspension or revocation (9 CFR 2.10(c)), should such persons be prohibited from engaging in other activities involving animals regulated under

the AWA, such as working for other AWA-regulated entities or using other individual names or business entities to apply for a license? Please suggest specific activities that should be covered and provide supporting data and information.

4. Do you have any other specific concerns or recommendations for reducing regulatory burdens involving the licensing process or otherwise improving the licensing requirements under the AWA?

This action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. This action is not a regulatory action under Executive Order 13771.

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

Done in Washington, DC, this day of August 21, 2017.

**Michael C. Gregoire,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

**BILLING CODE 3410-34-P**

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