Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

[Docket No. APHIS–2017–0062]

RIN 0579–AE35

Animal Welfare; Amendments to Licensing Provisions and to Requirements for Dogs

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the licensing requirements under the Animal Welfare Act regulations to promote compliance, reduce licensing fees, and strengthen existing safeguards that prevent individuals and businesses who have a history of noncompliance from obtaining a license or working with regulated animals. This action will reduce regulatory burden with respect to licensing and will more efficiently ensure licensees' sustained compliance with the Act. We are further proposing to strengthen the veterinary care and watering standards for regulated dogs to better align the regulations with the humane care and treatment standards set by the Animal Welfare Act. Additionally, we are proposing to make several miscellaneous changes for clarity and to correct typographical errors.

DATES: We will consider all comments that we receive on or before May 21, 2019.

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: Ms. Christine Jones, Chief of Staff, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; (301) 851–3730.

SUPPLEMENTARY INFORMATION:

Background

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, exhibitors, operators of auction sales, research facilities, 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 (USDA'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. Definitions, 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. Part 2 provides administrative requirements and sets forth institutional responsibilities for regulated parties, including licensing requirements for dealers, exhibitors, and operators of auction sales. Dealers, exhibitors, and operators of auction sales are required to comply in all respects with the regulations and standards (9 CFR 2.100(a)) and to allow APHIS officials access to their place of business, facilities, animals, and records to inspect for compliance (9 CFR 2.126). Part 3 provides standards for the humane handling, care, treatment, and transportation of covered animals. Part 3 consists of subparts A through E, which contain specific standards for dogs and cats, guinea pigs and hamsters, rabbits, nonhuman primates, and marine mammals, respectively, and subpart F, which sets forth general standards for warmblooded animals not otherwise specified in that part.

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 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 person receives a license, the licensee may renew his or her license annually by submitting an annual renewal form and license fee (9 CFR 2.1(d)(1)).

Although an applicant for a license renewal must also certify, to the best of his or her knowledge and belief, that he or she is in compliance with all regulations and standards (9 CFR 2.2(b)), 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. For example, a licensee who obtained a license after demonstrating compliance with the standards for his or her rabbit breeding facility (subpart C of part 3), may subsequently acquire and deal or exhibit any number of dangerous animals (such as tigers, bears, and elephants), without first demonstrating compliance with the applicable standards for those animals (subpart F of part 3). Based on our knowledge and experience with administering and enforcing the AWA and regulations, we are concerned that licensees may struggle to achieve and maintain compliance after making such noteworthy changes to their animals used in regulated activity. In addition, we have observed licensees who have been licensed for many years struggle with compliance because they did not have adequate programs for maintaining compliance at aging facilities. Therefore, we believe that revisions to the

regulations are necessary to ensure that dealers, exhibitors, and operators of auction sales demonstrate compliance with the applicable standards in part 3, providing for the humane handling, care, treatment, and transportation of animals under the AWA, as described below.

In this proposed rule, we are proposing revisions to the licensing requirements to promote compliance, 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. We are also proposing revisions to the animal health and husbandry standards of part 3, subpart A, to increase safeguards for the adequate care and treatment of regulated dogs. The regulatory changes we are proposing include:

- Issuing fixed-term (non-renewable) licenses for dealers and exhibitors that expire after 3 years, at which time they would be required to demonstrate compliance before obtaining another fixed-term license;
- Specifying procedures for the issuance of temporary 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 and obtain a new license when making noteworthy changes subsequent to the issuance of a license; noteworthy changes are those with regard to the number, type, or location of animals used in regulated activities;
- Adjusting license fees consistent with other proposed changes;
- Requiring license applicants to disclose any pleas of *nolo contendere* (no contest) or any other findings of violation of Federal, State, or local laws or regulations pertaining to animal cruelty or the transportation, ownership, neglect, or welfare of animals, to assess their fitness for licensure (9 CFR 2.11);
- Preventing individuals and businesses not operating as bona fide exhibitors from becoming licensed 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 regulated entities, and prevent individuals and businesses with histories of noncompliance from applying for new licenses through different individuals or business names; and
- Specifying provisions to ensure adequate access to water and veterinary care for dogs.

Additionally, we are proposing several miscellaneous changes to the AWA regulations, including updating the titles of APHIS officials referenced in the regulations to reflect the current organizational structure (such as replacing the references to the ''Regional Director'' with the ''Deputy Administrator''), clarifying the definition of ''business hours,'' and correcting typographical errors.

Advance Notice of Proposed Rulemaking

On August 24, 2017, we published in the **Federal Register** (82 FR 40077–40078, Docket No. APHIS–2017–0062) an advance notice of proposed rulemaking (ANPR) in which we solicited comments from the public regarding potential revisions to the regulations. We solicited comments for 60 days ending October 23, 2017, and extended the comment period for an additional 10 days ending November 2, 2017. We received more than 47,000 comments by that date, of which approximately 8,500 were unique (not duplicate or form letter) comments. They were from private citizens, breeders, exhibitors, animal welfare activists, and professional organizations. We have reviewed and considered all of the comments and any information submitted with the comments. The issues raised by commenters are discussed below by topic.

License Renewal

Among other things, the ANPR requested comments on issuing fixed-term (non-renewable) licenses that expire after 3–5 years. A large number of commenters agreed with the example given in the ANPR to have licenses expire with the expectation that the issuance of a new license would be contingent upon affirmative demonstrations of compliance with AWA regulations. Many commenters indicated a specific number of years for license expiration within a 1–5 year range. Numerous commenters were also critical of the current renewal process wherein licensees self-certify AWA compliance; these commenters asked that USDA stop ''rubber-stamping'' license renewals and generally supported the proposal for licensees to affirmatively demonstrate compliance prior to any period of licensure.

Some commenters expressed concerns regarding the impact of rule changes on licensees who are compliant under current standards, and questioned the degree of flexibility that would be afforded to compliant licensees under revised rules. In response to this concern, we note that we have included flexibilities in this proposed rule for the issuance of temporary licenses to licensees with histories of compliance should they be in jeopardy of an inadvertent lapse in licensure during the license application process.

Other commenters expressed concerns as to the impact rule changes would have on continued compliance, indicating that a longer period of time between license renewals could result in complacency among licensees with respect to animal welfare. In addition, many commenters indicated that inspections should continue along with annual license renewals. In response to these comments, we note that no demonstration of compliance is currently required at the time of renewal. In addition, we will continue to conduct animal welfare compliance inspections through the period of licensure in accordance with our risk-based inspection system.

Several commenters requested a clarification of the term ''affirmative demonstration of compliance,'' with some requesting that such clarification include a set of objective standards. A number of commenters requested that license renewals only be issued for licensees with no non-compliances for a lengthy period (up to 5 years). One commenter suggested a change to inspection procedures in which a first inspection would take place soon after a license is issued, *e.g.,* 6 months. Another commenter suggested that renewals should include inspection and/or certification by a veterinarian that animals are in good health and receive regular care. The same commenter also suggested that a process be instituted to allow for complaints from the public against licensees suspected of noncompliance.

We appreciate these comments and wish to clarify that, by an ''affirmative demonstration of compliance,'' we meant that the applicant must demonstrate that his or her premises and animals, facilities, vehicles, equipment, and premises used or intended for use in the business comply with the requirements set forth in parts 2 and 3 of the regulations, as is currently required in § 2.3 of the regulations. In addition to the inspections conducted by Animal Care prior to the issuance of a license, we also have the authority to conduct inspections throughout the period of licensure. With regard to veterinarian

inspections, we note that § 2.40 of the regulations already requires dealers and exhibitors to employ an attending veterinarian under formal arrangements and to have programs of adequate veterinary care. Finally, Animal Care has a process for members of the public to report concerns about AWA-covered animals. For more information or to file such a complaint, please visit our website at: *https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/complaint-form.* (Scroll to the bottom of the web page to access the form.)

Among the commenters who opposed the issuance of fixed-term licenses, many viewed such a proposal as placing undue burden on licensees who would have to reapply every few years, instead of annually renew. One commenter expressed concern that such a revision would increase the potential for biased inspectors to take advantage of licensees. Another commenter recommended against the issuance of fixed-term licenses unless license numbers could be preserved, and stated that a uniform expiration of licenses at the same time of year could create a backlog for inspections and result in lapsed licenses for compliant breeders. A few commenters indicated that APHIS does not have authority under the AWA to set expiration dates on licenses.

As discussed in the economic analyses supporting this rulemaking, this proposed rule would reduce licensing fees and paperwork burdens on individuals and businesses seeking an AWA license. While the current regulations require an annual license application and fees ranging from $40 to $760 annually, this proposed rule would only require an application and a flat $120 fee every 3 years, which would be equivalent to the current lowest fee of $40 (if prorated annually over 3 years). Accordingly, we do not believe that the licensing component of this proposal places additional or undue burdens on license holders or applicants and will in fact reduce paperwork burdens on them, as well as reduce licensing fees for many of them.

This proposal also retains, with modifications discussed below, the current process for demonstrating compliance prior to the issuance of a license, which allows an applicant three opportunities (inspections) to make such a demonstration (9 CFR 2.3(b)). We also note that Animal Care has a process in place to appeal disputed inspection findings.[1] This proposed rule establishes a process for license applicants to appeal inspection findings from the third pre-license inspection, and codifies the existing opportunity for licensees and registrants to appeal all other compliance inspection findings during the period of licensure. With regard to the timing of license expirations, we do not intend to set a uniform expiration date for all licensees but would rather continue our current practice of accepting applications and issuing licenses on a rolling basis throughout the year. Finally, we wish to clarify that all licenses currently have expiration dates—they expire 1 year after issuance, and may be renewed annually. This proposed rule would extend this period of licensure to 3 years, but require an application for license and demonstration of compliance prior to the issuance of a new license. This proposal is consistent with section 2133 of the Act, which prohibits the issuance of a license until the dealer or exhibitor has demonstrated that his facilities comply with the standards promulgated by the Secretary pursuant to section 2143. Furthermore, section 2133 of the Act gives the Secretary the authority to issue licenses to dealers and exhibitors upon application therefor in such form and manner as he may prescribe, which includes the authority to set expiration dates for those licenses.

Licensing Fees

In response to the ANPR's request for comments on licensing fees, many commenters opposed the overall elimination of application and license renewal fees, and called for an increase in fees to more accurately reflect the cost of administering the regulations and reducing the burden on taxpayers. Many commenters also suggested that fees should be implemented in accordance with a sliding scale based on income, or based on the number of animals being bred and sold. Some commenters indicated that increasing licensing fees would positively impact animal welfare by weeding out unscrupulous breeders who may not wish to pay the fee amounts. One commenter stated that it makes sense to charge license fees only when issuing a license, but that the application fee should not be eliminated in order to pay for the processing of an application and the performance of the inspection. Another commenter suggested that fees be discounted based on the number of species for which an applicant is licensed.

Some commenters supported the implementation of reasonable fees that would be assessed with the issuance of a license. One such commenter stated that the structure of fees that would be assessed every 3 to 5 years should be based on a formal economic analysis and be broadly comparable to the existing annual fees. Adjustments to reduce burdens on small or non-profit entities also should be considered. A few commenters indicated that license fees should be eliminated so as to loosen requirements for small volume breeders.

Section 2153 of the AWA authorizes USDA to collect reasonable fees for licenses issued and to adjust fees on an equitable basis, taking into consideration the type and nature of the operations to be licensed. These fees are deposited into the Treasury as miscellaneous receipts, and are not a user fee to cover the cost of administering the regulations. In developing this fee, we took into account the type and nature of operations to be licensed and conducted a formal economic analysis. One alternative to a flat fee that we considered was to establish scaled fees, similar to those in the current regulations. However, we found it difficult to do so in an equitable way. For example, some dealers and exhibitors with small numbers of animals may derive significant income from their regulated activities, while other dealers and exhibitors with large numbers of animals may derive more modest incomes from their activities, based on the types of animals, location of their business, business model, and a variety of other factors. As discussed, we are proposing a flat fee of $120 for licensure, which represents a fee that is comparable to, or in many cases reduced from, existing fees for licensure. In addition to being an equitable fee for licenses, the proposed fee structure would allow for more efficient and streamlined business processes for Animal Care, and would simplify the calculation of licensing fees for applicants.

License Compliance; Temporary Licenses

Compliance with the regulations was a subject of concern for many commenters. A large number of commenters expressed support for the proposed provision to require licensees to demonstrate compliance with the AWA and regulations when making noteworthy changes to the number, type, or location of animals used in regulated activities. Some commenters requested additional clarification on the meaning of the terms ''noteworthy changes'' and ''affirmatively demonstrate compliance.'' A few commenters did not agree with this proposed change, noting that

[1] *https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/sa_publications.*

inspections are sufficient to determine noteworthy changes and that additional reporting would be unnecessary. As discussed below, this proposal sets forth specifics on what changes would trigger the need for a new license.

Pre-licensing inspections was one topic discussed in the ANPR, with a proposed provision to reduce, from three to two, the number of opportunities an applicant has to correct deficiencies and take corrective measures before forfeiting his or her license application and fee. Although many commenters supported this provision, others raised concerns regarding the input of potentially ''bad'' inspectors, the imposition of financial burden upon licensees in the event of repeated findings of deficiency, and the appearance of pre-license inspections becoming too much of a problem-finding mission as opposed to an opportunity to educate and foster a learning process for license applicants. A few commenters suggested that such a reduction in the number of opportunities for applicants to correct deficiencies should be determined on a case-by-case basis depending on the type of deficiency identified.

In this proposed rule, we have elected not to propose any changes to the number of opportunities an applicant has to correct deficiencies and take corrective measures before forfeiting his or her license application and fee.

In the ANPR, another potential regulatory change under consideration was for APHIS to specify procedures to ensure licensees have ample time to apply for licenses and demonstrate compliance prior to the expiration of an existing license. Issuance of conditional or temporary licenses to those who submitted an application before the expiration of his or her current license and have a history of compliance, but nevertheless experience an inadvertent lapse in licensure, would be one way to ensure continuity of licensure under any new requirements.

Some commenters questioned the issuance of a temporary license and how such an issuance would work. One such commenter stated that the timelines outlined in the ANPR did not provide a comprehensive view of the process for licensing that would prevent inadvertent lapses in licensure. The same commenter also noted that requiring compliant businesses to have additional inspections would obligate businesses to make a substantial investment to ensure their site is in full compliance at the moment of inspection, leading to potential breaks in business continuity. Another commenter asked what would qualify as ''ample time'' to demonstrate compliance prior to the expiration of an existing license. Another commenter stated that the term ''conditional'' carries a negative connotation and suggested the term ''provisional'' license instead.

This proposed rule refers to conditional licenses as temporary licenses in response to these comments and sets forth specific information on the proposed temporary licensure process. With regard to the commenter's concern that businesses would have to invest resources to be in full compliance, we wish to make clear that licensees are required to be in full compliance at all times under the Act and regulations.

Disclosure of Violations and Convictions Involving Animal Laws; Strengthening Prohibitions

A large number of commenters expressed strong support for the suggested regulatory provision for license applicants to disclose incidences of violations and convictions involving animal-related laws. Suggestions from commenters related to this provision included: Denying licenses to individuals with a history of noncompliance, open investigations, or interference with APHIS officials; detailing timeframes, scope, and costs for any such regulations; suspending licenses for noncompliant breeders with repeat violations in a 5-year time period; offering case-by-case considerations for applicants who disclose convictions involving animal-related laws; and requesting that APHIS issue fines for initial disclosures of animal abuse, with prohibition of a license occurring upon a second AWA violation.

Some commenters stated that there is no positive value to a provision requiring applicants to disclose animal cruelty convictions or other violations of Federal, State, or local laws pertaining to animals. One commenter stated that such a disclosure for a single violation could cause unjust harm to an applicant's reputation, and suggested that only multiple violations should be disclosed.

The current regulations already set forth provisions for the denial of a license for persons with animal cruelty convictions and certain other violations of Federal, State, or local laws pertaining to animals (9 CFR 2.11). This proposed rule would support Animal Care's administration of this existing licensing restriction by requiring affirmative disclosure of such violations at the time of application.

On the proposed topic of strengthening existing prohibitions for persons with suspended or revoked licenses, including restricting individuals whose licenses have been suspended or revoked from working for other regulated entities, the majority of commenters expressed broad support for this proposal. Specific comments related to this topic included requiring business owners to provide proof of identity and employee lists to APHIS on an annual basis, creating a grading system for violations and their consequences, and increasing publicly available data related to those with violations related to animal mistreatment or neglect. We appreciate these comments and have set forth specific provisions for public comment in this proposed rule.

Other Concerns

Many commenters expressed a general criticism of current USDA enforcement of the AWA and regulations. Such criticism often also extended to the lack of transparency of documentation that is available to the public regarding alleged AWA violators. Other concerns mentioned by commenters—some of which fell outside the scope of the ANPR—included the use of unannounced inspections for licensees (which some commenters cited as overly burdensome and time-constraining); support for streamlining procedures for denying, terminating, and summarily suspending a license; support for preventing individuals with a history of noncompliance from using alternate names to apply for new licenses or otherwise circumventing ownership laws; specific concerns related to the care of an elephant named ''Nosey''; and requests for animal shelters and rescues to be subject to the same regulations as USDA-licensed breeders.

Based on our review of the ANPR comments, information submitted by stakeholders, and our own experience with administering AWA regulations, we are now proposing to amend the regulations concerning licensing. Each of the proposed changes is discussed in detail below.

Definitions

We propose to amend § 1.1 of the regulations, ''Definitions,'' by removing the term and definition for *AC Regional Director,* because Animal Care is no longer divided up into regions and this title and position have changed. References to the AC Regional Director, or to a regional office, would be replaced with references to the Animal Care Deputy Administrator or the appropriate Animal Care office, respectively.

We further propose to amend the definition for *business hours,* which are the hours during which licensees must allow APHIS officials access to their places of business and their facilities, animals, and records to inspect for compliance with the AWA and regulations. Currently, the regulations define *business hours* to mean a reasonable number of hours between 7 a.m. and 7 p.m., Monday through Friday, except for legal Federal holidays, each week of the year, during which such inspections may be made. However, we have observed a number of licensees who are not available a reasonable number of hours during these times because they have full-time employment elsewhere during the weekdays or because they operate at reduced hours on weekdays to allow customers to visit their place of business on the weekends. To reflect these business practices, and to ensure that such licensees are able to make their place of business and facilities, animals, and records available for inspection at all reasonable times, as required by the Act, we are proposing to remove the words ''Monday through Friday, except for legal Federal holidays'' from the definition of *business hours.* APHIS will continue to coordinate with licensees and registrants who do not maintain regular public business hours to establish optimal times for inspection, as necessary.

Licensing Requirements

We propose to amend § 2.1 of the regulations, ''Requirements and application.'' We would revise some of the phrasing in paragraph (a)(1) for clarity and would remove the phrases ''intending to'' or ''intends to'' operate where they appear in this paragraph. These revisions would aim to prevent the issuance of licenses to those who do not operate as bona fide exhibitors (*i.e.,* they never exhibit their animals to the public for compensation), but become licensed to circumvent State laws restricting animal ownership.

We also would update the information required for license applications, which would include:

- The name of the person applying for the license;
- A valid mailing address for the applicant;
- A valid address for all premises, facilities, or locations where animals, facilities, equipment, and records are held, kept or maintained;
- The anticipated maximum number of animals on hand at any one single point in time during that period of licensure;
- The anticipated type of animals to be owned, held, maintained, sold, or exhibited, including those animals leased, during the 3-year period of licensure; and, if the anticipated type of animals includes exotic or wild animals, information and records demonstrating that the applicant has adequate knowledge of and experience with of those animals (such as experience carefully handling the animals in a manner that does not cause behavior stress, physical harm or unnecessary discomfort, using methods to train, work, and handle the animals that do not involve physical abuse, providing humane husbandry, care, and housing for the animals, and, if used for public exhibition, experience handling the animal so there is minimal risk of harm to the animal and the public, and consideration of the needs for performing animals, young or immature animals, and animals that are fed by the public);
- If the person is seeking a license as an exhibitor, whether the person intends to exhibit any animal at any location other than the person's approved site(s); and
- The disclosure of any plea of *nolo contendere* (no contest) or finding of violation of Federal, State, or local laws or regulations pertaining to animal cruelty or the transportation, ownership, neglect, or welfare of animals.

We would amend paragraph (a)(2) to remove outdated language pertaining to applicants who operate businesses in more than one State. We also would revise language regarding license fees to remove references to fee tables; instead, completed applications would include a flat $120 license fee to be submitted to the appropriate Animal Care office.

Paragraph (b) currently states the requirement that no person shall have more than one license. We would expand this paragraph to combine it with existing restrictions on the issuance of licenses from existing § 2.5(d), which provide that licenses are issued to specific persons for specific premises and do not transfer upon change of ownership, nor are they valid at a different location. We would expand these restrictions to make clear that licenses are issued to specific persons, and for specific activities, animals, and approved sites, and that licenses are not valid upon changes of ownership, locations, activities, or animals. New licenses would have to be obtained in the event of such changes. Any changes to a licensee's name, address, management, substantial control or ownership of his/her business or operation, locations, activities, and number or type of animals described in proposed paragraph (b)(2) would have to be reported to APHIS Animal Care no fewer than 90 days before such changes take effect. Any person who is subject to the regulations and who intends to exhibit any animal at any location other than the person's approved site (such as circuses and traveling educational exhibits or animal acts) would have to provide that information on his/her application form in accordance with paragraph (a) of § 2.1 (as discussed above) and submit written itineraries in accordance with § 2.126. If the application did not provide such information, then a new application would have to be submitted and a new license obtained before exhibiting at locations other than the person's approved site.

Proposed paragraph (b)(2) would state that licenses authorize increments of 50 animals on hand at any single point in time during the period of licensure, and that licensees must obtain a new license before any change resulting in more than the authorized number of animals on hand at any single point in time. For example, a dog breeder with 30–40 breeding female dogs should apply for a license to hold 100 dogs and demonstrate compliance to house 100 dogs (adults and puppies) to accommodate anticipated births from the dogs. Since the breeder business model is predicated on selling puppies at or shortly after 8-weeks of age, the applicant would have to demonstrate the ability to safely handle, house, and care for up to 100 dogs (adult and puppies) at the time of pre-license inspection. The pre-license demonstration of compliance would take into account the species of dog, the number of breeding female dogs, the projected litter size, and the facility's business model for selling and placing puppies and adult dogs who are no longer used for breeding purposes. Paragraph (b)(2) would also state that licenses authorize the use of animals by subpart A through F in part 3, except that, for subparts D and F, licenses separately authorize the use of each of the following groups of animals: (1) Group 5 and 6 nonhuman primates, (2) big cats or large felids (lions, tigers, leopards, cheetahs, jaguars, cougars, and any hybrid cross thereof), (3) wolves, (4) bears, and (5) mega-herbivores (elephants, rhinoceroses, hippopotamuses, and giraffes). These groups of animals would have to be separately authorized because these animals are dangerous and have unique regulatory and care needs. Licensees would also be required to obtain a new license before using any animals beyond

those animals authorized for use under the existing license for activities for which a license is required. For example, if an applicant obtained a 3-year license after demonstrating compliance with the regulations in part 2 and the standards pertaining to dogs and cats (subpart A of part 3), but later decides that he or she wishes to also acquire and use rabbits for activities that require a license, that person would need to apply for a new license and demonstrate compliance with all applicable regulations and standards, including the standards pertaining to dogs, cats, and rabbits (subparts A and C of part 3), and obtain a new license, before using the rabbits for such activities.

Paragraph (c)(2) would be amended, with existing language related to application, initial, and renewal license fees removed and replaced with the proposed flat license fee of $120 and corresponding payment information. Similarly, in paragraph (d) we propose to remove language regarding license renewals and fees, since these would no longer be in effect under this proposal. Finally, we propose to redesignate paragraph (e) as paragraph (d).

We propose to amend § 2.2 of the regulations, ''Acknowledgement of regulations and standards,'' by removing language related to initial and renewal license applications, since these would no longer be in effect under the current proposal. We also would clarify that, upon request, a license applicant would receive a copy of the Act and the regulations and standards from Animal Care, which are also available for public review on the internet.[2] We are proposing to make this change because we have found that the vast majority of applicants and licensees have access to the internet, and it is costly to the Agency to send paper copies of the regulations and standards to them by postal mail. If an applicant or licensee would like to receive a paper copy, however, we stand ready to send one to them upon request. All license applicants would continue to be required to review the regulations and standards and agree to comply with them by signing the application form before a license would be issued.

We propose to amend § 2.3 of the regulations, ''Demonstration of compliance with standards and regulations,'' by adding that the applicant must agree to comply with the Act and the regulations and standards before APHIS will issue a license. In addition, we propose to refine some of the existing language in this section. In paragraph (b), we would clarify that no license will be issued until the license applicant demonstrates that he or she is in full compliance with the Act and the regulations and standards upon inspection. We also would add provisions to explain that all applicants would be granted up to three inspections within a 60-day period to demonstrate compliance with the Act and regulations, and, should applicants fail to demonstrate compliance during the third pre-license inspection, providing applicants with the opportunity to appeal the findings of such inspection to the Deputy Administrator within 7 days of receiving the report. Should APHIS reject any appeal, APHIS would notify the applicant of the Agency's denial of the license application. Within 30 days of receiving such notice, an applicant may request a hearing to contest the Agency's denial of the license application.

Additionally, an applicant who holds a valid license at the time he or she submitted the application that has been denied, and who submitted a timely appeal of the inspection findings from the third pre-license inspection, would be able to request an expedited hearing before an administrative law judge (ALJ), and the valid license would remain in effect until the ALJ issues his or her initial decision. Specifics of the process for requesting a hearing would be further described in § 2.11(b). The provisions described in the new § 2.11(b) are intended to afford adequate constitutionally mandated due process protections to current license holders, while maintaining proper regard for the policy of Congress to insure the humane care and treatment of covered animals. We invite public comment on the proposed licensing provisions and any suggested alternatives.

We propose to amend § 2.5 of the regulations, ''Duration of license and termination of license.'' In paragraph (a), we would state that licenses issued under part 2 will be valid and effective for a period of 3 years unless certain circumstances arise. Consistent with the current regulations, a license would not be valid if it has been revoked or suspended pursuant to section 19 of the Act or the license is voluntarily terminated upon request of the licensee, in writing, to the Deputy Administrator. Also in paragraph (a), we would retain the current restriction that a license is valid unless it has expired, while proposing to allow for the issuance of temporary licenses under certain conditions. Specifically, the conditions for the issuance of a temporary license under proposed paragraph (a)(3)(i) would be for applicants who submit the appropriate application form before the expiration date of a preceding license, and for the applicant to have had no noncompliances with the Act or regulations documented on an inspection report during the preceding period of licensure. To ensure that applicants can take full advantage of the three pre-licensing inspections provided for in § 2.3(b) to demonstrate compliance with the regulations and standards, current licensees will be encouraged to apply 4 months prior to the expiration of their license. In proposed paragraph (a)(3)(ii), we would provide that a license would remain valid and in effect if an applicant meets the criteria in § 2.11(b)(2), until the ALJ issues his or her initial decision involving the denial of a license application. Finally, we would make clear in paragraph (a)(4) that there will not be a refund of the licensing fee if a license is denied, terminated, suspended, or revoked prior to its expiration date.

We would remove existing paragraph (b) as it relates to license renewals and annual fees that would no longer be in effect under the current proposal. We would then redesignate paragraph (c) as paragraph (b). We would remove existing paragraph (d), since its language would be included in requirements under proposed § 2.1, paragraph (b)(1). We would then redesignate paragraph (e) as paragraph (c).

We propose to remove and reserve §§ 2.6, 2.7, and 2.8. The information and fee tables related to initial and annual license fees and annual license reports contained under existing §§ 2.6 and 2.7 would no longer be applicable under the current proposal. As noted above, the information contained in existing § 2.8 related to notification of change of name, address, control, or ownership of business would be included under provisions in proposed § 2.1(b).

We propose to amend § 2.9, ''Officers, agents, and employees of licensees whose licenses have been suspended or revoked.'' In the description of a person who has been or is an officer, agent, or employee of a licensee and who was responsible for or participated in a violation upon which an order of suspension or revocation was based, we would replace ''a violation'' with ''activities.'' This change would make clear that this prohibition applies to licensees whose licenses have been suspended or revoked through consent decisions and orders that do not include findings of violations and other similar

[2] *https://www.aphis.usda.gov/animal_welfare/downloads/AC_BlueBook_AWA_FINAL_2017_508comp.pdf.*

settlement agreements. We also would add that such a person would not only be prohibited from obtaining a license as a dealer or exhibitor, but would also be prohibited from being registered as a carrier, intermediate handler, exhibitor, or research facility within the period during which the order of suspension or revocation is in effect.

We propose to amend § 2.10, ''Licensees whose licenses have been suspended or revoked.'' We would add language in paragraphs (a), (b), and (c) to require that persons with suspended or revoked licenses shall not be registered as an exhibitor, research facility, carrier, or intermediate handler, in addition to not being licensed, within the period during which the order of suspension or revocation is in effect. In paragraph (c), we would add that any person whose license has been suspended or revoked shall not shall not buy, sell, transport, exhibit, or deliver for transportation, any animal during the period of suspension or revocation under any circumstances, whether on behalf of themselves or another. In paragraph (a), we would replace ''AC Regional Director'' with ''Deputy Administrator,'' consistent with our proposal to update these terms.

We propose to amend § 2.11, ''Denial of initial license application.'' We would remove the word ''initial'' from the section heading in light of the proposed application process for fixed-term licenses. We also would adjust the section reference in paragraph (a)(1) to reflect the change in location of fee information (from existing § 2.6 to proposed § 2.1), and would add a new paragraph (a)(4) to include the denial of a license application to any applicant who was an officer, agent, or employee of a licensee whose license has been suspended or revoked, as set forth in § 2.9. We would then redesignate existing paragraphs (a)(4) through (6) as (a)(5) through (7). In proposed paragraph (a)(5), we also would conform the length of time during which an application can be denied due to a *nolo contendere* (no contest) plea or finding of a violation of any Federal, State, or local laws or regulations pertaining to animal cruelty with the proposed 3-year period of licensure. We would clarify in paragraph (a)(2) that a license will not be issued to any applicant who is not in compliance with the Act (in addition to the regulations and standards) and in paragraph (d) that no license will be issued under circumstances that the Administrator determines would circumvent any order, stipulation, or settlement agreement suspending, revoking, terminating, or denying a license or disqualifying a person from engaging in activities under the Act.

In proposed paragraph (b), we would add provisions to outline the process through which an applicant whose license application has been denied may request an expedited hearing before an administrative law judge. This process would be available to applicants who hold a valid license at the time they submitted a new license application, submitted the new license application no fewer than 90 days prior to the expiration of the valid license, and who submitted a timely appeal contesting the finding(s) from the third pre-license inspection. Applicants meeting these criteria would receive an expedited hearing no later than 30 days after receipt of the hearing request. Furthermore, the ALJ must issue his or her initial decision within 30 days of the hearing. The license the applicant held at the time he or she submitted the new license application would remain valid and in effect until the ALJ issued his or her initial decision. In the event the ALJ issued a decision affirming the Agency's denial of the license application, the license would terminate immediately and the applicant would not be eligible for any temporary license if he or she elected to appeal the ALJ's initial decision.

We propose to add a new § 2.13, ''Appeal of Inspection Report,'' to explain the process by which a licensee or registrant may appeal the findings of an inspection report. To receive consideration, the appeal must be received by the Deputy Administrator within 21 days of the date the licensee or registration received the inspection report and must contain a written statement contesting the inspection findings and include any documentation or other information in support of the appeal.

We propose to amend § 2.38, ''Miscellaneous,'' by eliminating the statement that APHIS will publish lists of research facilities in the **Federal Register**. APHIS is undertaking this change to reflect both current business practices of publishing information using public websites for ease of access, and the Agency's practice of maintaining and regularly updating a list of registered research facilities on the APHIS website. Consistent with the existing provision, interested parties may continue to request the list from the Deputy Administrator.

We propose to amend § 2.127, ''Publication of names of persons subject to the provisions of this part,'' by replacing the word ''names'' in the title with the word ''lists,'' and by removing the statement that the list will be published in the **Federal Register**. As noted above, APHIS is undertaking this change to reflect current business practices of publishing information on its website, including a list of persons who are licensed and registered with APHIS under the AWA. Consistent with the existing provision, interested parties may continue to request the list from the Deputy Administrator.

Importation of Live Dogs

We are proposing several clarifying edits to the importation of live dog regulations for consistency and conformance with the Act. We propose to amend § 2.150, ''Import permit,'' by removing the words ''research, or veterinary treatment'' in paragraph (a) and adding the words ''resale for'' before the words ''research purposes'' in paragraph (c)(8). We would also clarify § 2.151, ''Certifications,'' by removing the words ''research, or veterinary treatment'' in paragraph (a), adding the words ''resale for'' before the words ''use in research'' in the first sentence of paragraph (b)(1), and adding the words ''and subsequent resale'' in the discussion of veterinary treatment by a licensed veterinarian in paragraph (b)(2). These changes would harmonize the regulations with the Act and make clear that dogs intended for resale for research purposes, or dogs intended for resale following veterinary treatment, must be imported with an import permit and accompanying certifications, except as provided in § 2.151(b).

We would also amend § 2.153 by adding the words ''or the Act'' immediately after the words ''this subpart.'' We are proposing this change to make clear that the removal and seizure procedures in this section apply to noncompliance with the Act as well as the regulations.

Finally, for consistency with the AWA and regulations, we would remove the words ''continental United States or Hawaii'' everywhere they appear in the import of live dogs regulations and replace them with the word ''States,'' which is defined in part 1 to mean ''a State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.'' This change would make clear that no import permit is required when transporting dogs within the United States.

Animal Health and Husbandry Standards

In addition to the licensing revisions, we considered making changes to requirements in the animal health and

husbandry standards in subpart A of part 3 that would better align the regulations with standards of humane animal treatment established under the AWA. One option under consideration was to revise various provisions pertaining to the care of dogs, particularly in relation to housing and access to water, among other things. For example, current regulations require that dogs that do not have continual access to water must be offered water not less than twice daily for at least 1 hour each time. Although lack of continual access to water is generally not a risk to healthy dogs, when other stress factors are present (*e.g.* ill, infirm, pregnant, or young dogs, and/or exposure to temperature extremes), lack of access to water may escalate health consequences. We contemplated adding a provision that would account for the unique watering needs for certain dogs, short of requiring that the animals have 24-hour access to clean, drinkable water to promote their health and well-being. However, in examining the issues and accounting for the animal health and well-being factors involved, we determined that the most prudent approach would be to include such a provision requiring all dogs to have 24-hour access to water. In addition, we are proposing specific veterinary care requirements for dogs. It is our expectation that adding this would strengthen arrangements between licensees and registrants and their attending veterinarians and enhance preventative and ongoing care for dogs, and, coupled with continual access to water—by which we mean constant, uninterrupted access at all times—would result in the greatest benefit to health and well-being of dogs. Accordingly, we propose to revise § 3.10 to add a provision that requires dogs to have continual access to potable water, unless restricted by the attending veterinarian.

We also propose to amend the veterinary care requirements for dogs in a new § 3.13. We would expand existing regulations in subpart D requiring dealers and exhibitors to establish and maintain an adequate program of veterinary care (PVC) for regulated animals. Proposed § 3.13 would require that each dealer, exhibitor, and research facility must follow an appropriate PVC for dogs that is developed, documented in writing, and signed by an attending veterinarian, that includes annual, hands-on veterinary exams for adult dogs by the attending veterinarian and addresses husbandry issues for hair coat, toenails, teeth, skin, and ears. These annual veterinary exams would be required in addition to existing veterinary care requirements that provide for regularly scheduled visits by the attending veterinarian to premises where animals are kept to ensure the adequacy of animal care and use. Dealers, exhibitors, and research facilities would be required to keep and maintain the written program and to make it available for inspection by APHIS. Other proposed provisions would require vaccinations—unless contraindicated for health reasons or unless otherwise required by a research protocol approved by the Institutional Animal Care and Use Committee at research facilities—for contagious and deadly diseases of dogs (including rabies, parvovirus, and distemper), appropriate preventative care and treatment, and recordkeeping requirements for veterinary and preventive care that the dogs receive.

The expanded PVC would guide facilities with dogs in practicing a minimum level of acceptable husbandry and in maintaining records of preventative care and the treatment of ill or injured dogs. Annual hands-on physical exams by the attending veterinarian would allow for evaluation of factors that could affect the dogs' health, well-being, and ability to reproduce. Health problems that are detected early could receive timely and appropriate veterinary care. A required husbandry program would help ensure the overall health of adult dogs and puppies, thereby preventing avoidable disease, illness, and injury. Required medical records would help facilities keep track of incidents, treatments and progress of care, and would also allow facilities to track individual health trends and the frequency of illnesses and injuries for the kennel as a whole.

Miscellaneous

Throughout parts 1, 2, and 3, we propose to update any and all references to ''AC Regional Director'' with ''Deputy Administrator'' to more accurately reflect the current position title in use. Similarly, we propose to update any and all references to ''regional offices'' with the appropriate Animal Care office. Animal Care maintains information regarding its offices and services on the APHIS website, and directs callers to the appropriate Animal Care office or person who is best able to assist them. In addition, APHIS maintains a website to assist the public with reaching the appropriate point of contact for each program area.[3] These interactive services will continue to ensure individuals have information about Animal Care's offices and services.

We also propose to correct minor typographical errors in §§ 2.38, 3.61, 3.78, and 3.110. We would replace an erroneous period with a comma in § 2.38(g)(1), correct the spelling of ''species'' in § 3.61(b), correct the spelling of ''words'' in § 3.61(f), replace an unintended zero with the letter ''O'' in § 3.78, and remove an inadvertently repetitive phrase in § 3.110(a). Finally, we propose to correct erroneous citations to the health certificate requirements that appear in three places in the regulations. Instead of listing § 2.78 as the section containing the health certificate requirements, §§ 2.75 and 2.77 erroneously list the section as § 2.79. Executive Orders 12866, 13563, and 13771 and Regulatory Flexibility Act.

This proposed rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. This proposed rule is expected to be an Executive Order 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in the rule's economic analysis.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides an initial regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* website (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

Based on the information we have thus far, the Agency does not believe that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary

[3] See *https://www.aphis.usda.gov/aphis/banner/contactus/sa_animal_welfare* and *https://www.usda.gov/ask-expert.*

for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

APHIS is proposing revisions to the licensing requirements to promote compliance with the Animal Welfare Act (AWA), as well as strengthen existing safeguards that prevent individuals and businesses that are unfit to hold a license from obtaining a license or from working with regulated animals. Licensees would be required to affirmatively demonstrate compliance and pay the associated license fee once every 3 years rather than renew their certification of regulatory compliance every year. In addition, the fee would be changed to a flat rate rather than a set of tiered rates. This action would promote AWA compliance by requiring that regulated businesses affirmatively demonstrate regulatory compliance when applying for or renewing a license. It would reduce the license fee for most regulated entities and would reduce the compliance paperwork burden for all licensees.

In addition, there would be cost savings in terms of the reduced time (clerical work) needed to complete and submit initial and renewal license applications. As shown in table 3 of the full analysis, the combined fee and clerical work cost savings would range between about $633,000 and $2.1 million.

APHIS considered several alternatives in developing various aspects of the proposed rule. Regarding the types of animals that would trigger the need for a new license, APHIS considered requiring a new license for all exotic or wild animal changes, but rejected this alternative because it would result in unnecessary renewals (*e.g.,* gerbils can be exotic/wild). Instead, APHIS proposes to require a new license for types of animals that are dangerous and have unique regulatory and care needs.

Regarding the number of animals that would trigger the need for a new license, APHIS considered a range of from 20 to 100, but settled on 50 animals after reviewing animal inventory counts at regulated facilities, considering the potential burden to licensees who add new animals and to the agency in its administration of the licensing program, and animal welfare benefits. If APHIS were to set the threshold number too low, businesses would need to apply for licenses frequently with little animal welfare benefit, and animal welfare risks may not be acceptable if the number were too high.

For the proposed licensing fees, APHIS found continuing to use a tiered approach for setting fees would not allow us to realize the efficiencies to be gained through the use of a flat fee. This is because some facilities have small numbers of animals and derive significant income from their regulated activities, while other facilities can have large numbers of animals and derive modest income from their regulated activities. Also, APHIS noted the fact that the fees are not intended to be user fees for inspections.

With respect to automatic license termination following two or more attempted inspections during the period of licensure, APHIS considered requiring immediate termination but decided in favor of allowing the licensee the opportunity to first present evidence in defense. Finally, APHIS also considered different time frames for the fixed-term license (*e.g.,* 4 or 5 years) and settled on 3 years based on our experience administering the AWA.

APHIS is also proposing to amend the veterinary care requirements for dogs that are under the care of entities covered by the AWA. Facilities with dogs would be required to have an expanded program of veterinary care (PVC) that includes annual, hands-on veterinary exams for adult dogs by the attending veterinarian and addresses husbandry issues for hair coat, toenails, teeth, skin, and ears. Facilities would also be required to create and maintain medical records of preventative health care measures and the treatment of ill and injured dogs.

The expanded PVC would guide the facilities in practicing a minimum level of acceptable husbandry and in maintaining records of preventative care and the treatment of ill or injured dogs. Annual hands-on physical exams by the attending veterinarian would allow for evaluation of factors that could affect the dogs' health, well-being, and ability to reproduce. Health problems that are detected early could receive timely and appropriate veterinary care. A required husbandry program would help ensure the overall health of adult dogs and puppies, thereby preventing avoidable disease, illness, and injury. Required medical records would help facilities keep track of incidents, treatments and progress of care. They also allow facilities to track individual health trends and the frequency of illnesses and injuries for the kennel as a whole.

The total industry cost of complying with this requirement is estimated to be between $284,000 and $948,000. Additionally, expanding a PVC form would require time for the attending veterinarian to complete. However, the PVC only has to be written once unless changes are made later. Most PVCs used by an attending veterinarian would be very similar, facility-to-facility. We estimate the cost of developing a new, fully compliant PVC would be about $150 per facility. Once a fully compliant PVC has been developed, we estimate the cost of having the attending veterinarian update and make adjustments to it as needed, and of discussing any PVC changes with the licensee during the annual premises visit would be about $50 per facility.

It would take operators time to create and maintain medical records for any dogs that become ill or injured, and to keep preventative health records. The incremental industry cost of keeping medical records for ill or injured dogs would be about $112,000 per year. The incremental industry cost of keeping preventive records would be about $247,300.

This proposed rule would also amend the AWA standard for dogs with respect to access to clean, drinkable water. The current regulations state that if potable water is not continually available to a facility's dogs, it must be offered as often as necessary to ensure the animal's health and well-being, and not less than twice daily for at least 1 hour each time, unless restricted by the attending veterinarian. The proposed standard would require that facilities make potable water continually available. We estimate that between 50 and 70 percent of regulated facilities provide 24-hour access to water. Thirty to 50 percent of those licensees and registrants not providing 24-hour access to water would likely bear plumbing and labor costs to ensure such access. We estimate that the proposed water access requirements for facilities having dogs would result in one-time costs expected to range from $1,021,000 to $2,460,000. It is possible that some such facilities could provide 24-hour access to clean, drinkable water using receptacles such as pans and bowls. Some of the factors that may influence whether water bowls are a feasible option for compliance at a given facility may include the size of the facility, number and type of dogs, the type, size, and configuration of water bowls used, and the availability of staff to refill and monitor the bowls, among other things. We welcome public comment that would enable us to better estimate these costs.

With regard to the proposed veterinary care requirements, APHIS considered not including the provision to require that the dogs have 24-hour

access to clean, drinkable water. However, the Agency determined that this requirement is important for animal welfare and should be a part of this proposed rule.

All businesses covered under the AWA would be affected by the proposed licensing requirements, including animal dealers, exhibitors, retail pet stores, brokers, and breeders. The number of these entities varies from year to year, but has tended to be around 6,000 in recent years. Based on reported revenue data and Small Business Administration small-entity standards, the majority of the entities affected by this rule can be considered small. About one-half of these businesses are licensees and registrants with dogs, including about 2,240 dog breeder facilities.

The proposed licensing requirements would result in annual cost savings expected to range from about $633,000 to $2,115,000. The proposed veterinary care requirements for facilities having dogs would result in annual costs ranging from about $841,200 to about $1,505,200, and the proposed water access requirement for these facilities would result in annual costs ranging from about $1,020,800 to $2,460,000. Net costs are therefore expected to range from annual cost savings of $253,000 (the higher licensing cost savings estimate plus the lower veterinary care and water access cost estimates) to annual costs of $3,331,950 (the lower licensing cost savings estimate plus the higher veterinary care and water access cost estimates). Based on the costs and in accordance with guidance on complying with Executive Order 13771, the single primary estimate of the costs of this proposed rule is $1,539,000, the mid-point estimate of net costs annualized in perpetuity using a 7 percent discount rate. We seek comments on our regulatory analysis, including on the assumptions underlying our estimates. If you have an alternative estimate, please provide any supporting documents or data.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The Act provides administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this rule will not have substantial and direct effects on Tribal Governments and will not have significant Tribal implications.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), some of the information collection requirements included in this proposed rule have been approved under Office of Management and Budget (OMB) control number 0579–0036. The new information collection requirements included in this proposed rule have been submitted as a new information collection for approval to OMB.

Please send comments on the Information Collection Request (ICR) to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2017–0062. Please send a copy of your comments to USDA, using one of the methods described under **ADDRESSES** at the beginning of this document.

We are proposing to amend the licensing requirements under the AWA regulations and strengthen the veterinary care standards for regulated dogs. The amendments include, but are not limited to, the following new information collection requirements: Use of a new fixed-term license application for dealers and exhibitors that expires after 3 years, at which time they would be required to demonstrate compliance before obtaining another fixed-term license; requiring license applicants to disclose any animal cruelty convictions or others violations of Federal, State, or local laws or regulations pertaining to animals, to assess their fitness for licensure; and enhancing adequate veterinary care for dogs, including the maintenance of medical records. The proposed license application would replace an existing initial license application and an annual license renewal application. We anticipate that the proposed license application would take the same amount of time to complete as the existing applications, but would only be required every 3 years, instead of an annual renewal. The proposed rule would also require licensees and registrants who hold dogs to maintain medical records on the preventative care provided to dogs, and to track medical conditions and treatment for ill and injured dogs. The use of these activities will help ensure that dealers, exhibitors, and operators of auction sales demonstrate compliance with the applicable standards in 9 CFR part 3, providing for the humane handling, care, treatment, and transportation of animals under the AWA.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses).

Estimate of burden: Public burden for this collection of information is estimated to average 0.08 hours per response.

Respondents: Businesses or other for-profit entities; not-for-profit institutions; farms; and State, local, and Tribal governments.

Estimated annual number of respondents: 5,112.

Estimated annual number of responses per respondent: 75.

Estimated annual number of responses: 382,148.

Estimated total annual burden on respondents: 29,720 hours.

(Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the estimate of burden.)

Copies of this information collection may be viewed on the *Regulations.gov* website or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) Copies can also be obtained from Ms. Kimberly Hardy, APHIS' Information Collection

Coordinator, at (301) 851–2483. APHIS will respond to any ICR-related comments in the final rule. All comments will also become a matter of public record.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

List of Subjects

9 CFR Parts 1 and 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

9 CFR Part 3

Animal welfare, Marine mammals, Pets, Reporting and recordkeeping requirements, Research, Transportation.

Accordingly, we propose to amend 9 CFR parts 1, 2, and 3 as follows:

PART 1—DEFINITION OF TERMS

■ 1. The authority citation for part 1 continues to read as follows:

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

■ 2. Section 1.1 is amended by removing the definition for *AC Regional Director* and revising the definition for *Business hours* to read as follows:

§ 1.1 Definitions.

* * * * *

Business hours means a reasonable number of hours between 7 a.m. and 7 p.m. each week of the year, during which inspections by APHIS may be made.

* * * * *

PART 2—REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

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

■ 4. Section 2.1 is amended as follows:

■ a. By revising paragraphs (a)(1) and (2), (b), and (c);

■ b. By removing paragraph (d) and redesignating paragraph (e) as paragraph (d); and

■ c. By revising newly redesignated paragraph (d).

The revisions read as follows:

§ 2.1 Requirements and application.

(a)(1) No person shall operate as a dealer, exhibitor, or operator of an auction sale, without a valid license, except persons who are exempt from the licensing requirements under paragraph (a)(3) of this section. A person must be 18 years of age or older to obtain a license. A person seeking a license shall apply on a form which will be furnished by the Deputy Administrator. The applicant shall provide the information requested on the application form, including, but not limited to:

(i) The name of the person applying for the license;

(ii) A valid mailing address through which the applicant can be reached at all times;

(iii) A valid address for all premises, facilities, or locations where animals, animal facilities, equipment, and records are held, kept, or maintained;

(iv) The anticipated maximum number of animals on hand at any one time during the period of licensure;

(v) The anticipated type of animals to be owned, held, maintained, sold, or exhibited, including those animals leased, during the period of licensure, and if the anticipated type of animals includes exotic or wild animals, information and records demonstrating that the applicant has adequate knowledge of and experience with those animals;

(vi) If the person is seeking a license as an exhibitor, whether the person intends to exhibit any animal at any location other than the person's location(s) listed pursuant to paragraph (a)(1)(iii) of this section; and

(vii) Disclosure of any plea of *nolo contendere* (no contest) or finding of violation of Federal, State, or local laws or regulations pertaining to animal cruelty or the transportation, ownership, neglect, or welfare of animals.

(2) The completed application form, along with a $120 license fee, shall be submitted to the appropriate Animal Care office.

* * * * *

(b)(1) No person shall have more than one license. Licenses are issued to specific persons, and are issued for specific activities, animals, and approved sites. Licenses are not valid upon change of ownership, location, activities, or animals, and a new license must be obtained. A licensee shall notify Animal Care no fewer than 90 days, and obtain a new license, before any change in the name, address, management, substantial control or ownership of his business or operation, locations, activities, and number or type of animals described in paragraph (b)(2) of this section. Any person who is subject to the regulations in this subchapter and who intends to exhibit any animal at any location other than the person's approved site must provide that information on their application form in accordance with paragraph (a) of this section and submit written itineraries in accordance with § 2.126.

(2) Licenses authorize a specific number and specific type(s) of animals, as follows:

(i) Licenses authorize increments of 50 animals on hand at any single point in time during the period of licensure. A licensee must obtain a new license before any change resulting in more than the authorized number of animals on hand at any single point in time during the period of licensure.

(ii) Licenses authorize the use of animals subject to subparts A through F in part 3 of this subchapter, except that, for animals subject to subparts D and F, licenses must specifically authorize the use of each of the following groups of animals: Group 5 and 6 nonhuman primates, big cats or large felids (lions, tigers, leopards, cheetahs, jaguars, cougars, and any hybrid cross thereof), wolves, bears, and mega-herbivores (elephants, rhinoceroses, hippopotamuses, and giraffes). A licensee must obtain a new license before using any animal beyond those animals authorized under the existing license.

(c) A license will be issued to any applicant, except as provided in §§ 2.9 through 2.11, when:

(1) The applicant has met the requirements of this section and §§ 2.2 and 2.3; and

(2) The applicant has paid a $120 license fee to the appropriate Animal Care office. The applicant may pay the fee by certified check, cashier's check, personal check, money order, or credit card. An applicant whose check is returned by a bank will be charged a fee of $20 for each returned check. If an applicant's check is returned, subsequent fees must be paid by certified check, cashier's check, or money order.

(d) The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license or for its suspension or revocation by the Secretary, as provided in the Act.

* * * * *

■ 5. Section 2.2 is revised to read as follows:

§ 2.2 Acknowledgement of regulations and standards.

Animal Care will supply a copy of the Act and the regulations and standards to an applicant upon request. Signing the application form is an acknowledgement that the applicant has reviewed the Act and the regulations and standards and agrees to comply with them.

■ 6. Section 2.3 is revised to read as follows:

§ 2.3 Demonstration of compliance with standards and regulations.

(a) Each applicant for a license must demonstrate that his or her location(s) and any animals, facilities, vehicles, equipment, or other locations used or intended for use in the business comply with the Act and the regulations and standards set forth in parts 2 and 3 of this subchapter. Each applicant must make his or her animals, locations, facilities, vehicles, equipment, and records available for inspection during business hours and at other times mutually agreeable to the applicant and APHIS, to ascertain the applicant's compliance with the Act and the regulations and standards.

(b) Each applicant for a license must be inspected by APHIS and demonstrate compliance with the Act and the regulations and standards, as required in paragraph (a) of this section, before APHIS will issue a license. If the first inspection reveals that the applicant's animals, premises, facilities, vehicles, equipment, locations, or records do not meet the applicable requirements of this subchapter, APHIS will advise the applicant of existing deficiencies and the corrective measures that must be completed to come into compliance with the regulations and standards. An applicant who fails the first inspection may request up to two more inspections by APHIS to demonstrate his or her compliance with the Act and the regulations and standards. The applicant must request the second inspection, and if applicable, the third inspection, within 60 days following the first inspection.

(c) Any applicant who fails the third and final pre-license inspection may appeal all or part of the inspection findings to the Deputy Administrator. To appeal, the applicant must send a written statement contesting the inspection finding(s) and include any documentation or other information in support of the appeal. To receive consideration, the appeal must be received by the Deputy Administrator within 7 days of the date the applicant received the third pre-license inspection report. Within 7 days of receiving a timely appeal, the Deputy Administrator will issue a written response to notify the applicant whether APHIS will issue a license or deny the application.

(d) If an applicant fails inspection or fails to request reinspections within the 60-day period, or fails to submit a timely appeal of the third pre-license inspection report as described in paragraph (c) of this section, the applicant will forfeit the application fee and cannot reapply for a license for a period of 6 months from the date of the failed third inspection or the expiration of the time to request a third inspection. No license will be issued until the applicant demonstrates upon inspection that the animals, premises, facilities, vehicles, equipment, locations, and records are in compliance with all applicable requirements in the Act and the regulations and standards in this subchapter.

■ 7. Section 2.5 is revised to read as follows:

§ 2.5 Duration of license and termination of license.

(a) A license issued under this part shall be valid and effective for 3 years unless:

(1) The license has been revoked or suspended pursuant to section 19 of the Act.

(2) The license is voluntarily terminated upon request of the licensee, in writing, to the Deputy Administrator.

(3) The license has expired, except that:

(i) The Deputy Administrator may issue a temporary license that automatically expires after 120 days to an applicant whose immediately preceding 3-year license has expired if:

(A) The applicant submits the appropriate application form before the expiration date of a preceding license; and

(B) The applicant had no noncompliances with the Act and the regulations and standards in parts 2 and 3 of this subchapter documented in an inspection report during the preceding period of licensure.

(ii) For expedited hearings occurring under § 2.11(b)(2), a license will remain valid and effective until the administrative law judge issues his or her initial decision. Should the administrative law judge's initial decision affirm the denial of the license application, the applicant's license shall terminate immediately.

(4) There will not be a refund of the license fee if a license is denied, terminated, suspended, or revoked prior to its expiration date.

(b) Any person who seeks the reinstatement of a license that has expired or been terminated must follow the procedure applicable to new applicants for a license set forth in § 2.1.

(c) A license which is invalid under this part shall be surrendered to the Deputy Administrator. If the license cannot be found, the licensee shall provide a written statement so stating to the Deputy Administrator.

§ 2.6—2.8 [Removed and Reserved]

■ 8. Sections 2.6—2.8 are removed and reserved.

■ 9. Section 2.9 is revised to read as follows:

§ 2.9 Officers, agents, and employees of licensees whose licenses have been suspended or revoked.

Any person who has been or is an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the activity upon which the order of suspension or revocation was based will not be licensed, or registered as a carrier, intermediate handler, exhibitor, or research facility within the period during which the order of suspension or revocation is in effect.

■ 10. Section 2.10 is revised to read as follows:

§ 2.10 Licensees whose licenses have been suspended or revoked.

(a) Any person whose license has been suspended for any reason shall not be licensed, or registered, in his or her own name or in any other manner, within the period during which the order of suspension is in effect. No partnership, firm, corporation, or other legal entity in which any such person has a substantial interest, financial or otherwise, will be licensed or registered during that period. Any person whose license has been suspended for any reason may apply to the Deputy Administrator, in writing, for reinstatement of his or her license.

(b) Any person whose license has been revoked shall not be licensed or registered, in his or her own name or in any other manner, and no partnership, firm, corporation, or other legal entity in which any such person has a substantial interest, financial or otherwise, will be licensed or registered.

(c) Any person whose license has been suspended or revoked shall not buy, sell, transport, exhibit, or deliver for transportation, any animal during the period of suspension or revocation, under any circumstances, whether on his or her behalf or on the behalf another licensee or registrant.

■ 11. Section 2.11 is revised to read as follows:

§ 2.11 Denial of license application.

(a) A license will not be issued to any applicant who:

(1) Has not complied with the requirements of §§ 2.1 through 2.4 and has not paid the fees indicated in § 2.1;

(2) Is not in compliance with the Act or any of the regulations or standards in this subchapter;

(3) Has had a license revoked or whose license is suspended, as set forth in § 2.10;

(4) Was an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the activity upon which the order of suspension or revocation was based, as set forth in § 2.9;

(5) Has pled *nolo contendere* (no contest) or has been found to have violated any Federal, State, or local laws or regulations pertaining to animal cruelty within 3 years of application, or after 3 years if the Administrator determines that the circumstances render the applicant unfit to be licensed;

(6) Is or would be operating in violation or circumvention of any Federal, State, or local laws; or

(7) Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies, or has pled *nolo contendere* (no contest) or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.

(b) Applicants may request a hearing under the following circumstances:

(1) An applicant whose initial license application has been denied may request a hearing in accordance with the applicable rules of practice for the purpose of showing why the application for license should not be denied. The denial of an initial license application shall remain in effect until the final legal decision has been rendered. Should the license denial be upheld, the applicant may again apply for a license 1 year from the date of the final order denying the application, unless the order provides otherwise.

(2) An applicant who submitted a timely appeal of a third pre-license inspection as described in § 2.3(c), and whose appeal results in the denial of the license application, may request an expedited hearing if the applicant held a valid license when he or she submitted the license application that has been denied and the Deputy Administrator received such license application no fewer than 90 days prior to the expiration of the valid license. If the applicant meets the criteria in this paragraph, and notwithstanding the timeframes of the proceedings set forth in the applicable rules of practice (7 CFR 1.130 through 1.151):

(i) The applicant must submit the request for an expedited hearing within 30 days of receiving notice from the Deputy Administrator that the license application has been denied;

(ii) The administrative law judge shall set the expedited hearing so that it occurs within 30 days of receiving a timely request for expedited hearing as described in paragraph (b)(2)(i) of this section; and

(iii) The administrative law judge must issue an initial decision no later than 30 days after the expedited hearing.

(iv) The applicant's license will remain valid until the administrative law judge issues his or her initial decision. Should the administrative law judge's initial decision affirm the denial of the license application, the applicant's license shall terminate immediately.

(c) No partnership, firm, corporation, or other legal entity in which a person whose license application has been denied has a substantial interest, financial or otherwise, will be licensed within 1 year of the license denial.

(d) No license will be issued under circumstances that the Administrator determines would circumvent any order, stipulation, or settlement agreement suspending, revoking, terminating, or denying a license or disqualifying a person from engaging in activities under the Act.

■ 12. Section 2.12 is revised to read as follows:

§ 2.12 Termination of a license.

A license may be terminated at any time for any reason that a license application may be denied pursuant to § 2.11 after a hearing in accordance with the applicable rules of practice.

■ 13. Section 2.13 is added to read as follows:

§ 2.13 Appeal of inspection report.

Except as otherwise provided in § 2.3(c), any licensee or registrant may appeal all or part of the inspection findings in an inspection report to the Deputy Administrator. To appeal, the licensee or registrant must send a written statement contesting the inspection finding(s) and include any documentation or other information in support of the appeal. To receive consideration, the appeal must be received by the Deputy Administrator within 21 days of the date the licensee or registrant received the inspection report that is the subject of the appeal.

§ 2.25 [Amended]

■ 14. In § 2.25, paragraph (a) is amended by removing the words ''AC Regional Director'' each time they appear and adding the words ''Deputy Administrator'' in their place.

§ 2.26 [Amended]

■ 15. Section 2.26 is amended by removing the words ''AC Regional Director'' and adding the words ''Deputy Administrator'' in their place.

§ 2.27 [Amended]

■ 16. Section 2.27 is amended by removing the words ''AC Regional Director'' each time they appear and adding the words ''Deputy Administrator'' in their place.

§ 2.30 [Amended]

■ 17. Section 2.30 is amended by removing the words ''AC Regional Director'' each time they appear and adding the words ''Deputy Administrator'' in their place.

§ 2.36 [Amended]

■ 18. In § 2.36, paragraph (a) is amended by removing the words ''AC Regional Director'' and adding the words ''Deputy Administrator'' in their place.

■ 19. Section 2.38 is amended as follows:

■ a. By revising paragraph (c);

■ b. In paragraph (g)(1) introductory text, by removing the period between the words ''acquired'' and ''sold'' and adding a comma in its place;

■ c. In paragraph (g)(7) footnote 1, by removing the words ''AC Regional Director'' and adding the words ''Deputy Administrator'' in their place; and

■ d. In paragraph (i) introductory text, by removing the words ''AC Regional Director'' and adding the words ''Deputy Administrator'' in their place.

The revision reads as follows:

§ 2.38 Miscellaneous.

* * * * *

(c) *Publication of lists of research facilities subject to the provisions of this part.* APHIS will publish on its website lists of research facilities registered in accordance with the provisions of this subpart. The lists may be obtained upon request from the Deputy Administrator.

* * * * *

§ 2.52 [Amended]

■ 20. In § 2.52, footnote 4 is amended by removing the words ''AC Regional

Director'' and adding the words ''Deputy Administrator'' in their place.

§ 2.75 [Amended]

■ 21. In § 2.75, paragraphs (a)(3) and (b)(2) are amended by removing the citation ''§ 2.79'' and adding the citation ''§ 2.78'' in its place.

§ 2.77 [Amended]

■ 22. In § 2.77, paragraph (b) is amended by removing the citation ''§ 2.79'' and adding the citation ''§ 2.78'' in its place.

§ 2.102 [Amended]

■ 23. In § 2.102, paragraphs (a) and (b) introductory text are amended by removing the words ''AC Regional Director'' and adding the words ''Deputy Administrator'' in their place.

§ 2.126 [Amended]

■ 24. In § 2.126, paragraph (c) is amended by removing the words ''AC Regional Director'' each time they appear and adding the words ''Deputy Administrator'' in their place.
■ 25. Section 2.127 is revised to read as follows:

§ 2.127 Publication of lists of persons subject to the provisions of this part.

APHIS will publish on its website lists of persons licensed or registered in accordance with the provisions of this part. The lists may also be obtained upon request from the Deputy Administrator.

§ 2.150 [Amended]

■ 26. Section 2.150 is amended as follows:
■ a. By removing the words ''continental United States or Hawaii'' each time they appear and adding the word ''States'' in their place;
■ b. In paragraph (a), by removing the words '', research, or veterinary treatment''; and
■ c. In paragraph (c)(8), by adding the words ''resale for'' immediately before the words ''research purposes''.

§ 2.151 [Amended]

■ 27. Section 2.151 is amended as follows:
■ a. By removing the words ''continental United States or Hawaii'' each time they appear and adding the word ''States'' in their place;
■ b. In paragraph (a) introductory text, by removing the words '', research, or veterinary treatment'';
■ c. In paragraph (b)(1), by adding the words ''resale for'' immediately before the words ''use in research, tests, or experiments at a research facility''; and
■ d. In paragraph (b)(2) introductory text, by adding the words ''and subsequent resale'' immediately after the words ''for veterinary treatment by a licensed veterinarian''.

§ 2.152 [Amended]

■ 28. Section 2.152 is amended by removing the words ''continental United States or Hawaii'' and adding the word ''States'' in their place.

§ 2.153 [Amended]

■ 29. Section 2.153 is amended as follows:
■ a. By removing the words ''continental United States or Hawaii'' both times they appear and adding the word ''States'' in their place; and
■ b. By adding the words ''or the Act'' immediately after the words ''this subpart''.

PART 3—STANDARDS

■ 30. The authority citation for part 3 continues to read as follows:

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

§ 3.6 [Amended]

■ 31. In § 3.6, paragraphs (b)(5) and (c)(3) are amended by removing the citation ''§ 3.14 of this subpart'' and adding the citation ''§ 3.15'' in their place, and by removing the citation ''§ 3.14(a)(6) of this subpart'' and adding the citation ''§ 3.15(a)(6)'' in its place.
■ 32. Section 3.10 is revised to read as follows:

§ 3.10 Watering.

(a) Potable water must be continually available to the dogs, unless restricted by the attending veterinarian.

(b) If potable water is not continually available to the cats, it must be offered to the cats as often as necessary to ensure their health and well-being, but not less than twice daily for at least 1 hour each time, unless restricted by the attending veterinarian.

(c) Water receptacles must be kept clean and sanitized in accordance with § 3.11(b) and before being used to water a different dog or cat or social grouping of dogs or cats.

§§ 3.13 through 3.19 [Redesignated as §§ 3.14 through 3.20]

■ 33. Sections 3.13 through 3.19 are redesignated as §§ 3.14 through 3.20, respectively.
■ 34. New § 3.13 is added to read as follows:

§ 3.13 Veterinary care for dogs.

(a) Each dealer, exhibitor, and research facility must follow an appropriate program of veterinary care for dogs that is developed, documented in writing, and signed by the attending veterinarian. Dealers, exhibitors, and research facilities must keep and maintain the written program and make it available for APHIS inspection. The written program of veterinary care must address and meet the requirements for attending veterinarians and adequate veterinary care for every dealer and exhibitor in § 2.40 of this subchapter and every research facility in § 2.33 of this subchapter, and must also include:

(1) Regularly scheduled visits, not less than once every 12 months, by the attending veterinarian to all premises where animals are kept, to assess and ensure the adequacy of veterinary care and other aspects of animal care and use;

(2) A complete physical examination from head to tail of each dog by the attending veterinarian not less than once every 12 months;

(3) Vaccinations for contagious and deadly diseases of dogs (including rabies, parvovirus and distemper) and sampling and treatment of parasites and other pests (including fleas, worms, coccidia, giardia, and heartworm) in accordance with a schedule approved by the attending veterinarian, unless otherwise required by a research protocol approved by the Committee at research facilities; and

(4) Preventative care and treatment to ensure healthy and unmatted hair coats, properly trimmed nails, and clean and healthy eyes, ears, skin, and teeth, unless otherwise required by a research protocol approved by the Committee at research facilities.

(b) Dealers, exhibitors, and research facilities must keep copies of medical records for dogs and make the records available for APHIS inspection. These records must include:

(1) The identity of the animal, including identifying marks, tattoos, or tags on the animal and the animal's breed, sex, and age; *Provided,* however, that routine husbandry, such as vaccinations, preventive medical procedures, or treatments, performed on all animals in a group (or herd), may be kept on a single record;

(2) If a problem is identified (such as a disease, injury, or illness), the date and a description of the problem, examination findings, test results, plan for treatment and care, and treatment procedures performed, when appropriate;

(3) The names of all vaccines and treatments administered and the dates of administration; and

(4) The dates and findings/results of all screening, routine, or other required or recommended test or examination.

§ 3.14 [Amended]

■ 35. Newly redesignated § 3.14 is amended as follows:

■ a. In paragraph (c) introductory text, by removing the citation ''§ 3.16 of this subpart'' and adding the citation ''§ 3.17'' in its place;

■ b. In paragraph (d), by removing the citation ''§ 3.14 of this subpart'' and adding the citation ''§ 3.15'' in its place; and

■ c. In paragraph (e) introductory text:

■ i. In the first sentence, by removing the citation ''§§ 3.18 and 3.19 of this subpart'' both times it appears and adding the citation ''§§ 3.19 and 3.20'' in its place; and

■ ii. In the second sentence, by removing the citations ''§ 3.18'' and ''§ 3.19'' and adding the citations ''§ 3.19''and ''§ 3.20'' in their place, respectively.

§ 3.15 [Amended]

■ 36. In newly redesignated § 3.15, paragraph (h) is amended by removing the citation ''§ 3.13(c)'' and adding the citation ''§ 3.14(c)'' in its place.

§ 3.17 [Amended]

■ 37. In newly redesignated § 3.17, paragraph (a) is amended by removing the citation ''§ 3.13(c) of this subpart'' both times they appear and adding the citation ''§ 3.14(c)'' in its place.

§ 3.18 [Amended]

■ 38. Newly redesignated § 3.18 is amended as follows:

■ a. In paragraph (a), by removing the citation ''§ 3.15(e)'' and adding the citation ''§ 3.16(e)'' in its place;

■ b. In paragraph (b), by removing the citation ''§ 3.15(d)'' and adding the citation ''§ 3.16(d)'' in its place; and

■ c. In paragraph (d), by removing the citation ''§ 3.14(b) of this subpart'' and adding the citation ''§ 3.15(b)'' in its place, and by removing the citation ''§ 3.6 or § 3.14 of this subpart'' and adding the citation ''§§ 3.6 or 3.15'' in its place.

§ 3.19 [Amended]

■ 39. In newly redesignated § 3.19, paragraph (f) is amended by removing the citation ''§ 3.13(f) of this subpart'' and adding the citation ''§ 3.14(f)'' in its place.

§ 3.20 [Amended]

■ 40. Newly redesignated § 3.20 is amended as follows:

■ a. In paragraph (a)(1), by removing the citation ''§ 3.18(d) of this subpart'' and adding the citation ''§ 3.19(d)'' in its place; and

■ b. In paragraph (a)(3), by removing the citation ''§ 3.13(e)'' and adding the citation ''§ 3.14(e)'' in its place, and by removing the citation ''§ 3.18(d) of this subpart'' and adding the citation ''§ 3.19(d)'' in its place.

§ 3.61 [Amended]

■ 41. Section 3.61 is amended as follows:

■ a. In paragraph (b), by removing the word ''specie'' and adding the word ''species'' in its place; and

■ b. In paragraph (f), by removing the word ''works'' and adding the word ''words'' in its place.

■ 42. Section 3.78 is amended by revising the section heading to read as follows:

§ 3.78 Outdoor housing facilities.

* * * * *

§ 3.110 [Amended]

■ 43. In § 3.110, paragraph (a) is amended by removing the words ''it is determined that'' immediately after the words ''Animals without a known medical history must be isolated until''.

§ 3.111 [Amended]

■ 44. Section 3.111 is amended by removing the word ''regional'' in footnote 14.

Done in Washington, DC, this 15th day of March 2019.

Greg Ibach,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2019–05422 Filed 3–21–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1081; Product Identifier 2018–NE–39–AD]

RIN 2120–AA64

Airworthiness Directives; Trig Avionics Limited Transponders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Trig Avionics Limited TT31, Avidyne Corporation AXP340, and BendixKing/Honeywell International KT74 Mode S transponders. This proposed AD was prompted by the discovery that the retaining cam that engages in the mounting tray may not withstand g-forces experienced during an emergency landing. This proposed AD would require a one-time inspection of the transponder installation to determine if this is a conventional aft-facing installation, and depending on the findings, removal of the affected transponder for modification. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 6, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building, Ground Floor, Room W12 140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Trig Avionics Limited, Heriot Watt Research Park, Riccarton, Edinburgh EH14 4AP, United Kingdom; phone: +44 131 449 8810; fax: +44 131 449 8811; email: *support@trig-avionics.com;* internet: *https://trig-avionics.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1081; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Min Zhang, Aerospace Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7161; fax: 781–238–7199; email: *min.zhang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about