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# ANIMAL WELFARE INSTITUTE

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April 17, 2000

Regulatory Analysis and Development PPD  
APHIS Suite 3C03  
4700 River Road, Unit 118  
Riverdale, MD 20737-1238

Re: Docket #97-001-4

To Whom It May Concern:

I am writing on behalf of the membership of the Animal Welfare Institute (AWI) in response to the APHIS "Draft Policy on Training and Handling of Potentially Dangerous Animals." In general we are concerned that the Policy does not go far enough in protecting potentially dangerous animals and the people who are in the vicinity of these animals. A revision of the regulations, instead of a new Policy, is needed to provide the legal backing for much needed changes in the requirements for training, handling, care and use of animals for exhibition purposes. In the meantime we hope that USDA will implement the strongest Policy possible.

### SECTION 1: PERSONNEL

In this section USDA makes three good suggestions: 1) the handler should have at least 2 years of experience with the species being exhibited, 2) at least 2 qualified handlers should be present and 3) day-labor should not be hired to serve as attendants to potentially dangerous animals. The policy states that if the exhibitor does not meet these requirements USDA will "closely scrutinize" the licensee. Unfortunately, these suggestions are mere recommendations since USDA has no recourse if exhibitors fail to comply. USDA's threat to "closely scrutinize" exhibitors who flout these suggested personnel standards carries no weight.

USDA should institute the following additional requirements for all licensees and registrants, particularly those with potentially dangerous animals: 1) drug and alcohol use and criminal activity (including charges related to animal cruelty or any federal animal protection laws) constitute grounds for not hiring or for immediate dismissal; 2) the facility must establish and implement training, employee development, and evaluation programs, including mandatory drug testing; and 3) the facility must implement mechanisms for reporting deficiencies in animal care by employees and the public.

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**EXHIBIT**

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**DEFENDANT'S EXHIBIT**  
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## SECTION 2: HANDLING TECHNIQUES AND PROCEDURES

Negative reinforcement, including the use of hot shots, shocking collars or shocking belts must be prohibited. Training with positive reinforcement is essential in protecting the public.

All the large, powerful animals covered by the regulations are fully capable of developing an increasingly deep resentment against an individual trainer as illustrated by the incident in which a Chipperfield trainer's head was seized by a tiger, and Chipperfield's brother, thinking he had been killed, took out a pistol and shot the tiger.

Innocent members of the public, including children, have been put in great danger as the result of a large, intelligent and powerful animal's long suffering at the hands of an abusive trainer. The aphorism "an elephant never forgets" is a fact. Mistreatment will not be forgotten by these highly intelligent animals who do not hesitate to kill keepers or trainers when they feel that they have been maltreated.

The use of ankuses should be prohibited since these devices are tools of negative reinforcement and are oftentimes misused, subjecting animals to severe physical abuse.

"Potentially dangerous animals" should never be permitted to come in physical contact with the general public.

9 C.F.R. Section 2.131(b)(1) states "During public exhibition, any animal must be handled so there is *minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public.*" Prohibiting physical contact with the public is the best way to avoid situations that put the public at risk of aggressive and/or uncontrolled behavior by potentially dangerous animals. USDA would not have to implement its "one strike you're out" policy, because the Department would be preventing that first strike. By definition, "potentially dangerous animals" are just that, and the public should not be exposed to a situation with inherent danger.

If USDA does not follow this safest course of action, then the language in the policy should be modified to identify animals with a prior history of aggressive and/or uncontrolled behavior. A large wild animal, such as an elephant, who is out of control—even if the animal is not aggressive—is a threat to public safety.

From 1994 to 1997 there were more than 300 lawsuits filed in response to incidents with potentially dangerous animals, including captive elephants.

USDA should prohibit the "parading" of dangerous animals on a leash among the public. In the draft policy USDA states that the handler must be able to control the animal; but it is impossible for a person to control an animal as large and powerful as a big cat or a bear.

It is appropriate for USDA to require a barrier to protect the public by separating them from potentially dangerous animals. However, this regulation is negated by permitting

individuals to have physical contact with potentially dangerous animals such as posing with tigers for photographs or riding on the backs of elephants. For example, an inspection report for an exhibitor in Maryland states, "A new program of tiger sponsorship is in effect. People who are sponsors are allowed past the 4' public barrier and can touch the tiger through the chain link fence enclosure...." A similar situation existed in Brazil with the Vostok Circus. For a fee people could have their photos taken near the lion cage. On April 9<sup>th</sup> of this year a 6-year old boy was killed by a caged circus lion. The USDA should not permit increased danger to the public created by exhibitors who seek to maximize their profits.

Health hazards are a serious concern too. USDA is well aware of the recent problems with elephants contracting and dying from Tuberculosis, and we know that elephants have passed the disease on to their keepers. Elephants are susceptible to catching herpes from humans. There is the potential for disease transmittal to and from nonhuman primates, not just from macaques.

Elephants must not be denied food, even in the short-term.

Denial of food is inconsistent with the natural feeding behaviors of elephants who spend up to 14 hours a day feeding.

Sick or injured animals must not be required to perform.

Fights between animals must be prohibited.

In the interest of assuring the well being of animals, fights, whether staged or real, should be prohibited by USDA. Animal fights do not need to occur in the creation of scenes for television or movies since a broad range of special effects are readily available.

SECTION 3: CONTINGENCY PLANS

The policy outlines the critical need for maintaining a contingency plan in the event of an emergency situation. However, contingency plans are not mandated. The policy states that USDA "will closely scrutinize public exhibitions that do not employ meaningful contingency plans." What kind of threat is this? There is no actual penalty for failure to comply.

ADDITIONAL REMARKS

The following are critical requirements that should be implemented by USDA to address the basic welfare needs of exotic animals. Failure to provide such necessities will contribute to the animals' suffering and increase the likelihood of a dangerous incident.

USDA needs to recognize the needs of social animals such as elephants and exotic cats. USDA's regulations 9 C.F.R. Subpart F, Section 3.128 state, "Enclosures shall be constructed and maintained so as to allow each animal to make normal postural and social adjustments with adequate freedom of movement."

USDA needs to prohibit the forcible separation of mother and baby animals. Offspring should be allowed to remain with the parent(s) for the length of time natural to that species. For example, in the wild, baby elephants will nurse from their mothers until they are three years old, and females stay with their female relatives for their entire lives. Exhibitors must accommodate these innate behaviors.

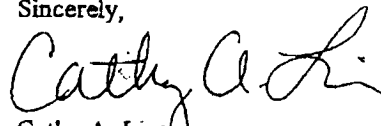
Exotics, particularly the large cats, must not be housed in transport enclosures that fail to meet the minimum housing requirements under the Act. Although housing requirements during transport are described in Policy #6, they are worthy of mention here. Denial of the ability to make normal postural adjustments is completely unacceptable. Many animals are on the road for much of the year, and it is impossible for USDA to ensure that these animals are released into an "exercise pen" for a "reasonable" period of time (undefined by USDA). These animals are entitled to live in cages that provide the minimum requirements mandated in Subpart F permitting normal postural and social adjustments and freedom of movement. The animals are entitled to this modest space whenever they are not performing, and it should not be limited to a brief time that may or may not be allotted them by their keepers.

Elephants must not be restrained with the use of chains or maintained on cement or other hard surfaces. Chaining and maintaining elephants on concrete or other hard surfaces leads to arthritis and other degenerative joint problems. Use of chains to contain elephants, though historically in common use, should be prohibited. There are alternatives to chaining that contain the animals, but are not so severely restrictive such as the use of electric fencing. If veterinary care must be provided, a crush (squeeze chute) should be used, not chains, to contain an elephant for treatment.

Four copies of a report by the Elephant Alliance, "Performing Elephants: Dying to Entertain Us" were submitted by the organization during the previous comment period. We call this document to your attention as a useful resource on the problems encountered with use of elephants for exhibition purposes and recommendations regarding remedial action. Additional copies can be provided if needed.

We appreciate USDA's interest in improving the situation for potentially dangerous animals used for exhibition and hope that the draft policy can be strengthened to provide increased benefit to the animals and to the public. Thank you for the opportunity to comment.

Sincerely,



Cathy A. Liss  
Executive Director

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